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## **Failing U: Do State Laws Protect Our Veterans and Other Students from For-Profit Postsecondary Predators?**

Children's Advocacy Institute, University of San Diego School of Law

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**Do state laws protect our veterans and other students from for-profit postsecondary predators?**



Children's Advocacy Institute





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## **ABOUT THE CHILDREN'S ADVOCACY INSTITUTE**

The Children's Advocacy Institute (CAI) was founded in 1989 at the University of San Diego (USD) School of Law. CAI's mission is to improve the health, safety, development, and well-being of children and youth. CAI advocates in legislatures to make the law, in courts to interpret the law, before administrative agencies to implement the law, and before the public to provide information on the status of children. CAI's goal is to ensure that children's interests are represented effectively whenever government makes policy and budget decisions.

The primary researcher and author of this is Melanie Delgado, CAI Senior Staff Attorney and Director of Transition Age Youth Projects. Melanie is grateful to the many USD School of Law students who provided research, analysis, and editorial assistance in the preparation of this report.

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**Children's Advocacy Institute**



# FAILING U

## Do state laws protect our veterans and other students from for-profit postsecondary predators?

### PART ONE: OVERVIEW

#### I. INTRODUCTION AND BACKGROUND

On March 23, 2016, then-Attorney General of California Kamala Harris secured a judgment of more than \$1.1 billion against now-defunct Corinthian Colleges, Inc. (CCI) and its subsidiaries that operated Everest, Heald and WyoTech colleges. The court found, among other things, that CCI had provided untrue or misleading statements about graduates' job placement rates, unlawfully used U.S. military seals in advertisements, misrepresented the transferability of credits, misrepresented the financial stability of students, engaged in unlawful debt collection, included unlawful clauses in enrollment agreements, and failed to disclose its role in the Genesis Student Loan Program. In addition, despite the fact that CCI did not offer ultrasound technician programs, x-ray technician programs, radiology technician programs, or dialysis technician programs in California, CCI ran ads from 2010 until the filing of the suit claiming that it did offer such programs, knowing that these ads misled students.<sup>1</sup>

At the time the suit was filed, it was just one additional blow to the already-crumbling behemoth. CCI eventually closed all of its California campuses and imploded nationwide, leaving its students—and the nation's taxpayers—to deal with the catastrophic fallout. Thousands of students, many of them veterans, invested substantial amounts of time and money into pursuing degrees they never received; many of those students were left with enormous amounts of student loan debt, which cannot be discharged in bankruptcy. Students also committed personal and limited resources to pursuing their education. For example, many students used up their eligibility for government benefits, such as G.I. Bill funds (available to veterans) and Chafee educational vouchers (available to foster youth), pursuing degrees they never received.

Unfortunately, the lawsuit and CCI's larger troubles are not unique; they are part of a long line of investigations, actions, and lawsuits across the country against private for-profit colleges. For example, in September 2016, another giant for-profit postsecondary educational institution shuttered its doors. ITT Educational Services (ITT) closed amid investigations by more than a dozen state attorneys general and two federal agencies. The final straw was when the federal government sent a letter to ITT more than tripling ITT's required surety, barring the organization from enrolling new students who were reliant on federal financial aid, and detailing several other requirements related to disclosures to current students,

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<sup>1</sup> State of California Department of Justice, *Attorney General Kamala D. Harris Obtains \$1.1 Billion Judgment Against Predatory For-Profit School Operator* (March 23, 2016). Available online at <https://oag.ca.gov/news/press-releases/attorney-general-kamala-d-harris-obtains-11-billion-judgment-against-predatory>.

pay and compensation limitations, and other conditions.<sup>2</sup> Like CCI, when ITT Tech closed, it left thousands of students in the lurch. According to ITT's website at the time it closed, the company had institutions in 38 states, with a total enrollment of more than 40,000 students.

In yet another example, DeVry University (DeVry) settled a lawsuit brought by the Federal Trade Commission (FTC) in December 2016. The lawsuit alleged DeVry misled students about their job prospects and income levels after graduating from the for-profit college.<sup>3</sup>

These three for-profit colleges represent the tip of the iceberg, as evidenced by a multitude of for-profit postsecondary institutions around the country that are facing lawsuits, investigations, and allegations of wrongdoing.<sup>4</sup> The problem is not limited to large institutions such as the three noted above; for-profit colleges of all sizes are over-promising and under-delivering when it comes to the quality of their academic programs and offerings, as well as the ability of their graduates to cash in on lucrative careers.

Unfortunately, many students attending these disreputable colleges are experiencing abysmal outcomes—and are often left worse off after attending the college than before entering. State Attorneys General have been undertaking a herculean task and doing remarkable work to address abuses after they occur. However, by the time the state Attorneys General become involved, there has been substantial harm to students and to taxpayers. States can avoid this harm and expense by enacting legislation and undertaking rulemaking to address abuses and avoid more disastrous implosions like those at CCI and ITT Tech.

## II. LONGSTANDING CONCERNS

State lawmakers around the country had long been put on notice that such catastrophes were on the horizon. The problems with for-profit colleges have been bubbling to the surface for decades, and in 2012, the Senate Health, Education, Labor and Pensions (HELP) Committee released a report with findings from a two-year investigation (often referred to as the “Harkin Report,” named after the HELP Committee Chair Tom Harkin). Among its findings:

State oversight of for-profit education companies has eroded over time due to a variety of factors, including State budget cuts and the influence of the for-profit college industry with State policymakers. The U.S. Department of Education had never defined minimum requirements for State authorization, and many States have taken a passive or minimal role in approving institutions, reviewing and addressing complaints from students and the public, and ensuring that colleges are in compliance with State consumer protection laws.<sup>5</sup>

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<sup>2</sup> U.S. Department of Education, *Department of Education Bans ITT from Enrolling New Title IV Students, Adds Tough New Financial Oversight* (August 25, 2016). Available online at <https://www.ed.gov/news/press-releases/department-education-bans-itt-enrolling-new-title-iv-students-adds-tough-new-financial-oversight>.

<sup>3</sup> The Federal Trade Commission, *FTC case against DeVry yields \$100 million settlement* (Dec. 15, 2016). Available online at <https://www.ftc.gov/news-events/blogs/business-blog/2016/12/ftc-case-against-devry-yields-100-million-settlement>.

<sup>4</sup> See David Halperin, *Law Enforcement Investigations and Actions Regarding For-Profit Colleges* (updated Aug. 1, 2017) (hereinafter *Halperin Report*). Available at <https://www.republicreport.org/2014/law-enforcement-for-profit-colleges/>.

<sup>5</sup> U.S. Senate Health, Education, Labor and Pensions Committee, *For Profit Higher Education: The Failure to Safeguard the Federal Investment and Ensure Student Success* (July 30, 2012) (hereinafter *Senate HELP Committee Report*). Available online at [https://www.help.senate.gov/imo/media/for\\_profit\\_report/PartI.pdf](https://www.help.senate.gov/imo/media/for_profit_report/PartI.pdf).

The Government Accountability Office (GAO) conducted a similar investigation and released its own report in 2010, with similar findings.<sup>6</sup> The major findings of these and other reports and investigations are discussed below.

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## A. EXPENSE, STUDENT LOAN DEBT, AND DEFAULTS

- For-profit colleges generally charge higher tuition than community colleges and flagship state public universities. Bachelor's degree programs cost an average of 20% more at private, for-profit schools than at state public universities. For-profit associate's degree programs cost an average of four times more than at community colleges; and certificate programs average four and a half times the cost of similar programs at community colleges.<sup>7</sup>
- For-profit schools rarely set their tuition below available federal student aid, which results in students of modest means maxing out their federal aid to attend. Further, these schools implement tuition increases to satisfy company profit goals, with little connection to increases in academic and instruction expenses.<sup>8</sup>
- For-profit colleges take in about \$32 billion per year in federal student aid.<sup>9</sup> One study revealed that 94% of students at four-year for-profit schools, and 95% of students at two-year for-profit schools, took out federal Stafford loans.<sup>10</sup> This statistic is especially glaring when compared with students enrolled in similar programs at other types of postsecondary institutions: 11% of students at two-year community colleges, 42% of students at public four-year colleges, and 54% of students at four-year private nonprofit colleges take out such federal loans.<sup>11</sup>
- Students at for-profit colleges also take on more private loans than their peers at other types of postsecondary institutions: 46% of students at four-year for-profit schools and 42% of students at two-year for-profit schools assume private loans, compared to 5% of students at two-year community colleges, 14% of students at public four-year colleges, and 25% of students at four-year private nonprofit colleges.<sup>12</sup>
- Not only do more students at for-profit schools borrow, but they also owe more upon graduation. One study found that the median debt of bachelor's degree recipients from private for-profit schools was more than \$30,000, compared to \$17,000 for bachelor's degree recipients from private nonprofit schools and \$8,000 for bachelor's degree recipients from public schools.<sup>13</sup>
- According to the 2012 Senate HELP Committee report, the Department of Education estimated the "lifetime" default rate on student loan balances for students who attend for-profit colleges to be a staggering 46%.<sup>14</sup>

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<sup>6</sup> Government Accountability Office (GAO), *For-Profit Colleges: Undercover Testing Finds Colleges Encouraged Fraud and Engaged in Deceptive and Questionable Marketing Practices*, GAO-10-948T (Nov. 30, 2010). Available online at [www.gao.gov/assets/130/125197.pdf](http://www.gao.gov/assets/130/125197.pdf).

<sup>7</sup> Senate HELP Committee Report, *supra* note 5, at 1.

<sup>8</sup> *Id.* at 3.

<sup>9</sup> *Id.* at 14.

<sup>10</sup> Education Trust, *Subprime Opportunity: The Unfulfilled Promise of For-Profit Colleges and Universities* (2010) at Table 5 (hereinafter *Subprime Opportunity*). Available online at [http://edtrust.org/wp-content/uploads/2013/10/Subprime\\_report\\_1.pdf](http://edtrust.org/wp-content/uploads/2013/10/Subprime_report_1.pdf).

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *Subprime Opportunity*, *supra* note 10, at Fig. 3.

<sup>14</sup> Senate HELP Committee Report, *supra* note 5, at 18.

- In the absence of significant reforms that align the incentives of for-profit colleges to ensure colleges succeed financially only when students also succeed, and ensure that taxpayer dollars are used to further the educational mission of the colleges, the sector will continue to turn out hundreds of thousands of students with debt but no degree, and taxpayers will see little return on their investment.<sup>15</sup>

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## **B. MISLEADING ADVERTISING AND RECRUITING PRACTICES**

- Many for-profit colleges mislead prospective students with regard to the cost of their programs, availability of federal aid, students' obligations regarding payment, time required to complete the program, completion rates of other students, job placement rates, transferability of credit, and/or the school's reputation and accreditation.<sup>16</sup>
- Some for-profit colleges train their employees to evade student questions about costs and fees. Nontraditional students are generally of modest means, and thus, many must take on sizeable debt to attend costly for-profit colleges. Rather than investing their sizable profits in academic and instruction expenses, for-profits spend substantial sums of money on things like advertising, recruiting, and executive compensation.<sup>17</sup>
- The Senate HELP report found the recruiting process at the for-profit colleges examined to be essentially a sales process; admissions employees' performances often were rated, at least in part, on the number of students enrolled.<sup>18</sup> The 30 for-profit education companies examined employed about one recruiter for every 53 students attending a for-profit college in 2010.<sup>19</sup>

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## **C. TARGETING VETERANS AND VULNERABLE POPULATIONS**

- The Senate HELP report found that many for-profit schools target veterans in their enrollment campaigns. Veterans' educational benefits do not originate in title IV of the Higher Education Act, providing these schools with a way around the "90/10 rule" that requires postsecondary institutions to generate at least 10% of their revenue from non-title IV sources.<sup>20</sup>
- The Senate HELP report also found that for-profit colleges target a population of nontraditional prospective students who are often less familiar with higher education than other prospective college students and may be facing difficult life circumstances. For instance, one school's internal recruitment training manual detailed the demographic subgroups that the company targets for enrollment: "Welfare Mom w/ Kids. Pregnant Ladies. Recent Divorce. Low Self-Esteem. Low Income Jobs. Experienced a Recent Death. Physically/Mentally Abused. Recent Incarceration. Drug Rehabilitation. Dead-End Jobs—No Future."<sup>21</sup>

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<sup>15</sup> Senate HELP Committee Report, *supra* note 5, at 2.

<sup>16</sup> U.S. Government Accountability Office, *For-Profit Colleges: Undercover Testing Finds Colleges Encouraged Fraud and Engaged in Deceptive and Questionable Marketing Practices*, GAO-10-948T (Nov. 30, 2010). Available online at [www.gao.gov/assets/130/125197.pdf](http://www.gao.gov/assets/130/125197.pdf).

<sup>17</sup> Senate HELP Committee Report, *supra* note 5, at 3–5.

<sup>18</sup> *Id.* at 3.

<sup>19</sup> *Id.* at 4.

<sup>20</sup> *Id.* at 147.

<sup>21</sup> *Id.* at 58.

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## **D. LACK OF ADEQUATE STATE OVERSIGHT AND REGULATION**

- As discussed earlier, the 2012 Senate HELP report cautioned, “State oversight of for-profit education companies has eroded over time due to a variety of factors, including State budget cuts and the influence of the for-profit college industry with State policymakers. The U.S. Department of Education had never defined minimum requirements for State authorization, and many States have taken a passive or minimal role in approving institutions, reviewing and addressing complaints from students and the public, and ensuring that colleges are in compliance with state consumer protection laws.”<sup>22</sup>

## **III. ADDITIONAL CONCERNS**

Since the GAO’s 2010 findings and the Senate HELP Committee’s 2012 report, additional concerns have been identified regarding the operation, oversight, and regulation of private for-profit colleges. The following are just a few of the challenges that states and/or the federal government must address in order to protect the interests of postsecondary students.

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### **A. THE PROLIFERATION OF DISTANCE LEARNING AND RECIPROCITY AGREEMENTS UNDER NC-SARA**

Distance education is now the fastest-growing segment of higher education,<sup>23</sup> and with that growth, reciprocity agreements among states regarding distance learning have been gaining popularity. The National Council of State Authorization Reciprocity Agreements (NC-SARA) has been growing rapidly since it was established in August 2013. NC-SARA allows member states to authorize postsecondary institutions to provide distance learning programs and to delegate the oversight and regulation of the school and education program to the state where the postsecondary institution is located. According to NC-SARA, it was organized to make state authorization for distance education providers “more efficient, effective, and uniform in regard to necessary and reasonable standards of practice that could span states; more effective in dealing with quality and integrity issues that have arisen in some online/distance education offerings; and less costly for states and institutions and, thereby, the students they serve.”<sup>24</sup>

However, in practice, NC-SARA presents a very real danger to students across the country. State membership in NC-SARA fails to guarantee sufficient consumer protection standards, minimum performance standards, or minimum standards with regard to state inspection, oversight, and regulation of private for-profit postsecondary institutions.

At this writing, 48 states and the District of Columbia have signed on to NC-SARA; only California and Massachusetts have declined to delegate away their oversight and regulation of distance learning programs (although Massachusetts has passed enabling legislation authorizing such action). This rapid expansion is especially alarming in light of the results reflected in this report. Not only do states vary greatly in their oversight and regulation of private for-profit colleges, but the one thing that most states have in common is their inadequate oversight and regulation of distance learning schools and programs. NC-SARA gives for-profit schools an incentive to locate in states with weak regulation, which gives

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<sup>22</sup> *Id.* at 8.

<sup>23</sup> National Consumer Law Center, *Ensuring Educational Integrity: 10 Steps to Improve State Oversight of For-Profit Schools* (June 2014) at 17, citing Nick DeSantis, *DeVry Faces Inquiry From Federal Trade Commission* (Feb. 5, 2014).

<sup>24</sup> National Council for State Authorization Reciprocity Agreements, *About SARA*. Available at <http://nc-sara.org/about>.



states motivation to maintain leniency in their oversight and regulation. Consequently, NC-SARA threatens to unravel any progress in states that implement laws to improve regulations intended to protect students of for-profit postsecondary schools.

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### **B. *AT&T v. CONCEPCION***

In *AT&T v. Concepcion*,<sup>25</sup> the U.S. Supreme Court held that the Federal Arbitration Act preempted California's judicial rule routinely finding class action waivers in consumer contracts to be unconscionable. What this means for students attending for-profit colleges is that the colleges can put mandatory arbitration agreements in enrollment contracts. Mandatory arbitration agreements limit a student's options for recourse if that student suffers harm due to illegal, unethical, or negligent actions on the part of the for-profit college in which he or she is enrolled.

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### **C. ACCREDITATION AS A SUBSTITUTE FOR STATE OVERSIGHT**

Many states apply more lenient standards or grant exemptions or automatic approvals to accredited for-profit schools.<sup>26</sup> This is particularly common with degree-granting for-profit schools.

Accreditors are private, nonprofit bodies that organize peer review of institutions of higher education. The Department of Education requires institutions to be accredited in order to access title IV funds.<sup>27</sup> There are two types of accrediting agencies, national accreditors and regional accreditors. National accreditors are not limited by geography and have historically accredited non-degree-granting for-profit schools. Regional accrediting agencies have a more diverse membership; they accredit schools based on geography and have historically accredited degree-granting public and nonprofit schools. Nationally accredited non-degree-granting institutions historically have comprised the majority of for-profit schools and have been more commonly associated with engaging in fraud and causing problems for students than degree-granting institutions. However, nationally accredited degree-granting for-profits have risen to prominence in recent years. Further, even though regional accreditors tend to have more stringent standards and more diversity of membership, they, like national accreditors, tend to lack effective review of consumer protection issues. Consumer protection is an integral piece of private for-profit oversight; these are businesses, after all. This lack of effective consumer protection stems from the following concerns:

- **Conflicts of interest.** Accreditation is a voluntary, peer-review process. This process subjects schools to review and oversight by individuals who are themselves a part of the industry that is being reviewed, which creates a conflict. In addition, accrediting organizations are funded primarily by annual dues from institutions and programs that are accredited and fees that institutions and programs pay for accreditation reviews,<sup>28</sup> creating further potential for a conflict of interest. It is in the accrediting agencies' best interest that schools remain accredited, fee-paying members.
- **Potential for manipulation.** According to the 2012 Senate HELP Committee report, the accreditation process can be manipulated by schools more concerned with their bottom line than

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<sup>25</sup> *AT&T Mobility L.L.C. v. Concepcion*, 131 S. Ct. 1740 (2011).

<sup>26</sup> National Consumer Law Center, *Ensuring Educational Integrity: 10 Steps to Improve State Oversight of For-Profit Schools* (2014). Available at <https://www.nclc.org/issues/ensuring-educational-integrity.html>.

<sup>27</sup> *U.S. Senate HELP Committee Report*, *supra* note 5 at 123. See also Higher Education Act of 1965, 20 U.S.C.A. § 1058(b)(1)(D) (2008) (defining an eligible institution as one "accredited by a nationally recognized accrediting agency or association determined by the Secretary to be reliable authority as to the quality of training offered or which is, according to such an agency or association, making reasonable progress toward accreditation"). Federal funds include Pell grants, Federal student loans, and other Federal and State government funding. Students are eligible for Federal aid only if enrolled at an institution accredited by an agency recognized by the Department of Education.

<sup>28</sup> Judith S. Eaton, *An Overview of U.S. Accreditation*, Council for Higher Education (2009) at 4.

with improving academic quality.<sup>29</sup> Among the concerns raised by the Committee’s report is the fact that the accreditation fee structure means that both regional and national accrediting organizations are by definition financially dependent on the very institutions they review.”<sup>30</sup> The report also noted that “[b]ecause national accreditation agencies are composed primarily of for-profit members, for-profit executives dominate the boards of two large national accrediting bodies.”<sup>31</sup>

## IV. ACTIONS AGAINST FOR-PROFIT COLLEGES

Although the GAO’s 2010 findings and the Senate HELP Committee’s 2012 report put state and federal policymakers on notice regarding the significant concerns described earlier, many private for-profit colleges have continued to engage in illegal and/or questionable practices. In order to address such activity and protect the current and future students of those schools, a number of public and private investigations and lawsuits have been and continue to be brought against private for-profit colleges. Some of those actions are described earlier (see Section I).

Many state Attorneys General have been working hard to protect students who suffer harm as a result of the practices employed by several private for-profit postsecondary educational institutions. Attorney and advocate David Halperin has compiled an extensive list of pending and recent significant federal and state civil and criminal law enforcement investigations of, and actions against, for-profit colleges. His list includes some major investigations and disciplinary actions by state Attorneys General, the U.S. Departments of Education and Defense but does not include investigations or disciplinary actions by state education oversight boards or lawsuits prosecuted only by private parties (such as students or staff).<sup>32</sup>

## V. FEDERAL OVERSIGHT AND REGULATION

As is discussed more fully below, advocates are concerned that recent progress to enhance student protections made during the Obama Administration appears unlikely to be supported by President Trump and his appointees.

### A. THE GAINFUL EMPLOYMENT RULE AND OTHER PROGRESS MADE DURING THE OBAMA ADMINISTRATION

In 2015, the Obama Administration put in place the “gainful employment rule,” which requires most for-profit programs (as well as certificate programs at private nonprofit and public institutions) to prepare students for gainful employment in a recognized occupation, in order to qualify for federal student aid.<sup>33</sup> The regulations distinguish programs that provide affordable training that leads to well-paying jobs from programs that leave students with poor earnings prospects and high amounts of debt. They support greater accountability for colleges by requiring institutions to provide key information to prospective students

<sup>29</sup> *U.S. Senate HELP Committee Report*, *supra* note 5 at 123.

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> *Halperin Report*, *supra* note 4.

<sup>33</sup> 34 CFR 600; 24 CFR 668.



about program costs, what percentage of students graduate, how much graduates earn, and how much debt students may accumulate while attending the program. These required standard disclosures empower students to compare across career college programs when searching for and selecting a program. The regulations also help policymakers protect students from deceptive practices on the part of some for-profit colleges.<sup>34</sup>

Under the regulations, a program would be considered to lead to gainful employment if the estimated annual loan payment of typical graduates does not exceed 20% of their discretionary income—what is left after basic necessities like food and housing have been paid for—or 8% of total earnings. Programs that exceed these levels would be at risk of losing their ability to participate in taxpayer-funded federal student aid programs. In addition, failing programs that may present a risk to students if they lose eligibility will have to start notifying students of this risk.<sup>35</sup>

The Obama Administration took other actions to try to increase the accountability and transparency of postsecondary educational programs. For example, it clarified the states' role and the minimum actions that they must take to approve institutions and monitor complaints from the public about their operations, in order to protect students. It also published annual College Affordability and Transparency lists, which highlight institutions with the highest costs, the lowest costs, and those where costs are increasing rapidly.<sup>36</sup>

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## **B. REGULATION/OVERSIGHT OF FOR-PROFIT SCHOOLS UNDER THE TRUMP ADMINISTRATION**

The November 2016 election of Donald Trump, founder of the private for-profit school Trump University, as President of the United States signaled a potential change in the federal regulation and oversight of private for-profit postsecondary institutions. Trump University was the subject of controversy and lawsuits by former students and the New York State Attorney General, alleging that the school defrauded its students by using misleading marketing practices and engaging in aggressive sales tactics. Following his election, Trump agreed to a \$25 million settlement—without admitting wrongdoing.<sup>37</sup>

Thus far, the actions (and inactions) of the Trump Administration make it clear that the onus of protecting students and taxpayers from predatory for-profit educational institutions will now largely be on states. For example, Trump appointed a Secretary of Education, Betsy DeVos, who has been a proponent of for-profit education and in fact invested in for-profit postsecondary companies.<sup>38</sup> In her confirmation hearing, DeVos declined to commit to enforcing the gainful employment rule; since her appointment, she has hired former for-profit college executives to work at the Department of Education.<sup>39</sup>

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<sup>34</sup> U.S. Department of Education, *Fact Sheet: Obama Administration Increases Accountability for Low-Performing For-Profit Institutions* (July 1, 2015). Available at <https://www.ed.gov/news/press-releases/fact-sheet-obama-administration-increases-accountability-low-performing-profit-institutions>.

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

<sup>37</sup> Rosalind S. Helderman, *Judge Approves \$25 million settlement in Trump University cases*, The Washington Post (March 31, 2017). Available at [https://www.washingtonpost.com/news/post-politics/wp/2017/03/31/judge-approves-25-million-settlement-in-trump-university-cases/?utm\\_term=.9f1c65522cad](https://www.washingtonpost.com/news/post-politics/wp/2017/03/31/judge-approves-25-million-settlement-in-trump-university-cases/?utm_term=.9f1c65522cad).

<sup>38</sup> Patricia Cohen, *For-Profit Schools, an Obama Target, See New Day Under Trump*, The New York Times (Feb. 20, 2017). Available at <https://www.nytimes.com/2017/02/20/business/for-profit-education-trump-devos.html>.

<sup>39</sup> Danielle Douglas-Gabriel, *Elizabeth Warren questions the hiring of for-profit-college officials at the Education Department*, The Washington Post (March 20, 2017). Available at <http://wapo.st/2sXLVpz>.

Under DeVos, the Department of Education is working to repeal and replace Obama-era regulations meant to protect students and taxpayers from for-profit abuses. In one example, DeVos' Department is in the process of redrafting borrower defense regulations to make it more difficult for students who were defrauded by for profit postsecondary educational institutions.<sup>40</sup> DeVos' Department is also working to weaken or eliminate the important gainful employment rule discussed above.

At this writing, two separate lawsuits filed by the for-profit industry are under way; one challenges the gainful employment rule and the other challenges the borrower defense rule, which protects students from predatory practices.<sup>41</sup> One important aspect of the borrower defense rule permits students who are defrauded by their colleges to have their federal loans cancelled. Although the Trump Administration defended the gainful employment rule in federal court in March 2017,<sup>42</sup> it appears to have halted defrauded students' claims for debt cancellation.<sup>43</sup> The Trump Administration has indicated that it is carefully studying these regulations.<sup>44</sup> It remains to be seen whether the administration will defend against these lawsuits and enforce existing federal regulations, but advocates are not hopeful, given developments to this point.<sup>45</sup>

## VI. ABOUT THIS REPORT

### A. OVERVIEW

Recent events indicate that, moving forward, states will bear the onus of protecting student consumers—and taxpayers who foot the bill for postsecondary educational assistance—from predatory private for-profit postsecondary educational institutions. Although many states have been making progress in their oversight and regulation of these institutions, when viewed through the lens of consumer and taxpayer protection, most states fall far short. By failing to properly and effectively regulate private for-profit colleges, states are allowing these schools to over-promise and under-deliver to students, while failing to ensure that taxpayer money goes only to institutions that provide quality educational services.

The Children's Advocacy Institute (CAI), part of the University of San Diego School of Law, identified several elements that are essential to addressing the problems outlined in this report and protecting students by effectively regulating private for-profit colleges. Those elements are separated into seven main categories: oversight body; oversight efficacy; oversight scope and inclusion; disclosure requirements; regulation of recruiting practices; complaint process and relief for students; and enforcement. These elements are discussed in detail in Part Two of this report. Together, these elements would protect students who are considering attending for-profit colleges, ensure that students enrolled in such schools get the quality education for which they are paying, and safeguard taxpayer funds for use only at qualified, well-performing schools.

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<sup>40</sup> David Halperin, *DeVos Department Slamming Door on Defrauded Students*, The Huffington Post (January 8, 2018). Available online at: [https://www.huffingtonpost.com/entry/devos-department-slamming-door-on-defrauded-students\\_us\\_5a538532e4b0cd114bdb3513](https://www.huffingtonpost.com/entry/devos-department-slamming-door-on-defrauded-students_us_5a538532e4b0cd114bdb3513)

<sup>41</sup> David Halperin, *For-Profit Colleges Sue to Block Protections for Defrauded Students and Taxpayers*, The Huffington Post (May 25, 2017) (hereinafter *For-Profit Colleges Sue to Block Protections*). Available at [www.huffingtonpost.com/entry/for-profit-colleges-sue-to-block-protections-for-defrauded\\_us\\_59276417e4b0d2a92f2f4274](http://www.huffingtonpost.com/entry/for-profit-colleges-sue-to-block-protections-for-defrauded_us_59276417e4b0d2a92f2f4274).

<sup>42</sup> Andrew Kreighbaum, *Inside Higher Ed. Education Dept. Defends Gainful Employment*, Inside Higher Ed (March 30, 2017). Available at <https://www.insidehighered.com/quicktakes/2017/03/30/education-dept-defends-gainful-employment>.

<sup>43</sup> *For-Profit Colleges Sue to Block Protections*, *supra* note 39, at 9.

<sup>44</sup> *Id.*

<sup>45</sup> *Id.*

After researching the laws and regulations in each state with regard to these essential elements, CAI incorporated its findings into detailed state-specific reports. CAI then reached out to officials in each state seeking feedback, comments, and corrections on its findings and analysis. CAI received responses from officials in 33 states, including substantive feedback from officials in 28 states.

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## **B. SUMMARY OF RESULTS**

After carefully analyzing and scoring each state based on these model elements, CAI found enormous gaps in regulatory oversight, leaving loopholes that unscrupulous for-profits could easily exploit. Despite intensified attention to for-profit abuses generated by the 2012 Senate HELP Committee report, other investigations, lawsuits, and school closings, states are still failing *en masse* to put in place laws that would, among other things, prevent the kinds of abuses that led to the Corinthian failure; provide sufficient enforcement mechanisms; provide sufficient recourse for students who are targeted and fall victim to the abuses of unscrupulous for-profits; and provide sufficient resources and recourse for students attending for-profits that shut down, leaving their students with high student loan debt, no degrees, and bleak employment opportunities.

After applying the model elements to state regulatory and oversight schemes, CAI found that every state except eight received a grade of “F” (scores below 60%). The only states *not* earning the grade of “F” are California (earning a “B” with a score of 84%), Wisconsin (earning a “D” with a score of 66%), Ohio (earning a “D” with a score of 65%), Tennessee (earning a “D” with a score of 64%), Massachusetts (earning a “D” with a score of 63%), Alaska (earning a “D” with a score of 61%), Illinois (earning a “D” with a score of 60%), and Texas (earning a “D” with a score of 60%). Of the 42 failing states, 29 earned scores of less than 50% (*see* Figures 1 and 2). These results indicate that nearly all states need to significantly improve their laws and regulations in order to protect students and avoid another Corinthian-level disaster.

Two broad problems have come to light:

- First, states mistakenly assume that accreditation is sufficient oversight. As a result, they apply more lenient oversight or more exemptions to institutions that are accredited. As discussed earlier, accreditors have potential conflicts of interest that may impact their ability to effectively protect students and taxpayers from abuses. Accreditation is not a sufficient substitute for rigorous state oversight.
- Second, states mistakenly assume that degree-granting institutions need less regulation than non-degree-granting institutions, applying more lenient standards and oversight to degree-granting institutions. The assumption appears to be that non-degree-granting, for-profit colleges have been the bad actors in the past. However, as evidenced not only by CCI and ITT, but also by the multitude of actions and investigations in recent years, degree-granting, private for-profit institutions need robust regulatory oversight, as well.

In addition to these overarching concerns, states scored the lowest in three areas: oversight efficacy, disclosure requirements, and enforcement.

Figure 1. Survey Results, High to Low

State	Oversight Body	Oversight Efficacy	Oversight Scope & Inclusion	Disclosure Requirements	Regulation of Recruiting Practices	Complaint Process/Relief for Students	Enforcement	Bonus Points	Score	% (rounded)	Grade
California	67.5	83	75	100	100	65	50	50	590.5	84%	B
Wisconsin	70	61	75	7.5	75	73.5	100	0	462.0	66%	D
Ohio	60	57.5	50	80	100	66	40	0	453.5	65%	D
Tennessee	50	58	75	60	100	78	25	0	446.0	64%	D
Massachusetts	48	32.75	75	72.5	87.5	42	57.5	25	440.25	63%	D
Alaska	75	50.5	50	47.5	100	65.5	40	0	428.5	61%	D
Texas	72.5	53.5	37.5	61.7	62.5	60.25	72.5	0	420.45	60%	D
Illinois	53	45.5	75	47.5	75	53	67.5	0	416.5	60%	D
Washington	66.5	42.5	75	17.5	62.5	69.25	77.5	0	410.75	59%	F
Maryland	75	47	75	57.5	75	58	20	0	407.5	58%	F
Arizona	65	47.5	75	45	75	76	20	0	403.5	58%	F
Oregon	80	54.5	50	58.75	87.5	52.75	20	0	403.5	58%	F
New York	53.75	47.75	87.5	55	62.5	50.75	37.5	0	394.75	56%	F
New Mexico	29.5	68	75	15	100	69	35	0	391.5	56%	F
South Carolina	55	46	75	30	75	62	40	0	383.0	55%	F
Mississippi	54.75	52.25	50	67.5	62.5	53.75	20	0	360.75	52%	F
Rhode Island	50	43.25	75	12.5	75	54.5	0	50	360.25	52%	F
Georgia	80	57.5	0	37.5	75	72.5	35	0	357.5	51%	F
Virginia	80.5	49	50	42.5	75	59.5	0	0	356.5	51%	F
West Virginia	66.3	46	100	11.6	58.3	50.2	23.3	0	355.7	51%	F
Kentucky	55.25	49	75	31.25	50	66	22.5	0	349.0	50%	F
Alabama	55	41.5	50	25	50	80.5	40	0	342.0	49%	F
Nevada	62.5	45.5	50	27.5	75	61	20	0	341.5	49%	F
New Hampshire	50.5	51.5	50	48.75	62.5	56.25	10	0	329.5	47%	F
Louisiana	54.25	39	75	16.25	62.5	61	20	0	328.0	47%	F
Pennsylvania	61.25	28.25	75	12.5	75	51.75	20	0	323.75	46%	F
Utah	20	34	100	30.25	62.5	56.75	20	0	323.5	46%	F
Colorado	55	28	75	7.5	75	62	20	0	322.5	46%	F
Iowa	53	51	50	30	50	65.5	20	0	319.5	46%	F
Florida	52.5	43	75	17.5	75	50	5	0	318.0	45%	F
Minnesota	30	36.75	75	15	75	48	35	0	314.75	45%	F
New Jersey	39	49.25	75	21.25	50	34.25	35	0	303.75	43%	F
North Carolina	55	37	62.5	16.25	75	47.25	10	0	303.0	43%	F
North Dakota	72.5	38	50	3.75	62.5	55.75	20	0	302.5	43%	F
Kansas	75	36	0	20	75	70	20	0	296.0	42%	F
Idaho	42.5	38	87.5	3.75	62.5	40	20	0	294.25	42%	F
Hawaii	20	21.2	83.3	5	66.7	31.3	53.3	0	280.76	40%	F
Arkansas	60	43.5	75	3.75	37.5	60	0	0	279.75	40%	F
Nebraska	56.25	39.5	62.5	7.5	25	50.75	30	0	271.5	39%	F
Wyoming	20	25	100	0	62.5	36	20	0	263.5	38%	F
Oklahoma	65.25	33.5	37.5	12.5	62.5	33.5	17.5	0	262.25	38%	F
Missouri	65	54	0	15	75	40	5	0	254.0	36%	F
Indiana	49	43.5	0	7.5	50	69	25	0	244.0	35%	F
Delaware	25	33.5	75	0	37.5	45	27.5	0	243.5	35%	F
Michigan	21.9	21	100	1.7	58.3	24.2	0	0	227.1	32%	F
Maine	37.75	23.5	50	10	62.5	32.5	0	0	216.25	31%	F
Vermont	40	23	50	11.25	37.5	12.5	10	0	184.25	26%	F
Connecticut	25	26.25	5	7.5	62.5	27.75	20	0	174.0	25%	F
Montana	30	3.75	0	0	50	38.25	10	0	132.0	19%	F
South Dakota	25	5	0	0	0	13.5	20	0	63.5	9%	F

Figure 2. Survey Results, Alphabetical by State

State	Oversight Body	Oversight Efficacy	Oversight Scope & Inclusion	Disclosure Requirements	Regulation of Recruiting Practices	Complaint Process/Relief for Students	Enforcement	Bonus Points	Score	% (rounded)	Grade
Alabama	55	41.5	50	25	50	80.5	40	0	342.0	49%	F
Alaska	75	50.5	50	47.5	100	65.5	40	0	428.5	61%	D
Arizona	65	47.5	75	45	75	76	20	0	403.5	58%	F
Arkansas	60	43.5	75	3.75	37.5	60	0	0	279.75	40%	F
California	67.5	83	75	100	100	65	50	50	590.5	84%	B
Colorado	55	28	75	7.5	75	62	20	0	322.5	46%	F
Connecticut	25	26.25	5	7.5	62.5	27.75	20	0	174.0	25%	F
Delaware	25	33.5	75	0	37.5	45	27.5	0	243.5	35%	F
Florida	52.5	43	75	17.5	75	50	5	0	318.0	45%	F
Georgia	80	57.5	0	37.5	75	72.5	35	0	357.5	51%	F
Hawaii	20	21.2	83.3	5	66.7	31.3	53.3	0	280.76	40%	F
Idaho	42.5	38	87.5	3.75	62.5	40	20	0	294.25	42%	F
Illinois	53	45.5	75	47.5	75	53	67.5	0	416.5	60%	D
Indiana	49	43.5	0	7.5	50	69	25	0	244.0	35%	F
Iowa	53	51	50	30	50	65.5	20	0	319.5	46%	F
Kansas	75	36	0	20	75	70	20	0	296.0	42%	F
Kentucky	55.25	49	75	31.25	50	66	22.5	0	349.0	50%	F
Louisiana	54.25	39	75	16.25	62.5	61	20	0	328	47%	F
Maine	37.75	23.5	50	10	62.5	32.5	0	0	216.25	31%	F
Maryland	75	47	75	57.5	75	58	20	0	407.5	58%	F
Massachusetts	48	32.75	75	72.5	87.5	42	57.5	25	440.25	63%	D
Michigan	21.9	21	100	1.7	58.3	24.2	0	0	227.1	32%	F
Minnesota	30	36.75	75	15	75	48	35	0	314.75	45%	F
Mississippi	54.75	52.25	50	67.5	62.5	53.75	20	0	360.75	52%	F
Missouri	65	54	0	15	75	40	5	0	254.0	36%	F
Montana	30	3.75	0	0	50	38.25	10	0	132.0	19%	F
Nebraska	56.25	39.5	62.5	7.5	25	50.75	30	0	271.5	39%	F
Nevada	62.5	45.5	50	27.5	75	61	20	0	341.5	49%	F
New Hampshire	50.5	51.5	50	48.75	62.5	56.25	10	0	329.5	47%	F
New Jersey	39	49.25	75	21.25	50	34.25	35	0	303.75	43%	F
New Mexico	29.5	68	75	15	100	69	35	0	391.5	56%	F
New York	53.75	47.75	87.5	55	62.5	50.75	37.5	0	394.75	56%	F
North Carolina	55	37	62.5	16.25	75	47.25	10	0	303.0	43%	F
North Dakota	72.5	38	50	3.75	62.5	55.75	20	0	302.5	43%	F
Ohio	60	57.5	50	80	100	66	40	0	453.5	65%	D
Oklahoma	65.25	33.5	37.5	12.5	62.5	33.5	17.5	0	262.25	38%	F
Oregon	80	54.5	50	58.75	87.5	52.75	20	0	403.5	58%	F
Pennsylvania	61.25	28.25	75	12.5	75	51.75	20	0	323.75	46%	F
Rhode Island	50	43.25	75	12.5	75	54.5	0	50	360.25	52%	F
South Carolina	55	46	75	30	75	62	40	0	383.0	55%	F
South Dakota	25	5	0	0	0	13.5	20	0	63.5	9%	F
Tennessee	50	58	75	60	100	78	25	0	446.0	64%	D
Texas	72.5	53.5	37.5	61.7	62.5	60.25	72.5	0	420.45	60%	D
Utah	20	34	100	30.25	62.5	56.75	20	0	323.5	46%	F
Vermont	40	23	50	11.25	37.5	12.5	10	0	184.25	26%	F
Virginia	80.5	49	50	42.5	75	59.5	0	0	356.5	51%	F
Washington	66.5	42.5	75	17.5	62.5	69.25	77.5	0	410.75	59%	F
West Virginia	66.3	46	100	11.6	58.3	50.2	23.3	0	355.7	51%	F
Wisconsin	70	61	75	7.5	75	73.5	100	0	462.0	66%	D
Wyoming	20	25	100	0	62.5	36	20	0	263.5	38%	F

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## C. INTENDED PURPOSE

Many states' Attorneys General have been vigilant in taking action against predatory private for-profit postsecondary institutions, alleging widespread and serious violations of law. However, such litigation is necessary in significant part because state oversight and regulation have failed to prevent harms from occurring in the first place. Assessing the quality of states' oversight and regulatory laws aimed at preventing harm is the focus of this report. Thus, this report is intended to help guide states interested in improving their oversight of private for-profit postsecondary educational institutions, and preventing the abuses that have been so prevalent in the for-profit education industry from happening in the first place.

This report seeks to start a discussion about the protections necessary to ensure that students who invest in attend these institutions receive the quality education and training advertised. The report is also intended to start a discussion about how to protect taxpayers, who ultimately pay the price when students who attend unscrupulous institutions cannot repay federal student loans. Examples of how states can go about protecting students and taxpayers include the following:

- States should ensure that the state body charged with the regulation and oversight of private for-profit postsecondary institutions operates with transparency; is independent of the industry being regulated; has authority to adopt regulations, commence investigations, and impose penalties; and is required to allow for appropriate input from consumer advocates and the public.
- States should pass laws that require all private for-profit postsecondary educational institutions to inform potential students about past performance, require truthful advertising, and provide essential remedies for students who have been defrauded.
- State veteran's agencies should pave the way by imposing more oversight over schools serving veterans. A model rule for a state veteran's approving agency related to the approval of private postsecondary institutions would include these key features:
  - The ability of veterans to obtain relief as a group rather than through individual actions.
  - Required compliance with all federal and state qualification and disclosure laws.
  - No deception or unfair competition.
  - Education in a subject area where there is demand for work.
  - Qualification for reasonable successful performance, including graduation rates, a history of passing required licensure standards for work and a cohort default rate that indicates some value to the program rather than credit ruination for those who complete it.

Finally, it is our hope that states can learn from one another. Several states have notable provisions in law and regulation that have been highlighted throughout this report. These, along with the model elements the report provides, are intended to serve as a guide for states to use as they set out to improve oversight of for-profit postsecondary schools and, in turn, to better protect the interests of students and taxpayers.

## PART TWO:

### ELEMENTS REVIEWED IN THIS REPORT

The following pages explain the reasoning underlying each of the specific elements analyzed in this report and provide grading notes to explain how scores were determined for each element. In addition, several model provisions are highlighted, as well as notable provisions (i.e., aspects of a state's law that fall outside the scope of this report, or unique approaches that may not meet all of the model criteria but that merit mention because states could build upon them to create meaningful protections).

#### I. OVERSIGHT BODY

##### A. IS THERE A STATUTORILY CREATED OVERSIGHT BODY THAT IS PUBLICLY ACCOUNTABLE?

###### 1. Is the oversight body a multi-member board, commission, or panel created by statute?

**Reasoning:** Private for-profit postsecondary educational institutions receive a great deal of federal and state funding in the form of student aid—both grants and loans. This investment is for a worthy reason—ensuring that students can afford to receive a quality postsecondary education that can lead to a successful career and financial security. We entrust the education of our children, our veterans, and others to the institutions that receive these funds. Thus, there is a substantial public interest in ensuring that there are adequate provisions in place to protect students and taxpayers. To that end, there must be an independent, public board tasked with the regulation and oversight of these organizations. An independent public board ensures transparency in rulemaking related to these issues of vital importance to the public.

**Grading Notes:** States with public boards or commissions created to oversee private postsecondary educational institutions receive full credit (10 points).

###### 2. Was the oversight body statutorily created specifically to oversee private postsecondary institutions?

**Reasoning:** Private postsecondary schools present a complex set of issues and are distinct from public schools. Private nonprofits must adhere to specific standards to maintain their nonprofit status and serve students adequately.

Private for-profit schools are businesses as well as educational institutions and require close scrutiny to ensure students and taxpayers are protected. Recent events, such as those related to Corinthian Colleges, have brought to light specific issues related to the fallout from a failed for-profit school.

An oversight body created specifically to address private postsecondary educational institutions is better equipped than a broader, more generally focused board to address issues that arise with these institutions. States must designate an independent, public board specifically to oversee and regulate private postsecondary institutions. The members of the board must have special expertise in issue areas related to consumer protection, education, corporations, and corporate ethics to oversee these institutions.



**Grading Notes:** States that have created an independent public board specifically to oversee private postsecondary educational institutions receive full credit (10 points). States that have created advisory boards to address for-profit concerns receive partial credit because such advisory boards ensure that some expertise is available to the larger oversight board, agency, or department. However, in order to be as effective as possible, the board focusing specifically on private postsecondary educational institutions must have authority beyond an advisory capacity.

**3. Is a multi-member board, commission, or panel the ultimate decision maker (as opposed to a single person, like the head of a department or director)**

**Reasoning:**

A publicly accountable multi-member board must be charged with rule-making, investigations, and imposing penalties. This approach is a step toward transparency, public accountability and broad stakeholder participation in the process, which is not present when the ultimate decision-maker is a single person that, for example, heads a department.

**Grading Notes:**

States receive full credit if the decision-maker is a publicly accountable multi-member board or commission.

**4. Can the oversight body engage in rulemaking?**

**Reasoning:** The independent public board must have authority to engage in rulemaking. This will ensure that the board can implement laws within its enabling act, preferably in a transparent manner incorporating public comment and participation.

**Grading Notes:** States that provide the oversight board with authority to engage in rulemaking receive full credit (10 points). If there is no board, or if the board does not have the authority to engage in rulemaking, the state receives no credit.

**5. Must meetings of the oversight body be open to the public?**

**Reasoning:** Public meetings further ensure transparency in board deliberations and decision-making.

**Grading Notes:** States that require board meetings to be open to the public receive full credit (5 points).

**6. Must meetings of the oversight body allow public comment?**

**Reasoning:** The public must be afforded an opportunity for input at board meetings. This provides the board with the opportunity to gain valuable insight into the institutions they are charged with overseeing and regulating. It provides the opportunity for open, public discourse on issues of importance. Finally, it provides further opportunity for students, parents, and other consumers and stakeholders to have input into the regulation and oversight of institutions that play an important role in their communities and across the state.

**Grading Notes:** States that require the board to allow public comment receive full credit (5 points). States that give the board discretion to allow public comment or limit public comment in any way receive partial credit. States that do not require the board to allow any public comment receive no credit.



7. **Can the oversight body initiate investigations?**

**Reasoning:** The oversight body must have authority not only to investigate complaints from students and other members of the public, but also to initiate investigations on its own.

**Grading Notes:** States that authorize the oversight body to initiate investigations receive full credit (5 points). If the authority to initiate investigations is limited in any way, the state receives partial credit. If the state does not grant any authority to the oversight body with regard to initiating investigations, the state receives no credit.

8. **Can the oversight body impose penalties for violations?**

**Reasoning:** In order to be effective, the board must be authorized to impose appropriate penalties when a private for-profit college violates the laws and regulations in place to govern it, or when a student's complaint is substantiated.<sup>46</sup>

**Grading Notes:** States that authorize the oversight body to impose penalties receive full credit. States that limit the oversight body's authority to impose penalties in any way receive only partial credit for this element. States that do not give the oversight body authority to impose penalties do not receive any credit.

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## **B. STATUTE-SPECIFIED MEMBERSHIP**

1. **To what extent are limitations placed on for-profit membership on the oversight body?**

**Reasoning:** Individuals with ties to private for-profit colleges must not be allowed to comprise a majority of members on a state oversight body. Members of the industry being regulated should not dominate the public oversight body regulating the industry, as the interests of the for-profit industry may conflict with the interests of the students, who are the consumers. The interests of the for-profit industry also may conflict with the interests of others stakeholders, such as taxpayers. The for-profit industry has a well-funded, powerful lobby, and the oversight body can seek the advice and opinions of industry experts at public meetings and hearings, where the public will be able to hear and respond to input from industry experts.

**Grading Notes:** To receive full credit (25 points), a state must prohibit a for-profit majority and ensure that there is no possibility of a for-profit majority of the quorum. If there is an explicit prohibition on a majority, but the state leaves open the possibility that for-profit interested members could make up a majority of the quorum, the state receives 20 points for this element. If a state does not expressly prohibit a majority of board members with for-profit interests, but mandates the make-up of the board in such a way that would make it difficult for a for-profit majority to result, the state "discourages" appointment of members with for-profit interests and receives 10 points. If the state is silent on the matter, it receives 0 points for the element. If a state mandates a for-profit majority, the state loses 5 points.

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<sup>46</sup> There is another important element that is not explored in this report, but should and will be included in subsequent reviews of state oversight of private for-profit postsecondary educational institutions. States must provide sufficient resources to the oversight body to be able to function effectively. This, unfortunately, is a problem that appears to be a substantial impediment to effective oversight in nearly every state.

### MODEL: MARYLAND

Maryland law explicitly prohibits Commission members from being employed by any agency or institution of postsecondary education. It further prohibits Commission members from being members of the governing board of any agency or institution of postsecondary education that is subject to the Commission's jurisdiction. (Md. EDUCATION Code Ann. § 11-102(g).)

### NOTABLE PROVISION: NORTH DAKOTA

The North Dakota constitution prohibits persons employed by any institution under the authority of the board from serving as a member of the board, and further restricts any employee of any such institution from eligibility for membership on the state board of higher education for a period of two years following the termination of employment. (N.D. Const. Art. VIII, § 6; N.D. Cent. Code, § 15-10-02.) This provision has the same effect as a prohibition on a for-profit majority and allows for no possibility of a majority of the quorum.

## 2. Is the oversight body mandated to include at least one consumer advocate?

**Reasoning:** States must mandate the inclusion of at least one established consumer advocate on the oversight board. An established consumer advocate is someone with expertise and experience in consumer advocacy and protection. A consumer advocate can provide an effective voice and information on issues related to consumer protection. Many states require oversight bodies to include students; this is good practice and it is laudable, but states also must mandate the inclusion of a consumer advocate. Although students are consumers, they do not necessarily have expertise and experience in consumer advocacy and protection.

The private for-profit industry is well funded and has a powerful lobby. A consumer advocate can provide an important balance to industry pressure and input.

**Grading Notes:** If a state requires the board to include an established consumer advocate among its members, it receives full credit for this element (10 points). States do not receive credit for requiring inclusion of a student on the board. While a student is a consumer, a student is not necessarily an established consumer advocate.

### MODEL: CALIFORNIA

Three of the 12 members of California's Bureau of Private Postsecondary Education (BPPE) Advisory Committee are statutorily required to "have a demonstrated record of advocacy on behalf of consumers." (Cal. Ed. Code § 94880(a)(1).)

## 3. Are the members appointed by a publicly accountable official or elected in a general election?

**Reasoning:** Board members must be accountable to the students, the public, and the taxpayers whose interests they are mandated to protect.

**Grading Notes:** If all of the members of the board are elected in a general election or appointed by a public body or official, the state receives full credit (5 points). If a majority are appointed by a public official or body or elected in a public election, the state receives 4 points. If half are appointed by a public official or body or elected in a public election, the state receives 3 points. If

a minority are appointed by a public official or body or elected in a public election, the state receives 2 points. If none are appointed by a public official or body or elected in a public election, the state receives no credit.

## II. STATE OVERSIGHT—EFFICACY

The elements in this section reflect those essential to ensure that private for-profit colleges in the state continue to comply with the laws and statutes in place to govern them and to ensure that the students who are attending the institution continue to receive a quality education that meets minimum standards.

States perform very poorly in this area, scoring an average of 40 percent. State performance on this element is particularly alarming, given that the components that comprise this element relate to practices that protect students by ensuring that schools continue to comply with minimum standards. Regular review of these schools, focused on factors essential to academic and ethical integrity, is necessary in order to prevent schools from sliding into a Corinthian-type debacle.

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

**Reasoning:** Periodic onsite reviews will provide perspective and information about an institution's facilities, students, faculty, and services that cannot be adequately reflected on a form or through other means.

**Grading Notes:** States that mandate an onsite review every 2 years or less receive 10 points. States that mandate an onsite review every 3–5 years receive 8 points. States that mandate onsite reviews that are more than 5 years apart receive 5 points. Some states provide discretion to the oversight body regarding onsite reviews. This generally happens when a state mandates regular review and provides that the review “may include onsite review” or similar language. In these cases, states receive 3 points.

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

**Reasoning:** Unannounced inspections provide an oversight body with the opportunity to see how an institution is operating on a day-to-day basis. They further encourage institutions to maintain high standards and adhere strictly to compliance requirements, given that an inspection may occur at any time.

**Grading Notes:** States that require the oversight body to conduct unannounced visits receive full credit (5 points). States that provide discretion for the oversight body to conduct unannounced visits receive partial credit (3 points). If there is no mention of unannounced visits, or if they are expressly prohibited, the state receives no credit.

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

**Reasoning:** Mandated regular periodic reviews ensure that private for-profit educational institutions are continuing to comply with the laws and regulations in place to govern them. The reviews also provide the oversight body with an opportunity to ensure that institutions are not engaging in fraudulent, deceitful, or misleading advertising. Finally, these reviews can serve as an opportunity for the state oversight body to take note of anything that may indicate the institution is floundering or may be on the verge of problems with federal eligibility, student graduation rates, or finances, among other things. The oversight body can then take action to further investigate and mitigate harm to students if necessary. To be an effective oversight tool and provide effective protection for students, these reviews must be done at least once every 2 years.

**Grading Notes:** States that require regular reviews every 2 years or less receive full credit (20 points). States that require regular reviews every 3–5 years receive 15 points. States that require regular reviews at intervals that exceed 5 years receive 10 points. States that allow, but do not require, the oversight body to conduct reviews receive 5 points. States that do not require or allow reviews receive no credit.

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

A body charged with oversight and regulation of private for-profit postsecondary educational institutions must consider, in any review of the institution, factors specifically related to the quality and consistency of the academic program and all related educational services and supports, including the following elements:

### **1. Admission requirements**

**Reasoning:** Review of admission requirements will help to ensure that students admitted by the institutions have a reasonable likelihood of succeeding.

**Grading Notes:** States that require any review of private for-profit colleges to include a review of admissions requirements receive full credit. States that allow but do not require such reviews receive partial credit.

### **2. Graduation requirements**

**Reasoning:** Review of graduation requirements will ensure that the institution is on par with other institutions that provide similar training and degrees, and that the institution is in compliance with applicable standards related to graduation requirements.

**Grading Notes:** States that require any review of private for-profit colleges to include a review of graduation requirements receive full credit. States that allow but do not require such reviews receive partial credit.

### **3. Placement rates**

**Reasoning:** Review of an institution's placement rate helps to ensure the protection of students attending the institution. Low placement rates may indicate a problem with the quality of education, or the institution's placement services. Both of these things are red flags. A review of placement rates should be done in conjunction with a review of the institution's advertising, to ensure accuracy in both.

**Grading Notes:** States that require any review of private for-profit colleges to include a review of placement rates receive full credit. States that allow but do not require such reviews receive partial credit.

#### 4. Completion rates (or graduation rates)

**Reasoning:** Like review of an institution's placement rate, review of an institution's completion or graduation rate helps to ensure the protection of students attending the institution. Low graduation rates may indicate a problem with the quality of instruction, the institution's advertising practices, or the institution's resources or student services. All of these things are red flags indicating that students may not be receiving the quality education for which they are paying. A review of graduation or completion rates must be done in conjunction with a review of the institution's advertising, to ensure accuracy in both.

**Grading Notes:** States that require any review of private for-profit colleges to include a review of graduation or completion rates receive full credit. States that allow but do not require such reviews receive partial credit.

#### 5. Advertising practices

**Reasoning:** States must require reviews of institutional advertising practices as part of any regular review of the institution. Advertising practices have been at the center of several investigations into abuses perpetrated by private for-profit postsecondary educational institutions upon their students and shareholders. Reports from the Senate HELP Committee and the GAO, in addition to actions filed by attorneys general across the country, all allege misrepresentation, fraud, and/or deceit with regard to advertising of some for-profit colleges. Thus, states must require reviews to include a review of advertising practices to protect students, taxpayers, and shareholders.

**Grading Notes:** States that require any review of private for-profit colleges to include a review of advertising practices receive full credit. States that allow but do not require such reviews receive partial credit.

### MODEL: MARYLAND

Maryland requires schools to submit to the Commission responsible for oversight several documents reflecting institutional expenditures, including their advertising budget as a percentage of total expenditures, instructional expenses as a percentage of total expenditures, and reinvestment of gross revenues to support educational purposes and programs. (COMAR 13B.02.02.08(D).)

#### 6. Cohort default rates

**Reasoning:** Cohort default rates reflect the quality of education and the level of career preparation that an educational institution provides. High cohort default rates can indicate that students who graduate from an institution are unable to find a job that pays enough to service the student loan debt required to attend the institution, or that students are not graduating from the institution. This, in turn, indicates that the institution is charging too much for the education it is providing, given that the careers for which it is preparing its students do not pay enough for a substantial proportion of students to service their student loan debt. It also may indicate that the

institution's quality or reputation is so poor that the students are unable to secure adequate employment.

Attention to this factor in any review is vital. High default rates can indicate a potential impending problem with eligibility for federal student aid. Student loan debt cannot be discharged in bankruptcy, and high default rates are a serious problem for the students whose credit is ruined, potentially for years, and for their families. High cohort default rates also are a problem for taxpayers, who are left holding the bag when students default on their federal loans.

**Grading Notes:** States that require any review of private for-profit colleges to include a review of cohort default rates receive full credit. States that allow but do not require such reviews receive partial credit.

## 7. Accreditation status

**Reasoning:** The accreditation status of an institution is an important indicator of the adequacy of the education it offers. If an institution is not properly accredited, it will impact the students' ability to take certain exams or find employment in the field for which they are seeking training and education. The accreditation status must be reviewed in light of an institution's advertising materials to ensure that the materials accurately reflect the institution's accreditation and students' potential career, exam, and further educational opportunities.

**Grading Notes:** States that require any review of private for-profit colleges to include a review of accreditation status receive full credit. States that allow but do not require such reviews receive partial credit.

## 8. Financial aid practices

**Reasoning:** The Senate HELP Committee investigation found abuses in the financial aid practices of private for-profit colleges.<sup>47</sup> Given that student loan debt is not dischargeable in bankruptcy, an institution's financial aid practices must be properly reviewed by the oversight body on a regular basis to ensure the avoidance of abuses that may prove costly for both students and taxpayers.

**Grading Notes:** States that require any review of private for-profit colleges to include a review of financial aid practices receive full credit. States that allow but do not require such reviews receive partial credit.

### MODELS OF PROMISING PRACTICE: ARKANSAS, NEW MEXICO, AND OHIO

**Arkansas** requires degree-granting private postsecondary institutions to submit copies of student and faculty assessment documents as a part of its institutional review. This may help to provide useful student and faculty insights and perspectives if administered properly. (Arkansas Higher Education Coordinating Board Policies (2015) at form 5.<sup>48</sup>)

**New Mexico** requires private postsecondary institutions to maintain a program of periodically assessing the satisfaction of its graduates and to make available to the department all reports of

<sup>47</sup> Senate HELP Committee Report, *supra* note 5, at 123.

<sup>48</sup> Available at [https://static.ark.org/eeuploads/adhe/2015\\_Board\\_Policy.pdf](https://static.ark.org/eeuploads/adhe/2015_Board_Policy.pdf).

these assessments prepared during the past 5 years. The state allows institutions to submit to the department additional measures of institutional success, such as the results of surveys of employers of recent graduates. 5.100.2.26 NMAC. New Mexico also has in place additional requirements for degree-granting private postsecondary educational institutions. One such requirement is that all bachelor's and graduate degree programs at an institution licensed by the department must be reviewed and approved periodically by teaching faculty of the institution. (5.100.2.27(15) NMAC.)

**Ohio** requires all registered schools to administer student surveys, which are used to solicit comments from students enrolled at the school. The survey must be designed to determine student satisfaction with the quality of instruction, facilities, school personnel, and business operations, including recruitment and recruitment agents. (OAC Ann. 3332-1-14.)

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

**Reasoning:** These two types of private postsecondary educational institutions vary greatly. Nonprofits must invest any revenues beyond those which are necessary for the operation of the institution (profits) back into the institution to further its stated mission. Private for-profit colleges have owners and/or shareholders expecting the school to generate profits that will be distributed to them personally. This profit motive creates potential conflicts between the responsibility of the institutional leadership to post a profit and the obligation to provide a quality education. These institutions are businesses, and as such, they must be regulated differently than nonprofits.

**This element comes with a note of caution:** In recent years, private for-profit postsecondary institutions have been converting to non-profit status to get around the stricter laws and regulations in place to govern for-profits. When the for-profits use this tactic, the former owners maintain control and shift their profit taking to roles as creditors, landlords, and contractors. States must ensure that institutions registering as nonprofit are acting in good faith and are utilizing their funds in accordance with their nonprofit status.<sup>49</sup>

**Grading Notes:** States that strongly distinguish between for-profit and nonprofit postsecondary educational institutions receive full credit (15 points). To qualify as "strongly distinguished," the state must have distinct major laws and regulations that differentiate between for-profit and nonprofit institutions, such as separate oversight organizations or separate laws and regulations that govern each, or the state must exempt nonprofits from regulations that govern private for-profit colleges. States that moderately distinguish between for-profits and nonprofits receive 10 points. To qualify as "moderately distinguished," the state must have substantial laws or regulations that differentiate between for-profits and nonprofits. States that slightly distinguish between for-profits and nonprofits receive 5 points for this element. To qualify as "slightly distinguished," the state must have a few minor provisions that differentiate or provide a few exemptions for nonprofits. States that do not distinguish between for-profits and nonprofits receive no credit.

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

<sup>49</sup> For more information on the for-profit vs. nonprofit issue, see Debbi Cochrane, Bob Shireman. *For-Profit Postsecondary Education: Encouraging Innovation While Preventing Abuse* (2018), pg. 11.



**Reasoning:** A state review must include a review of an institution's performance measures, such as completion (graduation) rates, placement rates, cohort default rates, and exam passage rates. Poor performance outcomes not only impact the student consumers attending the institution, they also can be indicators of impending problems. These problems can include loss of financial aid, lawsuits, or major investigations that may impact not only the institution, but its students, shareholders, and taxpayers. States that increase oversight in response to poor performance will help to avoid or mitigate harm to students and others.

**Grading Notes:** States that require increased oversight in response to poor performance receive full credit (10 points). States that require increased oversight for poor performance, but limit it or provide exemptions, receive 7.5 points. States that give the oversight body discretion to increase oversight due to poor performance receive 5 points. States that give the oversight body discretion to increase oversight, but include limitations or exemptions, receive 2.5 points. States that do not allow for increased oversight based on poor performance receive no credit.

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

**Reasoning:** One of the most egregious and troubling abuses by private for-profit colleges that has come to light in recent years is the targeting of veterans for their G.I. Bill benefits. States must increase oversight in this area and work with state veteran's agencies to provide special protection and recourse for veterans.

**Grading:** States that expressly provide special protections for veterans attending private for-profit postsecondary educational institutions receive full credit (20 points). States that do not specifically provide special protection for veterans receive no credit.

## **III. STATE OVERSIGHT—SCOPE AND INCLUSION**

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### **A. ARE EXEMPTIONS TO STATE OVERSIGHT COVERAGE LIMITED?**

**Reasoning:** A state's ability to engage in vigilant, robust oversight is severely weakened when it provides extensive exemptions to the entities subject to such oversight. Even the best laws and regulatory schemes in the nation will be ineffective if a large proportion of the for-profits in the state are partially or fully exempt from oversight. The most common problematic exemption is one for accreditation; many states provide full or partial exemption for private for-profit postsecondary educational institutions accredited by a nationally recognized accrediting agency. The Senate HELP report noted, with regard to accreditation:

The self-reporting and peer-review nature of the accreditation process exposes it to manipulation by companies that are more concerned with their bottom line than with academic quality and improvement. Accrediting agencies seek to help colleges improve. Because of this institutional focus on continuous improvement, they sometimes appear to have difficulty drawing and enforcing bright lines and minimum standards.<sup>50</sup>

Some states exempt educational programs related to a profession that is overseen by a particular specialized board. These exemptions are of concern. Although certain programs may require

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<sup>50</sup> Senate HELP Committee Report, *supra* note 5, at 8.



additional oversight because of the specialized nature of the profession, they should not be exempt from the general oversight and regulatory provisions that are the subject of this report, which address basic consumer protection concerns.

That said, not all exemptions are problematic. For example, some states provide exemptions to private nonprofit postsecondary institutions; this exemption is reasonable given the differences in the structures and underlying purposes of nonprofits compared with for-profit colleges. Other common-sense exemptions apply to programs provided by employers for employees, avocational programs, and religious institutions providing theological education.

**Grading Notes:** States that provide no exemptions, or allow only common-sense exemptions as noted above, receive full credit (100 points). States that provide a few, very narrowly tailored exemptions receive 75 points. States that provide moderate exemptions (e.g., providing tailored exemptions for accredited institutions) receive 50 points. States that provide a blanket exemption for accredited institutions (or any other blanket exemption that provides a large loophole) receive no credit.

## IV. DISCLOSURE REQUIREMENTS

Very few states require schools to provide any significant performance disclosures to prospective students prior to enrollment or in the enrollment contract. This troubling fact means that students may not be appropriately informed about the school's relevant performance statistics—information that can and should play an important part in a student's decision to attend an institution.

Providing students with access to performance information serves several important purposes. First, it can serve as a warning to students who may be considering enrolling in an institution with poor outcomes. Second, if disclosing poor outcomes results in lower enrollment, a for-profit institution may make improvements to its programs that will lead to better performance outcomes and, as a result, increased enrollment and profit. Finally, when students are aware of the quality and value of the program in which they are enrolling, and institutions have an incentive to improve the quality and value of the programs they offer, a Corinthian-level disaster becomes less likely.

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

**Reasoning:** Private for-profit postsecondary education institutions are businesses. Like any other business, these institutions compete on the basis of the quality and value of their product. In order for consumers—in this case, prospective students—to be fully informed about the product they are purchasing, these institutions must be required to disclose information relevant to the quality and value of the education that they are providing. These disclosures must include performance measures such as graduation/completion rates, job placement and licensing exam passage rates (where applicable), cohort default rates, and accurate salary and wage information. Postsecondary institutions that receive federal financial aid are required to disclose much of this information; however, states must take further steps to ensure that students are protected. First, states can improve on the required disclosures. Second, states can ensure that students see the information and are fully informed prior to enrolling in the institution by requiring a declaration, signed by the student, attesting that the institution has provided the student with required performance disclosures.

**Grading Notes:** States that require private for-profit postsecondary education institutions to provide a fact sheet or equivalent document containing institutional performance disclosures to potential students, and require the students to sign a declaration attesting that the institution has provided the

required disclosures, receive full credit (20 points). States that give postsecondary institutions discretion regarding the provision of a fact-sheet disclosure, or require disclosure only in limited circumstances, receive partial credit (10 points). States that do not require private for-profit postsecondary education institutions to provide any disclosures do not receive any credit.

### MODEL: CALIFORNIA

An enrollment agreement is not enforceable unless, among other things, the student receives the School Performance Fact Sheet and catalog prior to signing the enrollment agreement and the student and institution have signed and dated the information required to be disclosed in the fact sheet prior to the execution of the enrollment agreement. (Cal. Educ. Code § 94902.) The School Performance Fact Sheet includes institutional performance. (Cal. Educ. Code § 94910.)

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

**Reasoning:** The performance measures that most accurately reflect the quality and value of the education provided by a private for-profit college are the cohort default rates, graduation/completion rates, placement rates (where applicable), wage information, and license exam passage rates (where applicable). It is also important for consumers to understand the methods and sources used to calculate these rates, as they can be manipulated. This element is heavily weighted because these disclosures provide information essential for students to make an informed decision.

**Grading Notes:** States receive full credit (up to 60 points) for each of the elements for which the state requires disclosure. States receive partial credit (up to 30 points) for elements for which they leave discretion to the institution regarding disclosure. States that do not require the disclosure of any of these elements receive no credit.

### MODEL: CALIFORNIA

The fact sheet required by California law to be provided to prospective students (see prior box) includes information on the cohort default rate, graduation/completion rates, wage/salary information, license exam passage rates (where applicable), and the objective methods and sources the institution used to calculate the statistics it provides. (Cal. Educ. Code § 94910.)

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

**Reasoning:** Students must be aware of important institutional policies prior to enrolling, in order to avoid misunderstandings that will lead to serious problems in the future. For example, refund policies vary from one school to another, so states should require institutions to impart this information to students prior to enrollment. Also, credits earned at some for-profit colleges will not transfer to public

universities or other institutions, so students must be informed about any limitations on the transferability of credits. Also, institutions should be required to inform students about the total cost of their program and how long it will take to complete.

**Grading Notes:** States receive full credit (up to 20 points) for each element that is mandatory either prior to enrollment (with a signed declaration as noted above) or in the enrollment contract. States receive partial credit (up to 10 points) for each element for which there is discretionary disclosure (e.g., requiring colleges to make disclosures “available upon request”) or where disclosure is required, but there is no signed contract or other document in which the student attests to the receipt of the disclosures. States receive no credit for elements that are not specifically mandated to be disclosed in the enrollment contract or other signed document prior to enrollment.

### MODEL: CALIFORNIA

Enrollment contracts must state, among other things, an itemization of all institutional charges and fees, including as applicable: tuition, registration fee, equipment, lab supplies or kits, textbooks or other learning media, uniforms or other special protective clothing, in-resident housing, tutoring, assessment fees for transfer of credits, fees to transfer credits, Student Tuition Recovery Fund fee, and any other institutional fee or charge. Enrollment contracts also must disclose the school’s refund policy and relevant dates by which a student must exercise his/her right to cancel or withdraw. (5 CCR §71800, Cal. Educ. Code § 94911.) In addition, an enrollment agreement is not enforceable unless a student has received the institution’s catalog and School Performance Fact Sheet prior to signing the enrollment agreement. (Cal Ed Code § 94902.) The institution’s catalog is required to provide information about the transferability of credits and the classes and time required to complete a program. (Cal Ed Code § 94909.) California received full credit for these elements because provision of the information is mandatory prior to signing the enrollment agreement. (Cal Ed Code § 94902.)

### MODEL: WASHINGTON

In addition to various other disclosures, Washington requires private vocational schools to “Discuss with each potential student the potential student’s obligations in signing any enrollment contract and/or incurring any debt for educational purposes. The discussion shall include the inadvisability of acquiring an excessive educational debt burden that will be difficult to repay given employment opportunities and average starting salaries in the potential student’s chosen occupation.” (Rev. Code Wash. (ARCW) § 28C.10.050(h).) This would necessarily include a discussion of the total cost of the program. In addition, the state requires institutions to include in each enrollment contract an attachment signed by both the school and the student that stipulates that the school has complied with this requirement and that the student understands and accepts his or her responsibilities in signing any enrollment contract or debt application. (Rev. Code Wash. (ARCW) § 28C.10.050 (i).)

## V. REGULATION OF RECRUITING PRACTICES

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

**Reasoning:** Deceptive, false, and misleading advertising is one of the most serious problems related to the private for-profit education industry. Despite being well documented in the Senate HELP Committee report five years ago,<sup>51</sup> the problem has persisted—evident from the avalanche of investigations and reports that have emerged since.<sup>52</sup> Students who receive false and misleading information about the services, requirements, degrees, certificates, availability and obligations of financial aid, or outcomes of an institution’s programs cannot make fully informed decisions about their postsecondary options. As a result of the historic and ongoing abuses in this area, states must put in place strict prohibitions against deceptive advertising, and they must put sufficient resources into enforcement of these prohibitions.

Specifically, states must explicitly prohibit private postsecondary institutions from including any of the following elements in their advertising and recruiting activities: misleading representations using the words *college* or *university*; misleading institutional affiliations (e.g., implying that they are affiliated with the military, a public institution, or a business establishment); promises of future employment; compensation for enrollment; compensation or “bounty” to recruiters; deception; misrepresentation; or misleading representations regarding accreditation.

**Grading Notes:** This element is heavily weighted because of the well-documented historical and ongoing abuses of some private for-profit colleges with regard to deceptive and misleading advertising practices, as noted earlier. In addition, advertising plays a significant role in motivating and increasing student enrollment at for-profit colleges. Therefore, states receive 100 points if they explicitly prohibit 7 or more of the listed elements; 75 points if they prohibit 4–6 of the listed elements; and 50 points if they prohibit 1–3 of the listed elements. If a state has no prohibitions, it receives no credit. A state’s prohibitions must be specific to private for-profit postsecondary institutions in order to receive full credit.

#### MODEL: CALIFORNIA

In addition to a prohibition on the use of the terms *college* and *university* (Cal. Educ. Code § 94050, 5 CCR §74150), California has a list of prohibited acts that encompass all of the elements graded in this report (misleading institutional affiliations, promises of employment, compensation or “bounty” for recruiters, deception, misrepresentation, and specifically, misrepresentations related to accreditation) and several more. (Cal. Educ. Code § 94897.)

#### NOTABLE PROVISION: COLORADO

Colorado has some notable provisions in place that are not covered by the elements included in the grading criteria, but nonetheless establish important protections for students in Colorado and provide an example for other states: (1) Colorado prohibits private occupational schools admissions representatives/agents from using the availability of student aid as an inducement (8 CCR 1504-1(VI)(B)); and (2) Colorado prohibits schools from conducting surveys for the

<sup>51</sup> *Id.* at 53.

<sup>52</sup> See, e.g., *Halperin Report*, *supra* note 4.

purpose of developing enrollment leads near any state or federal social services program center (e.g., welfare, food stamps, unemployment) (8 CCR 1504-1(VI)(C)).

### **NOTABLE PROVISION: NEW MEXICO**

New Mexico prohibits representatives of private postsecondary educational institutions from soliciting prospective students on the sites of any government agency, such as motor vehicle registration offices, unemployment offices, or public assistance offices. (5.100.2.18(I) NMAC.) This is a commendable prohibition that is not included on the graded list. Note, however, that leaflets or other promotional material may be made available at such sites. (5.100.2.18(I) NMAC.)

### **NOTABLE PROVISION: NORTH CAROLINA**

North Carolina has commendable provisions in place to prohibit proprietary schools from using misleading advertising related to salary claims. For example, North Carolina regulations specify that advertisements shall not use salary-related terms or phrasing such as, “up to,” “top,” or “high salary.” Any salary claims shall show comparisons between local and national employment data and shall be for entry-level positions, and any salary claims shall be documented and on file at the institution for public viewing. (2A SBCCC 400.3.)

### **NOTABLE PROVISION: NORTH DAKOTA**

North Dakota allows the recovery of treble damages by “any person defrauded by any advertisement or circular issued by a postsecondary career school, or by any person who sells textbooks to the school or to the pupils thereof...” (N.D. Cent. Code, § 15-20.4-09.) North Dakota law also states that, “a person defrauded by an advertisement or circular issued by a postsecondary educational institution, or by a person who sells textbooks to the institution or to the pupils thereof, may recover from the institution or person three times the amount paid.” (N.D. Cent. Code, § 15-18.1-09.)

### **NOTABLE PROVISION: VERMONT**

In Vermont, information provided by the school to prospective students either directly or through advertisements shall not be false or misleading. The school shall be able to substantiate any claims regarding such matters as the likelihood of employment, graduate school admission, or transfer of credit. (CVR 22-000-004 (2243.5.3).) Vermont also requires institutions to disclose to potential students, prior to enrollment, “an accurate representation of, and the distinction between, school accreditation, institutional memberships in professional organizations, specialized or professional program accreditation, state VA-approving agency course approval and state certification.” (CVR 22-000-004 (2243.5.3.t).) Notably, Vermont also requires institutions to provide potential students, prior to enrollment, information regarding the school’s closing policy establishing procedures which will be followed in the event that a determination is made to cease operation. (CVR 22-000-004 (2243.5.3.v).)

## VI. COMPLAINT PROCESS AND RELIEF FOR STUDENTS

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

**Reasoning:** The Corinthian debacle brings into stark relief the absolute necessity that every state require for-profit colleges to post a bond or fund as a condition not only of initial authorization, but of continuing authorization. The bond must ensure that there are sufficient resources to indemnify students, should the school close.

A tuition relief fund is also of paramount importance, to ensure that students and taxpayers are protected in the event that an institution closes. Ideally, states would require both a bond and a student tuition relief fund.

**Grading Notes:** States that require private for-profit colleges to post an appropriate bond or have some kind of fund in place to protect students for initial and continuing authorization receive full credit (20 points). States that do not require a bond receive no points.

#### MODEL: ARKANSAS

Arkansas requires private career schools to post a surety bond AND it requires contribution to a student protection fund. "Each school licensed under this subchapter shall pay annually a fee to be set by the State Board of Private Career Education." (A.C.A. § 6-51-607(a)(1).) For an original license, the fee is a percentage, as determined by the board, of the sum of the tuitions for each program offered. In addition, during the first 12 months of licensure, the same percentage is paid to the Private Career School Student Protection Trust Fund on additional new programs of study. (A.C.A. § 6-51-607(a)(4). See also: A.C.A. § 6-51-620 (Required Surety Bonds).)

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

**Reasoning:** States must make it unprofitable for private for-profit colleges to misrepresent aspects of their institution or its programs to students. States must require these colleges to provide a full refund of all costs associated with enrollment (e.g., tuition, fees, books) to any student who enrolls as the result of misrepresentation.

**Grading Notes:** States that require for-profits to provide a full refund to students who enroll as the result of misrepresentation receive full credit. States where the availability of a full refund is limited in any way receive partial credit (10 points). States that do not expressly mandate private for-profit colleges to provide a refund to students who enroll as a result of misrepresentation receive no credit.

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

**Reasoning:** When a for-profit postsecondary educational institution closes, many of its students are left in an untenable position. Not only are they often left with enormous student debt, they have no



degree and no ability to service the student debt they were required to take out to attend the program. Some students have used up precious public benefits, such as G.I. Bill benefits, on their education—resources they can never recover. States must do everything they can to mitigate the damage to students when a for-profit college closes. One essential component of that effort is to mandate that when a for-profit school closes, its students receive a full refund of tuition. Refunds that are based on the amount of time a student spent attending the institution are unacceptable. When a for-profit institution closes, it is not the fault of the students, and they must not bear the brunt of the cost. There must be a mechanism in place to ensure a full refund for students in these circumstances.

**Grading Notes:** States that mandate a full refund of all tuition when a for-profit school closes receive full credit (20 points). States that provide a refund that is limited in any way receive 15 points. States that provide refunds in very limited circumstances (such as only when there is no alternate institution or “teach out” available) receive 10 points. States that do not expressly mandate any refund of tuition when a for-profit college closes receive no credit.

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

**Reasoning:** States must allow students at least 2 years to make a complaint to the state oversight body. Providing ample time for students to submit a complaint to the state oversight body is an essential component to providing an easily accessible student complaint procedure. Providing an easily accessible student complaint procedure not only will help to provide protection to students attending for-profit institutions, it also will help to alert the state to larger problems at these institutions and contribute to the prevention of harm to a broader population.

**Grading Notes:** States that allow 2 years or more for students to submit a complaint to the state oversight body (or if no deadline is stated) receive full credit (10 points). States that allow 1–2 years for students to submit a complaint receive 5 points. States that allow less than 1 year receive 1 point. States to which this element does not apply because they do not have a complaint procedure in place, or where the procedure is unclear, receive no credit.

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

**Reasoning:** States must mandate that institutions give students information about how to file a complaint with the state oversight body. The information must be disclosed in places where students are most likely to see it and have easy access to it (e.g., school catalog, website, and the enrollment contract). This is another component essential to providing an easily accessible student complaint procedure that will ultimately provide protection to students attending for-profit institutions, help to alert the state to larger problems at these institutions, and contribute to the prevention of harm to a broader population.

**Grading Notes:** States that require institutions to provide information on how to file a complaint with the state oversight body in their institutional catalogs, on their websites, and in the enrollment contracts receive full credit (20 points). States that provide discretion with regard to the inclusion of information in any of these media receive partial credit (up to 10 points) for the media for which discretion is provided. States that do not require the provision of this information on any of the specified media receive no credit.

### MODEL: TEXAS

Texas's requirements for degree-granting private postsecondary educational institutions posting complaint information online are notable. The state requires each institution to post information regarding the complaint procedure on its website. The information must meet the following requirements: (1) it must contain, at minimum, contact information for filing student complaints with the agency, a description of the complaint procedure outlined in this subchapter, and the Uniform Resource Locator (URL) for this subchapter on the Texas Secretary of State's website; (2) it must be accessible from the institution's home page by use of not more than three links; (3) it must be searchable by keywords and phrases; (4) it must be accessible to the public without requiring registration or use of a user name, password, or another user identification; and (5) it must be updated as soon as practicable if the information changes. (19 TAC § 1.112.)

### MODEL: CALIFORNIA

California law requires institutions to include information in their catalog about filing a complaint with the Bureau for Private Postsecondary Education (BPPE), along with a toll-free number and the BPPE website on which a complaint form is available. Cal Ed Code § 94909.

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

**Reasoning:** The state oversight body must have a readily accessible and available complaint process and explanation on its website. This will increase student access and help students to resolve any complaints or problems with a for-profit college more quickly and easily. Again, increased student access not only will help individual students experiencing problems with for-profit institutions, it also will help alert the state oversight body to potential larger issues that must be addressed.

**Grading Notes:** States receive full credit (10 points) for including each of the following components, along with a clear explanation of the student complaint process, on the state oversight body's website: the physical mailing address to which complaints should be sent, the phone number students can call for information about filing complaints and to follow up, the email address to which complaints and follow-ups can be sent, and an electronic form students can easily use to file and submit a complaint online. States receive partial credit if they provide an electronic form that must be printed or emailed (rather than simply submitted online).

### NOTABLE PROVISION: PENNSYLVANIA

Pennsylvania requires the Board of Private Licensed Schools to submit annually to the Education Committees of the Senate and House of Representatives a report describing the types of complaints received pertaining to private licensed schools. The report must include the source of the complaints, the status of the complaints, board action initiated, and the elapsed time from the filing of the complaints until final resolution. 24 P.S. § 6504(c).



## VII. ENFORCEMENT

CAI reviewed the following elements of enforcement: (A) whether there is loss of state aid for schools that repeatedly produce substandard graduation rates, job placement rates, and/or cohort default rates; (B) whether the state explicitly allows students a private right of action against institutions that violate the laws and regulations in place to govern them; (C) whether the law explicitly allows attorney fee awards for students who prevail in litigation against institutions; and (D) whether the state authorizes attorney general involvement.

Most states do not mandate any significant loss of state aid for schools that repeatedly produce poor performance outcomes. At this point, very few states allow for attorney fees for students who prevail in actions against institutions. On a positive note, more than half of the states explicitly call for attorney general involvement.

### MODEL: WISCONSIN

Wisconsin has the highest score of any state in the area of enforcement. Institutions subject to oversight by the Wisconsin Education Approval Board (EAB) are not eligible for any state aid, so the question of whether a poorly performing institution loses access to state aid is moot.

Wisconsin allows a private right of action: “[i]n addition to any other remedies provided by law, a student who attends a school that is in violation of par. (a) may bring a civil action to recover fees paid to the school in violation of par. (a) together with costs and disbursements, including reasonable attorney fees.” (Wis. Stat. § 38.50 (10)(f).)

If a school has misled a student by misusing the term *college* or *university*, or by using the term *state* or *Wisconsin*, a student may bring a civil action to recover fees paid to the school, together with costs and disbursements, including reasonable attorney fees. (Wis. Stat. § 38.50(12).) Finally, Wisconsin explicitly authorizes attorney general involvement. (Wis. Stat. § 38.50.)

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

**Reasoning:** States need effective tools to properly enforce the regulations and standards in place to govern for-profit colleges. Given that for-profit colleges are businesses that must maximize profits, the threat of losing access to state financial aid dollars gives states an effective tool to compel compliance and ensure that for-profit institutions are performing adequately and providing students with appropriate academic offerings, services, and supports.

Second, for-profit colleges must maintain certain standards in order to be eligible to receive federal financial aid. Federal standards, however, are fairly lenient, and by the time an institution gets to the point of losing federal financial aid, there are generally a plethora of other problems that need to be addressed. The loss of federal aid may be the last straw, as Corinthian demonstrated. Thus, if states put in place more standards for state aid, for-profit schools that are faltering will come to the attention of the state and the students prior to the school losing eligibility for the larger pool of federal money that predominantly sustains them. Loss of state aid may discourage some students from attending a troubled school, and it may motivate a troubled school to improve outcomes before a loss of federal aid throws the school, the students, and the state into a far worse crisis.

**Grading Notes:** States that require loss of state aid for for-profit colleges that produce poor performance outcomes receive full credit (30 points). States that require loss of state aid for poor performance outcomes, but limit the requirement in any way, receive partial credit (20 points). States that give discretion to the oversight body to impose loss of state aid as a penalty for poor performance outcomes receive 10 points (but if this discretion is limited to narrow circumstances, states receive only 5 points). If states require no loss of state aid for for-profit colleges that produce poor performance outcomes, they receive no credit.

### MODEL: CALIFORNIA

Institutions in California must have a 3-year cohort default rate below 15.5% and a graduation rate above 30% for students taking 150% or less of the expected time to complete degree requirements, as reported by the U.S. Department of Education, and as certified by the California Student Aid Commission, in order to be eligible to participate in California's Cal Grant Program. (Cal Ed Code § 69432.7(1).) These provisions also apply in order for an institution to be eligible to receive Chafee grants (for eligible foster youth / former foster youth) administered by the Commission. (Cal Ed Code § 69519.)

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

**Reasoning:** Students must have access to a private right of action when for-profit institutions violate the laws that are in place to protect the students that attend them. For-profit colleges have a well-funded lobby, and they have access to well-funded legal teams. Providing students with specific legal recourse for violations of law that harm them is essential.

**Grading Notes:** States that expressly provide a private right of action receive full credit (30 points). States that expressly provide a private right of action in limited circumstances receive partial credit (15 points). States that do not expressly provide a private right of action receive no credit.

### MODEL: NEW YORK

New York CLS Educ § 5003 expressly creates a private right of action for students of licensed private career schools: "Private right of action. A student injured by a violation of this article may bring an action against the owner or operator of a licensed private career school for actual damages or one hundred dollars, whichever is greater. A court may, in its discretion, award reasonable attorney's fees to a prevailing plaintiff."

States could use New York's statute here as a model; however, New York's statute could be improved upon even further by (1) mandating attorney fee awards to prevailing plaintiffs, and (2) broadening the statute to ensure its applicability to all private for-profit postsecondary institutions.

### NOTABLE PROVISION: ILLINOIS

Illinois has a commendable requirement applicable to some institutions: "No school may enter into an enrollment agreement in which the student waives the right to assert against the school or

any assignee any claim or defense he or she may have against the school arising under the agreement. Any provisions in an enrollment agreement in which the student agrees to such a waiver shall be rendered void.” 23 Ill. Adm. Code § 1095.40(k)(5).

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

**Reasoning:** For students who have been victimized by unscrupulous for-profit colleges, a major deterrent to seeking judicial recourse is the cost of litigation. For-profits are often large, deep-pocketed corporations with large legal departments. Students who bring action and prevail must be allowed to recover legal fees; this will help to remove a barrier for students who have valid claims against for-profits that have engaged in wrongdoing.

**Grading Notes:** States that mandate attorney fee awards for students who prevail in actions against for-profits receive full credit (20 points). States that allow attorney fees, but limit them in some way, receive partial credit (15 points). States that do not explicitly allow such awards receive no credit.

#### MODEL: HAWAII

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

### D. DOES STATE LAW EXPLICITLY AUTHORIZE ATTORNEY GENERAL INVOLVEMENT?

**Reasoning:** In many states, the attorney general has been instrumental in ensuring the investigation of for-profit colleges that violate students’ rights or consumer protection laws. An attorney general can play a very powerful and effective role in regulating for-profits, and some have in fact filed actions against disreputable for-profits. States must explicitly authorize attorney general involvement in matters related to the oversight and regulation of for-profit colleges.

**Grading Notes:** States that mandate attorney general involvement receive full credit (20 points). States that allow attorney general involvement, but limit it in some way, receive partial credit (10 points). States that do not explicitly allow attorney general involvement receive no credit.

### BONUS POINTS

In this report, 50 bonus points are provided to states that have **not** opted into State Authorization Reciprocity Agreements (SARA) and have not legislatively authorized such action; 25 bonus points are provided to states that have not yet opted in but have legislatively authorized state officials to do so. As noted earlier, state membership in SARA fails to guarantee sufficient consumer protection standards; minimum performance standards; or minimum standards with regard to state inspection, oversight, and regulation of private for-profit postsecondary institutions.

**PART THREE:**  
**STATE-BY-STATE SURVEY OF OVERSIGHT**  
**LAWS, REGULATIONS, AND PROTECTIONS**

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# ALABAMA

## FINAL GRADING ANALYSIS

OVERALL SCORE: **342/700 POINTS (48.8%)**  
 LETTER GRADE: **F**

### I. OVERSIGHT BODY: **55/100 POINTS**

#### A. IS THERE A STATUTORILY CREATED OVERSIGHT BODY THAT IS PUBLICLY ACCOUNTABLE?

**50/60 POINTS**

Element	Points Available	Points Awarded
1. Oversight body is a multi-member board, commission, or panel created by statute	10	10
2. Oversight body was statutorily created specifically to oversee private postsecondary institutions	10	0
3. Multi-member board, commission, or panel is the ultimate decision maker (as opposed to a single person, like the head of a department or director)	10	10
4. Oversight body can engage in rulemaking	10	10
5. Oversight body's meetings must be open to the public	5	5
6. Oversight body's meetings must allow public comment	5	5
7. Oversight body can initiate investigations	5	5
8. Oversight body can impose penalties for violations	5	5
<b>Total Points</b>	<b>60</b>	<b>50</b>

**Explanation:**

The oversight body responsible for Alabama's private postsecondary institutions is the Private School Licensure Division, Alabama Community College System (formerly The Department of Postsecondary Education), which is governed by the Board of Trustees of the Alabama Community College System. (Code of Ala. § 16-60-110.1.) The Board of Trustees of the Alabama Community College was not statutorily created specifically to oversee private postsecondary institutions; it was created with a much broader mandate. The Chancellor of the Alabama Community College System serves at the pleasure of the board, Chancellor's decision may be appealed by a petition of review by the Board of Trustees of the Alabama Community College System. (Code of Ala. § 16-60-111.1.) Meetings of the Board must be public, public comment allowed at board meetings upon advance request. The Alabama Community College System is tasked with initiating investigations and investigating complaints. Alabama loses points in one important area: (1) the Board was not created specifically to oversee private postsecondary institutions.

## B. STATUTE-SPECIFIED MEMBERSHIP


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

**0/25 POINTS**

Explicit prohibition on for-profit majority, plus no possibility of a majority of the quorum	Explicit prohibition on for-profit majority	Discouraged	No prohibition specified, but not discouraged	For-profit majority mandated
25 Points	20 Points	10 Points	<b>0 Points</b>	-5 points

#### **Explanation:**

Board of Education members are appointed by the governor. The Board is required to have an advisory committee, which can review any action the Board takes and offer recommendations, comprised of owners or operators of private postsecondary institutions and others with knowledge. (Code of Ala. § 16-46-7.) However, the advisory committee has no power to regulate, and the Board is the publicly accountable decision maker. There is a prohibition on any members of the Board having any contractual, employment, personal, or familial financial interest in the Alabama Community College System (Code of Ala. § 16-60-111(b).) The Alabama Community College System is defined as the state-supported system of community and technical colleges formerly operating under the supervision of the State Board of Education, including individual institutions, system-wide programs, other related organizations, and central operations. (Code of Ala. § 16-60-110.) For-Profit postsecondary educational institutions in Alabama are not part of the state supported system, so it is unclear if there is a similar prohibition in place for members with similar interests in for-profit institutions.

 *There is a danger with the structure in Alabama. An advisory committee consisting of a majority of for-profit interests is concerning, and should not be given authority to regulate. Its ability to review and offer recommendations must be just that. The Board of Education cannot simply rubber stamp everything the advisory board recommends, and should proceed with caution. While it is certainly advisable to hear from industry insiders, the composition of this advisory committee may lead such a committee to recommend policy that is good for industry profitability, while being detrimental to the protection and education of the students that industry serves.*

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

**0/10 POINTS**

Yes	No
10 Points	<b>0 Points</b>

#### **Explanation:**

State law does not require the Board to include a consumer advocate. Notably, the advisory committee, which reviews any action the Board takes and offers recommendations, is also not required to include a consumer advocate — but it is expressly required to include owners or operators of private postsecondary institutions.

Note that, according to Alabama officials, though there is no requirement that a consumer advocate is appointed to the advisory committee, it is done in practice. Alabama would improve its score if it put this practice into the law or regulations governing the Division.





*Ala. Code § 16-46-7 requires the Chancellor of the Department of Postsecondary Education to appoint an advisory committee consisting of owners or operators of private postsecondary institutions, however, it does not similarly specify the inclusion of consumer advocates (only “others with knowledge”). Alabama’s students would be better protected if the Board and the advisory committee were each required to include at least one consumer advocate.*

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

**5/5 POINTS**

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

**Explanation:**

Members of the Board of Trustees are either elected (the Governor) or appointed by the Governor of Alabama. (Code of Ala. § 16-60-111.)

**II. STATE OVERSIGHT—EFFICACY:**

**41.5/100 POINTS**

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

**10/10 POINTS**

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

**Explanation:**

All private schools located in Alabama applying for initial or renewal licensure receive a site visit as part of the licensure process (Alabama: Guidelines for Private School License III.A.3 and III.B.1.c.)

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

**3/5 POINTS**

Requires unannounced visits	Discretion to do unannounced visits	No indication
5 Points	3 Points	0 Points

**Explanation:**

Each private school domiciled in the State of Alabama will be visited, with or without prior notification, by an official of the Alabama Community College System to determine compliance with the Alabama Code (Alabama: Guidelines for Private School License III.B.1.c.)

Note, according to Alabama officials, in practice, all licensed private schools located in Alabama receive an impromptu/unannounced site visit during the two year licensure period. For in-state institutions, onsite visits are required for license and renewal and “pop-up” visit in the year in between.

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

**20/20 POINTS**

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

**Explanation:**

Upon approval of the initial licensure application, each private school is required to complete a renewal application every two years. (Alabama: Guidelines for Private School License III.A.3.)

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

**3.5/20 POINTS**

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

Element	
Admission requirements	
Graduation requirements	
Placement rate	
Completion rate (or graduation rate)	
Advertising practices	D
Cohort default rate	
Accreditation status	M
Financial aid policies	

*M=Mandatory; D=Discretionary*

**Explanation:** Review of advertising practices is discretionary for licensure. Review of accreditation status is mandatory.

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

**5/15 POINTS**

Yes, strongly distinguished	Yes, moderately distinguished	Yes, slightly distinguished	Not distinguished
15 Points	10 Points	5 Points	0 Points

**Explanation:**

State law provides some narrowly tailored exemptions. But beyond that, there is no significant distinction in the regulation between for-profits and nonprofits.

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

**0/10 POINTS**

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Yes, mandatory	Yes, mandatory but limited	Yes, discretionary	Yes, discretionary but limited	No
10 Points	7.5 Points	5 Points	2.5 Points	<b>0 Points</b>

**Explanation:**

There is no mention in Alabama statute or regulations about increased scrutiny or increased oversight (either mandatory or discretionary) for poorly performing private postsecondary institutions.

Note that, according to state officials, poorly performing institutions are not licensed. The division considers financial stability when they are considering whether or not to license an institution. This is laudable, particularly given the recent implosions of ITT Tech and Corinthian. However, for the purposes of this report, performance as measured by student outcomes is the measure considered for this element (e.g., does the oversight body consider graduation rates, cohort default rates, and/or placement rates).

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

**0/20 POINTS**

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Yes	No
20 Points	<b>0 Points</b>

**Explanation:**

There is no mention in Alabama statute or regulations regarding any special protections in place for veterans who attend or who are potential students at private postsecondary institutions in the state.

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**III. STATE OVERSIGHT—SCOPE AND INCLUSION:**

**50/100 POINTS**

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A. ARE EXEMPTIONS TO STATE OVERSIGHT COVERAGE LIMITED?

**50/100 POINTS**

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No exemptions	Few exemptions	Moderate exemptions	Broad exemptions
100 Points	75 Points	<b>50 Points</b>	0 Points

**Explanation:**

Some private schools are exempt from state oversight, notably “[a]ny private school conducting resident courses whose principal base of operation is within the State of Alabama which has been in continuous operation for 20 years or more as of July 1, 2004, and that held accreditation as of that date by an accrediting agency recognized by the United States Department of Education” and “[a]ny private postsecondary institution conducting resident courses that has been in operation within Alabama for at least five years as of July 1, 2004, and that is accredited by an accrediting agency recognized by the United States Department of Education.”

#### IV. DISCLOSURE REQUIREMENTS: 25/100 POINTS

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

10/20 POINTS

Yes, mandatory	Yes, discretionary	None
Fact sheet or equivalent required to be given to students	Fact sheet or documents given to students upon request	No Fact Sheet Required
20 Points	10 Points	0 Points

##### Explanation:

There are no requirements that institutions provide students with a fact sheet, but performance information must be provided to students upon request. Notably, Alabama used to produce a report card related to school performance, but has, unfortunately, discontinued the practice.

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

5/60 POINTS

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

##### Explanation:

As previously discussed, Alabama is required to produce a report card but there are no requirements in place to ensure institutional disclosure of the report card to students. There are requirements in place for graduation rates to be reported (Guidelines for Policy 901.01: Institutional Effectiveness), but again, there are no requirements in place to ensure disclosure to students. The law is not clear with regard to disclosure of cohort default rates, placement rates, wage information, debt-to-income ratios or methods and sources used to calculate.

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

10/20 POINTS

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

**Explanation:**

Institutions are required to disclose conditions for enrollment in and completion of courses of instruction, itemized costs, terms of payment, and other conditions the school may desire to establish as well as terms of payment and the total amount paid in the enrollment contract. Policies related to course cancellation, tuition fees, and refund must be clearly stated in each private school catalog, bulletin, or brochure, but are not required in the enrollment agreement. There is no indication about if or where disclosures about transferability of credits is required. (Code of Ala. § 16-46-5(i)(6) and Guidelines for Policy 720.01.)

## V. REGULATION OF RECRUITING PRACTICES:

**50/100 POINTS**

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

**50/100**

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

#### PROHIBITED ACTS

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

*1-3 = weak; 3.5-6=moderate; 6.5-8=strong*

**Explanation:**

See prohibitions in Code of Ala. § 16-46-4.

## VI. COMPLAINT PROCESS AND RELIEF FOR STUDENTS:

**80.5/100 POINTS**

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

**20/20 POINTS**

Yes	No
20 Points	0 Points

**Explanation:**

Alabama requires a surety (Code of Ala. § 16-46-5(e)).

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

**20/20 POINTS**

Yes, full refund	Yes, partial refund	No refund required
20 Points	10 Points	0 Points

**Explanation:**

Alabama requires a full refund for Academic Fraud (defined as “Courses offered are insufficient in quality, content or administration to achieve the stated or implied educational objective. Persons offering such courses who know or reasonably should know that said courses cannot achieve the stated or implied educational objective shall be considered to be involved in academic fraud”). (Code of Ala. § 16-46-5(e), Alabama Department of Education: Policies Guidelines for Policy 720.01: Private School Licensure in Alabama, I.2d.)

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

**15/20 POINTS**

Yes, full refund	Yes, partial refund	Yes, refund in limited circumstances	No refund required
20 Points	15 Points	10 Points	0 Points

**Explanation:**

There are refunds available to students in the event of closure, but nothing in Alabama’s law indicates that a full refund is required.

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

**10/10 POINTS**

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

**Explanation:**

Alabama law does not specify a deadline for filing a student complaint.

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

**12.5/20 POINTS**

Medium	Yes	Discretionary	No
Catalog	10 Points	5 Points	0 Points
Website	5 Points	2.5 Points	0 Points
Enrollment contract	5 Points	2.5 Points	0 Points

**Explanation:**

Alabama requires private schools to publish a grievance policy in their catalogs, bulletins, or brochures. There is no explicit requirement for these policies to be on an institution’s website, but because it is

common practice for institutions to include catalogs or similar information on the institutional website, Alabama gets partial credit (discretionary) here. There is no requirement that the grievance policy be published in the enrollment contract.

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

**3/10 POINTS**

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

**Explanation:**

There is a link for complaints and a complaint form on the website, it is an electronic form the student can complete online and submit. There is also a detailed description outlining the specific steps a student must take to file a complaint.

**VII. ENFORCEMENT: 40/100 POINTS**

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

**30/30 POINTS**

Yes, required	Yes, required but limited	Yes, discretionary	Yes, discretionary but limited	No
30 Points	20 Points	10 Points	5 Points	0 Points

**Explanation:**

Alabama does not offer any state aid to these institutions, so there is no state aid for the schools to lose.

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

**0/30 POINTS**

Yes	Limited circumstances	No
30 Points	15 Points	0 Points

**Explanation:**

There is no private right of action in Alabama, but there is the opportunity to seek judicial review after exhausting administrative proceedings. The consumer protection division of the Alabama Attorney General's office addresses these issues.

**C. DOES STATE LAW EXPLICITLY ALLOW ATTORNEY FEE AWARDS FOR STUDENTS WHO PREVAIL IN LITIGATION AGAINST**



## PRIVATE FOR-PROFIT POSTSECONDARY INSTITUTIONS?

**0/20 POINTS**

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Yes	Limited	No
20 Points	15 Points	0 Points

### **Explanation:**

There are no provisions in Alabama law which explicitly allow attorney fees for students filing suit against private postsecondary institutions.

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## D. DOES STATE LAW EXPLICITLY AUTHORIZE ATTORNEY GENERAL INVOLVEMENT?

**10/20 POINTS**

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Yes	Limited circumstances	No
20 Points	10 Points	0 Points

### **Explanation:**

The Department of Postsecondary Education can call upon the Attorney General to represent it on appeal in the state appellate courts (Code of Ala. § 16-46-8). The Attorney General is notified when a school is found to be operating without a license (Guidelines for Policy 720.01).

## BONUS POINTS

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Alabama does not receive any bonus points.



## ILLUMINATING INFORMATION



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## RECIPROCITY AGREEMENTS

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

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

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

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# ALASKA

## FINAL GRADING ANALYSIS

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OVERALL SCORE: **428.5/700 POINTS (61%)**  
LETTER GRADE: **D**

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### I. OVERSIGHT BODY: **75/100 POINTS**

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#### A. IS THERE A STATUTORILY CREATED OVERSIGHT BODY THAT IS PUBLICLY ACCOUNTABLE?

**50/60 POINTS**

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Element	Points Available	Points Awarded
1. Oversight body is a multi-member board, commission, or panel created by statute	10	10
2. Oversight body was statutorily created specifically to oversee private postsecondary institutions	10	0
3. Multi-member board, commission, or panel is the ultimate decision maker (as opposed to a single person, like the head of a department or director)	10	10
4. Oversight body can engage in rulemaking	10	10
5. Oversight body's meetings must be open to the public	5	5
6. Oversight body's meetings must allow public comment	5	5
7. Oversight body can initiate investigations	5	5
8. Oversight body can impose penalties for violations	5	5
Total Points	60	50

#### Explanation:

Alaska Stat. § 14.48.040 establishes the Alaska Commission on Postsecondary Education, § 14.48.050 specifies its powers and duties, § 14.42.015 specifies its membership requirements. Alaska's public meetings law applies to the Commission (Alaska Stat. § 44.62.310).

Although the Commission was created to oversee postsecondary institutions, it was not created specifically to oversee private postsecondary institutions; thus no points were awarded for #2 above. Because Alaska has a small number of postsecondary institutions, the state has determined that it is more efficient to have only one board responsible for overseeing all postsecondary institutions.

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

**20/25 POINTS**

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

**Explanation:**

Although Alaska has no explicit prohibition on a for-profit majority-dominated Commission, the requirements for Commission composition make for-profit domination impossible; thus, Alaska law has the same effect as an explicit prohibition. The Commission is required to consist of 14 members as follows: two members of the Board of Regents of the University of Alaska, one person representing private non-profit higher education in the state, one person representing the Department of Education and Early Development, four persons broadly and equitably representative of the general public, one member of the Alaska Workforce Investment Board, one person from the members of the local community college advisory councils, two members from the legislature, one person who is a full-time student, and one administrator from a proprietary institution of postsecondary education. (Alaska Stat. § 14.42.015.)

As noted above, one Commission member is expressly required to be an administrator at a proprietary school. For the four Commissioners who are broadly and equitably representative of the general public, there is no indication that these appointees cannot be affiliated with proprietary institutions. Thus, there remains a small possibility that proprietary interests could make up a majority of a quorum.

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

**0/10 POINTS**

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Yes	No
10 Points	0 Points

**Explanation:**

There is no indication that Alaska requires the oversight body to include a consumer advocate (an individual with expertise and experience in the area of consumer advocacy). (Alaska Stat. § 14.42.015.)

Alaska commendably requires a student member on the Commission. (Alaska Stat. § 14.42.015(d).) The student member is elected by his/her peers to represent and advocate for the students of Alaska, who are education consumers. However, there is no indication that the student member must have a background and experience in consumer advocacy. Thus, the state does not receive credit for requiring a consumer advocate on the Commission.

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

**5/5 POINTS**

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<b>All</b>	Majority	Half	Minority	None
<b>5 Points</b>	3 Points	2.5 Points	1 Point	0 Points

**Explanation:**

The two Commissioners who are members of the Board of Regents of the University of Alaska are designated by the members of that body; the person representing private non-profit higher education in the state is appointed by the governor; the one person representing the Department of Education and Early Development is selected by the state Board of Education and Early Development; the four persons broadly and equitably representative of the general public are appointed by the governor; the member of the Alaska Workforce Investment Board is designated by the members of that body; the person from the members of the local community college advisory councils is appointed by the governor; the two members from the legislature are appointed by the president of the senate and the speaker of the house of representatives; the one person who is a full-time student is a public member appointed by governor; and the one administrator from a proprietary institution of postsecondary education is appointed by the governor. **Alaska Stat. § 14.42.015**

## **II. STATE OVERSIGHT—EFFICACY: 50.5/100 POINTS**

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

**3/10 POINTS**

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

**Explanation:**

During the applicant status period, the Commission will establish, as considered necessary, a date for onsite visitation and evaluation of the applicant institution. (20 AAC §17.020(e).) The state receives points for discretionary onsite review every five years.

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

**0/5 POINTS**

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

**Explanation:**

Schools must be reviewed prior to reauthorization, but there is no indication that an onsite visit is required (announced or unannounced).

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

**15/20 POINTS**

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

**Explanation:**

Initial authorization is valid for not more than 2 years; reauthorizations are valid for not more than 5 years.

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

**17.5/20 POINTS**

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

Element	
Admission Requirements	M
Graduation Requirements	M
Placement Rate	M
Completion Rate (or Graduation Rate)	M
Advertising Practices	M
Cohort Default Rate	
Accreditation Status	M
Financial Aid Policies	M

*M = Mandatory; D = Discretionary*

**Explanation:**

Alaska law requires review of placement rate, completion (graduation) rate, advertising practices, and accreditation status. (20 Alaska Admin. Code 17.062; 20 Alaska Admin. Code 17.060; 20 Alaska Admin. Code 17.075; and Alaska Stat. § 14.48.060.)

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

**10/15 POINTS**

Yes, strongly distinguished	Yes, moderately distinguished	Yes, slightly distinguished	Not distinguished
15 Points	10 Points	5 Points	0 Points

**Explanation:**

Alaska law provides that non-profit postsecondary educational institutions offering undergraduate or graduate educational programs, from a facility in the state, that are acceptable for credit toward an associate, bachelor's, or graduate degree may be exempt from some or all of the provisions of applicable law. (Alaska Stat. §14.48.030(b)(3).)

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**F. DOES THE STATE REQUIRE INCREASED OVERSIGHT/SCRUTINY OF PRIVATE POSTSECONDARY INSTITUTIONS BASED ON POOR PERFORMANCE?****5/10 POINTS**

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Yes, mandatory	Yes, mandatory but limited	Yes, discretionary	Yes, discretionary but limited	No
10 Points	7.5 Points	5 Points	2.5 Points	0 Points

**Explanation:**

There is no mandatory oversight based on performance. The Commission may grant initial authorization for up to two years and subsequent authorization for up to five years. (Alaska Stat. § 14.48.070(d).) Additionally, 20 AAC § 17.062 lays out postsecondary institutions' reporting requirements. Finally, Alaska Stat. § 14.48.50 states that the Commission may "exercise other necessary powers and duties in conformity with the provisions of this chapter that, in the judgment of the commission, are necessary to carry out the provisions of this chapter." These statutes and regulations, taken together, give the Commission some necessary information and discretion to subject poorly performing schools to additional inspections and scrutiny. However, heightened scrutiny for poorly performing institutions and/or programs is not mandated by Alaska law.

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**G. DOES STATE LAW INCLUDE ANY SPECIAL PROTECTIONS FOR VETERANS WHO ATTEND PRIVATE POSTSECONDARY INSTITUTIONS?****0/20 POINTS**

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Yes	No
20 Points	0 Points

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**III. STATE OVERSIGHT—SCOPE AND INCLUSION:****50/100 POINTS**

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**A. ARE EXEMPTIONS TO STATE OVERSIGHT COVERAGE LIMITED?****50/100 POINTS**

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No exemptions	Few exemptions	Moderate exemptions	Broad exemptions
100 Points	75 Points	50 Points	0 Points

**Explanation:**

Alaska law allows for moderate exemptions. Accreditation by national or regional accrediting agencies recognized by the Commission may be accepted by the Commission as evidence of compliance with the minimum standards (criteria for authorization to operate) established under Alaska Stat. § 14.48.060 as authorized in Alaska Stat. § 14.48.050(1). However, the Commission may require further evidence and make further investigation as may be necessary. Accreditation by a recognized, specialized accrediting agency may be accepted as evidence of compliance only as to the portion or program of an institution accredited by the accrediting agency if the institution as a whole is not accredited. (Alaska Stat. § 14.48.060(c).) Thus, there is limitation in that it is within the discretion of the Commission whether to accept accreditation as evidence of compliance. If it were mandatory, Alaska would not receive any points here. Otherwise, exemptions are few and reasonable, such as programs and institutions providing instruction provided at a level from preschool through grade 12, including preparation for general equivalency diploma examinations; a program operated by the United States; a program that does not offer educational credentials and is provided only to prepare individuals to take graduate examinations; and a program that does not offer educational credentials and is only avocational or recreational in nature. (Alaska Stat. § 14.48.030.)

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#### **IV. DISCLOSURE REQUIREMENTS: 47.5/100 POINTS**

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

**10/20 POINTS**

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<b>Yes, mandatory</b>	<b>Yes, discretionary</b>	<b>None</b>
Fact sheet or equivalent required to be given to students	Fact sheet or equivalent given to students upon request	No fact sheet required
20 Points	10 Points	0 Points

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**Explanation:**

Alaska Stat. § 14.48.060(b)(4) requires institutions to provide 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 other material facts concerning the institution and the program or course of instruction that are reasonably likely to affect the decision of the student to enroll, together with any other disclosures specified by the commission by regulation; and that this information is provided to prospective students before enrollment. However, Alaska law does not explicitly specify that cohort default rate, graduation rates, employment rates, or exam passage rates are considered to be “material facts concerning the institution and the program or course of instruction that are reasonably likely to affect the decision of the student to enroll.”

More specific disclosures are required, but only to the Commission. For example, 20 AAC § 17.062(a) states that an institution shall submit with its request for renewal of authorization to operate under 20 AAC § 17.025, a report for each vocational education program offered, of the number of students who started the program; successfully completed the program; discontinued the program; were employed in the field of study within three months of completing the program; reported on the institution's exit survey



that the program met expectations, and that they were satisfied overall with the institution. Because 20 AAC § 17.062(d) specifies that an institution shall provide reports prepared under subsection (a) to prospective students upon request, Alaska receives partial credit for this element.



**Notable provision.** Alaska law provides that if a postsecondary educational institution represents that it offers a placement service to its graduates or will otherwise secure or assist them to find employment, a detailed and explicit description of the extent and nature of this service or assistance must be contained in its catalog, including the institution's most recently completed placement rate. (20 AAC §17.070(h).)

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

**20/60 POINTS**

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

### Explanation:

Because disclosures related to completion rates, license exam passage rates, and employment are required to be provided to the Commission, but are only provided to students upon request, these elements are discretionary and the state receives 5 points for each of these elements. 20 AAC § 17.062 specifies the data postsecondary institutions are required to provide and requires substantiating documentation, and also receives partial credit for “methods and sources” used. Because the “other material facts” required to be provided in the catalog or brochure prior to enrollment are not specified, the state receives no further points.

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

**17.5/20 POINTS**

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

### Explanation:

Alaska law contains requirements related to disclosures about refund information, tuition and fees to be included in the enrollment contract, but not about transferability of credits. (20 AAC §17.085.) Information about transferability of credits can be found in the student catalog, but is not required in the enrollment

contract or otherwise to be provided prior to enrollment. (20 AAC §17.075(20).) The catalog may be provided prior to enrollment, so the state receives partial credit for providing information about transferability of credits because the information is required in the catalog.

## V. REGULATION OF RECRUITING PRACTICES:

**100/100 POINTS**

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

**100/100 POINTS**

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

#### PROHIBITED ACTS

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

*1-3=weak; 3.5-6=moderate; 6.5-8=strong*

#### Explanation:

Alaska law contains a long list of prohibited acts related to recruiting, advertising, and soliciting. (20 AAC §17.070.) While it does not prohibit compensation for enrollment, it does put limits on it, so the state receives partial credit for addressing this issue because it is regulating the practice. Additionally, a general prohibition is found at Alaska Stat. §14.48.060(b)(9) (“neither the institution nor its agents engage in advertising, sales, collection, credit, or other practices which are false, deceptive, misleading, or unfair”). (20 AAC §17.120.) However, the regulations do not prohibit payment (to agents) based on number of enrollments.

## VI. COMPLAINT PROCESS AND RELIEF FOR STUDENTS:

**65.5/100 POINTS**

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

**20/20 POINTS**

<b>Yes</b>	<b>No</b>
<b>20 Points</b>	<b>0 Points</b>

**Explanation:**

Alaska requires a bond as a condition of authorization. (20 AAC § 17.045.)

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

**10/20 POINTS**

<b>Yes, full refund</b>	<b>Yes, partial refund</b>	<b>No refund required</b>
<b>20 Points</b>	<b>10 Points</b>	<b>0 Points</b>

**Explanation:**

Alaska law allows for indemnification, but does not mandate a full refund in cases in which students enroll as a result of misrepresentation. Further, recovery may be limited. (See, e.g., Alaska Stat §14.48.100(a): “...The bond shall be executed by the applicant as principal and by a surety company qualified and authorized to do business in this state and shall be conditioned to provide indemnification to any student or enrollee, or the student's or enrollee's parent or guardian, or class thereof, determined to have suffered loss or damage as a result of an act or practice which is a violation of this chapter by the postsecondary educational institution and that the bonding company shall pay a final non-appealable order of the commission or judgment of a court of this state having jurisdiction, upon receipt of written notification of the order or judgment. The aggregate liability of the surety for the bond of the institution or agent involved in the order or judgment may not, in any event, exceed the amount of the bond.”)

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

**15/20 POINTS**

<b>Yes, full refund</b>	<b>Yes, partial refund</b>	<b>Yes, refund in limited circumstances</b>	<b>No refund required</b>
<b>20 Points</b>	<b>15 Points</b>	<b>10 Points</b>	<b>0 Points</b>

**Explanation:**

No later than 30 days after an institution closes or ceases offering a program in which a student is enrolled, the institution shall provide full refunds of all tuition and other expenses paid to the institution by the student or other funding source on behalf of the student, unless it is able to provide a student with an alternative program, approved by commission staff, that is substantially equivalent as to program content; quality of instruction and equipment; period of program; accreditation status; credentials; accessibility; placement assistance; facility; and location, as compared to the location of the student's current institution. It is not clear whether or not the student has an option to accept the alternate arrangements as opposed to the refund. (20 AAC §17.117(b).)

The state's position is that the student is made whole if the institution offers a “substantially similar program” to that in which the student initially enrolled. While such an offer is commendable, if a program closes, the student consumer must be given the choice to attend the “substantially similar” program or receive a refund. There are any number of reasons a student may have chosen a particular

program, and if the program is discontinued, the student must have the ability to decide if the “substantially similar” program continues to meet his/her needs.

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**D. DOES THE STATE ALLOW STUDENTS AMPLE TIME TO MAKE A COMPLAINT?**  
**1/10 POINTS**

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

**Explanation:**

The Commission will file for the record, but will not take action on complaints that are filed more than six months after the end of the enrollment period to which the complaint refers, more than six months after the date an institution ceases operations, or more than six months after the complainant ceases to attend an institution, whichever date is earliest. (20 AAC §17.140.)

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**E. DOES THE STATE REQUIRE INSTITUTIONS TO DISCLOSE INFORMATION ABOUT FILING A COMPLAINT WITH THE STATE OVERSIGHT BODY?**  
**12.5/20 POINTS**

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Medium	Yes	Discretionary	No
Catalog	10 Points	5 Points	0 Points
Website	5 Points	2.5 Points	0 Points
Enrollment contract	5 Points	2.5 Points	0 Points

**Explanation:**

Alaska law requires a student catalog to include “a grievance procedure that includes the availability of appeal to the Commission.” (20 AAC §17.075(19).) Since it is common practice for schools to post their catalogs or information similar to that in their catalogs on the school website, the state gets partial credit for requiring the information on an institution’s website.

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**F. IS THE COMPLAINT PROCESS READILY ACCESSIBLE AND AVAILABLE ON THE STATE OVERSIGHT BODY’S WEBSITE?**  
**7/10 POINTS**

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

**Explanation:**

Information about the complaint process is available as required in school catalogs, but is not easily accessible online. It is not on the home page of the Alaska Commission on Postsecondary Education – a search on the site under “complaints” will bring the user to a page which does not contain a form, but directs students to an email which can be contacted to request a complaint form. Although other contact information is provided, no online form is readily available absent an email request.

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## VII. ENFORCEMENT: 40/100 POINTS

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

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**5/30 POINTS**

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Yes, required	Yes, required but limited	Yes, discretionary	Yes, discretionary but limited	No
30 Points	20 Points	10 Points	5 Points	0 Points

**Explanation:**

Alaska law states that the Commission may “exercise other necessary powers and duties in conformity with the provisions of this chapter that, in the judgment of the commission, are necessary to carry out the provisions of this chapter.” (Alaska Stat. § 14.48.50.) This statute may allow the Commission some discretion in limited circumstances to revoke authorization or invoke other actions due to repeated poor performance that would result in a postsecondary institution’s loss of state aid.

Additionally, 20 AAC §15.927 requires that an institution with a default rate in excess of 20% must develop and submit a default reduction plan, acceptable to the Commission, within 45 days after the date of the default rate determination. An institution that fails to comply section is ineligible to receive proceeds of new education loans until the required default reduction plan is submitted and determined by the commission to be reasonably expected to effect the necessary default reduction. Thus, while Alaska requires action when default rates are high, and institutions are subject to loss of aid if they fail to submit a plan to improve performance, nothing expressly requires the loss of aid if the institution continues to perform poorly. The required loss of state aid is limited by this lack of statutorily required follow through.

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

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**15/30 POINTS**

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Yes	Limited circumstances	No
30 Points	15 Points	0 Points

**Explanation:**

Alaska receives partial credit here because while there is no explicit right private right of action, the enrollment contract may not provide that the student waives the right to assert against the institution, or the institution’s assignee, any claim or defense the student may have against the school arising under the contract. A provision in a contract in which the student agrees to such a waiver is unenforceable.

While students in Alaska are not bound to use the complaint process of the Commission and can take direct action through the court system, Alaska law does not expressly authorize a private right of action for this purpose.

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

**0/20 POINTS**

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<b>Yes</b>	<b>Limited circumstances</b>	<b>No</b>
20 Points	15 Points	<b>0 Points</b>

**Explanation:**

Alaska law does not specify whether an attorney fee award is available for postsecondary students in any circumstances.

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D. DOES STATE LAW EXPLICITLY AUTHORIZE  
ATTORNEY GENERAL INVOLVEMENT?

**20/20 POINTS**

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<b>Yes</b>	<b>Limited Circumstances</b>	<b>No</b>
<b>20 Points</b>	10 Points	0 Points

**Explanation:**

The Attorney General, at the request of the commission or on motion of the attorney general, may bring an action or proceeding in a court of competent jurisdiction for the enforcement of the provisions of this chapter. (Alaska Stat. §14.48.180(a).)

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## BONUS POINTS

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Alaska does not receive any bonus points.



## ILLUMINATING INFORMATION



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## RECIPROCITY AGREEMENTS

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

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

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

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# ARIZONA

## FINAL GRADING ANALYSIS

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OVERALL SCORE: **403.5/700 POINTS (57.6%)**  
LETTER GRADE: **F**

### I. OVERSIGHT BODY: **65/100 POINTS**

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#### A. IS THERE A STATUTORILY CREATED OVERSIGHT BODY THAT IS PUBLICLY ACCOUNTABLE?

**60/60 POINTS**

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

**Explanation:**

Arizona law establishes the State Board for Private Postsecondary Education, which is tasked with oversight of private postsecondary institutions in Arizona. (A.R.S. § 32-3002; A.R.S. § 32-3003.) The Board is authorized to engage in rulemaking, initiate investigations, and impose penalties for violations. (A.R.S. § 32-3003). Board meetings must be open to the public, and Arizona's Public Meetings Law requires Board meetings to provide an opportunity for the public to comment. (A.R.S. § 38-431.01.) The board is charged with the licensing and oversight of both vocational and degree programs.



**B. STATUTE-SPECIFIED MEMBERSHIP:**


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

**0/25 POINTS**

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

**Explanation:**

The Board is statutorily mandated to include in its membership the following seven members: two members who hold executive or managerial positions in a private educational institution offering private vocational programs; one member who holds an executive or managerial position in a private educational institution offering an associate degree; two members who hold executive or managerial positions in a private educational institution offering a baccalaureate or higher degree, or both; and two members who are citizens of this state and have been occupied in commerce or industry in this state for at least three years. (A.R.S. § 32-3002.)

 Though a for-profit interested majority is not mandated, it is certainly possible that the industry that is regulated by this Board may dominate its membership.

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

**0/10 POINTS**

Yes	No
10 Points	0 Points

**Explanation:**

Arizona law does not require that the Board include a consumer advocate (an individual with expertise and experience in the area of consumer advocacy) as a member.

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

**5/5 POINTS**

All	Majority	Half	Minority	None
5 Points	3 Points	2.5 Points	1 Points	0 Points

**Explanation:**

All members of the Board are appointed by the governor and confirmed by the senate. (A.R.S. § 32-3002; A.R.S. § 38-211.)

## II. STATE OVERSIGHT—EFFICACY: 47.5/100 POINTS

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

4/10 POINTS

Mandatory onsite reviews			Discretionary	None
Every 2 years or less	Every 3-5 years	Over 5 years	Discretion to conduct onsite reviews	No onsite review specified
10 Points	8 Points	5 Points	3 4 Points	0 Points

#### Explanation:

For a private postsecondary institution's first two years of operation, Arizona law requires an onsite visit to verify that it meets the requirements in place for licensure. (A.R.S. § 32-3021(C).) After the first two years, the Board has discretion to conduct an onsite visit if problems arise or if there are concerns, but there is no specified requirement for an onsite review beyond an administrative review after the initial review. In addition to 3 points for authorizing the Board to conduct onsite reviews on a discretionary basis, Arizona receives an additional point for requiring onsite reviews for the first two years.

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

0/5 POINTS

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

#### Explanation:

Arizona law does not require or authorize the Board to conduct unannounced inspections for onsite reviews.

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

20/20 POINTS

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

#### Explanation:

Arizona law provides that licenses are effective for a 12-month period from the date of issuance. (A.A.C. § R4-39-102.) Private postsecondary institutions must, therefore, submit a renewal application each year and must demonstrate compliance with the applicable standards and regulations.

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

**18.5/20 POINTS**

8 of 8	7 of 8	6 of 8	5 of 8	4 of 8	3 of 8	2 of 8	1 of 8	0 of 8
20 Points	<del>17.5</del> <b>18.5 Points</b>	15 Points	12.5 Points	10 Points	7.5 Points	5 Points	2.5 Points	0 Points

Element	
Admission Requirements	M
Graduation Requirements	M
Placement Rate	M
Completion Rate (or Graduation Rate)	D
Advertising Practices	M
Cohort Default Rate	M
Accreditation Status	M
Financial Aid Policies	M

*M=Mandatory; D=Discretionary*

**Explanation:**

Arizona law requires postsecondary institutions to provide information about their programs and graduation requirements, accreditation status, cohort default rate, and financial aid policies as a part of a license application (including renewal). (A.A.C. § R4-39-103(D).) Arizona law further requires attestation by the individual signing the application that the applicant complies and will continue to comply with all U.S. Department of Education requirements governing federal student financial aid programs in which the applicant is eligible to participate. (A.A.C. § R4-39-103(D).) Arizona is awarded an additional point because it allows for the discretionary review of completion rates (Arizona requires reporting of retention rates).

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

**0/15 POINTS**

Yes, strongly distinguished	Yes, moderately distinguished	Yes, slightly distinguished	Not distinguished
15 Points	10 Points	5 Points	<b>0 Points</b>

**Explanation:**

Arizona law does not distinguish between for-profits and nonprofits.

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

**5/10 POINTS**

<b>Yes, mandatory</b>	<b>Yes, mandatory but limited</b>	<b>Yes, discretionary</b>	<b>Yes, discretionary but limited</b>	<b>No</b>
10 Points	7.5 Points	<b>5 Points</b>	2.5 Points	0 Points

**Explanation:**

If an institution is having financial difficulty, it is required to have a bond and or submit to quarterly reporting. If outcomes and retention rates do not meet accrediting standards, an institution may be placed on “reporting,” which means that the institution is required to submit quarterly reports to the Board for review rather than annual reports that are otherwise required. If there are issues with an institution’s accrediting agency or with the U.S. Department of Education, an institution may be placed on reporting or required to undergo additional review. (Information from Teri Stanfill, Executive Director, Arizona State Board for Private Postsecondary Education (Feb. 2015).)

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

**0/20 POINTS**

<b>Yes</b>	<b>No</b>
20 Points	<b>0 Points</b>

**Explanation:**

Arizona law does not provide special protections for veterans who attend private postsecondary institutions in the state.

**III. STATE OVERSIGHT—SCOPE AND INCLUSION:**

**75/100 POINTS**

**A. ARE EXEMPTIONS TO STATE OVERSIGHT COVERAGE LIMITED?**

**75/100 POINTS**

<b>No exemptions</b>	<b>Few exemptions</b>	<b>Moderate exemptions</b>	<b>Broad exemptions</b>
100 Points	<b>75 Points</b>	50 Points	0 Points

**Explanation:**

Arizona law includes several common exemptions, such as for schools that provide avocational training, training offered by employers for their employees, and programs offered by trade association for members. (A.R.S. § 32-3021(F).) However, institutions accredited by a regional or specialized accrediting agency recognized by the U.S. Department of Education are exempt from requirements associated with the student tuition recovery fund. (A.R.S. § 32-3072(D).) This exemption applies to assessments only.

#### IV. DISCLOSURE REQUIREMENTS: 45/100 POINTS

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

10/20 POINTS

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

##### Explanation:

Arizona law requires schools to provide information on institutional performance to students upon request. Schools are required to “make specific information concerning educational programs, including statements of purpose, objectives, course of study, policies, fees and other pertinent information, available to prospective students and the general public.” (A.R.S. § 32-3021.) Arizona requires schools to make available information required by federal law (cohort default rates, completion rates, financial aid information, upon request.)

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

15/60 POINTS

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

##### Explanation:

Arizona law requires schools to keep records with regard to graduation, salary information, and placement rates (where placement is offered), but are not required to disclose the information absent a student request. (A.A.C. § R4-39-307, § R4-39-401.) Additionally, schools must make available to students the information that is federally required (see 20 U.S.C. § 1092), upon request.

##### C. DOES THE STATE REQUIRE SCHOOLS TO INCLUDE ELEMENTS ESSENTIAL TO STUDENT PROTECTION IN THE ENROLLMENT CONTRACT?

20/20 POINTS

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

**Explanation:**

Arizona law requires enrollment agreements to include the name and address of the student; commencement date of the program; title of the course or courses within the program; total clock and credit hours of the program; payment schedule and total cost to the student; refund policy of the institution; a statement indicating that the individual signing the agreement has read and understands all aspects of the agreement; the holder in due course rule; a disclaimer by the institution that “job placement” is not guaranteed to graduates upon completion of this training or upon graduation; student grievance procedures, if not printed in a catalog, bulletin, or other document provided each prospective student; and a cancellation notice in accordance with Federal Trade Commission regulations. (A.A.C. § R4-39-401(A)(1).) Per an Arizona official, institutions are also required to disclose transferability of credits.

## V. REGULATION OF RECRUITING PRACTICES:

**75/100 POINTS**

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

**75/100 POINTS**

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

#### PROHIBITED ACTS

Included in list of Prohibited Acts	
Misleading representations using the word “college” or “university”	X
Misleading affiliations (e.g., military, public institution, businesses)	/
Promise of employment	
Compensation for enrollment	
Compensation or “bounty” to recruiters	
Deception (broad prohibition)	X
Misrepresentation (broad prohibition)	X
Misleading representations re: accreditation	/

*1–3=Weak; 3.5–6=Moderate; 6.5–8=Strong*

**Explanation:**

The Board may take disciplinary action for any one or a combination of several reasons, including engaging in fraudulent advertising, and engaging in false or misleading advertising, solicitation, or recruitment practices. (A.R.S. § 32-3051.) These broad prohibitions would likely include deception and misrepresentation. The state receives partial credit for 3 additional elements: misleading representations using the word “college” or “university”; misleading institution names; and misleading representations regarding accreditation because “engaging in misleading advertising, solicitation, or recruitment” would likely encompass these practices. In some cases, the state relies upon the accrediting body to prohibit acts. Per Arizona officials, if the accrediting body prohibits an act, the state prohibits the act. The state does not

receive credit for an element if it is relying upon an accreditation body to prohibit acts, as this practice diminishes transparency and reduces the accountability of state officials.

## VI. COMPLAINT PROCESS AND RELIEF FOR STUDENTS:

**76/100 POINTS**

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

**20/20 POINTS**

Yes	No
20 Points	0 Points

#### **Explanation:**

The Board may require letter of credit, a surety bond in a form acceptable to the Board or a cash deposit if the program or institution is not accredited. (A.R.S. § 32-3023.)

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

**10/20 POINTS**

Yes, full refund	Yes, partial refund	No refund r
20 Points	10 Points	0 Points

#### **Explanation:**

Arizona law does not explicitly require a refund of tuition if a student enrolls as the result of misrepresentation. However, Arizona receives partial credit here because provisions in Title 44 of Arizona's Revised Statutes, regarding issues of consumer protection, may address this issue.

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

**15/20 POINTS**

Yes, full refund	Yes, partial refund	Yes, refund in limited circumstances	No refund required
20 Points	15 Points	10 Points	0 Points

#### **Explanation:**

The Student Tuition Recovery Fund, established pursuant to A.R.S. §32-3072, enables students to recover “an amount not to exceed actual damages sustained” if they are injured when a private postsecondary institution ceases operation. Institutions accredited by a regional or specialized accrediting agency recognized by the U.S. Department of Education are exempt from this section, but only with regard to assessments. (A.R.S. §32-3072(D).) An Arizona official clarified that if an institution closes, it must provide a refund. However, there is no indication that institutions are required to provide a full refund of tuition.



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**D. DOES THE STATE ALLOW STUDENTS AMPLE TIME TO MAKE A COMPLAINT?**  
**9/10 POINTS**

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2 years or more (or no deadline)	Up to 1 year	Less than 1 year	Not Applicable
<b>10 9 Points</b>	5 Points	1 Point	0 Points

**Explanation:**

Generally, Arizona law provides that a complaint must be filed within two years of the student's last date of attendance or completing the grievance procedure, or demonstration that the licensee failed to follow licensee's grievance procedures. (A.A.C. § R4-39-403(A).) An exception to this rule, however, provides that in the event of an institution's closing, a student has one year to file a claim against the tuition recovery fund. (A.R.S. § 32-3075.) Thus, Arizona loses one point for this exception.

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**E. DOES THE STATE REQUIRE INSTITUTIONS TO DISCLOSE INFORMATION ABOUT FILING A COMPLAINT WITH THE STATE OVERSIGHT BODY?**  
**15/20 POINTS**

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Medium	Yes	Discretionary	No
Catalog	<b>10 Points</b>	5 Points	0 Points
Website	5 Points	<b>2.5 Points</b>	0 Points
Enrollment contract	5 Points	<b>2.5 Points</b>	0 Points

**Explanation:**

Because Arizona law requires schools to provide information about filing a complaint in the catalog, the state receives partial credit for requiring inclusion on the school websites because it is common practice for institutions to post the institutional catalog or information similar to that provided in the catalog on their website. (A.R.S. §32-3021(B)(9), A.A.C. § R4-39-403(D)(12).) Arizona gives schools discretion to publish information about filing a complaint with the state oversight body in the enrollment contract. The rules are in the process of revision (see <https://ppse.az.gov/laws-and-rules>). Prior to revision, A.A.C. §R4-39-401(B)(1)(j) stated that the enrollment agreement must include "Student grievance procedures, if not printed in a catalog, bulletin, or other document provided each prospective student" after the revision, the A.A.C. §R4-39-401(B)(1)(i) will require language about arbitration, including: "Arbitration does not preclude other avenues of recourse, including but not limited to possible relief in small claims courts, unless and until the arbitration result is made binding. Arbitration of a student grievance does not preclude the student from seeking a remedy from the Arizona Board of Private Postsecondary Education." The state receives partial credit for including information in the enrollment agreement. The information required prior to the revisions is required only if the school has not printed it in a catalog, bulletin, or other document; in the revision, there is no requirement that the school provide information about how a student can file a grievance with the Board, only that the student is not precluded from seeking a remedy from the Board.

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**F. IS THE COMPLAINT PROCESS READILY ACCESSIBLE AND AVAILABLE ON THE STATE OVERSIGHT BODY'S WEBSITE?**  
**7/10 POINTS**

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<b>Yes, with address</b>	<b>Yes, with phone #</b>	<b>Yes, with email address</b>	<b>Yes, with electronic form</b>	<b>No</b>
<b>2 Points</b>	<b>2 Points</b>	3 Points	<b>3 Points</b>	0 Points

**Explanation:**

The complaint procedure is provided on the Board's home page, and there is a "contact us" phone number and address on the home page and on the complaint page, and there is an electronic version of a word form which can be printed, filled out, and sent to the Board by the complainant. Students must exhaust all available grievance procedures established by the institution prior to submitting a complaint to the Board. (A.A.C. § R4-39-403.)

## **VII. ENFORCEMENT: 20/100 POINTS**

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

**0/30 POINTS**

<b>Yes, required</b>	<b>Yes, required but limited</b>	<b>Yes, discretionary</b>	<b>Yes, discretionary but limited</b>	<b>No</b>
30 Points	20 Points	10 Points	5 Points	<b>0 Points</b>

**Explanation:**

There are no provisions in Arizona law that explicitly specify that there will be a loss of state aid for schools that repeatedly produce substandard graduation rates, job placement rates, and/or cohort default rates.

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

**0/30 POINTS**

<b>Yes</b>	<b>Limited circumstances</b>	<b>No</b>
30 Points	15 Points	<b>0 Points</b>

**Explanation:**

There is no explicit private right of action in Arizona law for students against institutions that have violated the laws and regulations in place to govern them. However, the state does not bar students from bringing suit against an institution in court.

Further, A.A.C. §R4-39-401(B)(1)(i) requires language to be provided to students about arbitration, including: "Arbitration does not preclude other avenues of recourse, including but not limited to possible relief in small claims courts, unless and until the arbitration result is made binding. Arbitration of a student grievance does not preclude the student from seeking a remedy from the Arizona Board of Private Postsecondary Education." There is no requirement that the school provide information about how a

student can file a grievance with the state Board, only that the student is not precluded from seeking a remedy from the Board.

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

**0/20 POINTS**

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<b>Yes</b>	<b>Limited</b>	<b>No</b>
20 Points	15 Points	<b>0 Points</b>

**Explanation:**

Arizona law does not explicitly allow attorney fee awards for students who prevail in litigation against institutions who have violated the laws and regulations in place to govern them.

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**D. DOES STATE LAW EXPLICITLY AUTHORIZE  
ATTORNEY GENERAL INVOLVEMENT?**

**20/20 POINTS**

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<b>Yes</b>	<b>Limited circumstances</b>	<b>No</b>
<b>20 Points</b>	10 Points	0 Points

**Explanation:**

In addition to all other remedies, if it appears to the Board, either on complaint or otherwise, that any person has engaged in or is engaging in an act, practice or transaction which violates applicable law, the Board may apply, through the attorney general or through the county, city or town attorney of the county, city or town in which the act, practice or transaction is alleged to have been committed, to the superior court in that county for an injunction restraining the person from engaging in the act, practice or transaction, or doing anything in furtherance of the act, practice or transaction. On a proper showing, a temporary restraining order, a preliminary injunction or a permanent injunction shall be granted without a bond. (A.R.S. § 32-3057.)

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**BONUS POINTS:**

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Arizona receives no bonus points.



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**ILLUMINATING INFORMATION**

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**RECIPROCITY AGREEMENTS**

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Arizona is a part of the State Authorization Reciprocity Agreements (SARA).

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

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

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# ARKANSAS

## FINAL GRADING ANALYSIS

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OVERALL SCORE: **279.75/700 POINTS (40%)**  
LETTER GRADE: **F**

### I. OVERSIGHT BODY: **60/100 POINTS**

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#### A. IS THERE A STATUTORILY CREATED OVERSIGHT BODY THAT IS PUBLICLY ACCOUNTABLE?

**50/60 POINTS**

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Element	Points Available	Type 1	Type 2	Points Awarded (Average)
1. Oversight body is a multi-member board, commission, or panel created by statute	10	10	10	10
2. Oversight body was statutorily created specifically to oversee private postsecondary institutions	10	10	0	5
3. Multi-member board, commission, or panel is the ultimate decision maker (as opposed to a single person, like the head of a department or director)	10	10	10	10
4. Oversight body can engage in rulemaking	10	10	10	10
5. Oversight body's meetings must be open to the public	5	5	5	5
6. Oversight body's meetings must allow public comment	5	0	0	0
7. Oversight body can initiate investigations	5	5	5	5
8. Oversight body can impose penalties for violations	5	5	5	5
<b>Total Points</b>	60	55	45	<b>50</b>

**Explanation:**

Arkansas has two multi-member boards tasked with the oversight of postsecondary education. The State Board of Private Career Education (SBPCE) is tasked with oversight of postsecondary career schools (Type 1). (A.C.A. § 6-51-605.) The Arkansas Higher Education Coordinating Board (AHECB) oversees publicly-funded postsecondary institutions and private degree-granting institutions (Type 2). (A.C.A. § 6-61-301.) Some institutions may be subject to oversight by both boards; Arkansas requires institutions to apply to the SBPCE for licensure *and* to the AHECB for certification in specified circumstances. (Arkansas Higher Education Coordinating Board Policies 2015 at 5.2.13, available online at <https://static.ark.org/eeuploads/adhe/2015 Board Policy.pdf>).

**Type 1: Postsecondary career schools.** The SBPCE was specifically created to provide consumer protection and oversee career schools. It is tasked with promulgating rules, it can initiate investigations,

and it can impose penalties for violations. The SBPCE is subject to Arkansas' Freedom of Information Act, which requires all government bodies to hold public meetings. (A.C.A. § 25-19-106.) The state loses points because it is not clear whether SBPCE must allow time for public comment during meetings.

**Type 2: Degree-granting institutions.** Arkansas created the AHECB to oversee both publicly-supported institutions of higher learning and private postsecondary degree-granting institutions. (A.C.A. § 6-61-201; A.C.A. § 6-61-301(a)(1)(A).) The AHECB has the authority to promulgate rules, initiate investigations, and impose penalties for violations. (A.C.A. § 6-61-301.) The AHECB is subject to Arkansas' Freedom of Information Act, which requires all government bodies to hold public meetings. (A.C.A. § 25-19-106.) The state loses points only for one element here: it is not clear whether SBPCE must allow time for public comment during meetings.

## B. STATUTE-SPECIFIED MEMBERSHIP

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

**5/25 POINTS\***

*\*points for Type 1 and Type 2 institutions have been averaged to calculate the above score*

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

#### Explanation:

**Type 1: Postsecondary career schools.** Arkansas law' actually requires 3 of the 7 SBPCE members to be associated with the for-profit schools it regulates. Thus, while a for-profit majority is not mandated, it is not discouraged either. In fact, there is a good possibility that appointed members associated with for profit postsecondary institutions could comprise a majority of the Board. (A.C.A. § 6-51-605.)

**Type 2: Degree-granting institutions.** Although Arkansas does not explicitly prohibit a for-profit interest majority on the 12-member AHECB, the statutorily-required membership would not allow a for-profit majority on the AHECB. The statutory language leaves open the possibility that for-profit interests could constitute a majority of a quorum, but it is unlikely. Per Arkansas statute, the governor is to appoint the members as follows: three members must be recent members of the boards of public two-year colleges, if the person selected is serving on the membership of the board of a public two-year campus, the person must relinquish his or her membership on the board; three members must be recent members of the boards of public four-year colleges or university campuses. If the person selected is serving on the membership of the board of a public four-year campus, the person shall relinquish his or her membership on the board; six members must be selected from business, industry, education, agriculturally related industry, and medical services and must not be current members of a board of a public two-year or four-year campus. At least one of the appointees must have a strong interest in and commitment to economic and workforce development. At least one of the appointees must have experience in the knowledge-based technology field. No more than four members of the board shall be appointed from any one congressional district as the districts exist at the time of the appointment. No more than two members of the board at

any one time shall be graduates of an undergraduate program of any one state university or college. (A.C.A. § 6-61-201(a).)



*Arkansas has created an advisory committee consisting of 9 members serving 9-year terms to assist the AHECB in its responsibilities regarding incorporation and certification of postsecondary educational institutions. The statutorily-mandated membership of this committee is as follows: two nonpublic postsecondary education institution chief administrators; two public postsecondary education institution chief administrators; two chief administrators of proprietary schools; the Director of the Department of Career Education or his or her designated representative; and two legal residents of the state who are not officially affiliated with any postsecondary institution in any state as an employee or board member or in any other capacity. (A.C.A. § 6-61-302.) There is no explicit prohibition on for-profit interest domination of this committee, and such domination may be possible. However, Arkansas does not lose any points here because the committee serves in an advisory capacity only. It is, however an area of concern, given that the committee may have a significant impact on the oversight of private postsecondary educational institutions.*

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

**0/10 POINTS\***

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*\*points for Type 1 and Type 2 institutions have been averaged to calculate the above score*

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

**Explanation:**

Neither the SBCPE nor the AHECB is required to include a consumer advocate (an individual with expertise and experience in consumer advocacy). Membership is specified at A.C.A. § 6-51-605 (SBCPE) and A.C.A. § 6-61-201(AHECB).

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

**5/5 POINTS\***

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*\*points for Type 1 and Type 2 institutions have been averaged to calculate the above score*

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

**Explanation:**

**Type 1: Postsecondary career schools.** The Arkansas Governor appoints all seven members of the SBCPE. (A.C.A. § 6-51-605.)

**Type 2: Degree-granting institutions.** The Arkansas Governor appoints all twelve members of the AHECB. (A.C.A. § 6-61-201(a)(1).)



## II. STATE OVERSIGHT—EFFICACY: 43.5/100 POINTS

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

3/10 POINTS\*

*\*points for Type 1 and Type 2 institutions have been averaged to calculate the above score*

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

#### Explanation:

**Type 1: Postsecondary career schools.** Arkansas gives SBCPE discretion to send an authorized representative of the Board to licensed schools and schools seeking approval. The regulations give discretion for the Board to do more than one onsite visit per licensure year. The cost for each onsite visit after the first visit during a licensure year shall be paid by the school.” (142 00 CARR 005 XXIII.)

**Type 2: Degree-granting institutions.** The AHECB Policy Manual indicates that the AHECB may assemble an ad hoc panel/review team to conduct an onsite visit for initial certification of degree-granting programs. Initial certification is valid for two years, after which re-certification takes place every two to five years. Site visits are discretionary for recertification. Therefore, partial because AHECB policies allow discretionary site visits every 3-5 years and the first recertification review with discretion to do an onsite review is 2 years after initial certification. (Arkansas Higher Education Coordinating Board Policies 2015 available online at [https://static.ark.org/eeuploads/adhe/2015\\_Board\\_Policy.pdf](https://static.ark.org/eeuploads/adhe/2015_Board_Policy.pdf).)

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

1.5/5 POINTS\*

*\*points for Type 1 and Type 2 institutions have been averaged to calculate the above score*

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

#### Explanation:

**Type 1: Postsecondary career schools.** Arkansas gives the SBPCE discretion to do unannounced onsite visits. (142 00 CARR 005 XXIII.)

**Type 2: Degree-granting institutions.** There is no indication that Arkansas law allows AHECB to conduct unannounced visits. The policy manual indicates that the review team will arrange a mutually convenient time for an onsite review.” (Arkansas Higher Education Coordinating Board Policies 2015 available online at [https://static.ark.org/eeuploads/adhe/2015\\_Board\\_Policy.pdf](https://static.ark.org/eeuploads/adhe/2015_Board_Policy.pdf).)

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

18/20 POINTS\*

\*points for Type 1 and Type 2 institutions have been averaged to calculate the above score

	Mandatory			Discretionary	None
	Every 2 years or less	Every 3-5 years	Over 6 years	Discretionary reviews	No onsite review specified
Type 1	20 Points	15 Points	1 Point	10 Points	0 Points
Type 2	20 Points	15 16 Points	1 Point	10 Points	0 Points

**Explanation:**

**Type 1: Postsecondary career schools.** Arkansas law provides that licenses shall be renewable annually. The licensing period shall be determined by the State Board of Career Education. (ACA 6-51-611.) The regulations at 142 00 CARR 005 XXII state that “[a]ll school licenses issued shall expire annually.”

**Type 2: Degree-granting institutions.** The first recertification review is required after two years and recertification is required every 2-5 years thereafter. Arkansas receives an additional point because the first recertification is required after 2 years. (Arkansas Higher Education Coordinating Board Policies 2015 available online at [https://static.ark.org/eeuploads/adhe/2015\\_Board\\_Policy.pdf](https://static.ark.org/eeuploads/adhe/2015_Board_Policy.pdf)).



**Notable Provision. Degree-granting institutions—recertification:** Arkansas requires institutions to submit copies of student and faculty assessment documents, which is a promising practice and may help to provide useful student and faculty insights and perspectives if administered properly. (Arkansas Higher Education Coordinating Board Policies (2015) see form 5, available online at [https://static.ark.org/eeuploads/adhe/2015\\_Board\\_Policy.pdf](https://static.ark.org/eeuploads/adhe/2015_Board_Policy.pdf)).

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

6/20 POINTS\*

\*points for Type 1 and Type 2 institutions have been averaged to calculate the above score

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

Element	Type 1	Type 2
Admission requirements		D
Graduation requirements		D
Placement rate	D	
Completion rate (or graduation rate)	D	
Advertising practices	D	M

<b>Cohort default rate</b>		
<b>Accreditation status</b>		<b>M</b>
<b>Financial aid policies</b>	<b>D</b>	<b>D</b>

*M= Mandatory; D = Discretionary*

**Explanation:**

**Type 1: Postsecondary career schools.** Arkansas requires career colleges to keep records related to placement rates for programs that advertise placement and completion rates (though not “on time” completion rates), and it requires institutions to keep all files related to promotional materials for review. (142 00 CARR 005 XXII (N), (AD).) Arkansas’ requirements related to placement records are associated with its regulations on advertising. Arkansas mandates that schools which utilize completion or placement statistics in advertising or recruiting materials maintain proof of corroboration of the statistics they use. (142 00 CARR 005 XXX (11).) However, it is unclear whether these records must be reviewed regularly as a condition of license renewal. Thus, Arkansas receives 4 points because these elements are not required of postsecondary career schools, but SBPCE has discretion to review these elements as a condition of reauthorization.

**Type 2: Degree-granting institutions.** The AHECB policy manual requires review of: institutional catalog, accreditation, and consumer disclosure (including advertising), and several other factors. Arkansas receives credit for discretionary review of admission, graduation, and financial aid policies because AHECB reviews the institutional catalog, which will likely contain this information. (Arkansas Higher Education Coordinating Board Policies 2015, see forms 3, 5, 6, and 7 available online at [https://static.ark.org/eeuploads/adhe/2015\\_Board\\_Policy.pdf](https://static.ark.org/eeuploads/adhe/2015_Board_Policy.pdf)).

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**E. DOES THE STATE’S OVERSIGHT DISTINGUISH BETWEEN FOR-PROFIT AND NON-PROFIT EDUCATIONAL INSTITUTIONS?**

**15/15 POINTS\***

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*\*points for Type 1 and Type 2 institutions have been averaged to calculate the above score*

	<b>Yes, strongly distinguished</b>	<b>Yes, moderately distinguished</b>	<b>Yes, slightly distinguished</b>	<b>Not distinguished</b>
<b>Type 1</b>	<b>15 Points</b>	10 Points	5 Points	0 Points
<b>Type 2</b>	<b>15 Points</b>	10 Points	5 Points	0 Points

**Explanation:**

**Type 1 (postsecondary career schools) and Type 2 (degree-granting institutions).** Arkansas exempts nonpublic, non-profit colleges and universities from the certification requirement/licensure. “Nonpublic, not-for-profit colleges and universities currently incorporated, recognized by the Arkansas Higher Education Coordinating Board as Arkansas independent institutions of higher education, and operating under the applicable laws of this state shall not be required to receive certification from the Arkansas Higher Education Coordinating Board or to receive licensure from the Arkansas State Board of Private Career Education” (A.C.A. § 6-61-301(C)(3).)

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

**0/10 POINTS\***

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*\*points for Type 1 and Type 2 institutions have been averaged to calculate the above score*

	Yes, mandatory	Yes, mandatory but limited	Yes, discretionary	Yes, discretionary but limited	No
<b>Type 1</b>	10 Points	7.5 Points	5 Points	2.5 Points	<b>0 Points</b>
<b>Type 2</b>	10 Points	7.5 Points	5 Points	2.5 Points	<b>0 Points</b>

**Explanation:**

*Type 1 (postsecondary career schools) and Type 2 (degree-granting institutions).* There is no indication that Arkansas requires increased oversight/scrutiny of private postsecondary institutions based on poor performance for either career schools or degree-granting institutions.

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

**0/20 POINTS\***

*\*points for Type 1 and Type 2 institutions have been averaged to calculate the above score*

	Yes	No
<b>Type 1</b>	20 Points	<b>0 Points</b>
<b>Type 2</b>	20 Points	<b>0 Points</b>

**Explanation:**

*Type 1 (postsecondary career schools) and Type 2 (degree-granting institutions).* Arkansas law has some limited provisions in place to protect veterans, but those provisions relate to publicly-funded postsecondary institutions, and not to private for-profit postsecondary institutions.

**III. STATE OVERSIGHT—SCOPE AND INCLUSION:**

**75/100 POINTS**

**A. ARE EXEMPTIONS TO STATE OVERSIGHT COVERAGE LIMITED?**

**75/100 POINTS\***

*\*points for Type 1 and Type 2 institutions have been averaged to calculate the above score*

	No exemptions	Few exemptions	Moderate exemptions	Broad exemptions
<b>Type 1</b>	100 Points	<b>75 Points</b>	50 Points	0 Points
<b>Type 2</b>	100 Points	<b>75 Points</b>	50 Points	0 Points

**Explanation:**

*Type 1: Postsecondary career schools.* Most exemptions are commonly used, common-sense exemptions such as K–12, state colleges and universities, programs offered for personal improvement, religious schools, schools operated by a trade organization for which there is no fee for members, and so on. There is an exemption for schools operated on military bases in which the majority of students are military personnel, their families and civilian employees of the Department of Defense. (A.C.A. § 6-51-603.)

**Type 2: Private degree-granting.** The state provides a very narrow exemption for schools due to their “unique nature” according to AHECB. According to A.C.A. § 6-61-301, state-supported institutions of higher education and schools regulated by the Cosmetology Technical Advisory Committee.

#### IV. DISCLOSURE REQUIREMENTS: **3.75/100 POINTS**

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

**0/20 POINTS\***

*\*points for Type 1 and Type 2 institutions have been averaged to calculate the above score*

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

**Explanation:**

**Type 1 (postsecondary career schools) and Type 2 (degree-granting institutions).** Arkansas law requires no disclosures to students for career colleges or private degree-granting institutions. The Arkansas Higher Education Information System is used to calculate graduation/completion rates for students in public universities. However, it is not clear whether this system is used for private colleges; if the data generated is required to be disclosed to potential students in school literature and/or advertising; or if the data is a factor in renewal of licensing/approval. It appears that this data is largely aggregate data from all postsecondary institutions in Arkansas.

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

**0/60 POINTS\***

*\*points for Type 1 and Type 2 institutions have been averaged to calculate the above score*

**Type 1: Postsecondary career schools**

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

**Explanation:**

There are no substantial disclosures related to the model elements identified are required for private career colleges.

***Type 2: Private degree-granting institutions***

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

**Explanation:**

There are no substantial disclosures related to the model elements identified are required for private degree-granting institutions.

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

**3.75/20 POINTS\***

*\*points for Type 1 and Type 2 institutions have been averaged to calculate the above score*

***Type 1: Private career colleges***

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

***Type 2: Private degree-granting institutions***

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

**Explanation:**

Arkansas requires only that private degree-granting institutions provide the following language in enrollment agreements: Transfer of Course/Degree Credit to Other Institutions—The student should be aware that these degree programs may not transfer. The transfer of course/degree credit is determined by the receiving institution. Arkansas receives partial credit for including this statement in enrollment contracts because, while it does address the transferability of credits, there is nothing that tells students to

which institutions credits will or will not transfer. (Arkansas Higher Education Coordinating Board Policies 2015, see form 3 available at [https://static.ark.org/eeuploads/adhe/2015\\_Board\\_Policy.pdf](https://static.ark.org/eeuploads/adhe/2015_Board_Policy.pdf)).

## V. REGULATION OF RECRUITING PRACTICES:

**37.5/100 POINTS**

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

**37.5/100\***

*\*points for Type 1 and Type 2 institutions have been averaged to calculate the above score*

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

#### PROHIBITED ACTS

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

*1-3= weak; 3.5-6=moderate; 6.5-8=strong*

#### Explanation:

**Type 1: Private career schools.** Prohibited acts are listed under recruiting at 142 00 CARR 005 XVII. Arkansas has moderately strong regulations related to regulation of advertising and recruiting regarding private career schools.

**Type 2: Private degree-granting institutions.** Prohibited acts are not well-defined for private degree-granting institutions, which results in Arkansas’ lower score on this element.

## VI. COMPLAINT PROCESS AND RELIEF FOR STUDENTS:

**60/100 POINTS**

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

**22.5/20 POINTS\***



*\*points for Type 1 and Type 2 institutions have been averaged to calculate the above score*

	Yes	No
Type 1	<del>20</del> 25 Points	0 Points
Type 2	20 Points	0 Points

**Explanation:**

**Type 1: Private career schools.** “Each school licensed under this subchapter shall pay annually a fee to be set by the State Board of Private Career Education.” (A.C.A. § 6-51-607(a)(1).) For an original license, the fee is a percentage as determined by the board of the sum of the tuitions for each program offered.

Additionally, during the first 12 months of licensure, the same percentage is paid to the Private Career School Student Protection Trust Fund on additional new programs of study. (A.C.A. § 6-51-607(a)(4).)

The state receives full credit for requiring a surety bond and an additional five bonus points for requiring contribution to a student protection trust fund (A.C.A. § 6-51-620).

**Type 2: Private degree-granting institutions.** In an effort to protect Arkansas students from financial hardship and loss due to the unexpected closure of an institution certified by AHECB, non-public and out-of-state, postsecondary institutions certified to offer college-level courses/degree programs in Arkansas will be required to maintain a surety bond during operations in Arkansas.” (Arkansas Higher Education Coordinating Board Policies (2015) 5.2.10, available at [https://static.ark.org/eeuploads/adhe/2015\\_Board\\_Policy.pdf](https://static.ark.org/eeuploads/adhe/2015_Board_Policy.pdf).)

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

**5/20 POINTS\***

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*\*points for Type 1 and Type 2 institutions have been averaged to calculate the above score*

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

**Explanation:**

**Type 1: Private career schools.** A refund and/or damages are available; however, nothing specifies a full refund (“[t]he surety bond shall be conditioned to provide indemnification to any student or enrollee who suffers loss or damage as a result of...[a]n admissions representative’s misrepresentation in procuring the student’s enrollment”). (142 00 CARR 005 (4).)

**Type 2: Private degree-granting Institutions.** AHECB requires postsecondary institutions to disclose their refund policies, but does not specific require refunds for enrollment as a result of misrepresentation.

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

**12.5/20 POINTS\***

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*\*points for Type 1 and Type 2 institutions have been averaged to calculate the above score*

	Yes, full refund	Yes, partial refund	Yes, refund in limited circumstances	No refund required
<b>Type 1</b>	20 Points	15 Points	<b>10 Points</b>	0 Points
<b>Type 2</b>	20 Points	<b>15 Points</b>	10 Points	0 Points

**Explanation:**

**Type 1: Private career schools.** (1) If a school closes, the director shall attempt to place each student of the school in another school. (2) If the student cannot be placed in another school, the student's tuition for which education has not been received may be refunded on a prorated basis in the manner prescribed by the board. (3) If another school assumes responsibility for the closed school's students with no significant changes in the quality of training, a student is not entitled to a refund under this section. (4) Attorneys fees, court costs, or damages may not be paid from the Private Career School Student Protection Trust Fund. (A.C.A. § 6-51-607.) Also, "[i]n the event a school discontinues a program in which students are enrolled, a full refund of all tuition and fees is due. Refunds shall be made within 15 days of the last class meeting date. This statement does not apply to a closed school; however, it does apply to a school that closes only one location." (142 00 CARR 005.)

**Type 2: Private degree-granting institutions.** A refund is available for unused tuition. "A student will be eligible for restitution of unused tuition from the institution's bond when (1) due to closure of the AHECB certified institution the student can no longer continue his/her education at the AHECB certified institution and has prepaid but unused tuition requiring reimbursement; and/or (2) due to closure of the AHECB certified institution no viable alternative for restitution is available, as determined by the Arkansas Department of Higher Education.... Unused tuition will be defined as payment for classes in which the student was enrolled, but were not completed because of the closure of the institution."

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

**10/10 POINTS\***

*\*points for Type 1 and Type 2 institutions have been averaged to calculate the above score*

	2 years or more (or no deadline)	Up to 1 year	Less than 1 year	Not applicable
<b>Type 1</b>	<b>10 Points</b>	5 Points	1 Points	0 Points
<b>Type 2</b>	<b>10 Points</b>	5 Points	1 Points	0 Points

**Explanation:**

**Type 1: Private career schools.** "The complaint shall be filed within three (3) years of the alleged violation." (142 00 CARR 005 IX (5).) However, a request for arbitration must be in writing and filed with the director within one (1) year of completion of, or withdrawal from, the school. (A.C.A. § 6-51-616.) No points are deducted here, because missing this 1-year deadline would preclude only the option of binding arbitration. It would not prevent the student from taking other action.

**Type 2: Private degree-granting institutions.** It is the responsibility of the institutions to create and publish policies with regard to filing grievances. There are no deadlines enumerated in Arkansas law or policy with regard to filing an initial student grievance. All AHECB certified institutions must publish, post, and adhere to a procedure for handling a student grievance. Out-of-state and distance delivery institutions must furnish a toll-free telephone number or e-mail address for quick access in filing a student

grievance.” (Arkansas Higher Education Coordinating Board Policies 2015, available online at [https://static.ark.org/eeuploads/adhe/2015\\_Board\\_Policy.pdf](https://static.ark.org/eeuploads/adhe/2015_Board_Policy.pdf).)

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

**7.5/20 POINTS\***

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*\*points for Type 1 and Type 2 institutions have been averaged to calculate the above score*

**Type 1: Private career schools:**

Medium	Yes	Discretionary	No
Catalog	10 Points	5 Points	0 Points
Website	5 Points	2.5 Points	0 Points
Enrollment contract	5 Points	2.5 Points	0 Points

**Explanation:**

Schools shall post Board provided information so that students will be aware of the complaint process available to them through the Board. This information shall be posted in locations used and/or seen by all students on a regular basis. (142 00 CARR 005 IX. (2).) Although it is not specifically enumerated, a school’s website and catalog are locations used and/or seen by all students on a regular basis.

**Type 2: Private degree-granting:**

Medium	Yes	Discretionary	No
Catalog	10 Points	5 Points	0 Points
Website	5 Points	2.5 Points	0 Points
Enrollment contract	5 Points	2.5 Points	0 Points

**Explanation:**

AHECB policy requires that certified institutions publish, post, and adhere to a procedure for handling a student grievance. There is no language requiring this information to be posted on a website or catalog; however, it is reasonable to conclude that schools may publish this information on the schools website and/or in the school catalog. Therefore, Arkansas receives credit for giving discretion here (Arkansas Higher Education Coordinating Board Policies 2015, available online at [https://static.ark.org/eeuploads/adhe/2015\\_Board\\_Policy.pdf](https://static.ark.org/eeuploads/adhe/2015_Board_Policy.pdf)).

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

**2.5/10 POINTS\***

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*\*points for Type 1 and Type 2 institutions have been averaged to calculate the above score*

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

**Explanation:**

**Type 1: Private career schools.** Arkansas's description of the complaint procedure includes only a phone number (<http://sbpce.arkansas.gov/students/Pages/complaintProcess.aspx>).

**Type 2: Private degree-granting institutions.** A student grievance form is available on the AHECB website (<http://www.adhe.edu/students-parents/colleges-universities/student-grievance-form>).

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**VII. ENFORCEMENT: 0/100 POINTS**

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

**0/30 POINTS\***

*\*points for Type 1 and Type 2 institutions have been averaged to calculate the above score*

	Yes, Required	Yes, Required but limited	Yes, Discretionary	Yes, Discretionary but limited	No
<b>Type 1</b>	30 Points	20 Points	10 Points	5 Points	<b>0 Points</b>
<b>Type 2</b>	30 Points	20 Points	10 Points	5 Points	<b>0 Points</b>

**Explanation:**

**Type 1 (postsecondary career schools) and Type 2 (degree-granting institutions).** There is no specified loss of state aid for schools that repeatedly produce substandard graduation, job placement, and/or cohort default rates in Arkansas law for either career colleges or private degree-granting institutions.

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

**0/30 POINTS\***

*\*points for Type 1 and Type 2 institutions have been averaged to calculate the above score*

	Yes	Limited circumstances	No
<b>Type 1</b>	30 Points	15 Points	<b>0 Points</b>
<b>Type 2</b>	30 Points	15 Points	<b>0 Points</b>

**Explanation:**

**Type 1 (postsecondary career schools) and Type 2 (degree-granting institutions).** In Arkansas law, there is no specified private right of action against institutions (for either career colleges or private degree-granting institutions) that have violated the laws/regulations in place to govern them.

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

**0/20 POINTS\***

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*\*points for Type 1 and Type 2 institutions have been averaged to calculate the above score*

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

**Explanation:**

*Type 1 (postsecondary career schools) and Type 2 (degree-granting institutions).* Arkansas law does not indicate that attorney fees are available either for students of career colleges or private degree-granting institutions.

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D. DOES STATE LAW EXPLICITLY AUTHORIZE ATTORNEY GENERAL INVOLVEMENT?

**0/20 POINTS\***

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*\*points for Type 1 and Type 2 institutions have been averaged to calculate the above score*

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

**Explanation:**

*Type 1 (postsecondary career schools) and Type 2 (degree-granting institutions).* There is no indication in Arkansas law that the state explicitly authorizes Attorney General involvement in any circumstances related to regulation and enforcement of laws governing for-profit postsecondary institutions.



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## ILLUMINATING INFORMATION

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### RECIPROCITY AGREEMENTS

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

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

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

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# CALIFORNIA

## FINAL GRADING ANALYSIS

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OVERALL SCORE: **590.5/700 POINTS (84.4%)**  
LETTER GRADE: **B**

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### I. OVERSIGHT BODY: **67.5/100 POINTS**

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#### A. IS THERE A STATUTORILY CREATED OVERSIGHT BODY THAT IS PUBLICLY ACCOUNTABLE?

**30/60 POINTS**

Element	Points Available	Points Awarded
1. Oversight body is a multi-member board, commission, or panel created by statute	10	0
2. Oversight body was statutorily created specifically to oversee private postsecondary institutions	10	5
3. Multi-member board, commission, or panel is the ultimate decision maker (as opposed to a single person, like the head of a department or director)	10	0
4. Oversight body can engage in rulemaking	10	10
5. Oversight body's meetings must be open to the public	5	2.5
6. Oversight body's meetings must allow public comment	5	2.5
7. Oversight body can initiate investigations	5	5
8. Oversight body can impose penalties for violations	5	5
<b>Total Points</b>	60	30

**Explanation:**

California does not have a multi-member body serving as the decision maker in matters relating to the oversight of private postsecondary education; such oversight power and duties are vested in the Director of Consumer Affairs, who may delegate them to the Chief of the Bureau of Private Postsecondary Education. (Cal. Ed. Code § 94876.)

Although the Director of Consumer Affairs has a broader mandate, the Bureau was created specifically to “regulate private postsecondary educational institutions through the powers granted, and the duties imposed” by the California Private Postsecondary Act of 2009 (Cal. Ed. Code § 94875); thus, partial credit is awarded for #2 above. Within the Bureau there is a 12-member Advisory Committee, which is



directed to examine the oversight functions and operational policies of the Bureau and advise the Bureau with respect to matters relating to private postsecondary education and the administration of Act. (Cal. Ed. Code § 94880(c).)

The Bureau is authorized to engage in rulemaking. (Cal. Ed. Code § 94877(a).) Although the Bureau does not hold meetings, the Advisory Committee does; such meetings are open to the public and must include an opportunity for public comment. Thus, partial credit has been awarded for #5 and #6 above.

The Bureau is authorized to initiate investigations and take all appropriate legal action in response to violations of applicable laws. (Cal. Ed. Code § 94877(b), (d); 5 CCR 75020 *et seq.*)

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## B. STATUTE-SPECIFIED MEMBERSHIP:

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

**25/25 POINTS**

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

**Explanation:**

Of the Bureau's 12-member Advisory Committee, only three members are designated to be representatives of institutions. (Cal. Ed. Code § 94880(a).) The mandated composition of the Advisory Committee would make it impossible for for-profit interests to obtain a majority or even to obtain a majority of the quorum, and the statute contains language prohibiting the public members of the Advisory Committee from being associated with for-profit interests. The language applies to the two members of the Advisory Committee who are current or past students of institutions, one public member appointed by the Senate committee on Rules and the one public member appointed by the Speaker of the Assembly. Specifically, these members shall not, either at the time of his or her appointment or during his or her tenure in office, have any financial interest in any organization currently or previously subject to regulation by the bureau, be a close family member of an employee, officer, or the director of any institution subject to regulation by the bureau, or currently have, or previously have had, a business relationship, in the five years preceding his or her appointment, with any institution subject to regulation by the bureau. (Cal. Ed. Code § 94880(b).) Because the effect of California's law governing the make-up of the Advisory Board has the effect of prohibiting a for-profit majority and leaves no possibility for a for-profit majority of the quorum, the state receives full credit for this element.

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

**10/10 POINTS**

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Yes	No
10 Points	0 Points

**Explanation:**

Three of the twelve members of the Bureau’s Advisory Committee are statutorily required to “have a demonstrated record of advocacy on behalf of consumers.” (Cal. Ed. Code § 94880(a)(1).)

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

**2.5/5 POINTS**

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

**Explanation:**

Six of the Advisory Committee members are appointed by public officials: two are ex officio members who are the chairs of the policy committees of the Assembly and Senate (or their designees); two of the members who have a demonstrated record of advocacy on behalf of consumers, are appointed by the Senate Committee on Rules, and the Speaker of the Assembly (with the director appointing the third) and the two public members are appointed (one each) by the Senate Committee on Rules and the Speaker of the Assembly. The remaining members are appointed by the Director of the California Department of Consumer Affairs (student members and institutional representative members). (Cal. Educ. Code § 94880(a).)

## II. STATE OVERSIGHT—EFFICACY: **83/100 POINTS**

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

**8/10 POINTS**

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

**Explanation:**

The Bureau is authorized to conduct site visits as needed and shall perform announced and unannounced inspections of schools every five years. (Cal Educ. Code §94932, §94932.5.)

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

**5/5 POINTS**

Requires unannounced visits	Discretion to do unannounced visits	No indication
5 Points	3 Points	0 Points

**Explanation:**

The Bureau determines the number and priority of announced and unannounced compliance inspections and, as necessary, immediate inspections for any institution by evaluating relevant factors including: the risk factors specified the Code (such as institutional use of public resources, high cohort default rate, placement rates, recent change of ownership, recently the subject of an investigation, etc.), priority of complaints, size of the institution, number and types of programs offered, time elapsed since last inspection, history of the owner's approval(s) to operate any and all institutions, and enforcement history. (5 CCR 75200.) While the Bureau "determines the number" of these visits, it is required to do announced and unannounced inspections at least once every five years. (Cal Educ. Code §94932.5(a).)

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

**15/20 POINTS**

Mandatory			Discretionary	None
Every 2 years or less	Every 3-5 years	Over 5 years	Discretion to conduct reviews	No review specified
20 Points	<b>15 Points</b>	10 Points	5 Points	0 Points

**Explanation:**

As part of its compliance program, the Bureau shall perform announced and unannounced inspections of institutions at least every five years. (Cal Ed Code § 94932.5(a).)

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

**15/20 POINTS**

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

	8 of 8	7 of 8	6 of 8	5 of 8	4 of 8	3 of 8	2 of 8	1 of 8	0 of 8
<b>Type 1: Accredited</b>	20 Points	17.5 Points	15 Points	12.5 Points	<b>10 Points</b>	7.5 Points	5 Points	2.5 Points	0 Points
<b>Type 2: Non-Accredited</b>	<b>20 Points</b>	17.5 Points	15 Points	12.5 Points	10 Points	7.5 Points	5 Points	2.5 Points	0 Points

Element	Type 1: Accredited	Type 2: Non-accredited
Admission requirements		<b>M</b>
Graduation requirements		<b>M</b>
Placement rate		<b>M</b>
Completion rate (or graduation rate)	<b>M</b>	<b>M</b>
Advertising practices	<b>M</b>	<b>M</b>
Cohort default rate	<b>M</b>	<b>M</b>

Accreditation status	M	M
Financial aid policies		M

*M=Mandatory; D=Discretionary*

**Explanation:**

California's criteria for authorization renewal are different for accredited schools and non-accredited schools.

*Accredited schools:* The criteria for renewal of authorization of accredited schools is based on meeting the minimal operating standards, which include compliance relating to advertising and the Performance fact sheet. Fact sheet disclosures include information related to completion rates, placement rates, license exam passage rates, salary and wage information, and cohort default rate (in some cases), among other disclosures. (5 CCR §71480, Cal Ed Code § 94910.)

*Non-accredited schools:* The criteria for renewal of authorization of non-accredited schools includes a review of admission requirements, graduation requirements, placement rate, completion rate, advertising practices, cohort default rate, accreditation status, and financial aid policies, among other things. (5 CCR §71475.)

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

**10/15 POINTS**

<b>Yes, strongly distinguished</b>	<b>Yes, moderately distinguished</b>	<b>Yes, slightly distinguished</b>	<b>Not distinguished</b>
15 Points	<b>10 Points</b>	5 Points	0 Points

**Explanation:**

California law contains an exemption for certain non-profits (organizations operating as a nonprofit religious corporation and specified nonprofit public benefit corporations, for example), but does not provide a blanket exemption from the laws governing private postsecondary institutions in California for all non-profits. (Cal. Educ. Code § 94874(e), (h).)

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

**10/10 POINTS**

<b>Yes, mandatory</b>	<b>Yes, mandatory but limited</b>	<b>Yes, discretionary</b>	<b>Yes, discretionary but limited</b>	<b>No</b>
<b>10 Points</b>	7.5 Points	5 Points	2.5 Points	0 Points

**Explanation:**

California law requires an annual report to the Bureau, which must contain completion rates for each program, job placement rates, license exam passage rates, salary and wage information, and, if applicable, the three-year official cohort default rate and percentage of enrolled students receiving federal student loans. (Cal. Educ. Code §94929, 94929.5.) The Bureau has a mandate to collect information and ensure that the information required from schools is useful, credible and not unduly burdensome. (Cal. Educ.

Code. §94929.5(b).) The annual report shall also include the information required by Cal. Educ. Code §94934, and shall include the information required by Cal. Educ. Code §94934 for all educational programs offered in the prior calendar year. (Cal. Educ. Code §94934, 5 CCR § 74110.)

Further, the Bureau is required to base the number of compliance inspections on considerations including number and type of complaints, history of approval to operate, and enforcement history. (5 CCR 75200(b).)

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

**20/20 POINTS**

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Yes	No
20 Points	0 Points

**Explanation:**

California law requires the Bureau, in developing its priorities for inspection, investigation, and enforcement regarding institutions, to consider schools that receive more than 70% of their revenues from financial aid funds, including federal aid for veterans as posing heightened risks to students. (Cal. Educ. Code § 94941(c) (1).)

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**III. STATE OVERSIGHT—SCOPE AND INCLUSION:**

**75 /100 POINTS**

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**A. ARE EXEMPTIONS TO STATE OVERSIGHT COVERAGE LIMITED?**

**75/100 POINTS**

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No exemptions	Few exemptions	Moderate exemptions	Broad exemptions
100 Points	75 Points	50 Points	0 Points

**Explanation:**

California has a few common sense exemptions exceptions for avocational programs, institutions offering educational programs sponsored by a bona fide trade, business, professional, or fraternal organization, solely for that organization's membership, postsecondary educational institutions established, operated, and governed by the federal government or California state government or its political subdivision, and others. (Cal. Educ. Code § 94874.2.) California loses 25 points here because it provides a narrowly-tailored exception meant to carve out one institution.

#### IV. DISCLOSURE REQUIREMENTS: 100/100 POINTS

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

20/20 POINTS

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

**Explanation:** Institutions in California are required to disclose institutional performance measures to potential students.



**Notable Provision:** An enrollment agreement is not enforceable unless, among other things, the student receives School Performance Fact Sheet and catalog prior to signing the enrollment agreement and the student and institution have signed and dated the information required to be disclosed in the in Fact Sheet prior to the execution of the enrollment agreement. (Cal. Educ. Code § 94902(x). The School Performance Fact Sheet includes elements reflecting institutional performance. (Cal. Educ. Code § 94910.)

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

60/60 POINTS

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


**Explanation:** California law requires institutions to provide a School Performance Fact Sheet containing, a minimum, the information specified in Cal. Educ. Code § 94910 (see notable provision above).

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


20/20 POINTS

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

**Explanation:** California law requires schools to include elements essential for students to make an informed decision in the enrollment contract.

 **Notable Provision:** Enrollment contracts must state, among other things, an itemization of all institutional charges and fees including as applicable, tuition, registration fee, equip, refund policy and dates, in-resident housing, lab supplies or kits, uniforms or protective clothing, tutoring, assessment fees for transfer of credits, fees to transfer credits, Student Tuition Recovery Fund fee, any other charges/fees, charges required to a third party or participation. (5 CCR §71800, Cal. Educ. Code § 94911.)

In addition, an enrollment agreement is not enforceable unless a student has received the institution's catalog and School Performance Fact Sheet prior to signing the enrollment agreement. (Cal. Educ. Code § 94902(b).) The institution's catalog is required to provide information about the transferability of credits and the classes and time required to complete a program. (Cal. Educ. Code § 94909(a)(8)(A).) California received full credit for these elements because provision of the information is mandatory prior to signing the enrollment agreement. (Cal. Educ. Code § 94902(b).)

 **Notable Provision:** Although not relevant to the element above, a new California law warrants mention here. AB 1178 (Calderon) (Chapter 448, Statutes of 2017), will require each higher education institution, except for the California Community Colleges, to the extent that the institution receives a student borrower's federal, state, and private education loan information, send an individualized letter, by regular mail or electronic mail, to that student that includes (1) an estimate of the total cumulative principal amount of his or her federal, state, and private education loans, the potential total payoff amount of his or her federal, state, and private education loans incurred or a range of the total payoff amount, and monthly repayment amounts that a similarly situated borrower may incur, including principal and interest, for the amount of loans the student has taken out at the time the information is provided, assuming a 10-year repayment plan under current federal loan interest rates; (2) a statement that the estimates provided are general in nature and not meant as a guarantee or promise of the actual projected amounts, and that they are based on the loan amounts that the institution is aware of and may not include all student debt incurred, that borrowers with private loans may have substantially higher payments, and that federal student loan borrowers may be eligible for repayment plans that extend beyond ten years; and (3) contact information for the institution's financial aid office or a financial aid or academic adviser of the institution. If an institution is not able to provide a student with estimates as described above, it shall inform the student in the letter that he/she may view his/her financial aid history by establishing a federal student aid account, or accessing his/her federal student aid account if established, through the National Student Loan Data System, and the institution shall provide the student with the Internet Web site link to the system.

## V. REGULATION OF RECRUITING PRACTICES:

**100/100 POINTS**

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

**100/100**

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

#### PROHIBITED ACTS

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

*1-3=weak; 3.5-6=moderate; 6.5-8= strong*

**Explanation:** California has a notable provision that puts into law a list of prohibited acts regarding advertising and recruiting.



**Notable Provision:** In addition to a prohibition on the use of the terms “college” and “university” (Cal. Educ. Code § 94050, 5 CCR §74150), California has a list of prohibited acts that encompass all of the elements on the above chart and several more. (Cal. Educ. Code § 94897.)

## VI. COMPLAINT PROCESS & RELIEF FOR STUDENTS:

**65/100 POINTS**

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

**0/20 POINTS**

Yes	No
20 Points	0 Points

**Explanation:**

California does not require a bond as a condition of authorization.

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

**10/20 POINTS**

Yes, full refund	Yes, partial refund	No refund required
20 Points	10 Points	0 Points

**Explanation:**

A student may receive a refund from the Student Tuition Recovery Fund in cases in which an institution has been ordered to pay a refund by the Bureau, a student to whom an institution has failed to pay or reimburse loan proceeds, or a student who has been awarded restitution refund or other monetary award by a court as a result of school violation. (Cal. Educ. Code §94923(b)(2); see 5 CCR 76020.) This may include instances in which a student has enrolled as the result of misrepresentation, but there is nothing in California law that mandates a full refund for enrollment as the result of misrepresentation.

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

**15/20 POINTS**

Yes, full refund	Yes, partial refund	Yes, refund in limited circumstances	No refund required
20 Points	15 Points	10 Points	0 Points

**Explanation:**

California's Student Tuition Recovery Fund (STRF) relieves or mitigates economic loss suffered by a student in case of closed or discontinued program. Payment from the STRF is available to a student to whom an institution has been ordered to pay a refund by the Bureau, student to whom an institution has failed to pay or reimburse loan proceeds, student who has been awarded restitution refund or other monetary award by a court as a result of school violation. (Cal. Educ. Code §94923; 5 CCR 76020.) California does not receive full credit for this element because the student may or may not receive a full refund in cases of school closure.

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

**10/10 POINTS**

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

**Explanation:**

California does not specify a timeframe for complaints.

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

**20/20 POINTS**

Medium	Yes	Discretionary	No
Catalog	10 Points	5 Points	0 Points
Website	5 Points	2.5 Points	0 Points
Enrollment contract	5 Points	2.5 Points	0 Points

**Explanation:** California has a notable provision which requires institutions to disclose information about filing a complaint with the state oversight body.

**Notable Provision:**



California law requires institutions to include information in their catalog about how to file a complaint with the Bureau along with a toll-free number and the Bureau website on which a complaint form is available. (Cal. Educ. Code § 94909(a)(3)(C).) California receives credit for the enrollment contract element here because California requires schools to give students a catalog prior to their signing an enrollment agreement and the information is in the catalog. (Cal. Educ. Code § 94902(b).)

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

**10/10 POINTS**

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

**Explanation:**

The Bureau's website is easily accessible, and has a "complaints" link at the top of the home page. The complaints page contains each one of the above elements (the email address is on the bottom of the form). The complaint form can either be printed out and mailed to the Bureau or it can be submitted from the Bureau's website.

**VII. ENFORCEMENT: 50/100 POINTS**

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

**30/30 POINTS**

Yes, required	Yes, required but limited	Yes, discretionary	Yes, discretionary but limited	No
30 Points	20 Points	15 Points	10 Points	0 Points

**Explanation:** A notable California provision mandates institutions in California must meet specified performance requirements to remain eligible to participate in California's Cal Grant program.

**Notable Provision:**



Institutions in California must have (1) a three-year cohort default rate below 15.5% and (2) a graduation rate above 30% for students taking 150% or less of the expected time to complete degree requirements, as reported by the U.S. Department of Education and as certified by the Commission to be eligible to participate in California's Cal Grant Program. (Cal. Educ. Code § 69432.7(l).) These provisions apply to Chafee grants administered by California's Student Aid Commission as well. (Cal. Educ. Code § 69519(d).)

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

**0/30 POINTS**

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Yes	Limited circumstances	No
30 Points	15 Points	0 Points

California does not explicitly allow students a private right of action against institutions that have violated the laws and regulations in place to govern them.

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

**0/20 POINTS**

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Yes	Limited	No
20 Points	15 Points	0 Points

**Explanation:**

California does not explicitly allow attorney fee awards for students who prevail in litigation against institutions that have violated the laws and regulations in place to govern them.

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**D. DOES STATE LAW EXPLICITLY AUTHORIZE ATTORNEY GENERAL INVOLVEMENT?**

**20/20 POINTS**

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Yes	Limited circumstances	No
20 Points	10 Points	0 Points

**Explanation:**

Complaints that allege the greatest threats of harm to greatest numbers of students shall be referred to the Attorney General. (Cal. Educ. Code § 94941(b).) Also, California law requires the Bureau to contract with the Attorney General if there is reason to believe school has engaged in pattern or practice of violating the law involving multiple students or claimants. (Cal. Educ. Code § 94945(c).)

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**BONUS POINTS**

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California receives 50 Bonus Points because the state is not a member of the State Authorization Reciprocity Agreements (SARA).



## ILLUMINATING INFORMATION

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### PENDING LEGISLATION

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**AB 1619 (Berman)** would require the Bureau to prohibit institutions that are subject to the Act's provisions from enrolling new students in an educational program that receives a fail rating for 2 out of 3 consecutive years, or receives a combination of zone or fail ratings for 4 consecutive years, based on the federal debt-to-earnings rates. It would prohibit these institutions from reestablishing enrollment of new students in a fail or zone educational program that it discontinued voluntarily, reestablishing enrollment of new students in an educational program that is out-of-compliance under the federal debt-to-earnings rates, or establishing enrollment of new students in an educational program that is substantially similar to the discontinued or out-of-compliance program, until 3 years has passed. The bill would authorize institutions with an educational program that receives a fail or zone rating under the federal debt-to-earnings rates to file an alternate earnings appeal.

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### RECIPROCITY AGREEMENTS

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California is not a member of SARA (State Authorization Reciprocity Agreements).

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

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

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# COLORADO

## FINAL GRADING ANALYSIS

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OVERALL SCORE: **322.5/700 POINTS (46%)**

LETTER GRADE: **F**

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### I. OVERSIGHT BODY: **55/100 POINTS**

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#### A. IS THERE A STATUTORILY CREATED OVERSIGHT BODY THAT IS PUBLICLY ACCOUNTABLE? **50/60 POINTS**

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Element	Points Available	Type 1	Type 2	Points Awarded (Average)
1. Oversight body is a multi-member board, commission, or panel created by statute	10	10	10	10
2. Oversight body was statutorily created specifically to oversee private postsecondary institutions	10	10	0	5
3. Multi-member board, commission, or panel is the ultimate decision maker (as opposed to a single person, like the head of a department or director)	10	10	10	10
4. Oversight body can engage in rulemaking	10	10	10	10
5. Oversight body's meetings must be open to the public	5	5	5	5
6. Oversight body's meetings must allow public comment	5	0	0	0
7. Oversight body can initiate investigations	5	5	5	5
8. Oversight body can impose penalties for violations	5	5	5	5
<b>Total Points</b>	60	55	45	50

**Explanation:**

There are two bodies that oversee Colorado's private postsecondary institutions.

**Type 1: Certificate or associate level schools.** A private college or university in Colorado that enrolls a majority of its students at the certificate or associate level is overseen by the Division of Private Occupational Schools and the Private Occupational School Board. (Colo. Rev. Stat. § 23-2-102.5.) The Board, which was created specifically to oversee private occupational schools (Colo. Rev. Stat. § 23-64-107), is authorized to initiate investigations and impose penalties for violations. (Colo. Rev. Stat. § 23-64-108.)



**Type 2: Baccalaureate or postgraduate schools.** The Colorado Commission on Higher Education (CCHE) oversees postsecondary educational institutions doing business or maintaining a place of business in the state of Colorado, which enroll the majority of their students in a baccalaureate or postgraduate degree programs; Colorado publicly-supported colleges and universities; properly accredited private colleges and universities; and postsecondary seminaries and bible colleges. (Colo. Rev. Stat. § 23-1-102; Colo. Rev. Stat. § 23-2-102.5.) These schools will be collectively referred to as “baccalaureate or postgraduate schools” in this report.

CCHE was not created specifically to oversee private postsecondary institutions; rather, it oversees both public and private degree-granting programs (private programs that lead to the award of a bachelor’s degree or above). (Colo. Rev. Stat. § 23-1-102; Colo. Rev. Stat. § 23-2-103.1.) CCHE is authorized to initiate investigations and impose penalties for violations. (Colo. Rev. Stat. § 23-2-103.4.)

Both the Board and CCHE are subject to Colorado’s Open Meetings Law; however, that law does not specifically require that boards or commissions provide an opportunity for public comment at meetings. (Colo. Rev. Stat. § 24-6-402.)

## B. STATUTE-SPECIFIED MEMBERSHIP:

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

**0/25 POINTS\***

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

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

#### **Explanation:**

**Type 1: Certificate or associate level schools.** There is no prohibition on a for-profit majority on the Private Occupational School Board. While a for-profit majority is not mandated, it is not discouraged. There are no laws or regulations in place to prevent a for-profit interest majority or majority of the quorum. The Board consists of seven members, as follows: three members shall be owners or operators of private occupational schools that receive Title IV funds; four members shall be representatives of the general public, at least one of whom is employed by a lending institution located in Colorado and is familiar with federal loans and funds authorized in Title IV of the federal “Higher Education Act of 1965,” as amended; and at least two of whom are owners or operators of businesses within Colorado that employ students who are enrolled in schools that are subject to administration by the Division. The only prohibition in place prevents Board members who are employees of any junior college, community or technical college, school district, or public agency that receives vocational funds allocated by any state agency. (Colo. Rev. Stat. § 23-64-107.)

**Type 2: Baccalaureate or postgraduate schools.** With regard to CCHE membership, Colorado law forbids only association with “state supported” schools; there is no mention of private for-profit schools. (Colo. Rev. Stat. § 23-1-102.)

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

**0/10 POINTS\***

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

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

**Explanation:**

There is no requirement in Colorado law that either the Private Occupational School Board or the Colorado Commission on Higher Education include a consumer advocate (an individual with expertise and experience in the area of consumer advocacy).

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

**5/5 POINTS\***

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

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

**Explanation:**

**Type 1: Certificate or associate level schools.** All 7 members of the Board are appointed by the governor with the consent of the senate. (Colo. Rev. Stat. § 12-59-105.1(3).)

**Type 2: Baccalaureate or postgraduate schools.** All 11 members of the CCHE are appointed by the governor with the consent of the senate. (Colo. Rev. Stat. § 23-1-102(3)(a).)

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**II. STATE OVERSIGHT—EFFICACY: 28/100 POINTS**

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

**3/10 POINTS\***

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

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

**Explanation:**

**Type 1: Certificate or associate level schools.** Although Colorado law requires onsite visits from an approved accrediting agency in order to meet one of the criteria for authorization, it authorizes (but does not require) onsite visits by the Board. In connection to its duty to investigate, as it deems necessary, any entity subject to, or reasonably believed by the Board to be subject to, the jurisdiction of the statutory provisions governing private occupational schools, the Board investigation may include the physical inspection of school facilities and records. (Colo. Rev. Stat. § 23-64-108 (1)(f).) Further, Colorado law provides that “[f]ollowing the review and evaluation of an application for a certificate of approval and any further information required by the board to be submitted by the applicant and such investigation and appraisal of the applicant as the board deems necessary or appropriate, the board shall either grant or deny a certificate of approval to the applicant.” (Colo. Rev. Stat. § 23-64-115(1).)

**Type 2: Baccalaureate or postgraduate schools.** Colorado law does not specifically mandate that the Commission conduct an onsite inspection of a school prior to granting authorization or as a part of subsequent reviews. The Commission may order the Department of Higher Education to investigate a private college and the Department may, in the course of conducting this investigation, physically inspect an institution’s facilities and records. (Colo. Rev. Stat. § 23-2-103.4(1).) This provision could allow, on occasion, for an onsite visit. Colorado receives only partial credit for discretionary review. (Note: Colorado officials report that Commission staff observes all accreditation site visits.)

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

**1.5/5 POINTS\***

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

	Required unannounced visits	Discretion to do unannounced visits	No indication
<b>Type 1</b>	5 Points	3 Points	<b>0 Points</b>
<b>Type 2</b>	5 Points	<b>3 Points</b>	0 Points

**Explanation:**

**Type 1: Certificate or associate level schools.** Colorado law does not require or authorize unannounced onsite reviews.

**Type 2: Baccalaureate or postgraduate schools.** Colorado law does not require, but the law allows for unannounced onsite visits.

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

**17/20 POINTS\***

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

	Mandatory			Discretionary	None
	Every 2 years or less	Every 3-5 years	Over 5 years	Discretion to conduct reviews	No review specified
<b>Type 1</b>	20 Points	<b>15 17 Points</b>	10 Points	5 Points	0 Points
<b>Type 2</b>	20 Points	<b>15 17 Points</b>	10 Points	5 Points	0 Points

**Explanation:**

**Type 1: Certificate or associate level schools.** A certificate of approval is valid for three years. Colorado receives an additional 2 points because new schools initially are issued a certificate of approval for two years. (Colo. Rev. Stat. § 23-64-115 (2).)

**Type 2: Baccalaureate or postgraduate schools.** Colorado law requires institutions to apply to the Department of Higher Education for reauthorization every 3 years, or in accordance with the schedule for reaccreditation by its accrediting body. (Colo. Rev. Stat. § 23-2-103.3(5).) Colorado receives two additional points because it requires review of institutions that have accreditation that is less than full accreditation annually. (Colo. Rev. Stat. § 23-2-103.3(2); Colo. Rev. Stat. § 23-2-103.3(7)(d).)

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

**4/20 POINTS\***

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

	8 of 8	7 of 8	6 of 8	5 of 8	4 of 8	3 of 8	2 of 8	1 of 8	0 of 8
<b>Type 1</b>	20 Points	17.5 Points	15 Points	12.5 Points	10 Points	7.5 Points	5 Points	2.5 Points	<b>0 3 Points</b>
<b>Type 2</b>	20 Points	17.5 Points	15 Points	12.5 Points	10 Points	7.5 Points	<b>5 Points</b>	2.5 Points	0 Points

Element	Type 1	Type 2
Admission Requirements	D	
Graduation Requirements		
Placement Rate		
Completion Rate (or Graduation Rate)		
Advertising Practices	D	
Cohort Default Rate		
Accreditation Status	D	M
Financial Aid Policies		M

*M=Mandatory; D=Discretionary*

**Explanation:**

**Type 1: Certificate or associate level schools.** The minimum standards for private occupational schools includes a requirement that the school provides each prospective student with a school catalog and other printed information describing the educational services offered and describing entrance requirements, program objectives, length of programs, schedule of tuitions, fees, all other charges and expenses necessary for the completion of the program of study. Admissions or entrance requirements are included. The minimum standards further require schools to adhere to procedures, standards, and policies set forth in the school catalog. (Colo. Rev. Stat. § 23-64-112.) Because the minimum standards require schools to provide this information to students, presumably, the information would be reviewed as a matter of course when the school is reviewed for approval. Because there is no specific language mandating review of these elements, the state receives only partial credit.

**Type 2: Baccalaureate or postgraduate schools.** The minimum standards for private colleges under the Commission of Higher Education require private colleges and universities to be institutionally accredited by a regional or national accrediting body recognized by the U.S. Department of Education. (Colo. Rev. Stat. § 23-2-103.3.) The law further requires some review of financial aid policies. (Colo. Rev. Stat. § 23-2-103.8(2).)

Colorado officials note that admission requirements, graduation requirements, placement rates, and completion (graduation rates) are all factors for accreditation and authorization requires accreditation; thus, they contend that these factors are mandatory for authorization. The state receives credit for considering accreditation in its authorization of an institution. In this report, however, states do not receive credit if they rely upon an accrediting agency to monitor essential factors; accrediting agencies are not publicly accountable in the same way that the Commission is, and they have potential conflicts of interest, as they are funded by the institutions they are reviewing.

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

**2.5/15 POINTS\***

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

	Yes, strongly distinguished	Yes, moderately distinguished	Yes, slightly distinguished	Not distinguished
<b>Type 1</b>	15 Points	10 Points	5 Points	0 Points
<b>Type 2</b>	15 Points	10 Points	5 Points	0 Points

**Explanation:**

**Type 1: Certificate or associate level schools.** Private occupational schools, under Colorado's Private Occupational Education Act, can be operated on either a for-profit or nonprofit basis, with no distinction in the law. (Colo. Rev. Stat. § 23-64-103(20).)

**Type 2: Baccalaureate or postgraduate schools.** CCHE defines for-profit and non-profit schools separately. (Colo. Rev. Stat. § 23-2-102.)

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

**0/10 POINTS\***

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

	Yes, mandatory	Yes, mandatory but limited	Yes, discretionary	Yes, discretionary but limited	No
<b>Type 1</b>	10 Points	7.5 Points	5 Points	2.5 Points	0 Points
<b>Type 2</b>	10 Points	7.5 Points	5 Points	2.5 Points	0 Points

**Explanation:**

Colorado law does not require increased oversight or scrutiny of private postsecondary institutions based on poor performance for either private occupational schools or degree-granting schools. Colorado does not use available data in such a manner at this point. (Note: with regard to degree-granting schools,

Heather DeLange of the Colorado Office of Private Postsecondary Education informed the Children's Advocacy Institute that, as of August 2017, Colorado is working to improve the law as it relates to this element.)

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

**0/20 POINTS\***

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

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

**Explanation:**

There are no special protections in place for veterans who attend private postsecondary institutions either for private occupational schools or for degree-granting schools.

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**III. STATE OVERSIGHT—SCOPE AND INCLUSION:**

**75/100 POINTS**

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**A. ARE EXEMPTIONS TO STATE OVERSIGHT COVERAGE LIMITED?**

**75/100 POINTS\***

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

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

**Explanation:**

**Type 1: Certificate or associate level schools.** Colorado law provides several common exemptions, such as those for public schools, nonprofit parochial schools, and avocational programs. Programs that offer bachelor's degrees or higher are exempt here, but are regulated by the Commission on Higher Education. There is, additionally, an exemption for private educational institutions that are accredited by an agency recognized by the U.S. Department of Education, that confer postgraduate degrees, and that offer programs or courses that are not defined as occupational education. (Colo. Rev. Stat. § 23-64-104.)

**Type 2: Baccalaureate or postgraduate schools.** Private colleges or universities that enroll a majority of students at the certificate or associate level are regulated by the Division of Private Occupational Schools and the Private Occupational School Board and are not subject to oversight by CCHE. They are, however, regulated, as discussed above. Some religious institutions are exempt from various narrow provisions of the law related to oversight. Aside from exempting religious institutions from certain provisions, Colorado does not exempt any other private degree-granting institutions from oversight by CCHE. (Colo. Rev. Stat. § 23-2-101 et seq.)

#### IV. DISCLOSURE REQUIREMENTS: 7.5/100 POINTS

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

0/20 POINTS\*

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

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

##### **Explanation:**

**Type 1: Certificate or associate level schools.** Private occupational postsecondary institutions are not explicitly required to disclose any institutional performance measures to potential students. There is one provision that requires schools to disclose in their catalogs material facts concerning the school and the program of instruction likely to affect the decision of a student to enroll, but the provision references items such as the educational services offered, entrance requirements, program objectives, length of programs, schedule of tuitions, and fees. (Colo. Rev. Stat. § 23-64-112 (f).) There is nothing which explicitly requires the disclosure of performance measures.

**Type 2: Baccalaureate or postgraduate schools.** Private postsecondary degree-granting institutions (bachelor's degree and above) are not explicitly required to disclose any institutional performance measures to potential students prior to enrollment. (Note: Heather DeLange of the Colorado Office of Private Postsecondary Education informed the Children's Advocacy Institute that, as of August 2017, Colorado is working with several policy centers to improve disclosure requirements.)

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

0/60 POINTS\*

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

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

##### **Explanation:**

Colorado law does not require either private occupational schools or private degree-granting schools to disclose any of the above referenced performance standards to students prior to enrollment.



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

**7.5/20 POINTS\***

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

***Type 1: Certificate or associate level schools***

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

**Explanation:**

Colorado law explicitly requires private occupational schools to include in enrollment contracts information relating to the total cost of programs and refund information. (8 CCR 1504-1(III)(I).) Colorado law requires enrollment agreements to reflect and be consistent with the school catalog in effect at the time of enrollment and must be approved by the Division prior to use. Colorado requires enrollment agreements to include a statement acknowledging receipt of a current/approved copy of the school catalog by the student. Catalogs are required to include information related to the transferability of credits and information related to the time required to complete programs offered. (8 CCR 1504-1(III)(H).) Because information related to the transferability of credits is not explicitly required in the enrollment contract, but is required in the catalog, Colorado receives partial credit for this element. The information must be included in the catalog, but it is left up to the discretion of the schools whether to explicitly include the information in the enrollment contract.

***Type 2: Baccalaureate or postgraduate schools***

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

**Explanation:**

Colorado law does not specifically require private degree-granting schools to include any of the above-referenced elements in enrollment contracts. Enrollment agreement is defined as “the contract prepared by a private college or university or seminary or religious training institution that a student signs to indicate agreement to the terms of admission, delivery of instruction, and monetary terms as outlined in the institution's student handbook or catalog.” (Colo. Rev. Stat. § 23-2-102(6).) Private degree-granting schools are required to “annually provide to the department a copy of the institution's enrollment agreement if the institution uses an enrollment agreement.” (Colo. Rev. Stat. § 23-2-103.7(1)(b).) Thus, institutions are not even required to use an enrollment agreement, much less provide specified information in such an agreement. (Note: Heather DeLange from the Colorado Office of Private Postsecondary Education informed the Children's Advocacy Institute that, as of August 2017, Colorado is working with several policy centers to improve disclosure requirements.)

## V. REGULATION OF RECRUITING PRACTICES:

**75/100 POINTS**

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

**75/100 POINTS\***

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

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

### PROHIBITED ACTS

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

*1–3=Weak; 3.5–6=Moderate; 6.5–8=Strong*

#### Explanation:

**Type 1: Certificate or associate level schools.** Colorado law has several protections in place to ensure that institutions do not mislead students with regard to promises of employment. First, Colorado prohibits private occupational schools from promising or implying a guarantee of placement. (8 CCR 1504-1 (VII)(A).) State law further prohibits private occupational schools from following up employer help wanted advertisement with offers of training. (8 CCR 1504-1 (VII)(P).) Finally, Colorado law prohibits institutions placing advertisements in classified columns of newspapers or other publications from using headings such as “Help Wanted,” “Employment,” “Career Opportunity,” or “Business Opportunities” for advertising purposes other than to procure employees for the institution. (8 CCR 1504-1 (VII)(V).)

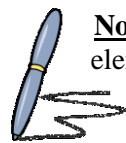
Colorado law also has several provisions in place meant to prevent deception in advertising. For example, Colorado law prohibits private occupational schools from representing that the school has restrictions on enrollment as to number, date of submission of application or similar false representations. (8 CCR 1504-1 (VII)(E).) Colorado law further prohibits private occupational schools from making statements in regard to any other postsecondary school or college, whether public or private, nor shall a school or agent recruit students who are currently enrolled in another school. (8 CCR 1504-1 (VII)(F).) Finally, Colorado law prohibits private occupational schools from deceptively advertising in conjunction with any other business or establishment. (8 CCR 1504-1 (VII)(O).)

With regard to a prohibition on using a misleading institution name, Colorado law states that a school shall advertise only in its approved name (8 CCR 1504-1 (VII)(G)) and that a school may advertise that it

is endorsed by manufacturers, business establishments, organizations or individuals engaged in the line of work for which it provides training, if the school has written evidence of this fact and this evidence is made available to the student. (8 CCR 1504-1 (VII)(L).) These two provisions, taken together, should prevent private occupational schools from advertising with a misleading name (name must be approved). However, because there is no explicit prohibition regarding the implication of military or public institutions in a school name, Colorado receives partial credit here.

Colorado law provides that no school shall advertise as being accredited unless such status has been received from an accrediting body currently listed as recognized by the U.S. Secretary of Education. (8 CCR 1504-1 (VII)(M).)

Regarding deceptive sales practices, Colorado law does not expressly use the word “misrepresent” or “misrepresentation” in the provisions to prevent deceptive sales practices, however, many of the provisions were clearly crafted to prohibit misrepresentation. Therefore, Colorado receives credit for this element. (See, for example, 8 CCR 1504-1 (VII)(B),(J),(K),(R).)



**Notable Provisions:** Colorado has some notable provisions in place that are not covered by the elements which make up the grading criteria, but nonetheless provide important protections for students in Colorado and provide example for other states. For example, Colorado law prohibits private occupational schools admissions representatives / agents from using the availability of student aid as an inducement. Also, Colorado law prohibits schools from conducting surveys for the purpose of developing enrollment leads near any state or federal social services program center (welfare, food stamps, unemployment, etc.).

**Type 2: Baccalaureate or postgraduate schools.** Two provisions in Colorado law achieve the goal of prohibiting the use of misleading institution names. First, it is a deceptive trade practice for an institution or agent to represent falsely or to deceptively conceal, directly or by implication, through the use of a trade or business name, the fact that an institution is a school. (Colo. Rev. Stat. § 23-2-104(4)(b) and (2).) It is a deceptive trade practice for an institution or agent to adopt a name, trade name, or trademark that represents falsely, directly or by implication, the quality, scope, nature, size, or integrity of the institution or its educational services. (Colo. Rev. Stat. § 23-2-104(4)(c).)

Colorado law defines deceptive trade practice as it relates to private degree-granting schools at Colo. Rev. Stat. § 23-2-104(4). Deceptive trade practices are prohibited, and the Colorado Department of Higher Education, which acts as staff to CCHE, is authorized to investigate complaints related to deceptive trade practice. CCHE specifies policies and procedures related to the regulation and investigation of deceptive trade practice. (Colo. Rev. Stat. § 23-2-104(2).)

Colorado law provides that it is a deceptive trade practice for an institution or agent to provide prospective students with testimonials, endorsements, or other information that has the tendency to materially mislead or deceive prospective students or the public regarding current practices of the institution. (Colo. Rev. Stat. § 23-2-104(4)(f).)

Colorado law contains two provisions that prohibit deceptive or misleading representations related to accreditation. First, it is a deceptive trade practice for an institution or agent to intentionally and materially represent falsely, directly or by implication, in its advertising or promotional materials or in any other manner, the size, location, facilities, or equipment of the institution; the number or educational experience qualifications of its faculty; the extent or nature of any approval received from any state agency; or the extent or nature of any accreditation received from any accrediting agency or association. (Colo. Rev. Stat. § 23-2-104(4)(e).) It is also a deceptive trade practice for an agent representing an out-of-state school to represent, directly or by implication, that the school is authorized by the state of

Colorado or approved or accredited by an accrediting agency or body when the institution has not been authorized, approved, or accredited. (Colo. Rev. Stat. § 23-2-104(4)(g).)

## VI. COMPLAINT PROCESS AND RELIEF FOR STUDENTS:

**62/100 POINTS**

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

**17.5/20 POINTS\***

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

	Yes	No
Type 1	20 Points	0 Points
Type 2	<del>20</del> 15 Points	0 Points

#### **Explanation:**

**Type 1: Certificate or associate level schools.** Any school applying for a certificate of approval to operate in the state must show it possesses a surety bond. (Colo. Rev. Stat. § 23-64-114.)

**Type 2: Baccalaureate or postgraduate schools.** A surety bond is required only if school cannot demonstrate financial integrity or an exemption, as defined in Colo. Rev. Stat. § 23-2-103.8. (*Note: according to Heather DeLange of the Colorado Office of Private Postsecondary Education, any institution that has come into the state since 2012 has had to post some form of surety. The state receives partial credit for this element because of the exemption set forth in state law, even though it has not been utilized since 2012.*)

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

**5/20 POINTS\***

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

	Yes, full refund	Yes, partial refund	No refund required
Type 1	20 Points	10 Points	0 Points
Type 2	20 Points	10 Points	<b>0 Points</b>

#### **Explanation:**

**Type 1: Certificate or associate level schools.** Colorado law provides that if the Board finds that a complainant or class of complainants has suffered pecuniary loss as a result of any deceptive trade or sales practice, it may award full restitution for such loss. (Colo. Rev. Stat. § 23-64-124.) Thus, while a full refund is not mandatory, it is a possibility, and Colorado receives partial credit here.

**Type 2: Baccalaureate or postgraduate schools.** Colorado law authorizes the Colorado Department of Higher Education to investigate complaints related to deceptive trade practices, but there are no provisions in Colorado law that require refunds if a student enrolls as a result of misrepresentation.

In cases in which deceptive trade practice is found, the Department will work with the institution and the Office of the Attorney General to resolve the matter.

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

**12.5/20 POINTS\***

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

	Yes, full refund	Yes, partial refund	Yes, refund in limited circumstances	No refund required
<b>Type 1</b>	20 Points	<b>15 Points</b>	10 Points	0 Points
<b>Type 2</b>	20 Points	15 Points	<b>10 Points</b>	0 Points

**Explanation:**

**Type 1: Certificate or associate level schools.** A surety bond provides indemnification to any student who has suffered loss of tuition/fees as a result of any act or practice that is a violation of any minimum standard as set forth in section. (Colo. Rev. Stat. § 23-64-112.) The bond also provides train-out for students whose school ceases operations. (Colo. Rev. Stat. § 23-64-121.) Colorado law defines the term train-out as the opportunity for a student of a private occupational school ceasing operation to meet the student's educational objectives through training provided by another approved private occupational school, a community college, an area technical college, or any other training arrangement acceptable to the Division. (Colo. Rev. Stat. § 23-64-103(21).)

**Type 2: Baccalaureate or postgraduate schools.** Colorado law provides that if a private college or university ceases operation, CCHE may make demand on the surety of the institution upon the demand for a refund by a student or the implementation of alternate enrollment for the students enrolled in the institution. However, there are several provisions which would likely lead to limited refunds. (Colo. Rev. Stat. § 23-2-103.8(7).)

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

**5/10 POINTS\***

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

	Over 2 years (or no deadline)	1-2 years	Under 1 year	Not applicable
<b>Type 1</b>	10 Points	<b>5 Points</b>	1 Point	0 Points
<b>Type 2</b>	10 Points	<b>5 Points</b>	1 Point	0 Points

**Explanation:**

**Type 1: Certificate or associate level schools.** A complaint for deceptive trade or sales practice must be filed within two years of date student discontinues training at school or at any time prior to the commencement of training. (Colo. Rev. Stat. § 23-64-124 and C.C.R. § 1504-1: IX.)

**Type 2: Baccalaureate or postgraduate schools.** A complaint must be filed within two years after discontinuing enrollment. (Colo. Rev. Stat. § 23-2-104.)

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

**15/20 POINTS\***

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

**Type 1: Certificate or associate level schools**

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

**Explanation:**

Colorado law requires schools to include information about the complaint process, web address and phone number for the Division of Private Occupational Schools in their catalogs. (8 CCR 1504-1(H)(1)(u).) While Colorado law does not require schools to provide information on filing a complaint in the enrollment contract, enrollments agreements must include a statement acknowledging receipt of a current/approved copy of the school catalog. (8 CCR 1504-1(I)(3)(e).) Therefore, Colorado receives partial credit for this element. Finally, Colorado does not explicitly require private occupational schools to include complaint information on their websites, but does require the information to be provided in school catalogs, which are often on school websites, and as such receives partial credit for this element as well.

**Type 2: Baccalaureate or postgraduate schools**

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

**Explanation:**

CCHE policies related to student complaints specify that schools must publish complaint and appeal procedures, where to file a complaint with the Colorado Department of Higher Education, and contact information for the institution's accrediting agency in prominent student publications, including, but not limited to the institution's course catalog, student handbook, and website. There is no requirement for information about the complaint process to be included in the enrollment agreement. (CCHE Policies and Procedures, Section I, Part T, Student Complaint Policy 4.05.04 (available online at [http://highered.colorado.gov/Publications/Policies/Current/i-partt\\_042014.pdf](http://highered.colorado.gov/Publications/Policies/Current/i-partt_042014.pdf).)

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

**7/10 POINTS**

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

**Explanation:**

Colorado has a website from which complaints for both private occupational schools and degree-granting

schools can be filed. There is an electronic complaint form on the website and there is a “contact us” link that provides an address and phone number.

## VII. ENFORCEMENT: 20/100 POINTS

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

**0/30 POINTS\***

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

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

#### **Explanation:**

Colorado law does not provide for any loss of state aid for schools that repeatedly produce substandard graduation rates, job placement rates, and/or cohort default rates for either private occupational schools or degree-granting schools.

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

**0/30 POINTS\***

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

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

#### **Explanation:**

Colorado law does not explicitly authorize a private right of action for students against institutions that have violated the laws or regulations in place to govern either private occupational schools or degree-granting schools.

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

**0/20 POINTS\***

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



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

**Explanation:**

Colorado law does not explicitly allow attorney fee awards for students who prevail in litigation against such institutions either private occupational schools or degree-granting schools.

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**D. DOES STATE LAW EXPLICITLY AUTHORIZE  
ATTORNEY GENERAL INVOLVEMENT?**

**20/20 POINTS\***

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

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

**Explanation:**

Colorado law authorizes Attorney General involvement for both private occupational schools and degree-granting schools.

**BONUS POINTS:**

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Colorado receives no bonus points.



**ILLUMINATING INFORMATION**

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**PENDING LEGISLATION:**

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- **IMPORTANT NOTE:** *Colorado has been discussing statutes covered in this report for several months to improve what is currently in law. The state has had discussions related to improvements for most of the measures contained within this report.*
- **ENACTED** on May 31, 2016: 2016 Colo. HB. 1082, 2016 Colo. HB. 1082: is an act concerning area vocational schools, and, in connection therewith, changing the name of area vocational schools to area technical colleges and adding representation for area technical colleges to certain boards (the Concurrent enrollment advisory board)
- Note that Colo. Rev. Stat. § 23-64-133 states: “This article is repealed, effective September 1, 2024. Prior to such repeal, the department of regulatory agencies shall review the regulation of

private occupational schools and their agents under this article, including the functions of the division and the board, in accordance with section 24-34-104.”

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## RECIPROCITY AGREEMENTS

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

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

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

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# CONNECTICUT

## FINAL GRADING ANALYSIS

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OVERALL SCORE: **174/700 POINTS (24.9%)**  
LETTER GRADE: **F**

### I. OVERSIGHT BODY: **25/100 POINTS**

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#### A. IS THERE A STATUTORILY CREATED OVERSIGHT BODY THAT IS PUBLICLY ACCOUNTABLE?

**20/60 POINTS**

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

#### Explanation:

Connecticut has two categories of private for-profit postsecondary educational institutions.

**Type 1: Private occupational schools.** Private occupational schools are “a person, board, association, partnership, corporation, limited liability company or other entity offering instruction in any form or manner in any trade, industrial, commercial, service, professional or other occupation for any remuneration, consideration, reward or promise of whatever nature, except “private occupational school” shall not include (A) instruction offered under public supervision and control; (B) instruction conducted

by a firm or organization solely for the training of its own employees or members; or (C) instruction offered by a school authorized by the General Assembly to confer degrees.” (Conn. Gen. Stat. § 10a-22a.)

The Connecticut Office of Higher Education, specifically the executive director of the Office of Higher Education, has authority to issue certificates authorizing the private occupational schools to offer occupational instruction in Connecticut. (Conn. Gen. Stat. § 10a-22b; Regs., Conn. State Agencies § 10a-34-1.) The Office of Higher Education (Conn. Gen. Stat. § 10a-1d) is not a public board, and the executive director is ultimately responsible for decision making. Because this structure does not allow for sufficient public access, input, and transparency, Connecticut loses points for the related elements above. The Connecticut Office of Higher Education is responsible for oversight and regulation of private occupational schools, as well as a number of other categories of postsecondary institutions. Connecticut has not created a board or commission specifically tasked with oversight of private for-profit postsecondary educational institutions.

The Office of Higher Education has the authority to adopt regulations (Conn. Gen. Stat. § 10a-22k), and the executive director of the Office of Higher Education has authority to initiate investigations (Conn. Gen. Stat. § 10a-22o(b)) and to assess and assess any entity that violates applicable provisions of Connecticut statute or regulation and impose penalties (Conn. Gen. Stat. § 10a-22f; Conn. Gen. Stat. § 10a-22i).

**Type 2: Private degree-granting schools.** Private degree-granting schools are “institutions of higher education” — any person, school, board, association, limited liability company or corporation which is licensed or accredited to offer one or more programs of higher learning leading to one or more degrees. The Office of Higher Education is responsible for establishing regulations, initiating and conducting investigations (Conn. Gen. Stat. § 10a-34; Conn. Gen. Stat. § 10a-34c; Conn. Gen. Stat. § 10a-34e; Conn. Gen. Stat. § 10a-34f).

## B. STATUTE-SPECIFIED MEMBERSHIP

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

**0/25 POINTS\***

*\*points for Type 1 and Type 2 institutions have been averaged to calculate the above score*

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

#### **Explanation:**

**Type 1: Private occupational schools.** There are no prohibitions on for-profit influence in the Office of Higher Education, nor is a for-profit influence mandated in any way.

**Type 2: Degree-granting schools.** There are no prohibitions on for-profit influence in the Office of Higher Education, nor is a for-profit influence mandated in any way.

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

**0/10 POINTS\***

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*\*points for Type 1 and Type 2 institutions have been averaged to calculate the above score*

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

**Explanation:**

**Type 1: Private occupational schools.** While the mission of the Office of Higher Education is to provide consumer protection for students and potential students at private occupational schools, hospital-based schools and barber/hairdresser schools in Connecticut, there is no requirement that the Office take steps to ensure the input of a consumer advocate (an individual with expertise and experience in the area of consumer advocacy) in the course of rulemaking, oversight, and investigations.

**Type 2: Private degree-granting schools.** There is no requirement that the Office of Higher Education take steps to ensure the input of a consumer advocate (an individual with expertise and experience in the area of consumer advocacy) in the course of rulemaking, oversight, and investigations.

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

**5/5 POINTS\***

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*\*points for Type 1 and Type 2 institutions have been averaged to calculate the above score*

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

**Explanation:**

**Type 1: Private occupational schools.** The governor appoints the executive director of the Office of Higher Education. (Conn. Gen. Stat. § 10a-1d(b).)

**Type 2: Private degree-granting schools.** The governor appoints the executive director of the Office of Higher Education. (Conn. Gen. Stat. § 10a-1d(b).)

## II. STATE OVERSIGHT—EFFICACY:

**25.75/100 POINTS**

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

**1.75/10 POINTS\***

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*\*points for Type 1 and Type 2 institutions have been averaged to calculate the above score*

	Mandatory onsite reviews			Discretionary	None
	Every 2 years or less	Every 3-5 years	Over 5 years	Discretion to conduct onsite reviews	No review specified
<b>Type 1</b>	10 Points	8 Points	<b>5 2.5 Points</b>	3 Points	0 Points
<b>Type 2</b>	10 Points	8 Points	5 Points	3 Points	<b>0 1 Point</b>

**Explanation:**

**Type 1: Private occupational schools.** Connecticut requires an onsite inspection of schools for purposes of initial authorization. The review is conducted by an evaluation team, which consists of at least two members representing the Office of Higher Education, and at least one member for each of the areas of occupational instruction for which authorization is sought, with experience in the occupation. The applicant school has the right to challenge any proposed member of the evaluation team upon showing good cause. (Conn. Gen. Stat. § 10a-22b(f),(g).) Connecticut receives 2.5 points for this element because while the first visit is mandatory, no onsite visits are mandated after that initial authorization, and there is no specified period of time for which discretionary onsite visits are provided.

**Type 2: Private degree-granting schools.** For initial licensure, Connecticut law provides for onsite visits on a discretionary basis, dependent upon the type of degree-granting postsecondary institution. Applicant institutions have an opportunity, prior to the onsite visit, to state objections regarding individuals identified in the list of evaluators who will be conducting the visit. While regulations allow for interim evaluations in some circumstances, Connecticut does not require regular onsite reviews, nor is there any indication of a timeframe in which discretionary on site reviews may occur. The state receives one point here because it allows for discretionary on site reviews as a condition for initial licensure. (Regs., Conn. State Agencies § 10a-34-6.)

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

**0/5 POINTS\***

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*\*points for Type 1 and Type 2 institutions have been averaged to calculate the above score*

	Requires unannounced visits	Discretion to do unannounced visits	No indication
<b>Type 1</b>	5 Points	3 Points	<b>0 Points</b>
<b>Type 2</b>	5 Points	3 Points	<b>0 Points</b>

**Explanation:**

**Type 1: Private occupational schools.** Connecticut does not provide for unannounced onsite reviews.

**Type 2: Private degree-granting schools.** Connecticut does not provide for unannounced onsite reviews.

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

**15.5/20 POINTS\***

*\*points for Type 1 and Type 2 institutions have been averaged to calculate the above score*

	Mandatory			Discretionary	None
	Every 2 years or less	Every 3-5 years	Over 5 years	Discretion to conduct reviews	No review specified
<b>Type 1</b>	20 Points	<b>15 16 Points</b>	10 Points	5 Points	0 Points
<b>Type 2</b>	20 Points	<b>15 Points</b>	10 Points	5 Points	0 Points

**Explanation:**

**Type 1: Private occupational schools.** Connecticut requires a private occupational school that has been authorized for less than three years to renew its authorization annually. A private occupational school that has been authorized for at least three consecutive years may make application for renewal of authorization for a period of up to three years. Thus, Connecticut receives 15 points for this element, plus one additional point because schools must renew authorization annually for the first three years.

**Type 2: Private degree-granting schools.** No person, school, board, association or corporation shall confer any degree unless authorized by act of the General Assembly. (Conn. Gen. Stat. § 10a-34(c).) Connecticut provides that licensure of a new institution or program may be granted for a period not to exceed three years, thereafter renewable for periods not to exceed three years. (Regs., Conn. State Agencies § 10a-34-4(j).)

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

**9/20 POINTS\***

*\*points for Type 1 and Type 2 institutions have been averaged to calculate the above score*

	8 of 8	7 of 8	6 of 8	5 of 8	4 of 8	3 of 8	2 of 8	1 of 8	0 of 8
<b>Type 1</b>	20 Points	17.5 Points	15 Points	12.5 Points	10 Points	7.5 Points	<b>5 7 Points</b>	2.5 Points	0 Points
<b>Type 2</b>	20 Points	17.5 Points	15 Points	12.5 Points	<b>10 11 Points</b>	7.5 Points	5 Points	2.5 Points	0 Points

Element	Type 1	Type 2
Admission requirements	M	M
Graduation requirements	D	M
Placement rate		
Completion rate (or graduation rate)		
Advertising practices	M	M
Cohort default rate		
Accreditation status		M
Financial aid policies	D	D

*M=Mandatory; D=Discretionary*



**Explanation:**

**Type 1: Private occupational schools.** Among several conditions it requires schools meet in order to renew authorization, Connecticut includes the following relevant elements for review in its minimum requirements: admission requirements, advertising, an enrollment agreement which complies with specified requirements, and a catalog which complies with specified requirements. The enrollment agreement must include the time required to complete a program, class schedule, start and end dates and it must specify the type of document to be received upon the successful completion of a course or program. The catalog must specify graduation requirements. Because the enrollment agreement and the catalog must comply with the law, each contains information on graduation requirements, and both are reviewed as a part of the renewal process. Although the state does not expressly require review of graduation requirements, it receives partial credit for requiring review of specified documents to ensure that graduation requirements are included.

**Type 2: Private degree-granting schools.** Connecticut reviews, among several elements for initial licensure and renewal, the following: admission requirements (Regs., Conn. State Agencies § 10a-34-14), graduation requirements (Regs., Conn. State Agencies § 10a-34-17), advertising practices (Regs., Conn. State Agencies § 10a-34-20), and accreditation status. Institutional catalogs are reviewed and catalogs must include institutional financial aid information, thus Connecticut receives partial credit for reviewing the financial aid policies of degree-granting institutions as well. (Regs., Conn. State Agencies § 10a-34-20(a).)

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

**0/15 POINTS\***

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*\*points for Type 1 and Type 2 institutions have been averaged to calculate the above score*

	<b>Yes, strongly distinguished</b>	<b>Yes, moderately distinguished</b>	<b>Yes, slightly distinguished</b>	<b>Not distinguished</b>
<b>Type 1</b>	15 Points	10 Points	5 Points	<b>0 Points</b>
<b>Type 2</b>	15 Points	10 Points	5 Points	<b>0 Points</b>

**Explanation:**

Connecticut does not distinguish between for-profit and non-profit private postsecondary educational institutions.

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

**0/10 POINTS\***

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*\*points for Type 1 and Type 2 institutions have been averaged to calculate the above score*

	<b>Yes, mandatory</b>	<b>Yes, mandatory but limited</b>	<b>Yes, discretionary</b>	<b>Yes, discretionary but limited</b>	<b>No</b>
<b>Type 1</b>	10 Points	7.5 Points	5 Points	2.5 Points	<b>0 Points</b>
<b>Type 2</b>	10 Points	7.5 Points	5 Points	2.5 Points	<b>0 Points</b>

**Explanation:**

**Type 1: Private occupational school.** If a private occupational school is out of compliance with the conditions of authorization and any applicable regulations of Connecticut state agencies, the executive director may place the institution on probation for a period not to exceed one year. If, after the period of one year of probationary status, the school remains out of compliance with the conditions of authorization, the executive director may revoke such school's certificate of authorization to operate as a private occupational school. However, there is nothing in the regulations that relates to the performance of schools (graduation rates, cohort default rates, job placement rates, and so on). Therefore, while this is a promising practice, Connecticut receives no points here because the increased scrutiny does not extend to schools that are performing poorly as reflected by student outcomes.

**Type 2: Private degree-granting school.** Connecticut does not require increased oversight or scrutiny to schools with repeatedly poor performance outcomes.

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

**0/20 POINTS\***

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*\*points for Type 1 and Type 2 institutions have been averaged to calculate the above score*

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

**Explanation:**

**Type 1: Private occupational schools.** There are no special protections in place specifically for veterans who attend private occupational schools.

**Type 2: Private degree-granting schools.** There are no special protections in place specifically for veterans who attend private occupational schools.

**III. STATE OVERSIGHT—SCOPE AND INCLUSION:**

**5/100 POINTS**

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**A. ARE EXEMPTIONS TO STATE OVERSIGHT COVERAGE LIMITED?**

**5/100 POINTS**

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*\*The points for Type 1 and Type 2 institutions have been averaged to calculate the above score*

	No exemptions	Few exemptions	Moderate exemptions	Broad exemptions
Type 1	100 Points	75 Points	50 Points	0-10 Points
Type 2	100 Points	75 Points	50 Points	0 Points

**Type 1: Private occupational schools.** “Except for initial authorizations, the executive director shall accept institutional accreditation by an accrediting agency recognized by the United States Department of Education, in satisfaction of the requirements of this section and section 10a-22d, including the evaluation

and attendance requirement, unless the executive director finds reasonable cause not to rely upon such accreditation.” (Conn. Gen. Stat. § 10a-22b(b).)

Connecticut receives 10 points for private occupational schools because the initial authorization is not exempted due to accreditation by an accrediting agency recognized by the U.S. Department of Education.

**Type 2: Degree-granting schools.** Connecticut provides licensure and accreditation for degree-granting schools in the state and will provide exemptions from state accreditation to schools with regional accreditation in most circumstances. (Conn. State Agencies §§ 10a-34-4; 10-34-5.)

Connecticut receives a “weak” rating for this element because of the large gap in oversight that may result from its exemption of institutional accreditation after initial authorization of private occupational schools.

#### IV. DISCLOSURE REQUIREMENTS: 7.5/100 POINTS

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

0/20 POINTS\*

*\*points for Type 1 and Type 2 institutions have been averaged to calculate the above score*

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

##### Explanation:

**Type 1: Private occupational schools.** Connecticut does not require private occupational schools to provide students with a fact sheet-type performance disclosures, or to have fact sheet-type performance disclosures available upon request.

**Type 2: Private degree-granting schools.** Connecticut does not require private degree-granting schools to provide students with fact sheet-type performance disclosures or to have fact sheet-type performance disclosures available upon request.

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

0/60 POINTS\*

*\*points for Type 1 and Type 2 institutions have been averaged to calculate the above score*

##### **Type 1: Private occupational schools:**

Disclosures	Mandatory	Discretionary	Not specified
Cohort default rate (CDR)	10 Points	5 Points	0 Points
Graduation / completion rates	10 Points	5 Points	0 Points

<b>Placement rates</b>	10 Points	5 Points	<b>0 Points</b>
<b>Wage information</b>	10 Points	5 Points	<b>0 Points</b>
<b>License exam passage rates</b>	10 Points	5 Points	<b>0 Points</b>
<b>Methods &amp; sources used to calculate</b>	10 Points	5 Points	<b>0 Points</b>

**Explanation:**

Connecticut does not require schools to provide any institutional performance disclosures to students prior to enrollment.

***Type 2: Private degree-granting schools:***

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

**Explanation:**

Connecticut does not require schools to provide any institutional performance disclosures to students prior to enrollment.

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

**7.5/20 POINTS\***

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*\*points for Type 1 and Type 2 institutions have been averaged to calculate the above score*

***Type 1: Private occupational schools:***

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

**Explanation:**

Connecticut requires private occupational schools provide information about time required to complete the programs as stated in the catalog; information about total costs (including tuition, books, supplies and other costs), method and terms of payment, and refund policy among several other requirements outlined in Regs., Conn. State Agencies § 10a-22k-5(e). Connecticut does not, however, require information about the transferability of credits to be included in the enrollment agreement.

***Type 2: Private degree-granting schools:***

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

**Explanation:**

Connecticut law and regulations do not specify any required elements for enrollment contracts for private degree-granting schools.

## V. REGULATION OF RECRUITING PRACTICES:

**62.5/100 POINTS**

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

**62.5/100\***

*\*points for Type 1 and Type 2 institutions have been averaged to calculate the above score*

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

### PROHIBITED ACTS

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

*1-3=weak; 3.5-6=moderate; 6.5-8=strong*

**Explanation:**

**Type 1: Private occupational schools.** Connecticut regulations specify “Advertising for the school shall be under the complete and correct name and address of the school as listed on its certificate of authorization and shall conform to all requirements of the federal and state Unfair Trade Practices Acts.” The regulations further prohibit schools from using “blind,” “help wanted,” or employment columns for advertising. The regulations further prohibit schools from using misleading endorsements and prohibit schools from advertising that they operate under state supervision or are recommended by any agency of the state. (Regs., Conn. State Agencies § 10a-22k-5(h).) Finally, Conn. Gen. Stat. § 10a-34(j) is included

in the laws governing degree-granting institutions, but would apply to private occupational schools as well.

No person, school, board, association or corporation shall use in any way the term “junior college” or “college” or “university” or use any other name, title, literature, catalogs, pamphlets or descriptive matter tending to designate that it is an institution of higher education, or that it may grant academic or professional degrees, unless the institution possesses a license from, or has been accredited by, the office....”

**Type 2: Private degree-granting schools.** Connecticut prohibits schools from using the terms “junior college” or “college” or “university” unless the institution possesses a license from, or has been accredited by the Office of Higher Education. (Conn. Gen. Stat. § 10a-34(j).) Connecticut requires private degree-granting institutions to describe the programs and services of the institution in language that is accurate, clear and unambiguous. (Regs., Conn. State Agencies § 10a-34-20(c).) Because this achieves a purpose similar to prohibiting deception and misrepresentation, Connecticut receives credit, with regard to private degree-granting institutions, for including a prohibition on deception and misrepresentation.

## VI. COMPLAINT PROCESS AND RELIEF FOR STUDENTS:

**27.75/100 POINTS**

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

**5/20 POINTS\***

*\*points for Type 1 and Type 2 institutions have been averaged to calculate the above score*

	Yes	No
Type 1	<del>20</del> 10 Points	0 Points
Type 2	20 Points	<b>0 Points</b>

#### **Explanation:**

**Type 1: Private occupational schools.** Connecticut requires private occupational schools to provide an irrevocable letter of credit issued by a bank with its main office or branch located within Connecticut in the penal amount of forty thousand dollars guaranteeing the payments required of the school to the private occupational school student protection account. Like a bond, this helps to ensure a measure of protection for students attending the school. However, because Connecticut requires the letter of credit to be released twelve years after the date of initial approval, provided evidence of fiscal soundness has been verified, the state loses 10 points. As recent college closures have demonstrated, even a college that has been around for well over 12 years can encounter financial instability and close—leaving students with tremendous financial difficulties.

**Type 2: Private degree-granting schools.** Connecticut law does not specifically require a bond or the equivalent for private degree-granting schools.

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

**0/20 POINTS\***

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*\*points for Type 1 and Type 2 institutions have been averaged to calculate the above score*

	Yes, full refund	Yes, partial refund	No refund required
<b>Type 1</b>	20 Points	10 Points	<b>0 Points</b>
<b>Type 2</b>	20 Points	10 Points	<b>0 Points</b>

**Explanation:**

**Type 1: Private occupational schools.** Connecticut law does not specifically require a refund of tuition if a student enrolls in a private occupational school as the result of misrepresentation.

**Type 2: Private degree-granting schools.** Connecticut law does not specifically require a refund of tuition if a student enrolls in a private degree-granting school as the result of misrepresentation.

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

**7.5/20 POINTS\***

---

*\*points for Type 1 and Type 2 institutions have been averaged to calculate the above score*

	Yes, full refund	Yes, partial refund	Yes, refund in limited circumstances	No refund required
<b>Type 1</b>	20 Points	<b>15 Points</b>	10 Points	0 Points
<b>Type 2</b>	20 Points	15 Points	10 Points	<b>0 Points</b>

**Explanation:**

**Type 1: Private occupational schools.** Connecticut does not guarantee a full refund to students when a school becomes insolvent and/or closes. However, the state has put protections in place that would provide for at least a partial refund for students in this situation. Connecticut has created the private occupational student protection account (Conn. Gen. Stat. § 10a-22m), and requires each authorized private occupational school to pay to the State Treasurer an amount equal to four-tenths of one percent of the tuition received per calendar quarter. In addition to amounts received based on tuition, the account shall also contain any amount required to be deposited into the account with each school's initial application, renewal fees, some fines, and other circumstances as detailed in Conn. Gen. Stat. sections 10a-22a to 10a-22o.

Connecticut requires that, at least 60 days prior to the closure of a school, private occupational schools provide (among other information) evidence that all coursework course work is or will be completed by current students at the school and evidence that there are no refunds due any students. If a school fails to meet these requirements, the school will be fined. The private occupational student protection account is meant to provide refunds to students who are unable to complete a course or unit of instruction because of the insolvency or cessation of operation of a private occupational. (Conn. Gen. Stat. § 10a-22(u), (v).) There is no guarantee of a full refund, but there is a substantial fund in place to protect students and provide relief.



**Type 2: Private degree-granting schools.** Connecticut does not explicitly require private degree-granting institutions to refund tuition in the case of insolvency.

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**D. DOES THE STATE ALLOW STUDENTS AMPLE TIME TO MAKE A COMPLAINT?**  
**10/10 POINTS\***

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*\*points for Type 1 and Type 2 institutions have been averaged to calculate the above score*

	2 years or more (or no deadline)	1-2 years	Under 1 year	Not applicable
<b>Type 1</b>	<b>10 Points</b>	5 Points	1 Point	0 Points
<b>Type 2</b>	<b>10 Points</b>	5 Points	1 Point	0 Points

**Explanation:**

**Type 1: Private occupational schools.** There is no specified deadline for students to file a complaint against a private occupational school.

**Type 2: Private degree-granting school.** There is no specified deadline for students to file a complaint against a private degree-granting school.

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**E. DOES THE STATE REQUIRE INSTITUTIONS TO DISCLOSE INFORMATION ABOUT FILING A COMPLAINT WITH THE STATE OVERSIGHT BODY?**  
**3.75/20 POINTS\***

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*\*points for Type 1 and Type 2 institutions have been averaged to calculate the above score*

**Type 1: Private occupational schools:**

Medium	Yes	Discretionary	No
<b>Catalog</b>	10 Points	<b>5 Points</b>	0 Points
<b>Website</b>	5 Points	<b>2.5 Points</b>	0 Points
<b>Enrollment contract</b>	5 Points	2.5 Points	<b>0 Points</b>

**Explanation:**

Connecticut requires private occupational schools to clearly display in a location visible to students and the public the school's procedures for resolving complaints regarding its operation, including the filing of inquiries or complaints with the commissioner. Connecticut receives credit for discretionary inclusion on school website and catalog because both are locations that are visible to students and the public and it is reasonable to assume that schools may post the required information at these locations. (Regs., Conn. State Agencies § 10a-22k-13(b).)

**Type 2: Private degree-granting schools:**

Medium	Yes	Discretionary	No
<b>Catalog</b>	10 Points	5 Points	<b>0 Points</b>
<b>Website</b>	5 Points	2.5 Points	<b>0 Points</b>
<b>Enrollment contract</b>	5 Points	2.5 Points	<b>0 Points</b>



**Explanation:**

Connecticut does not explicitly require private degree-granting institutions to disclose information about filing a complaint with the state oversight body.

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

**1.5/10 POINTS\***

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*\*points for Type 1 and Type 2 institutions have been averaged to calculate the above score*

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

**Explanation:**

**Type 1: Private occupational schools.** The Connecticut Office of Higher Education website contains a link to complaint procedures under the “information for students” link on the Postsecondary Career School Authorization page. The complaint procedures explanation includes an email address students can use to request a complaint form (<http://www.ctohe.org/POSA/StudentInfo.shtml#Complaint>).

**Type 2: Private degree-granting schools.** While there is a portal for complaints on the web page for private occupational schools, no such easily accessible portal exists for private degree-granting schools.

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**VII. ENFORCEMENT: 20/100 POINTS**

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

**0/30 POINTS\***

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*\*points for Type 1 and Type 2 institutions have been averaged to calculate the above score*

	Yes, required	Yes, required but limited	Yes, discretionary	Yes, discretionary but limited	No
<b>Type 1</b>	30 Points	20 Points	15 Points	5 Points	0 Points
<b>Type 2</b>	30 Points	20 Points	15 Points	5 Points	0 Points

**Explanation:**

**Type 1: Private occupational schools.** Connecticut does not specify any loss of state aid for private occupational schools that repeatedly produce substandard graduation rates, job placement rates and/or cohort default rates.

**Type 2: Private degree-granting schools.** Connecticut does not specify any loss of state aid for private degree-granting schools that repeatedly produce substandard graduation rates, job placement rates and/or cohort default rates.

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

**0/30 POINTS\***

*\*points for Type 1 and Type 2 institutions have been averaged to calculate the above score*

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

**Explanation:**

**Type 1: Private occupational schools.** Connecticut has not created a private right of action for students to bring against private occupational schools that have violated the laws and regulations in place to govern them.

**Type 2: Private degree-granting schools.** Connecticut has not created a private right of action for students to bring against private degree-granting schools that have violated the laws and regulations in place to govern them.

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

**0/20 POINTS\***

*\*points for Type 1 and Type 2 institutions have been averaged to calculate the above score*

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

**Explanation:**

**Type 1: Private occupational schools.** Connecticut does not explicitly allow attorney fee awards for students who prevail in litigation against private occupational schools that have violated the laws/regulations in place to govern them.

**Type 2: Private degree-granting schools.** Connecticut does not explicitly allow attorney fee awards for students who prevail in litigation against private occupational schools that have violated the laws/regulations in place to govern them.

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**D. DOES STATE LAW EXPLICITLY AUTHORIZE ATTORNEY GENERAL INVOLVEMENT?**

**20/20 POINTS\***

*\*points for Type 1 and Type 2 institutions have been averaged to calculate the above score*

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

**Explanation:**

**Type 1: Private occupational schools.** Connecticut law allows for attorney general involvement. (Conn. Gen. Stat. § 10a-22j; Conn. Gen. Stat. § 10a-22o(a).)

**Type 2: Private degree-granting schools.** Connecticut law allows for attorney general involvement. (Conn. Gen. Stat. § 10a-34b; Conn. Gen. Stat. § 10a-34c; Conn. Gen. Stat. § 10a-34d.)

## BONUS POINTS

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Connecticut receives no bonus points.



## ILLUMINATING INFORMATION

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## PROVISIONS OF NOTE

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Connecticut statute places responsibility for oversight and regulation of private occupational schools with the executive director of the Office of Education. Connecticut regulations, which derive authority from Connecticut statute, place responsibility for oversight and regulation of private occupational school with the Commissioner of Higher Education. Connecticut is graded based on the authority of the statute.

## RECIPROCITY AGREEMENTS

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

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

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

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# DELAWARE

## FINAL GRADING ANALYSIS

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OVERALL SCORE: **243.5/700 POINTS (34.8%)**  
LETTER GRADE: **F**

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### I. OVERSIGHT BODY: **25/100 POINTS**

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#### A. IS THERE A STATUTORILY CREATED OVERSIGHT BODY THAT IS PUBLICLY ACCOUNTABLE? **25/60 POINTS**

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Element	Points	Type 1	Type 2	Total (averaged)
1. Oversight body is a multi-member board, commission, or panel created by statute	10	0	0	0
2. Oversight body was statutorily created specifically to oversee private postsecondary institutions	10	5	0	2.5
3. Multi-member board, commission, or panel is the ultimate decision maker (as opposed to a single person, like the head of a department or director)	10	0	0	0
4. Oversight body can engage in rulemaking	10	10	10	10
5. Oversight body's meetings must be open to the public	5	2.5	0	1.25
6. Oversight body's meetings must allow public comment	5	2.5	0	1.25
7. Oversight body can initiate investigations	5	5	5	5
8. Oversight body can impose penalties for violations	5	5	5	5
Total Points	60	30	20	25

#### **Explanation:**

Delaware regulates private business and trade schools that do not grant degrees and private degree-granting institutions through separate and distinct statutes and regulations.

**Type 1: Private business and trade schools.** Delaware's Advisory Committee on Private Business and Trade Schools advises the Secretary of Education with regard to the oversight of private business and trade schools, for which the ultimate responsibility and authority for oversight is placed in the Department of Education. The Advisory Committee was statutorily created specifically to advise the Secretary of Education regarding the oversight and regulation of private postsecondary schools in Delaware (14 Del.

C. § 8502); however, Delaware receives only partial credit because the Committee is advisory only and has no authority to engage in oversight and regulation.

The Advisory Committee does not engage in rulemaking, initiate investigations, or impose penalties. However, the Department of Education does possess such authority. The Department of Education is not required to deliberate and take action in an open public forum. However, because the meetings of the Advisory Committee are likely public, pursuant to Delaware's Freedom of Information Act (29 Del. C. § 10004), partial credit has been awarded for #5 and #6 above.

**Type 2: Private degree-granting schools.** The Delaware Department of Education is responsible for approval and oversight of private degree-granting institutions. (CDR 14-282 *et seq.*) There is no advisory committee in place to advise the Secretary of Education with regard to private, for-profit degree-granting institutions. Although the Department of Education has authority to engage in rulemaking and enforcement, it is not a public multi-member board or commission, and there is no requirement that the Department conduct its deliberations or make decisions in an open public forum.

## B. STATUTE-SPECIFIED MEMBERSHIP

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

**0/25 POINTS\***

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

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

#### **Explanation:**

**Type 1: Private business and trade schools.** Delaware has no explicit prohibition on for-profit membership on the Advisory Committee on Private Business and Trade Schools. The Advisory Committee is statutorily required to include five members, as follows: one member must be an executive or managerial person in a private business school in the state; one must be a person occupied in commerce or industry in an executive or managerial position; one must be an executive or managerial person in a private trade school; one must be the president of the Delaware Technical and Community College system; and one shall have, for at least 5 years, occupied managerial positions concerned primarily with the use of computers. Thus, two of the members are mandated to be affiliated in some way with the private institutions on which the committee is tasked with advising regarding oversight and regulation. There is not a mandated majority of members with for-profit interests, but there is no prohibition on a majority of the committee members having some affiliation with private for-profit postsecondary institutions. (14 Del. C. § 8502(b).)

**Type 2: Private degree-granting schools.** The Delaware Department of Education oversees private degree-granting schools, and there is no specification regarding the make-up of the Department.

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

**0/10 POINTS\***

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

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

**Explanation:**

**Type 1: Private business and trade schools.** Delaware does not explicitly require that the Advisory Committee membership include a consumer advocate.

**Type 2: Private degree-granting schools.** There is no requirement for the Department of Education's staff or advisors to include a consumer advocate.

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

**0/5 POINTS\***

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

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

**Explanation:**

**Type 1: Private business and trade schools.** All five members of the advisory committee on private business and trade schools in Delaware are appointed by the Secretary of Education (14 Del. C. § 8502(a)). The Delaware Secretary of Education is not elected; rather, he/she is appointed by the Governor and approved by a majority of the Delaware Senate. Thus, the members are neither appointed by a publicly accountable official nor elected in a general election.

**Type 2: Private degree-granting schools.** The Department of Education does not have members.

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## II. STATE OVERSIGHT—EFFICACY: **33.5/100 POINTS**

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

**5/10 POINTS\***

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

	Mandatory onsite reviews			Discretionary	None
	Every 2 years or less	Every 3-5 years	Over 5 years	Discretion to conduct onsite reviews	No onsite review specified
<b>Type 1</b>	10 Points	8 Points	5 Points	<b>3 Points</b>	0 Points
<b>Type 2</b>	10 Points	<b>8 7 Points</b>	5 Points	3 Points	0 Points

### Explanation

**Type 1: Private business and trade schools.** The Department may conduct an onsite evaluation of any applicant for a certificate of approval or for renewal of a certificate of approval. (14 CDR 282 (3.3).) Certificates of approval must be renewed annually. (14 CDR 282 (3.1).) Thus, there is discretion for onsite review on an annual basis.

**Type 2: Private degree-granting schools.** Delaware requires schools to go through three levels to achieve full approval (Recognized Applicant, Provisional Approval and Full Approval). Onsite reviews are discretionary for Recognized Applicants, Provisional Approval and for the initial Full Approval. However, Full Approval of a school is valid for no longer than five years. A review including an onsite visit is mandatory at that point and every five years thereafter. Thus, Delaware receives 8 points for requiring onsite reviews every five years. However, it loses 1 point because onsite reviews are discretionary until after a school has received full approval for 5 years, since the initial onsite review of a program may not occur until the school has been in operation for well over 5 years. (14 CDR 292(4.0).)

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

**0/5 POINTS\***

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

	Requires unannounced visits	Discretion to do unannounced visits	No indication
<b>Type 1</b>	5 Points	3 Points	<b>0 Points</b>
<b>Type 2</b>	5 Points	3 Points	<b>0 Points</b>

### Explanation:

**Type 1: Private business and trade schools.** There is no specified requirement for announced inspections.

**Type 2: Private degree-granting schools.** There is no specified requirement for unannounced inspections

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

**18.5/20 POINTS\***

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

	Mandatory			Discretionary	None
	Every 2 years or less	Every 3-5 years	Over 5 years	Discretion to conduct regular reviews	No review specified
<b>Type 1:</b>	<b>20 Points</b>	15 Points	1 Point	10 Points	0 Points
<b>Type 2:</b>	20 Points	<b>15 17 Points</b>	1 Point	10 Points	0 Points



**Explanation:**

**Type 1: Private business and trade schools.** Delaware requires annual renewal of certificates of approval, which must include the title or name of a school, together with ownership and controlling officers, the specific fields and courses of instruction which will be offered; the place or places where such instruction will be given and a description of the physical and sanitary facilities; a specific listing of the equipment available for instruction in each field and course; the educational and teaching qualifications of instructors and supervisors; the financial resources available to equip and maintain the school; the entrance requirements for admission to each program offered by the school and information on the required surety.

**Type 2: Private degree-granting schools.** Delaware requires schools to go through three levels to achieve full approval (Recognized Applicant, Provisional Approval and Full Approval). Onsite reviews are discretionary for Recognized Applicants, Provisional Approval and for the initial Full Approval. Delaware mandates reviews at each level of approval at intervals ranging from 1 to 5 years. Once a school has reached Full Approval status, reviews are mandatory every 5 years. Thus, Delaware receives 15 points for requiring reviews every 5 years for schools with Full Approval status and receives an additional 2 points because reviews of schools with Recognized Applicant or Provisional Approval status are mandatory at intervals of less than 5 years. (14 CDR 292(4.0).)



*Note: If an institution is scheduled for a Regional Accreditation evaluation at the time of either the Full Approval or the five year period review and the Department has a representative on the evaluation team, the Department may accept the Regional Approval in lieu of a separate evaluation. This may be a problem because regional accreditors do not necessarily review criteria essential for consumer protection in their evaluation.*

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**D. DO THE CRITERIA FOR RENEWAL OF AUTHORIZATION MANDATE A  
REVIEW OF FACTORS ESSENTIAL TO ACADEMIC AND ETHICAL INTEGRITY?  
6.25/20 POINTS\***

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

	8 of 8	7 of 8	6 of 8	5 of 8	4 of 8	3 of 8	2 of 8	1 of 8	0 of 8
<b>Type 1</b>	20 Points	17.5 Points	15 Points	12.5 Points	10 Points	7.5 Points	<b>5 Points</b>	2.5 Points	0 Points
<b>Type 2</b>	20 Points	17.5 Points	15 Points	12.5 Points	10 Points	<b>7.5 Points</b>	5 Points	2.5 Points	0 Points

Element	Type 1	Type 2
Admission requirements	M	M
Graduation requirements		M
Placement rate		
Completion rate (or graduation rate)		
Advertising practices	M	
Cohort default rate		
Accreditation status		M
Financial aid policies		

*M=Mandatory; D=Discretionary*

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

0/15 POINTS\*

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

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

**Type 1: Private business and trade schools:** Delaware does not distinguish, in its statutes or regulations, between for-profit and non-profit private business and trade schools.

**Type 2: Private degree-granting schools:** Delaware does not distinguish, in its statutes or regulations, between for-profit and non-profit private degree-granting schools.

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

3.75/10 POINTS\*

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

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

**Explanation:**

**Type 1: Private business and trade schools.** There is no indication in Delaware statute or regulation that poor performance results in increased oversight.

**Type 2: Private degree-granting schools.** Delaware requires schools to go through three levels to achieve full approval (Recognized Applicant, Provisional Approval and Full Approval). In order to achieve and maintain full approval and to maintain approval to grant degrees, schools in Delaware must meet specified standards. However, this is limited because the standards do not include benchmarks which would reflect school performance with regard to student success. Delaware, therefore, receives partial credit for this element for degree-granting institutions.

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

0/20 POINTS\*

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

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

**Explanation:**

**Type 1: Private business and trade schools.** There are no special protections in Delaware law for veterans who attend private for-profit postsecondary business and trade schools.

**Type 2: Private degree-granting schools.** There are no special protections in Delaware law for veterans who attend private for-profit postsecondary degree-granting schools.

### III. STATE OVERSIGHT—SCOPE AND INCLUSION:

**75/100 POINTS**

#### 1. ARE EXEMPTIONS TO STATE OVERSIGHT COVERAGE LIMITED?

**75/100 POINTS\***

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

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

**Explanation:**

**Type 1: Private business and trade schools.** Limited exemptions provide that institutions whose main facilities are located in Delaware and which were approved by the Department of Education in compliance with § 125 of Title 8, prior to July 18, 1972 are exempt. Other exemptions include common exemptions such as apprenticeship and training programs offered or conducted by employers for employees or prospective employees or by labor organizations or associations of employees for their members or apprentices. (14 Del. C. § 8529.)

**Type 2: Private degree-granting schools.** The only exemption of note provides an exception to the requirement of review every five years for degree-granting institutions. If an institution is scheduled for a Regional Accreditation evaluation at the time of either the Full Approval or the five year period review and the Department has a representative on the evaluation team, the Department may accept the Regional Approval in lieu of a separate evaluation. (14 CDR 292 (4.1.4).)

### IV. DISCLOSURE REQUIREMENTS: 0/100 POINTS

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

**0/20 POINTS\***

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

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

**Explanation:**

**Type 1: Private business and trade schools.** Nothing in Delaware law requires a fact sheet-type disclosure to potential students for private business and trade schools.

**Type 2: Private degree-granting schools.** Nothing in Delaware law requires a fact sheet-type disclosure to potential students for private degree-granting schools.

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

**0/60 POINTS\***

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

**Type 1: Private business and trade schools**

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

Delaware law does not require private business and trade schools to disclose any of the above information to students prior to enrollment.

**Type 2: Private degree-granting schools**

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

Delaware law does not require private degree-granting schools to disclose any of the above information to students prior to enrollment.

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

**0/20 POINTS\***

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

*Type 1: Private business and trade schools*

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

**Explanation:**

Delaware statutes and regulations related to private business and trade schools do not contain any provisions requiring the inclusions of the above listed elements in enrollment contracts.

*Type 2: Private degree-granting schools*

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

**Explanation:**

Delaware statutes and regulations related to private degree-granting schools do not contain any provisions requiring the inclusions of the above listed elements in enrollment contracts.

## V. REGULATION OF RECRUITING PRACTICES: 37.5/100 POINTS

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

37.5/100 POINTS\*

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

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

#### PROHIBITED ACTS

Included in list of prohibited acts	Type 1	Type 2
Misleading representations using the word “college” or “university”		
Misleading institution affiliation (e.g., military, public institution, business)		
Promise of employment	X	
Compensation for enrollment		
Compensation or “bounty” to recruiters		
Deception	X	

Misrepresentation	X	
Misleading representations re: accreditation	/	

*1-3=weak; 3.5-6=moderate; 6.5-8=strong*

**Explanation:**

**Type 1: Private business and trade schools.** Delaware prohibits fraud, misrepresentation, misleading promises regarding employment, and deception. Because Delaware also prohibits misrepresentations related to a student's ability to transfer to other institutions, the state receives partial credit for the element "misleading representation re: accreditation." Although the state does not explicitly prohibit deceptive or misleading representations regarding accreditation, one of the purposes of this element is to prevent schools from misleading students regarding the ability to transfer their credits to another institution.

**Type 2: Private degree-granting institutions.** There is no list of prohibited acts in place specifically directed at the advertising practices of private degree-granting universities.

## VI. COMPLAINT PROCESS AND RELIEF FOR STUDENTS:

**45/100 POINTS**

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

**15/20 POINTS\***

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

	Yes	No
Type 1	20 Points	0 Points
Type 2	20 10 Points	0 Points

**Explanation:**

**Type 1: Private business and trade schools.** Delaware requires private business and trade schools to provide evidence of a valid surety bond prior to issuing a certificate of approval to operate. (14 CDR 282 (7.0).)

**Type 2: Private degree-granting institutions.** The institution shall indicate agreement or provide surety bond for the protection of the contractual rights of students as a condition of approval. (14 CDR 292 (3.3.1.3).) Delaware receives partial credit here. The intent is to protect the contractual rights of students – but the surety is not required if the institution indicates "agreement." Delaware receives 10 points for this element with regard to private degree-granting institutions.

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

**10/20 POINTS\***

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

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

**Explanation:**

**Type 1: Private business and trade schools.** Delaware requires private business and trade schools to fully refund all moneys paid in cases in which enrollment was procured as the result of any misrepresentation. (14 Del. C. § 8505(a)(3).)

**Type 2: Private degree-granting schools.** There is no indication of any requirement of a refund if a student enrolls as the result of misrepresentation.

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

**7.5/20 POINTS\***

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

	Yes, full refund	Yes, partial refund	Yes, refund in limited circumstances	No refund required
<b>Type 1</b>	20 Points	<b>15 Points</b>	10 Points	0 Points
<b>Type 2</b>	20 Points	15 Points	10 Points	<b>0 Points</b>

**Explanation:**

**Type 1: Private business and trade schools.** Delaware law does not specifically address procedures to be followed in the event of insolvency; however, if a course of instruction is discontinued by the school and this prevents the student from completing the course (which is clearly the case in instances of insolvency), all tuition and fees paid are due and refundable. (14 Del. C. § 8505(a)(3).)

**Type 2: Private degree-granting schools.** There is no indication of any requirement of a refund in the event of insolvency.

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

**10/10 POINTS\***

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

	2 years or more (or no deadline)	1-2 years	Under 1 year	Not applicable
<b>Type 1</b>	<b>10 Points</b>	5 Points	1 Point	0 Points
<b>Type 2</b>	<b>10 Points</b>	5 Points	1 Point	0 Points

**Explanation:**

Delaware does not specify a timeframe during which complaints must be submitted for either private business and trade schools or for private degree-granting schools.

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

**2.5/20 POINTS\***

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

***Type 1: Private business and trade schools:***

Medium	Yes	Discretionary	No
Catalog	10 Points	5 Points	0 Points
Website	5 Points	2.5 Points	0 Points
Enrollment contract	5 Points	2.5 Points	0 Points

***Type 2: Private degree-granting schools:***

Medium	Yes	Discretionary	No
Catalog	10 Points	5 Points	0 Points
Website	5 Points	2.5 Points	0 Points
Enrollment contract	5 Points	2.5 Points	0 Points

**Explanation:**

***Type 1: Private business and trade schools.*** Delaware requires private business and trade schools to include the school's complaint policy and procedure, or a reference to where the policy and procedure can be found, in the school catalog. There is no requirement that the school disclose information about how to file a complaint with the state. Delaware receives partial credit for requiring disclosure of the school complaint policy and procedure in the catalog because the school may include information about procedures for filing a complaint with the state in the school complaint policy, of which information is required in the catalog. (14 CDR 282 (5.0).)

***Type 2: Private degree-granting schools.*** Delaware law does not specify any requirements with regard to where a private degree-granting university must disclose information about how to file a complaint with the Delaware Department of Education.

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

**0/10 POINTS\***

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

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

**Explanation:**

The complaint process cannot be found on the Delaware Department of Education website, for either private business and trade schools or private degree granting schools, nor can it be found by doing a search for the word "complaints" on the Delaware Department of Education website.



## VII. ENFORCEMENT: 27.5/100 POINTS

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

**0/30 POINTS\***

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

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

#### **Explanation:**

There is no indication that schools will lose state aid as the result of repeatedly producing substandard graduation, job placement, and/or cohort default rates. This is true for both private business and trade schools and private degree granting schools.

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

**7.5/30 POINTS\***

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

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

#### **Explanation:**

**Type 1: Private business and trade schools.** Any person affected by a final administrative decision of the Department may have such decision reviewed judicially by the Superior Court of the county wherein such person resides. (14 Del. C. § 8524.)

**Type 2: Private degree-granting schools.** Nothing in Delaware law explicitly allows a private right of action against private degree-granting schools that have violated the laws/regulations governing them.

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

**0/20 POINTS\***

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

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

**Type 1: Private business and trade schools.** Delaware does not explicitly allow attorney fee awards for students who prevail in litigation against private business and trade schools that have violated the laws/regulations in place to govern them.

**Type 2: Private degree-granting schools.** Delaware does not explicitly allow attorney fee awards for students who prevail in litigation against private degree-granting schools that have violated the laws/regulations in place to govern them.

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**D. DOES STATE LAW EXPLICITLY AUTHORIZE  
ATTORNEY GENERAL INVOLVEMENT?**

**20/20 POINTS\***

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

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

**Explanation:**

**Type 1: Private business and trade schools.** Delaware authorizes state Attorney General involvement in enforcing laws in place to govern private business and trade schools.

**Type 2: Private degree-granting schools.** Delaware authorizes state Attorney General involvement in enforcing laws in place to govern private degree-granting schools.

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**BONUS POINTS**

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Delaware receives no bonus points.



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**ILLUMINATING INFORMATION**

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**RECIPROCITY AGREEMENTS**

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

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

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

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# FLORIDA

## FINAL GRADING ANALYSIS

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OVERALL SCORE: **318/700 POINTS (45.4%)**  
LETTER GRADE: **F**

### I. OVERSIGHT BODY: **52.5/100 POINTS**

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#### A. IS THERE A STATUTORILY CREATED OVERSIGHT BODY THAT IS PUBLICLY ACCOUNTABLE?

**52.5/60 POINTS**

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Element	Points Available	Points Awarded
1. Oversight body is a multi-member board, commission, or panel created by statute	10	10
2. Oversight body was statutorily created specifically to oversee private postsecondary institutions	10	10
3. Multi-member board, commission, or panel is the ultimate decision maker (as opposed to a single person, like the head of a department or director)	10	10
4. Oversight body can engage in rulemaking	10	10
5. Oversight body's meetings must be open to the public	5	5
6. Oversight body's meetings must allow public comment	5	0
7. Oversight body can initiate investigations	5	2.5
8. Oversight body can impose penalties for violations	5	5
<b>Total Points</b>	60	<b>52.5</b>

**Explanation:**

Under Florida law, the Commission for Independent Education is responsible for oversight and regulation of private for-profit postsecondary institutions. The Commission may initiate investigations, but is limited in this capacity. (F.S.A. § 1005.21; F.S.A. § 1005.22.) Commission meetings must be open to the public, but the Florida Open Meetings Law only requires Commission meetings to be in public, with prior adequate notice to the public, and allowing public attendance. There is no explicit requirement that public comment must be permitted at meetings. (F.S.A § 286.011 (2012).)

B. STATUTE-SPECIFIED MEMBERSHIP:

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

**-5/25 POINTS**

Explicit prohibition on for-profit majority, Plus no possibility of a majority of the quorum	Explicit prohibition on for-profit majority	Strongly discouraged	Discouraged	No prohibition specified, but not discouraged	For-profit majority mandated
25 Points	20 Points	15 Points	10 Points	0 Points	<b>-5 points</b>

**Explanation:**

Florida law provides that four out of the seven Commission members are statutorily mandated to be affiliated with the postsecondary institutions that the Commission is charged with overseeing. (F.S.A. § 1005.21.)

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

**0/10 POINTS**

Yes	No
10 Points	<b>0 Points</b>

**Explanation:**

In addition to the four Commission members that must be affiliated with the postsecondary institutions the Commission is charged with overseeing, one Commission member must be affiliated with a Florida public school district or Florida College System institution, one Commission member must be a representative of a college not subject to the purview or jurisdiction of the Commission, and one Commission member must be a layperson not affiliated with an independent postsecondary institution. The Commission is not mandated to include a consumer advocate. (F.S.A. § 1005.22.)

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

**5/5 POINTS**

All	Majority	Half	Minority	None
<b>5</b>	3	2.5	1	0

**Explanation:**

All Commission members are appointed by the Governor and confirmed by the Senate. (F.S.A. § 1005.21.)

## II. STATE OVERSIGHT—EFFICACY: 43/100 POINTS

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

3/10 POINTS

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

**Explanation:**

The Commission renews licenses annually, and no on-site review is required. The Commission may extend a license an additional year if it approves an institution's application for license extension. The Commission's rules state that employees "*shall* have the authority" to conduct visits "as a criterion for annual licensure." (Fla. Admin Code R. 6E-4.007(1)(b).) Thus, the Commission has the authority to conduct visits but is not required to do so. (F.S.A. § 1005.31.)

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

3/5 POINTS

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

**Explanation:**

The Commission has discretion to perform onsite reviews in a lawful manner at all reasonable hours. (F.S.A. § 1005.38.) If an institution is on probation, however, "[u]nannounced staff visits shall be made to the institution as necessary to monitor its activities." (Fla. Admin Code R. 6E-2.0061(2)(b).)

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

20/20 POINTS

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

**Explanation:**

An institution that holds a Provisional License, or seeks renewal of an Annual License, shall be granted an Annual License for a period not to exceed one year when the Commission determines that the institution has demonstrated full compliance with all licensure standards and that all appropriate fees have been paid. (Fla. Admin Code R. 6E 2.002(2)(a).) A satisfactory onsite visit must occur prior to the granting of an initial Annual License. An accredited institution may submit a report of a satisfactory visit by its accrediting agency to satisfy this requirement.

An annual license shall be extended for up to one year if the institution meets the following requirements: it has held Annual Licensure for a minimum of five consecutive years; it has no complaints pending whereupon probable cause has been found; it has complied with all appropriate rules and statutes; and it has paid all appropriate fees. Prior to the beginning of the extended year of the license, the institution shall submit reports to the Commission.

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

**12/20 POINTS**

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8 of 8	7 of 8	6 of 8	5 of 8	4 of 8	3 of 8	2 of 8	1 of 8	0 of 8
20 Points	17.5 Points	15 Points	12.5 Points	<b>10-12 Points</b>	7.5 Points	5 Points	2.5 Points	0 Points

Element	
Admission Requirements	<b>M</b>
Graduation Requirements	<b>D</b>
Placement Rate	<b>M</b>
Completion Rate (or Graduation Rate)	<b>M</b>
Advertising Practices	<b>D</b>
Cohort Default Rate	
Accreditation Status	<b>M</b>
Financial Aid Policies	

***M=Mandatory; D=Discretionary***

**Explanation:**

The Commission shall develop minimum standards by which to evaluate institutions for licensure. These standards must include at least the institution's name, financial stability, purpose, administrative organization, admissions and recruitment, educational programs and curricula, retention, completion, career placement, faculty, learning resources, student personnel services, physical plant and facilities, publications, and disclosure statements about the status of the institution with respect to professional certification and licensure. The Commission may adopt rules to ensure that institutions meet these standards in ways that are appropriate to achieve the stated intent, including provisions for nontraditional or distance education programs and delivery. (F.S.A. § 1005.31.)

Florida receives partial credit for the element "graduation requirements." Because it requires information about a school's educational programs, which may—but would not necessarily have to—include graduation requirements, the state is given credit for including this element as discretionary.

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

**5/15 POINTS**

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Yes, strongly distinguished	Yes, moderately distinguished	Yes, slightly Distinguished	Not distinguished
15 Points	10 Points	5 Points	0 Points

**Explanation:**

Florida exempts some non-profit schools from the Commission's oversight. (F.S.A. § 1005.06.) Religious colleges, avocational schools, and professional development schools are also exempt.

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

**0/10 POINTS**

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Yes, mandatory	Yes, mandatory but limited	Yes, discretionary	Yes, discretionary but limited	No
10 Points	7.5 Points	5 Points	2.5 Points	0 Points

**Explanation:**

Florida law does not mandate increased oversight or scrutiny based on poor performance. However, poor performance could cause an institution's license application to be denied. The Commission reviews an institution's performance every one to two years when it reviews an institution's application for license renewal. (F.S.A § 1005.31.) Interestingly, Commission Rules set out several violations which can result in probation for the licensee—but none of those involve performance standards. (See e.g. Fla. Admin Code R. 6E-2.0061(4)(a)-(n).)

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

**0/20 POINTS**

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Yes	No
20 Points	0 Points

**Explanation:**

Florida law only encourages postsecondary schools to offer priority enrollment to veterans, their spouses, and their children. (F.S.A. § 1005.09.)

### III. STATE OVERSIGHT—SCOPE AND INCLUSION:

**75/100 POINTS**

#### A. ARE EXEMPTIONS TO STATE OVERSIGHT COVERAGE LIMITED?

**75/100 POINTS**

No exemptions	Few exemptions	Moderate exemptions	Broad exemptions
100 Points	75 Points	50 Points	0 Points

**Explanation:**

State-run institutions are not subject to oversight, and some non-profit institutions under the Department of Education’s jurisdiction are exempted. Religious colleges are also exempt if they meet certain criteria. (F.S.A. § 1005.06.)

### IV. DISCLOSURE REQUIREMENTS:

**17.5/100 POINTS**

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

**0/20 POINTS**

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

**Explanation:**

Florida does not require disclosure of an institution’s performance measures. Institutions are required to disclose the following: statement of the purpose; educational programs and curricula; a description of the physical facilities; licensure status; fee schedule; policies regarding retaining student fees if a student withdraws; and a statement regarding the transferability of credits to and from other institutions. There are no requirements, however, related to disclosure of essential measures of institutional performance. (F.S.A. § 1005.04.) The institution shall disclose to students that additional information may be obtained from the Commission. (F.S.A. 1005.04(2).)



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

**0/60 POINTS**

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

**Explanation:**

Florida law does not specify that institutions may or must disclose any of the above essential measures of institutional performance to potential students.

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

**17.5/20 POINTS**

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

**Explanation:**

Institutions must disclose a fee schedule, refund information, and information related to transferability of credits. Florida law does not specify whether all institutions must disclose the amount of classes and time required to complete a program. (F.S.A. § 1005.04.)

\*For nondegree granting institutions, not accredited by a company recognized by the Department of Education, the anticipated program completion time must be disclosed on the mandated enrollment agreement (titled Contract or something similar) and the catalog. (F.A.C. 6E-1.0032(8)(i).) Therefore, the state receives partial credit for requiring these mandatory, but limited, disclosures.

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**V. REGULATION OF RECRUITING PRACTICES:**

**75/100 POINTS**

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

**75/100**

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Yes, strong regulation	Yes, moderate Regulation	Yes, weak regulation	No list of prohibited acts
100 Points	75 Points	50 Points	0 Points

#### PROHIBITED ACTS

Included in list of Prohibited Acts	
Misleading representations using the word “college” or “university”	X
Misleading institution affiliations (e.g., military, public institution, businesses)	
Promise of employment	X
Compensation for enrollment	X
Compensation or “bounty” to recruiters	
Deception	X
Misrepresentation	X
Misleading representations re: accreditation	

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

#### **Explanation:**

Florida law allows the Commission to impose disciplinary action for false, deceptive, or misleading advertising. (F.S.A. § 1005.38.) There are several provisions related to agents that prohibit agents from offering inducements for enrollment within a certain timeframe among other actions. (F.A.C. 6E-2.010.)

An entity shall not use the designation “college” or “university” in its name in Florida without approval by the commission, unless the commission determines that its name is clearly and accurately descriptive of the services provided by the entity and is not one that may mislead the public. F.S.A. § 1005.03(4)

An institution shall not permit the payment of cash or other nonmonetary incentives, such as but not limited to travel or gift certificates, to any prospective student as an inducement to enroll or visit the institution. F.A.C. R. 6E-2.004.

## VI. COMPLAINT PROCESS AND RELIEF FOR STUDENTS:

**50/100 POINTS**

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

**20/20 POINTS**

Yes	No
20 Points	0 Points

#### **Explanation:**

The Commission assesses a fee to each school to create the Student Protection Fund, which is used when an institution closes before a student has completed his/her course of study; money from the Fund is available to pay for completion of the student’s education and/or training. (F.S.A. § 1005.37.)

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

**0/20 POINTS**

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Yes, full refund	Yes, partial refund	No refund required
20 Points	10 Points	0 Points

**Explanation:**

Although the state does not require the refund of tuition if a student enrolls as the result of misrepresentation, the Commission must institute disciplinary grounds and possibly revoke an institution's license for misrepresentations. (F.S.A. § 1005.38.)

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

**10/20 POINTS**

---

Yes, full refund	Yes, partial refund	Yes, refund in limited circumstances	No refund required
20 Points	15 Points	10 Points	0 Points

**Explanation:**

Florida law requires insolvent institutions to provide current students an opportunity to finish their education or training. If the institution closes without providing this opportunity, it may be criminally punished or civilly liable. (6 FL ADC 6E-2.009.) The Commission may impose civil penalties up to \$10,000 upon institutions that close without allowing students to finish their programs, and penalty funds go into the Student Protection Fund for student reimbursement. (F.S.A. § 1005.36.)

F.S.A. 1005.36(1) further provides that it is the intent of the Legislature “to protect students and the independent sector of postsecondary education from the detriment caused by licensed institutions that cease operation without providing for...the appropriate refund of student fees.” Therefore, students will likely receive some kind of reimbursement, but there is no requirement in place for the institution to provide a refund.

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

**10/10 POINTS**

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

**Explanation:**

Florida law requires that students have the ability to make a complaint, and no deadline is specified. (F.S.A. § 1005.04.)

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

**5/20 POINTS**

Medium	Yes	Discretionary	No
Catalog	10 Points	5 Points	0 Points
Website	5 Points	2.5 Points	0 Points
Enrollment contract	5 Points	2.5 Points	0 Points

**Explanation:**

The Commission must establish and publicize a procedure for receiving and responding to complaints regarding an institution. (F.S.A. § 1005.22(1)(k).)

Although FAC 6E-2.004(2)(cc) provides that an institution's catalog shall contain "the procedures by which complaints will be considered and addressed by the institution," there is no specific requirement that the institutions include information or instruction on how to file a complaint with the state oversight body.

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

**5/10 POINTS**

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

**Explanation:**

The Commission's website lists a mailing address, a fax number, and an email address to which complaints may be submitted (see <http://www.fldoe.org/policy/cie/file-a-complaint.shtml>.)



It is noteworthy and concerning that the website does not guarantee the privacy of the student making the complaint against the institution. The website says that all documents received are considered a matter of public record and confidentiality is not guaranteed. This could dis-incentivize whistleblower employees and students from making complaints.

**VII. ENFORCEMENT:**

**5/100 POINTS**

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

**5/30 POINTS**

Yes, required	Yes, required but limited	Yes, discretionary	<b>Yes, discretionary but limited</b>	No
30 Points	20 Points	15 Points	<b>5 Points</b>	0 Points

**Explanation:** There is no indication in Florida's statutes or regulations that a school will lose state aid if it produces substandard graduation rates, job placement rates and/or high cohort default rates. However, an institution may risk losing its license or not have its license renewed if its annual reports indicate to the Commission that problems exist which may affect students. Therefore, because this could include factors such as substandard graduation rates, job placement rates and/or cohort default rates, the state receives partial credit of 5 points (although the statute does not specifically call for loss of aid in these specific circumstances, it does leave some limited discretion for the state to investigate which may, in some cases lead to loss of aid).

Prior to the beginning of the extended year of the license, the institution shall submit reports to the Commission. The reports shall include the name, location, and license number of the institution; the name of the chief administrative officer; the number of students enrolled, withdrawn, and graduated; the percentage of placement of graduates; a copy of the institution's catalog and enrollment agreement or application for admission; evidence of the institution's accreditation status if any; and reports fulfilling the Commission's financial reporting requirements. If the Commission has reason to believe that a problem may exist which could affect students, additional reports shall be requested. Fla. Admin. Code R. 6E-2.002(2)(b)(1)(e.)

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

**0/30 POINTS**

Yes	Limited circumstances	No
30 Points	15 Points	<b>0 Points</b>

**Explanation:**

Florida law only says that institutions may be investigated by the Commission if it believes that the institution has violated its licensing requirements. The Commission can issue cease-and-desist orders to stop specific unlawful practices by institutions. (F.S.A. § 1005.38.)

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

**0/20 POINTS**

Yes	Limited	No
20 Points	15 Points	<b>0 Points</b>

**Explanation:**

Florida law does not specify that attorney fees are available for students.

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D. DOES STATE LAW EXPLICITLY AUTHORIZE  
ATTORNEY GENERAL INVOLVEMENT?

**0/20 POINTS**

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Yes	Limited circumstances	No
20 Points	10 Points	0 Points

**Explanation:**

Florida law only provides that institutions may be prosecuted if they engage in unlawful practices like operating without a license or offering misrepresentations to students. (F.S.A. § 1005.375.) However, note that in 2016 the founder of a for-profit college was convicted to an 8-year prison term for deceptive advertising and fraud leading to stealing millions on federal financial aid (see <http://www.miamiherald.com/news/local/article75132977.html>.)

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## BONUS POINTS

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Florida receives no bonus points.



### ILLUMINATING INFORMATION

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## PENDING LEGISLATION

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### 2017 BILL TEXT FL H.B. 843

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The bill authorizes two members of any board or commission, including persons elected or appointed to such board or commission who have not yet taken office, of any state agency or authority or any agency or authority of any county, municipal corporation, or political subdivision with a total membership of at least five members to meet in private and discuss public business without providing notice of such meeting or recording the meeting. Such meetings are exempt from open meetings requirements if:

- The members do not adopt a resolution or rule to take any other formal action, or agree to do so at a future meeting, at such meeting. A resolution or rule adopted, or any other formal action taken, in violation of this prohibition is void.
- The members do not discuss an appropriation, a contract, or any other public business that involves the direct expenditure of public funds to a private vendor.
- The meeting is not intended to frustrate or circumvent the purpose of the open meetings laws.

See <https://www.flsenate.gov/Session/Bill/2017/843/Analyses/h0843a.OTA.PDF>.

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### 2017 BILL TEXT FL S.B. 186

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Requires institutions to make specific disclosures to the commission and students including federal student loan default rates, accreditation information and other transparency and accountability disclosures. The bill also alters the makeup of the board. It looks as though the bill would eliminate a stakeholder member majority on the board.

See <https://www.flsenate.gov/Session/Bill/2017/186/BillText/Filed/PDF>.

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### 2017 BILL TEXT FL H.B. 859

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This bill would authorize the state to participate in a distance learning reciprocity program, State Authorization Reciprocity Agreement (SARA). The program is supposed to simplify online learning for students by “centralizing the approval of distance education courses and programs offered across state lines by institutions that already have degree authorization in at least one state. Colleges and universities in a SARA state need only their home state authorization to offer distance education to any other SARA member state.”

See <https://www.flsenate.gov/Session/Bill/2017/859/Analyses/h0859c.HEA.PDF>.

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## RECIPROCITY AGREEMENTS

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

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

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

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# GEORGIA

## FINAL GRADING ANALYSIS

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OVERALL SCORE: **357.5/700 POINTS (51%)**  
LETTER GRADE: **F**

### I. OVERSIGHT BODY: **80/100 POINTS**

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#### A. IS THERE A STATUTORILY CREATED OVERSIGHT BODY THAT IS PUBLICLY ACCOUNTABLE?

**50/60 POINTS**

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Element	Points	Points Awarded
1. Oversight body is a multi-member board, commission, or panel created by statute	10	10
2. Oversight body was statutorily created specifically to oversee private postsecondary institutions	10	10
3. Multi-member board, commission, or panel is the ultimate decision maker (as opposed to a single person, like the head of a department or director)	10	5
4. Oversight body can engage in rulemaking	10	10
5. Oversight body's meetings must be open to the public	5	5
6. Oversight body's meetings must allow public comment	5	5
7. Oversight body can initiate investigations	5	2.5
8. Oversight body can impose penalties for violations	5	2.5
Total Points	60	50

**Explanation:**

In Georgia, the Nonpublic Postsecondary Education Commission consists of 15 members who are appointed by the Governor and confirmed by the Senate. (O.C.G.A. § 20-3-250.5.) Georgia receives partial credit for the element “board is the decision maker,” because the Commission is the final decision maker with regard to establishing rules, regulations, and policies, minimum criteria for postsecondary institutions, and negotiating reciprocity agreements. (O.C.G.A. § 20-3-250.5.) However, the executive director of the Commission receives, investigates as he may deem necessary, and acts upon applications for authorization to operate nonpublic postsecondary educational institutions and upon applications for agents’ permits; investigates as he may deem necessary on his own initiative or in response to any complaint lodged with him any person, group, or entity subject to, or reasonably believed by him to be subject to, the jurisdiction of this part and administer compliance with this part in accordance with standards, rules, regulations, and policies of the commission, among other duties. (O.C.G.A. § 20-3-

250.5(c).) Likewise, Georgia receives partial credit for “board can initiate investigations” because the executive director of the Commission can initiate investigations. (O.C.G.A. § 20-3-250.5(c)(5).) Finally, Georgia receives partial credit for the “board can impose penalties” element because the executive director of the Commission may, at his/her discretion, award the complainant full or partial restitution for damages and loss. (O.C.G.A. § 20-3-250.14(c).) Georgia receives only partial credit for these elements because it would be preferable for the Commission as a whole to have the authority to initiate investigations and to impose penalties/order restitution. That said, such power being vested in the executive director of the Commission is preferable to it being delegated to the head of a department, as the executive director is more accountable to the public (through the Commission) than would be the head of a state department or agency.

Georgia’s Nonpublic Postsecondary Education Commission meetings must be open to the public and must allow opportunity for public comment. (O.C.G.A. § 50-14-1; Ga. Comp. R. & Regs. r. 392-1-.08.)

## B. STATUTE-SPECIFIED MEMBERSHIP

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

**25/25 POINTS**

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

#### **Explanation:**



#### **Notable Provision:**

The Commission consists of 15 members. (O.C.G.A. § 20-3-250.4(a).) Two members of the Commission shall be appointed to represent degree-granting nonpublic postsecondary educational institutions and two members shall be appointed to represent nonpublic postsecondary educational institutions which grant certificates only. The remaining members shall not be employed by or otherwise represent or have an interest in any nonpublic postsecondary educational institution. Thus, four of the 15 members are statutorily-required to be representatives of nonpublic postsecondary institutions, which may be for-profit or nonprofit, and the remaining nine are prohibited from representing nonpublic postsecondary institutions. (O.C.G.A. § 20-3-250.4(b).) For the purposes of conducting business, a quorum consists of the majority of the members of the Commission. (O.C.G.A. § 20-3-250.4(g).) Therefore, given the statutorily mandated make-up of the Commission, a quorum would consist of eight members, and there is no possibility of private for-profit institutions making up a majority of the quorum. Additionally, Ga. Comp. R. & Regs. r. 392-1-.01(5) specifies that not less than six voting members must concur in order for it to take official action.

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

**0/10 POINTS**

Yes	No
10 Points	0 Points

**Explanation:**

Georgia does not mandate the Nonpublic Postsecondary Education Commission to include a consumer advocate (an individual with expertise and experience in the area of consumer advocacy).

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

**5/5 POINTS**

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

**Explanation:**

All members of the Nonpublic Postsecondary Education Commission are appointed by the governor and confirmed by the Senate. (O.C.G.A. § 20-3-250.4; Ga. Comp. R. & Regs. r. 392-1-.01.)

**II. STATE OVERSIGHT—EFFICACY:**

**57.5/100 POINTS**

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

**10/10 POINTS**

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

**Explanation:**

Georgia requires each nonpublic postsecondary educational institution desiring to operate or conduct postsecondary activities in this state to make application to the Commission, in addition to an onsite inspection, and any further information the executive director of the Commission deems necessary. (O.C.G.A. § 20-3-250.8(c), (g).)

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

**0/5 POINTS**

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

**Explanation:**

Georgia law does not require or authorize unannounced inspections for onsite reviews.

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

**20/20 POINTS**

Mandatory			Discretionary	None
Every 2 years or less	Every 3-5 years	Over 5 years	Every 2 years or less	No review specified
20 Points	15 Points	10 Points	5 Points	0 Points

**Explanation:**

Schools are authorized for a term not to “extend for more than one year and may be issued for a lesser period of time.” (O.C.G.A. § 20-3-250.8(e).)

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

**17.5/20 POINTS**

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

Element	
Admission requirements	M
Graduation requirements	M
Placement rate	M
Completion rate (or graduation rate)	M
Advertising practices	M
Cohort default rate	
Accreditation status	M
Financial aid policies	M

*M=Mandatory; D=Discretionary*

**Explanation:**

Georgia requires review of admission requirements, graduation requirements, advertising practices, accreditation status and financial aid policies, among the elements included in school applications for authorization and renewal of authorization. (O.C.G.A. § 20-3-250.8; O.C.G.A. § 20-3-250.6; Ga. Comp. R. & Regs. r. 392-5-.01; Ga. Comp. R. & Regs. r. 392-11-.03)

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

**10/15 POINTS**

Yes, strongly distinguished	Yes, moderately distinguished	Yes, slightly distinguished	Not distinguished
15 Points	10 Points	5 Points	0 Points

**Explanation:**

Several non-profits are exempted from oversight. (O.C.G.A. § 20-3-250.3(10), (11).)

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

**0/10 POINTS**

Yes, Mandatory	Yes, mandatory but limited	Yes, discretionary	Yes, discretionary but limited	No
10 Points	7.5 Points	5 Points	2.5 Points	0 Points

**Explanation:**

There is no indication that Georgia law requires increased oversight of private postsecondary institutions due to poor performance (e.g., low graduation/completion rates, high cohort default rates, low placement rates).

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

**0/20 POINTS**

Yes	No
20 Points	0 Points

**Explanation:**

Georgia law has no special protections in place specifically for veterans attending private postsecondary institutions.

**III. STATE OVERSIGHT—SCOPE AND INCLUSION:**

**0/100 POINTS**

A. ARE EXEMPTIONS TO STATE OVERSIGHT COVERAGE LIMITED?

**0/100 POINTS**

No Exemptions	Few exemptions	Moderate exemptions	Broad exemptions
100 Points	75 Points	50 Points	0 Points

**Explanation:**

Most of the exemptions are common sense exemptions and reasonable. However, Georgia law creates an enormous gap in its oversight by exempting “[a]ny college or university that confers both associate and baccalaureate or higher degrees, that is accredited by the Southern Association of Colleges and Schools, College Division, that is operated in a proprietary status, that provides a \$200,000.00 surety bond, and that contributes to the Tuition Guaranty Trust Fund...” (O.C.G.A. § 20-3-250.3(14).)

## IV. DISCLOSURE REQUIREMENTS:

**37.5/100 POINTS**

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

**20/20 POINTS**

Yes, mandatory	Yes, discretionary	None
Fact sheet or equivalent required to be given to students	Fact sheet or documents given to students upon request	No fact sheet required
<b>20 Points</b>	10 Points	0 Points

**Explanation:**

Georgia requires schools to disclose the prior year's enrollment, graduation, and job placement rates; and “such other material facts concerning the institution and the program or course of instruction as are reasonably likely to affect the decision of the student to enroll therein” in the institutional catalog. (O.C.G.A. § 20-3-250.6.)

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

**10/60 POINTS**

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

**Explanation:**

As noted above, Georgia requires postsecondary institutions to provide the previous year's graduation and placement rates in the institutional catalog. However, there is nothing in Georgia law which requires that students receive this information prior to enrolling in the institution. There is no requirement that students sign an acknowledgement of receipt of this information as a part of the enrollment contract or process, for example. Therefore, Georgia receives partial credit for this element, because ultimately, it is left up to the discretion of the institution as to whether or not the student receives and understands this information prior to enrollment.

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

**7.5/20 POINTS**

Element Description	Mandatory	Discretionary	Not specified
<b>Total cost of program</b>	5 Points	<b>2.5 Points</b>	0 Points
<b>Refund information</b>	5 Points	<b>2.5 Points</b>	0 Points
<b>Transferability of credits</b>	5 Points	2.5 Points	<b>0 Points</b>
<b>Length of program</b>	5 Points	<b>2.5 Points</b>	0 Points

**Explanation:**

Nothing in Georgia law requires that students receive this information prior to enrolling in the institution, nor is there a requirement that students sign an acknowledgement of receipt of this information as a part of the enrollment contract or process. However, Georgia receives partial credit for this element because schools are required to provide information related to the cost of the program, refund, and length of the program is required in the catalog. Ultimately, it is left up the discretion of the institution as to whether or not the student receives and understands the information prior to enrollment. (O.C.G.A. § 20-3-250.6(a)(1)(D).)

**V. REGULATION OF RECRUITING PRACTICES:**

**75/100 POINTS**

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

**75/100 POINTS**

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

**PROHIBITED ACTS**

Included in list of prohibited acts	
Misleading representations using the word “college” or “university”	<b>X</b>
Misleading institution affiliations (re: military, public institution, businesses)	
Promise of employment	<b>X</b>
Compensation for enrollment	
Compensation or “bounty” to recruiters	
Deception (broad prohibition)	<b>X</b>
Misrepresentation (broad prohibition)	<b>X</b>
Misleading representations re: accreditation	

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

**Explanation:**

Georgia prohibits institutions and their agents from engaging in advertising, sales, collection, credit, or other practices of any type which are false, deceptive, misleading, or unfair. (O.C.G.A. § 20-3-250.6(I).) Further, Georgia prohibits institutions from making or causing to be made any statement or representation, oral, written, or visual, in connection with the offering or publicizing of a course, which is false, deceptive, substantially inaccurate, or misleading. (O.C.G.A. § 20-3-250.7(a)(5).) Institutions are prohibited from promising or guaranteeing employment unless the promisor or guarantor offers the student or prospective student a bona fide contract of employment agreeing to employ said student or prospective student for a specified period of time in a business or other enterprise regularly conducted by him or her where such information, training, or skill is a normal condition of employment. (O.C.G.A. § 20-3-250.7(a)(7).) Finally, Georgia prohibits institutions from carrying out any act if it is being carried on by the use of fraud, deception, other misrepresentation, or by any person soliciting students without a permit. (O.C.G.A. § 20-3-250.7(a)(8); O.C.G.A. § 20-3-250.7(b).)

**VI. COMPLAINT PROCESS AND RELIEF FOR STUDENTS:****72.5/100 POINTS****A. DOES THE STATE REQUIRE A BOND OR FUND AS A CONDITION OF AUTHORIZATION?****20/20 POINTS**

Yes	No
20 Points	0 Points

**Explanation:**

At the time an initial application, Georgia requires institutions to file a surety bond with the executive director of the Commission. (O.C.G.A. § 20-3-250.10.)

**B. DOES THE STATE REQUIRE A REFUND OF TUITION IF A STUDENT ENROLLS AS THE RESULT OF MISREPRESENTATION?****10/20 POINTS**

Yes, full refund	Yes, partial refund	No refund required
20 Points	10 Points	0 Points

**Explanation:**

The surety bond that institutions are required to pay is conditioned to provide indemnification to the Tuition Guaranty Trust Fund and to any student or enrollee or that person's 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 part or of rules and regulations promulgated pursuant thereto by such nonpublic postsecondary educational institution and that the bonding company shall pay any final, nonappealable judgment rendered by the Commission or any court of this state having jurisdiction, upon receipt of written notification thereof. The aggregate liability of the surety thereon shall in no event exceed the penal sum of the bond. (O.C.G.A. § 20-3-250.10(a).) If a student enrolls as the result of misrepresentation, the misrepresentation would be a violation of the law and the student would likely be indemnified. There are



some limitations here, but there is a fund and a mechanism for students in Georgia to recover tuition in situations of misrepresentations.

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

**15/20 POINTS**

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Yes, full refund	Yes, partial refund	Yes, refund in limited circumstances	No refund required
20 Points	15 Points	10 Points	0 Points

**Explanation:**

Tuition Guaranty Trust Fund is created from participation fees from postsecondary educational institutions to enable such institutions, collectively, to protect students against financial loss when a postsecondary educational institution closes without reimbursing its students and without completing its educational obligations to its students and to provide consumer information, as necessary in the determination of the commission, to prospective and currently enrolled students. (O.C.G.A. § 20-3-250.27.) Students at defaulting schools will receive a tuition refund from the required surety bond and/or the Tuition Guarantee Trust Fund. However, as an alternative to paying these claims, the board of trustees may arrange for another postsecondary educational institution to complete the educational obligations to the students of the defaulting postsecondary educational institution, provided that the program offered by the other institution is substantially equivalent to the program for which the students had paid tuition and provided, further, that attendance at the other institution does not cause unreasonable hardship or inconvenience to the students. (O.C.G.A. § 20-3-250.27(g)(5).)

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

**10/10 POINTS**

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2 years or more (or no deadline specified)	1-2 years	Under 1 year	Not applicable
10 Points	5 Points	1 Point	0 Points

**Explanation:**

Georgia does not specify, in law or regulation, a deadline for filing complaints.

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

**7.5/20 POINTS**

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

**Explanation:**

Georgia requires that the institutions posts continuously in a conspicuous place a notice setting forth the procedures for filing a complaint with the Commission. Georgia does not specify where this posting should be, so it is up to the discretion of the institutions as to in which conspicuous place the information will be posted. Both the catalog and the website are conspicuous, as such an institution may decide to use one or both of these mediums to post the required information. (O.C.G.A. § 20-3-250.6(a)(1)(N).)

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

**10/10 POINTS**

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

**Explanation:**

Georgia's Nonpublic Postsecondary Education Commission maintains a website on which there is a page containing a complaint form. The page contains a phone number, and the website has a "contact us" tab which contains a contact address and email address.

**VII. ENFORCEMENT: 35/100 POINTS**

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

**0/30 POINTS**

Yes, required	Yes, required but limited	Yes, discretionary	Yes, discretionary but limited	No
30 Points	20 Points	15 Points	5 Points	0 Points

**Explanation:**

Georgia does not explicitly require that institutions lose state aid as a result of substandard graduation rates, job placement rates and/or cohort default rates.

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

**15/30 POINTS**

Yes	Limited circumstances	No
30 Points	15 Points	0 Points

**Explanation:**

Any person aggrieved or adversely affected by any final action of the Commission may obtain judicial

review of such action which may be commenced in any court of competent jurisdiction within 30 days after the Commission's action becomes effective. (O.C.G.A. § 20-3-250.16.)

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

**0/20 POINTS**

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<b>Yes</b>	<b>Limited</b>	<b>No</b>
20 Points	15 Points	<b>0 Points</b>

**Explanation:**

Georgia does not explicitly allow attorney fee awards for students who prevail in litigation against private licensed schools that have violated the laws and regulations in place to govern them.

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**D. DOES STATE LAW EXPLICITLY AUTHORIZE ATTORNEY GENERAL INVOLVEMENT?**

**20/20 POINTS**

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<b>Yes</b>	<b>Limited circumstances</b>	<b>No</b>
<b>20 Points</b>	10 Points	0 Points

**Explanation:**

Georgia law explicitly authorizes attorney general involvement at O.C.G.A. § 20-3-250.18(a).

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**BONUS POINTS**

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Georgia does not receive any bonus points.



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**ILLUMINATING INFORMATION**

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**RECOPROCITY AGREEMENTS**

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

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

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

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# HAWAII

## FINAL GRADING ANALYSIS

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

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

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#### A. IS THERE A STATUTORILY CREATED OVERSIGHT BODY THAT IS PUBLICLY ACCOUNTABLE?

**20/60 POINTS\***

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

#### Explanation:

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

**Type 2: Degree-granting, unaccredited postsecondary institutions.** The Office of Consumer Protection, within the Department of Commerce and Consumer Affairs, is the state agency responsible for enforcing Hawaii's unaccredited degree-granting institutions law, codified in Chapter 446E of the Hawaii Revised

Statutes. Hawaii does not have a multi-member body or board charged with administration of its unaccredited degree-granting institutions law.

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

## B. STATUTE-SPECIFIED MEMBERSHIP:

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

**0/25 POINTS\***

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

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

#### **Explanation:**

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

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

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

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

**0/10 POINTS\***

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

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

#### **Explanation:**

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

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

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

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

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

**0/5 POINTS\***

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

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

#### **Explanation:**

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

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

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

## II. STATE OVERSIGHT—EFFICACY: 21.2/100 POINTS

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

**2.7/10 POINTS\***

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

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

**Explanation:**

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

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

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

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

**1/5 POINTS\***

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

	<b>Required unannounced visits</b>	<b>Discretion to do unannounced visits</b>	<b>No indication</b>
<b>Type 1</b>	5 Points	3 Points	<b>0 Points</b>
<b>Type 2</b>	5 Points	3 Points	<b>0 Points</b>
<b>Type 3</b>	5 Points	<b>3 Points</b>	0 Points

**Explanation:**

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

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

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

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

**13.3/20 POINTS\***

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



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

**Explanation:**

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

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

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

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

**1.7/20 POINTS\***

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

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

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

*M=Mandatory; D=Discretionary*

**Explanation:**

**Type 1: Degree-granting, accredited postsecondary institutions.** HRS § 305J-11 provides that the

Director may refuse to reauthorize a private college or university that, among other things, has failed to maintain accreditation or has engaged in false, fraudulent, or deceptive advertising.

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

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

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

**0/15 POINTS\***

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

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

**Explanation:**

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

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

**2.5/10 POINTS\***

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

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

**Explanation:**

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

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

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

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

**0/20 POINTS**

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

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

**Explanation:**

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

**III. STATE OVERSIGHT—SCOPE AND INCLUSION:**

**83.3/100 POINTS**

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**1. ARE EXEMPTIONS TO STATE OVERSIGHT COVERAGE LIMITED?**

**83.3 /100 POINTS\***

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

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

**Explanation:**

The oversight schemes for all three types of institutions contain various common-sense exemptions for which no points were deducted (*e.g.*, schools and educational programs conducted by firms, corporations, or persons for the training of their own employees; apprentice or other training programs provided by labor unions to union members or union applicants for membership; and schools, courses of instructions, or courses of training that are offered by a vendor to the purchaser of the vendor's product, when the objective of the school or course is to enable the purchaser to gain skills and knowledge which enable the purchaser to use the product).

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

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

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

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

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

0/20 POINTS\*

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

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

##### Explanation:

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

Also, § 8-101-3(h) of the Hawaii Administrative Rules requires Type 3 schools to prepare and make available for distribution to prospective students and other interested persons, a brochure containing “essential information about the school and the courses of instruction it offers” (e.g., entrance requirements, schedule of all charges, length of each course, the school’s policy on, among other things, the refund of tuition and other fees collected, student loans or financing plans, and placement services), but none of that information pertains to the institution’s performance.

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

0/60 POINTS\*

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

***Type 1: Degree-granting, accredited postsecondary institutions***

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

***Type 2: Degree-granting, unaccredited postsecondary institutions***

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

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

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

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

**5/20 POINTS\***

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

***Type 1: Degree-granting, accredited postsecondary institutions***

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

*Type 2: Degree-granting, unaccredited postsecondary institutions*

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

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

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

**Explanation:**

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

## V. REGULATION OF RECRUITING PRACTICES:

**66.7/100 POINTS**

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

**66.7/100**

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

#### PROHIBITED ACTS

Included in list of prohibited acts	Type 1	Type 2	Type 3
Misleading representations using the word "college" or "university"	X		
Misleading institution affiliations (e.g., military, public institution, business)	X	X	X
Promise of employment			X
Compensation for enrollment			
Compensation or "bounty" to recruiters			

<b>Deception (broad prohibition)</b>	<b>X</b>		<b>X</b>
<b>Misrepresentation (broad Prohibition)</b>	<b>X</b>		<b>X</b>
<b>Misleading representations re: accreditation</b>	<b>X</b>	<b>X</b>	

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

**Explanation:**

**Type 1: Degree-granting, accredited postsecondary institutions.** HRS § 305J-11 provides that the Director may refuse to reauthorize, reinstate or restore, or may deny, revoke, suspend, or condition in any manner a school's authorization for, among other things, engaging in false, fraudulent, or deceptive advertising, or making untruthful or improbable statements. It also provides that it shall be a violation of the law for a private college or university or its agent to falsely represent or deceptively conceal, directly or by implication, through the use of a trade or business name, the fact that the institution is a private college or university; to adopt a name, trade name or trademark that represents false, directly or by implication, the quality, scope, nature, size, or integrity of the private college or university; or to provide prospective students with testimonials, endorsements, or other information that has the tendency to mislead or deceive prospective students or the public regarding its current practices.

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

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

## **VI. COMPLAINT PROCESS AND RELIEF FOR STUDENTS:**

**31.26/100 POINTS**

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

**8.9/20 POINTS\***

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

	<b>Yes</b>	<b>No</b>
<b>Type 1</b>	<b>20 6.67 Points</b>	0 Points
<b>Type 2</b>	20 Points	<b>0 Points</b>
<b>Type 3</b>	<b>20 Points</b>	0 Points

**Explanation:**

**Type 1: Degree-granting, accredited postsecondary institutions.** HRS § 305J-14 provides that a private



college or university shall provide evidence of financial integrity at the time of its application for authorization by meeting one of three specified criteria; however, only one of those three criteria involves the filing of a surety bond in favor of the state in a specified amount. Thus, Hawaii receives partial credit (one-third of the total possible points).

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

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

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

**3.33/20 POINTS\***

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

	Yes, full refund	Yes, partial refund	No refund required
<b>Type 1</b>	20 Points	10 Points	<b>0 Points</b>
<b>Type 2</b>	20 Points	10 Points	<b>0 Points</b>
<b>Type 3</b>	<del>20</del> <b>10 Points</b>	10 Points	0 Points

**Explanation:**

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

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

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

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

**3.33/20 POINTS\***

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

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

**Explanation:**

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

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

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

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

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**D. DOES THE STATE ALLOW STUDENTS AMPLE TIME TO MAKE A COMPLAINT?**  
**6.7/10 POINTS\***

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

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

**Explanation:**

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

**Type 2: Degree-granting, unaccredited postsecondary institutions.** Though Hawaii has a generic complaint process available to consumers through the Office of Consumer Protection (<http://cca.hawaii.gov/ocp/files/2015/08/OCP-Complaint-Form.pdf>), Hawaii law does not set forth a complaint process specific to degree-granting, unaccredited postsecondary institutions. Because there is

no process specific to these institutions, the state receives no credit for this element as it relates to degree-granting, unaccredited postsecondary institutions.

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

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

**5/20 POINTS\***

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

**Type 1: Degree-granting, accredited postsecondary institutions.**

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

**Explanation:**

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

**Type 2: Degree-granting, unaccredited postsecondary institutions.**

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

**Explanation:**

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

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

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

**Explanation:**

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

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

**4/10 POINTS\***

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

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

**Explanation:**

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

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

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

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**VII. ENFORCEMENT: 53.3/100 POINTS**

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

**0/30 POINTS\***

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

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

**Explanation:**

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

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

**20/30 POINTS\***

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

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

**Explanation:**

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

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

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

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

**20/20 POINTS\***

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

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

**Explanation:**

With regard to all three types of institutions, HRS § 480-13 generally requires an award of attorney fees

to plaintiffs who successfully challenged an institution's unfair or deceptive acts or practices declared unlawful in HRS § 480-2.

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D. DOES STATE LAW EXPLICITLY AUTHORIZE  
ATTORNEY GENERAL INVOLVEMENT?

**13.3/20 POINTS\***

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

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

**Explanation:**

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

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

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

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**BONUS POINTS:**

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Hawaii receives no bonus points.



**ILLUMINATING INFORMATION**



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**RECENT LEGISLATION / RULEMAKING**

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In June 2015, the Hawaii State Senate passed Senate Concurrent Resolution 46, which requests the Department of Education (DOE) and the Department of Commerce and Consumer Affairs (DCCA) to

convene a working group to evaluate the licensure of private trade, vocational, and technical schools. Among other things, the resolution states that

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

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

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

In 2013, the Hawaii State Legislature considered House Bill No. 1200, which would have established the State Post-Secondary Education Commission within DCCA; effective July 1, 2015, the Commission would have been charged with overseeing the post-secondary authorization program of unaccredited degree-granting institutions pursuant to Chapter 446E, HRS. In conjunction with its consideration of that measure, the Legislature passed Senate Concurrent Resolution 119, requesting that the Hawaii State Auditor conduct a sunrise analysis of the bill.

In January 2014, the Auditor released its report, *Sunrise Analysis: Regulation of Unaccredited Degree Granting Institutions* (Report No. 14-03), which concluded that HB 1200 is not needed to comply with the Higher Education Act of 1965. The Auditor also found that the proposed regulation is unwarranted, and that the measure had several flaws. For example, it did not specify a regulatory framework; that is, it does not state whether it would require licensure, certification, or registration for unaccredited degree

granting institutions. The Auditor found the cost of regulation would be prohibitive, at nearly twice the fees for accredited institutions. These costs would likely translate to higher costs for consumers and restrict entry into the field for other unaccredited institutions. Also, the Auditor noted that while there had been numerous complaints against unaccredited degree granting institutions, these have declined considerably in recent years, from a peak of 239 in 2005 to one in 2013. Following the release of the Auditor's report, the Legislature took no further action on HB 1200.

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## RECIPROCITY AGREEMENTS

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

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

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

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

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# IDAHO

## FINAL GRADING ANALYSIS

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OVERALL SCORE: **294.25 / 700 POINTS (42%)**  
LETTER GRADE: **F**

### I. OVERSIGHT BODY: **42.5/100 POINTS**

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#### A. IS THERE A STATUTORILY CREATED OVERSIGHT BODY THAT IS PUBLICLY ACCOUNTABLE?

**37.5/60 POINTS**

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Element	Points Available	Points Awarded
1. Oversight body is a multi-member board, commission, or panel created by statute	10	10
2. Oversight body was statutorily created specifically to oversee private postsecondary institutions	10	0
3. Multi-member board, commission, or panel is the ultimate decision maker (as opposed to a single person, like the head of a department or director)	10	5
4. Oversight body can engage in rulemaking	10	10
5. Oversight body's meetings must be open to the public	5	5
6. Oversight body's meetings must allow public comment	5	0
7. Oversight body can initiate investigations	5	5
8. Oversight body can impose penalties for violations	5	2.5
Total Points	60	37.5

#### Explanation:

The Idaho State Board of Education is charged with regulation and oversight of both private postsecondary educational institutions (degree-granting institutions) and private proprietary educational institutions (non-degree-granting). (Idaho § 33-2402.) The Board is the decision-maker, but delegates authority to its Executive Director and the Office of the State Board of Education to administer the registration of postsecondary educational institutions and proprietary schools. (IDAPA 08.01.11.200; IDAPA 08.01.11.300.) Therefore, Idaho receives partial credit here. The Board engages in rule-making, and has authority to initiate investigations. (Idaho Code § 33-2407; IDAPA 08.01.11.400.) The Director of the Board may issue cease and desist orders, but there are no provisions allowing the board to impose other penalties absent a court order, thus, Idaho receives partial credit for #8 above. It would be preferable for this authority to be given to the Board, however, this is preferable to placing sole authority for imposing penalties with the head of a state agency or department that would be less accountable to the public. (Idaho Code § 33-2408.)

Meetings must be open to the public. (Idaho Open Meeting Law Idaho Code § 74-203.) However, there is no requirement that these meetings allow the public an opportunity to comment. (*Coalition for Responsible Government v. Bonner County*, First Judicial District, Bonner County Case No. CV-97-00107.)

## B. STATUTE-SPECIFIED MEMBERSHIP:

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

**0/25 POINTS**

Explicit prohibition on for-profit majority, plus no possibility of a majority of the quorum	Explicit prohibition on for-profit majority	Discouraged	No prohibition specified, but not discouraged	For-profit majority mandated
25 Points	20 Points	10 Points	<b>0 Points</b>	-5 points

#### **Explanation:**

There is no language either prohibiting or mandating a for-profit interested majority on the State Board of Education Board. "Appointment to the board shall be made solely upon consideration of the ability of such appointees efficiently to serve the interests of the people, and education, without reference to locality, occupation, party affiliation or religion." (Idaho Code § 33-102.)

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

**0/10 POINTS**

Yes	No
10 Points	<b>0 Points</b>

#### **Explanation:**

No language in the law or statutes specifies the make-up of the State Board of Education and there is no language which mandates the inclusion of a consumer advocate.

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

**5/5 POINTS**

All	Majority	Half	Minority	None
<b>5 Points</b>	3 Points	2.5 Points	1 Point	0 Points

#### **Explanation:**

The Idaho Board of Education consists of 7 members appointed by the governor and confirmed by the Senate, and the State Superintendent of Public Instruction, who is an ex officio voting member. (Idaho Code § 33-102.)

## II. STATE OVERSIGHT—EFFICACY:

**38/100 POINTS**

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

**3/10 POINTS\***

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

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

#### **Explanation:**

Idaho requires both postsecondary and proprietary educational institutions to renew their registration annually. The institutions are required to submit a renewal form or to update the Board with regard to any changes that have been made over the course of the previous year. Upon receiving an application or a renewal, the Board may verify the accuracy of submitted information by inspection, visitation, or any other means it considers necessary. (IDAPA 08.01.11.201 (postsecondary) and IDAPA 08.01.11.302 (proprietary).)

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

**0/5 POINTS\***

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

	Required Unannounced Visits	Discretion to do Unannounced Visits	No indication
Type 1	5 Points	3 Points	<b>0 Points</b>
Type 2	5 Points	3 Points	<b>0 Points</b>

#### **Explanation:**

There is no indication that Idaho requires either mandatory or discretionary unannounced onsite inspections of either private postsecondary institutions or proprietary institutions.

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

**20/20 POINTS\***

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

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

**Explanation:**

Idaho requires both private postsecondary institutions and proprietary institutions to renew their registration annually.

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

**10/20 POINTS\***

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

	<b>8 of 8</b>	<b>7 of 8</b>	<b>6 of 8</b>	<b>5 of 8</b>	<b>4 of 8</b>	<b>3 of 8</b>	<b>2 of 8</b>	<b>1 of 8</b>	<b>0 of 8</b>
Type 1	20 Points	17.5 Points	15 Points	12.5 Points	10 Points	<b>7.5 Points</b>	5 Points	2.5 Points	0 Points
Type 2	20 Points	17.5 Points	15 Points	<b>12.5 Points</b>	10 Points	7.5 Points	5 Points	2.5 Points	0 Points

<i>Element</i>	<b>Type 1</b>	<b>Type 2</b>
<b>Admission requirements</b>		<b>M</b>
<b>Graduation requirements</b>		<b>M</b>
<b>Placement rate</b>		
<b>Completion rate (or graduation rate)</b>	<b>M</b>	<b>M</b>
<b>Advertising practices</b>	<b>M</b>	<b>M</b>
<b>Cohort default rate</b>		
<b>Accreditation status</b>	<b>M</b>	<b>M</b>
<b>Financial aid policies</b>		

*M=Mandatory; D=Discretionary*

**Explanation:**

**Type 1: Private postsecondary educational institutions.** The Idaho private postsecondary registration form is available online at [http://www.boardofed.idaho.gov/priv\\_col\\_univ/col\\_univ\\_registration.asp](http://www.boardofed.idaho.gov/priv_col_univ/col_univ_registration.asp). (IDAPA 08.01.11.200.)

**Type 2: Proprietary educational Institutions.** The Idaho private postsecondary registration form is available online at [http://www.boardofed.idaho.gov/priv\\_col\\_univ/col\\_univ\\_registration.asp](http://www.boardofed.idaho.gov/priv_col_univ/col_univ_registration.asp). (IDAPA 08.01.11.200.)

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

**5/15 POINTS\***

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

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

**Explanation:**

Non-profits are distinguished from for-profits only in that non-profit postsecondary institutions are exempted from some regulations. (Idaho Code § 33-2402(1).)

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

**0/10 POINTS\***

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

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

**Explanation:**

There is no indication that Idaho requires increased oversight or scrutiny when a private postsecondary or proprietary institution performs poorly.

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

**0/20 POINTS**

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

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

**Explanation:**

No Idaho law or regulation sets forth special protections for veterans who attend private postsecondary institutions or proprietary schools in Idaho. Note, however, that both postsecondary educational institutions and proprietary schools in Idaho are required to report the number of veterans enrolled in their programs on their applications for registration. Outside of this reporting requirement, however, there are no special protections in place.

### III. STATE OVERSIGHT—SCOPE AND INCLUSION:

**87.5/100 POINTS**

#### A. ARE EXEMPTIONS TO STATE OVERSIGHT COVERAGE LIMITED?

**87.5/100 POINTS**

	No exemptions	Few exemptions	Moderate exemptions	Broad exemptions
Type 1	<b>100 Points</b>	75 Points	50 Points	0 Points
Type 2	100 Points	<b>75 Points</b>	50 Points	0 Points

#### Exemption:

**Type 1: Private postsecondary educational institutions.** Idaho law contains a few very narrowly tailored exemptions for private postsecondary institutions in the state (e.g., public schools and specified religious and non-profit institutions). **IDAPA 08.01.11.200.04** The exceptions are so narrowly tailored that full credit is given.

**Type 2: Proprietary educational Institutions.** Idaho law contains several common exemptions and one narrowly tailored exemption for propriety educational institutions (e.g., postsecondary credit through a consortium of public and private colleges and universities under the auspices of the Western Governors University). (IDAPA 08.01.11.300.04.)

### IV. DISCLOSURE REQUIREMENTS: **3.75/100 POINTS**

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

**0/20 POINTS\***

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

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

#### Explanation:

Idaho does not require private postsecondary institutions or proprietary educational institutions to disclose any performance measures to potential students.

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

**0/60 POINTS\***

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

**Type 1: Private postsecondary educational institutions:**

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

**Explanation:**

Idaho does not require postsecondary educational institutions to make any of the above disclosures to students prior to enrollment and there is no mention in statute about disclosures that must be available to students upon request.

**Type 2: Proprietary schools:**

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

**Explanation:**

Idaho requires proprietary schools to disclose information to students prior to enrollment, but the specific disclosures noted above, related to institutional performance, are neither required nor discretionary (available upon request).

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

**3.75/20 POINTS\***

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

**Type 1: Private postsecondary educational institutions**

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

**Explanation:**

Idaho does not require schools to include any of the above elements in their enrollment contracts.

**Type 2: Proprietary schools**

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

**Explanation:**

Idaho requires proprietary schools to disclose, in writing, information about the total cost of the program, refund information and information describing the purpose, length, objectives and completion requirements of the courses or courses of study. The information is required prior to enrollment, but is not required to be done in the enrollment contract.

## V. REGULATION OF RECRUITING PRACTICES:

**50/100 POINTS**

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

**62.5/100 POINTS**

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

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

#### PROHIBITED ACTS

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

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



**Explanation:**

**Type 1: Private postsecondary educational institutions.** Idaho prohibits postsecondary schools from engaging in deception and requires schools that have not been fully accredited to disclose to prospective students in these courses or courses of study the accreditation status of the program and anticipated date for full accreditation. This requirement has likely an effect similar to prohibition on misleading statements related to accreditation. Idaho receives partial credit here for its broad prohibition on misleading statements; while nothing in the law specifically prohibits the misleading use of the word college or university, or specifically prohibits misleading statements with regard to an institution's name (e.g., implying an affiliation with the military, a public institution, etc.), or specifically prohibits misleading statements related to accreditation, the state's broad prohibition on misleading statements would presumably include the above-specified elements. (IDAPA 08.01.11.200.09(a)(iii); IDAPA 08.01.11.201.06(b)(iii).)

**Type 2: Proprietary educational institutions.** Idaho prohibits proprietary schools from deception, fraud, and, broadly, from making misleading statements. Idaho receives partial credit for elements related to prohibitions on misleading statements. While nothing in the law specifically prohibits the misleading use of the word college or university, or specifically prohibits misleading statements with regard to an institution's name (e.g., implying an affiliation with the military, a public institution, etc.), or specifically prohibits misleading statements related to accreditation, the state's broad prohibition on misleading statements would presumably include the above-specified elements. (Idaho Code § 33-2404, IDAPA 08.01.11.302.06(b)(iii).)

## **VI. COMPLAINT PROCESS AND RELIEF FOR STUDENTS:**

**40/100 POINTS**

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

**10/20 POINTS\***

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

	<b>Yes</b>	<b>No</b>
<b>Type 1</b>	<b>20 Points</b>	<b>0 Points</b>
<b>Type 2</b>	20 Points	<b>0 Points</b>

**Explanation:**

**Type 1: Private postsecondary educational institutions.** Idaho law does not contain any provisions requiring a private postsecondary educational institution to obtain a surety bond as a condition of registration.

**Type 2: Proprietary educational institutions.** A proprietary school shall obtain a surety bond issued by an insurer duly authorized to do business in this state or other financial instrument in a format approved by the director, in favor of the state of Idaho for the indemnification of any student for any loss suffered as a result of a failure by such proprietary school to satisfy its obligations pursuant to the terms and conditions of any contract for tuition or other instructional fees entered into between the proprietary school and a student, or as a result of any violation of the provisions of specified law. (Idaho Code § 33-2406.)

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

**5/20 POINTS\***

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

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

**Explanation:**

**Type 1: Private postsecondary educational institutions.** Idaho law does not require schools to refund tuition if a student enrolls in a private postsecondary educational institution as a result of misrepresentation.

**Type 2: Proprietary educational institutions.** Idaho law does not specify that a student is entitled to a full refund if the student has enrolled as the result of misrepresentation. However, Idaho Code § 33-2406 states that the director may submit a demand upon the surety on the bond on behalf of a student or students when it is reasonably believed that a loss has occurred due to a failure by such proprietary school to satisfy its obligations pursuant to the terms and conditions of any contract for tuition or other instructional fees entered into between the proprietary school and a student, or as a result of any violation of the provisions of specified law. This provision would likely allow for at least a partial refund in cases of enrollment as a result of misrepresentation.

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

**5/20 POINTS\***

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

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

**Explanation:**

**Type 1: Private postsecondary educational institutions.** Idaho law does not require private postsecondary schools to refund tuition in the event of insolvency.

**Type 2: Proprietary educational institutions.** Idaho law does not provide relief to students specifically in instances where an institution closes as a result of insolvency. However, Idaho Code § 33-2406 provides that the director may submit a demand upon the surety on the bond on behalf of a student or students when it is reasonably believed that a loss has occurred due to a failure by such proprietary school to satisfy its obligations pursuant to the terms and conditions of any contract for tuition or other instructional fees entered into between the proprietary school and a student, or as a result of any violation of the provisions of specified law. Thus, there may be some kind of refund available to students when the school

in the event that the school they are attending becomes insolvent. Further, if the school is unable to fulfill its obligations to students, the school must make arrangements for a comparable teach-out opportunity with another proprietary school or refund 100% of prepaid tuition. (IDAPA 08.01.11.301.05(b).)

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**D. DOES THE STATE ALLOW STUDENTS AMPLE TIME TO MAKE A COMPLAINT?**  
**10/10 POINTS\***

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

	2 years or more (or no deadline)	1-2 years	Under 1 year	Not applicable
Type 1	10 Points	5 Points	1 Point	0 Point
Type 2	10 Points	5 Points	1 Point	0 Points

**Explanation:**

***Both private postsecondary educational institutions and proprietary institutions:*** No time frame is specified in Idaho law with regard to filing deadlines for student complaints, with regard to both private postsecondary educational institutions and for proprietary educational institutions.

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**E. DOES THE STATE REQUIRE INSTITUTIONS TO DISCLOSE INFORMATION ABOUT FILING A COMPLAINT WITH THE STATE OVERSIGHT BODY?**  
**0/20 POINTS\***

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

***Type 1: Private postsecondary educational institutions:***

Medium	Yes	Discretionary	No
Catalog	10 Points	5 Points	0 Points
Website	5 Points	2.5 Points	0 Points
Enrollment contract	5 Points	2.5 Points	0 Points

**Explanation:**

Idaho law does not mandate the disclosure of information and directions related to filing a student complaint. There is no indication that there are any disclosures related to filing a student complaint, either mandatory or discretionary.

***Type 2: Proprietary educational institutions:***

Medium	Yes	Discretionary	No
Catalog	10 Points	5 Points	0 Points
Website	5 Points	2.5 Points	0 Points
Enrollment contract	5 Points	2.5 Points	0 Points

**Explanation:**

Idaho law requires proprietary schools to provide the name and contact information for the individual responsible for dealing with student grievances and other complaints and handling due process procedures

at the institution; however, there is no indication as to where this information is required to be posted and no indication that the school must provide information related to filing a complaint with the state.

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

**10/10 POINTS**

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

**Explanation:**

*Both private postsecondary educational institutions and proprietary institutions.* The Idaho State Board of Education maintains a webpage with a short explanation of the complaint process, a person to contact, phone number, email, and web form for students who wish to file a complaint.

**VII. ENFORCEMENT: 20/100 POINTS**

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

**0/30 POINTS**

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

**Explanation:**

*Both private postsecondary educational institutions and proprietary institutions.* Idaho law does not require any loss of state aid for schools that repeatedly produce substandard graduation rates, job placement rates, and/or cohort default rates.

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

**0/30 POINTS**

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

**Explanation:**

***Both private postsecondary educational institutions and proprietary institutions.*** Idaho law does not explicitly authorize a private right of action for students against institutions who have violated the laws in place to govern them in Idaho.

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

**0/20 POINTS**

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	<b>Yes</b>	<b>Limited</b>	<b>No</b>
Type 1	20 Points	15 Points	<b>0 Points</b>
Type 2	20 Points	15 Points	<b>0 Points</b>

**Explanation:**

***For both private postsecondary educational institutions and proprietary institutions.*** While Idaho law allows the director of the board to recover costs, which in the discretion of the court may include an amount representing reasonable attorney fees and reimbursement for investigative efforts, Idaho law does not explicitly allow attorney fee awards for students who prevail in litigation against institutions who have violated the laws in place to protect students. (Idaho Code § 33-2407.)

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**D. DOES STATE LAW EXPLICITLY AUTHORIZE ATTORNEY GENERAL INVOLVEMENT?**

**20/20 POINTS**

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	<b>Yes</b>	<b>Limited circumstances</b>	<b>No</b>
Type 1	<b>20 Points</b>	10 Points	0 Points
Type 2	<b>20 Points</b>	10 Points	0 Points

**Explanation:**

***Both private postsecondary educational institutions and proprietary institutions.*** Violations of State Consumer Protection Laws are handled by the Attorney General's Office. (IDAPA 08.01.11.500(01).) A complaint alleging a violation of Idaho consumer protection laws shall be instituted, reviewed, and acted upon in accordance with IDAPA 04.02.01.

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**BONUS POINTS**

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Idaho does not receive any bonus points.



## ILLUMINATING INFORMATION

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### RECIPROCITY AGREEMENTS

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

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

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

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# ILLINOIS

## FINAL GRADING ANALYSIS

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OVERALL SCORE: **416.5/700 POINTS (60%)**  
LETTER GRADE: **D**

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### I. OVERSIGHT BODY: **53/100 POINTS**

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#### A. IS THERE A STATUTORILY CREATED OVERSIGHT BODY THAT IS PUBLICLY ACCOUNTABLE?

**50/60 POINTS**

Element	Points Available	Points Awarded
1. Oversight body is a multi-member board, commission, or panel created by statute	10	10
2. Oversight body was statutorily created specifically to oversee private postsecondary institutions	10	0
3. Multi-member board, commission, or panel is the ultimate decision maker (as opposed to a single person, like the head of a department or director)	10	10
4. Oversight body can engage in rulemaking	10	10
5. Oversight body's meetings must be open to the public	5	5
6. Oversight body's meetings must allow public comment	5	5
7. Oversight body can initiate investigations	5	5
8. Oversight body can impose penalties for violations	5	5
Total Points	60	50

**Explanation:**

The Illinois Board of Higher Education oversees both public and private oversees postsecondary institutions in Illinois. (105 ILCS 426; 110 ILCS 205; 110 ILCS 1005.) The Board has authority to engage in rulemaking, initiate investigations, and impose penalties for violations. (110 ILCS 1005/14; 110 ILCS 1005/6; 110 ILCS 1005/5; 110 ILCS 1005/6; 110 ILCS 1005/10.) The Illinois Open Meetings Act (5 ILCS 120/ et seq.) requires that meetings of the Board are open to the public and allow opportunity for the public to comment. (5 ILCS 120/2.06(g).)

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## B. STATUTE-SPECIFIED MEMBERSHIP

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

**0/25 POINTS**

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Explicit prohibition on for-profit majority, plus no possibility of a majority of the quorum	Explicit prohibition on for-profit majority	Discouraged	No prohibition specified, but not discouraged	For-profit majority mandated
25 Points	20 Points	10 Points	<b>0 Points</b>	-5 points

**Explanation:**

The Illinois Board of Higher education oversees all degree-granting and non-degree-granting postsecondary institutions in Illinois. (105 ILCS 426; 110 ILCS 1005; 110 ILCS 1010.) There is nothing either expressed or implied regarding the composition of the Board that prohibits or discourages for-profit interests from dominating the Board. Its composition is to include 16 members, which must include one member of a public university governing board: 10 public members are appointed by the governor with the advice and consent of the senate, one member of a public university governing board, one member of a private college or university board of trustees, the chairman of the Illinois Community College Board; the chairman of the Illinois Student Assistance Commission; and 2 student members (one of whom must be a non-traditional undergraduate). (110 ILCS 205/2.) The Board as a whole shall not include more than 7 members of the same political party. Thus, a political party is prohibited from attaining a majority on the Board, but there are no such restrictions on for-profit interests.

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

**0/10 POINTS**

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Yes	No
10 Points	<b>0 Points</b>

**Explanation:**

There is no specific mandate in Illinois law that the Illinois Board of Higher Education include a consumer advocate.

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

**3/5 POINTS**

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All	Majority	Half	Minority	None
5 Points	<b>3 Points</b>	2.5 Points	1 Point	0 Points



**Explanation:**

The governor appoints 10 members with the advice and consent of the senate, and two members without the advice and consent of the senate. Two members must be the chairman of the Illinois Community College Board and the Chairman of the Illinois Student Assistance Commission. Finally, two members are appointed by the recognized advisory committee of students of the Board of Higher Education. (110 ILCS 205/2.)

## II. STATE OVERSIGHT—EFFICACY:

**45.5/100 POINTS**

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

**3/10 POINTS**

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

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

**Explanation:**

Three major acts in Illinois relate to private postsecondary institutions: the 1945 Private College Act (the 1945 Act) (110 ILCS 1005/ et seq.); the 1961 Academic Degree Act (the 1961 Act) (110 ILCS 1010/ et seq.); and the Private Business and Vocational Schools Act of 2012 (2012 Act) (105 ILCS 426/ et seq.). Private, degree-granting postsecondary institutions (Type 1) are governed by the 1945 Act, the 1961 Act, or both. Private postsecondary institutions that offer an organized academic program of study beyond the secondary school level, but below the associate's degree level (non-degree-granting) (Type 2) are governed by the 2012 Act.

Illinois law does not require onsite review for the maintenance of approval for either degree-granting or non-degree-granting postsecondary institutions.

Most degree-granting private postsecondary institutions must be approved to operate under both the 1945 Act and the 1961 Act. In either case, onsite reviews are discretionary and there is no timeframe given for such reviews. (23 Ill. Adm. Code 1030.70; 23 Ill. Adm. Code 1030.80.)

Likewise, there is no mandated onsite review for schools governed by the 2012 Act, applicable to non-degree-granting institutions. These schools are required to “permit the Board’s Executive Director or his or her designees to inspect the school or classes thereof from time to time with or without notice and to make available to the Board’s Executive Director or his or her designees, at any time when required to do so, information, including financial information, pertaining to the activities of the school required for the administration of this Act and the standards and rules adopted under this Act.” (105 ILCS 426/55(8).)

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

**3/5 POINTS\***

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

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

**Explanation:**

**Type 1: Institutions governed by the 1945 and/or 1961 Act.** “Any duly authorized employee or other representative of the Board may enter upon the premises of any degree granting institution and inspect or otherwise examine the same and any books, papers or other records pertaining to the degree granting program of such institution. For failure to permit such entry, inspection or examination or for obstruction thereof, the Board may invalidate any notice filed with it by the degree granting institution and revoke any authorization made pursuant to Section 4 of this Act and may refuse to accept another notice from or on behalf of such institution or any person connected with the administration thereof until such refusal or obstruction has been withdrawn. Any action taken pursuant to this Section shall be in addition to any other penalty which may be imposed for violation of this Act.” (110 ILCS 1010/6.)

**Type 2: Institutions governed by the 2012 Act.** These schools are required to “permit the Board's Executive Director or his or her designees to inspect the school or classes thereof from time to time with or without notice and to make available to the Board’s Executive Director or his or her designees, at any time when required to do so, information, including financial information, pertaining to the activities of the school required for the administration of this Act and the standards and rules adopted under this Act.” (105 ILCS 426/55(8).)

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

**12.5/20 POINTS\***

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

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

**Explanation:**

**Type 1: Institutions governed by the 1945 and/or 1961 Act.** Illinois law (23 Ill. Adm. Code 1030.80(b)(2)) gives the Board discretion to review and/or visit authorized institutions and/or their degree programs in the fifth year of the degree program’s existence. This statute applies to institutions and degree programs that fall under the 1961 Act. Otherwise, reviews of institutions and degree programs that fall under the 1945 Act, the 1961 Act, or both, are discretionary and there is no other specified timeframe

for review in Illinois law. The reviews are conducted “as necessary for the implementation of the statute.” (23 Ill. Adm. Code 1030.70; 23 Ill. Adm. Code 1030.80).

**Type 2: Institutions governed by the 2012 Act.** Information requested by the Board must be submitted annually or, in special circumstances, at the request of the Board. Failure to do so is grounds for immediate revocation of the permit of approval. Each non-degree program of study must be approved by the Board as well. Regardless of when the program was approved, all programs of study must be approved again with the institutional approval at the end of the 5-year approval period or in conjunction with an earlier review if so required by state law. The Board’s Executive Director has the authority to order any school subject to the Act to cease and desist operations if the school is found to have acted contrary to the standards set forth in the Act or this Part. Schools are required to submit a renewal application each year for the 4 years following the issuance of a permit of approval by the Board. An application for the permit of approval is required in the last year of the 5-year period. (23 Ill. Adm. Code 1095.200; 105 ILCS 426/50.) Each school and each of the non-degree programs of study offered by the school shall be approved for 5 years, subject to the terms and conditions of approval. Illinois receives full credit here because although permits of approval are good for five years, information must be submitted annually and state law applies serious penalties for the failure to annually submit this information and for substandard performance. (23 Ill. Adm. Code 1095.200(d)(2).)

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

**15.5/20 POINTS\***

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

	8 of 8	7 of 8	6 of 8	5 of 8	4 of 8	3 of 8	2 of 8	1 of 8	0 of 8
Type 1	20 Points	<del>17.5</del> <b>18.5 Points</b>	15 Points	12.5 Points	10 Points	7.5 Points	5 Points	2.5 Points	0 Points
Type 2	20 Points	17.5 Points	15 Points	<b>12.5 Points</b>	10 Points	7.5 Points	5 Points	2.5 Points	0 Points

Element	Type 1	Type 2
Admission requirements	M	
Graduation requirements	M	M
Placement rate	M	M
Completion rate (or graduation rate)	M	M
Advertising practices	M	M
Cohort default rate	M	
Accreditation status	M	M
Financial aid policies	D	

*M= Mandatory; D= Discretionary*

**Explanation:**

**Type 1: Institutions governed by the 1945 and/or 1961 Acts.** Illinois law requires most of the elements enumerated in the above chart as mandatory conditions of institutional approval. The only condition of which there is no explicit requirement of review is the institutional financial aid policies; however, there is a requirement that institutions collect financial aid data, which would require some, albeit limited,

examination of the financial aid policies, so Illinois receives partial credit here. After five years, Illinois requires a review at which point the Board may deny a continuation of the initial approval or offer a limited extension if the institution has failed to implement and maintain the conditions that were presented in its application and that formed the basis upon which authorizations were granted. This would necessarily require a review of the mandatory conditions precedent to an institution's initial approval. (23 Ill. Adm. Code 1030.30.)

**Type 2: Institutions governed by the 2012 Act.** Illinois law requires these schools to provide data related to five of the elements indicated above to support the satisfaction of the requirements of the 2012 Act. In order to maintain approval, schools are required to submit a renewal application each year for the 4 years following the issuance of a permit of approval by the Board and to submit an application for the permit of approval in the last year of the 5-year period. Schools are required to maintain data on graduation rates, retention rates, and exam passage rates. (105 ILCS 426/55.) Non-public schools that enroll one or more students receiving Monetary Award Program grants and any non-public school that confers graduate and professional degrees must provide data related to enrollment, completion, and student characteristic information on students enrolled in institutions of higher learning for purposes of the Longitudinal Education Data System Act in order to maintain approval to operate. (105 ILCS 13/15.)

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

**7.5/15 POINTS\***

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

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

**Explanation:**

**Type 1: Institutions governed by the 1945 and/or 1961 Acts.** Illinois law distinguishes for-profit institutions from nonprofit institutions in the definitions section of the law related to the 1945 and 1961 Acts, where the law specifies that Illinois proprietary institutions do not include nonprofit institutions. (23 Ill. Adm. Code 1030.20.)

**Type 2: Institutions governed by the 2012 Act.** Illinois does not distinguish between for-profit and nonprofit institutions.

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

**4/10 POINTS\***

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

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

**Explanation:**

**Type 1: Institutions governed by the 1945 and/or 1961 Acts.** There is no indication that these schools are subject to increased scrutiny or review when they perform poorly.

**Type 2: Institutions governed by the 2012 Act.** Illinois law requires private postsecondary institutions governed by the 2012 Act to maintain satisfactory student retention and graduation rates and state licensing examination or professional certification examination passage rates. Schools must maintain student retention and graduation rates that are appropriate to standards in the field. They must also maintain a state licensing examination or professional certification examination passage rate of at least 50% of the average passage rate for schools within the industry for any state licensing examination or professional certification examination. In the event that the school fails to do so, Illinois law requires that the school be placed on probation for one year. If that school's passage rate in its next reporting period does not exceed 50% of the average passage rate of that class of school as a whole, the Board is required to revoke the school's approval for that program to operate in the state. (105 ILCS 426/55(9).) This increased scrutiny only applies to instances in which schools underperform with regard to their exam passage rate, so although mandatory, it is limited in scope.

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

**0/20 POINTS**

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Yes	No
20 Points	0 Points

**Explanation:**

The Higher Education Veterans Service Act (110 ILCS 49) was enacted to meet the unique educational needs of servicemen/women. However, the law applies only to public colleges and universities in Illinois, and the state has no equivalent law for schools governed by the 1945 and/or 1961 Acts or schools governed by the 2012 Act. Therefore the state does not receive points for this element.

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**III. STATE OVERSIGHT—SCOPE AND INCLUSION:**

**75/100 POINTS**

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**A. ARE EXEMPTIONS TO STATE OVERSIGHT COVERAGE LIMITED?**

**75/100 POINTS**

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

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

**Explanation:**

**Type 1: Institutions governed by the 1945 and/or 1961 Acts.** The 1961 Act (Academic Degree Act) contains very few, limited, common sense exemptions such as nursing programs regulated under the Nurse Practice Act, in-training programs by corporations or other business organizations for the training

of their personnel, education or other improvement programs by business, trade and similar organizations and associations for the benefit of their members only, and apprentice or other training programs by labor unions. The only further exemptions (enumerated in 23 Ill. Adm. Code 1030.10) are public institutions, institutions that were established and offering degrees in Illinois prior to July 17, 1945 (for purposes of the 1945 Private Colleges Act), and institutions that were operating or authorized to operate in Illinois on August 14, 1961 (for purposes of the 1961 Academic Degree Act). Exceptions here are limited to include a specialized program of study governed by another act and other common sense exemptions. The exceptions also include institutions that have been in operation for over 50 years.

**Type 2: Institutions governed by the 2012 Act.** Illinois law allows few common sense exemptions, which include schools that are covered by other acts, schools that offer religious instruction, schools that offer mediated instruction products through a media, not intended to result in the acquisition of training for a specific employment field, and not intended to be applied toward a degree. Very narrowly tailored exceptions include any institution and the franchisees of that institution that exclusively offer a program of study in income tax theory.



*Schools with no physical presence in the state are excepted as well, with well-defined, narrow criteria. However, this exemption does create a gap in oversight.*

## IV. DISCLOSURE REQUIREMENTS: 47.5/100 POINTS

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

**5/20 POINTS\***

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

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

#### **Explanation:**

**Type 1: Institutions governed by the 1945 and/or 1961 Acts.** Illinois law does not require institutions to make any disclosures to students with regard to institutional performance, nor does the state require these institutions to maintain any statistics or information related to institutional performance to be available upon request.

**Type 2: Institutions governed by 2012 Act.** These institutions are required to provide disclosures on their website, which is accessible to all students, but the schools are not required to ensure that the students receive a fact sheet or anything referring them to the website which contains the disclosure prior to the students' enrolling in school. Therefore, Illinois receives partial credit for this element as it relates to schools governed by the 2012 Act. Illinois requires the disclosures to be publicly available, but the student must, essentially, ask for these disclosures because the student must look online for them; thus, the disclosures are deemed to be provided only upon request. (105 ILCS 426/37(9).)

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

**25/60 POINTS\***

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

**Type 1:**

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

**Explanation:**

**Type 1: Institutions governed by the 1945 and/or the 1961 Acts.** Illinois law requires institutions to provide students with a statement of the institution's most recent graduation rates and the numbers of graduates and enrollments as provided by the institution to the Integrated Postsecondary Education Data System (IPEDS). There is no exception if the institution does not report data to IPEDS. (23 Ill. Adm. Code 1030.30(a)(5).)

**Type 2:**

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

**Explanation:**

**Type 2: Institutions that are governed by the 2012 Act.** Illinois law requires these institutions to disclose to students information related to completion rates, placement rates, and average starting salary. However, Illinois loses points for not requiring disclosures related to cohort default rates and methods and sources used to calculate rates.

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

**17.5/20 POINTS\***

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



**Type 1:**

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

**Explanation:**

**Type 1: Institutions governed by the 1945 and/or 1961 Acts.** Illinois receives full credit here; although state law does not require all of these elements in the enrollment contract, it does require institutions to disclose several of the elements to students prior to enrollment. (23 Ill. Adm. Code 1030.30(a)(5)(B).) Specifically, Illinois requires the following consumer information to be provided in the enrollment contract (“including, but not limited to”): an explanation of all criteria and requirements for retention, progress toward degree, and graduation of the student; the institution’s tuition, cancellation, and refund policies; and a statement of the purpose and amount of any fees assessed. (23 Ill. Adm. Code 1030.30(a)(13).)

Additionally, Illinois law requires institutions to provide the following information to students prior to enrollment: descriptions of the degree programs offered, program objectives, length of program, and institutional calendars; schedule of tuition, fees, and all other charges and expenses necessary for completion of the course of study and cancellation and refund policies; a statement regarding the transferability of college credits, including the fact that the decision to accept transfer credits is currently made by receiving institutions; a statement as to how the institution will advise students on the nature of the transfer process, including the importance of consulting with institutions to which the student may seek to transfer; evidence of articulation arrangements with institutional counterparts, where these arrangements exist; a statement of the institution’s most recent graduation rates and the numbers of graduates and enrollments as provided by the institution to IPEDS. There is no exception if the institution does not report data to IPEDS. The state also requires the collection of data on student financial aid and dual credit offerings; a statement of the institution’s accreditation status with a U.S. Department of Education recognized accrediting body, if no such accreditation exists, the institution must prominently state this in its advertising and published materials and other material facts concerning the institution and the program or course of instruction as are likely to affect the decision of the student to enroll, together with any other information specified by the Board. (23 Ill. Adm. Code 1030.30(a)(5)(A).)

**Type 2:**

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

**Explanation:**

**Type 2: Institutions governed by the 2012 Act.** Illinois law requires these institutions to provide a clear description of costs, refund policies, program information and all disclosures required by the Act, the Board’s Internet website, the address and phone number of the Board for students to report complaints, and any additional information the Board may require by rule; an explanation of all criteria and



requirements for retention, progress towards certificate, and graduation of the student; the institution's tuition, cancellation and refund policies; and a statement of the purpose and amount of any fees assessed. (23 Ill. Adm. Code § 1095.40(k)(3).) The only missing element related to institutions governed by the 2012 Act is the requirement that institutions include in the enrollment contract disclosures about the transferability of credits.



**Notable Provision.** Illinois has a commendable requirement applicable to institutions governed by the 2012 Act that “[n]o school may enter into an enrollment agreement in which the student waives the right to assert against the school or any assignee any claim or defense he or she may have against the school arising under the agreement. Any provisions in an enrollment agreement in which the student agrees to such a waiver shall be rendered void.” (23 Ill. Adm. Code § 1095.40(k)(5).) This requirement should serve as a model for other states endeavoring to improve their laws related to private postsecondary institutions.

## V. REGULATION OF RECRUITING PRACTICES:

**75/100 POINTS**

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

**75/100 POINTS**

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

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

#### PROHIBITED ACTS

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

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

#### **Explanation:**

**Type 1: Institutions governed by the 1941 and/or 1965 Act.** The criteria for institutional approval includes guidance with regard to when the terms “university” and “college” can be used in program descriptions, advertisements, recruiting and promotional materials. Additionally, the criteria prohibit

schools and their agents from promising employment, false, deceptive, misleading or unfair advertising, and misrepresentation with regard to employment opportunities. The criteria include very specific restrictions and specifications regarding a school's statement of accreditation. Finally, Illinois receives partial credit for prohibiting schools and agents from using a photograph or other such illustration in public documents, sales literature or otherwise in such a manner as to convey a false impression as to size, importance or location of the institution or equipment and facilities associated with the institution. Such as requirement will help to discourage schools from using a misleading institution name which would suggest an affiliation with the military, a public institution, or other entity of prestige where there is none. (23 Ill. Adm. Code 1030.30.)

**Type 2: Institutions governed by the 2012 Act.** The criteria for evaluation of the application for a permit of approval includes guidance with regard to when the terms "university" and "college" can be used in program descriptions, advertisements, recruiting and promotional materials. (23 Ill. Adm. Code 1095.40(e)(4).) Illinois law prohibits schools and agents from making deceptive statements concerning other institutional activities in attempting to enroll students, stating or representing that students will be guaranteed employment while enrolled in the institution or that employment will be guaranteed for students after graduation, or misrepresenting opportunities for employment upon completion of any program of study. (23 Ill. Adm. Code 1095.40.) Further, Illinois procedures for obtaining approval to offer one or more new certificates prohibit schools from making deceptive or misleading representations with regard to accreditation. (23 Ill. Adm. Code 1095.80.) Finally, Illinois receives partial credit for prohibiting schools and agents from using a photograph or other such illustration in public documents, sales literature or otherwise in such a manner as to convey a false impression as to size, importance or location of the institution or equipment and facilities associated with the institution. (23 Ill. Adm. Code 1095.40 (h)(2).) Such as requirement will help to discourage schools from using a misleading institution name which would suggest an affiliation with the military, a public institution, or other entity of prestige where there is none.

## VI. COMPLAINT PROCESS AND RELIEF FOR STUDENTS:

**53/100 POINTS**

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

**10/20 POINTS\***

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

	Yes	No
Type 1	20 Points	<b>0 Points</b>
Type 2	<b>20 Points</b>	0 Points

#### **Explanation:**

**Type 1: Institutions governed by the 1941 and/or 1965 Act.** Illinois law does not require private postsecondary institutions that are governed by the 1945 Act or the 1961 Act to provide a surety bond as a condition of state approval and to maintain state approval.

**Type 2: Institutions governed by the 2012 Act.** Illinois law requires private postsecondary institutions governed by 2012 Act to provide a surety bond as a condition of state approval and to maintain state

approval. (105 ILCS 426/55 (1).) The state also requires institutions to provide proof of liability insurance. (105 ILCS 426/55 (4).)

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

**10/20 POINTS\***

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

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

**Explanation:**

Illinois law requires the school to have “a fair and equitable cancellation and refund policy. This policy shall apply equally to all students regardless of whether the student receives federal or State financial aid.” While this law does not specify that institutions must provide a refund to students who enroll as the result of misrepresentation, the above law would appear to broadly include an instance of misrepresentation given that a “fair and equitable cancellation and refund policy” should include refunds to students who enroll as a result of misrepresentation. However, there is no specification in the law about whether or not a student in this circumstance would be entitled to a full refund. Therefore, Illinois receives partial credit for this element. This is true for institutions governed by the 1941 and/or 1965 Act (Type 1) (23 Ill. Adm. Code 1030.30(a)(11)) and institutions governed by the 2012 Act (Type 2) (23 Ill. Adm. Code 1095.40(g)).

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

**7.5/20 POINTS\***

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

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

**Explanation:**

**Type 1: Institutions governed by the 1945 and/or 1961 Act.** Illinois law does not explicitly require refunds in the case of an institution’s becoming insolvent. If an institution is insolvent, it is doubtful that the institution will be able to provide students with a full refund, even with a “fair and equitable refund and cancellation policy,” and no bond is required for these institutions to obtain approval to operate. There would be few places from which to draw funds for student refunds in cases in which an institution is insolvent. Therefore, while a refund may be possible in cases of insolvency, there do not appear to be adequate provisions in place to protect students at these institutions.

**Type 2: Institutions governed by the 2012 Act.** Illinois has in place procedures and rules governing school closures. The law requires schools to refund all tuition, fees and other charges if the Board, in any situation in which students are receiving instruction prior to a school's closing, determines that the school

has not fulfilled its contractual obligations, or a student has reasonable objections to transfer resulting from the closing. Thus, there are some limits on students' ability to receive a full refund. The law also specifies that the school and its designated surety bonding company are responsible for the return to students of all prepaid, unearned tuition.

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

**10/10 POINTS\***

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

	<b>2 years or more (or no deadline)</b>	<b>1-2 years</b>	<b>Under 1 year</b>	<b>Not applicable</b>
Type 1	<b>10 Points</b>	5 Points	1 Point	0 Points
Type 2	<b>10 Points</b>	5 Points	1 Point	0 Points

**Explanation:**

Illinois law does not specify a timeframe or deadline by which a student must file a complaint for institutions governed by either the 1945/1961 Acts (Type 1) or for the 2012 Act (Type 2).

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

**7.5/20 POINTS**

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

***Type 1***

<b>Medium</b>	<b>Yes</b>	<b>Discretionary</b>	<b>No</b>
<b>Catalog</b>	10 Points	5 Points	<b>0 Points</b>
<b>Website</b>	5 Points	2.5 Points	<b>0 Points</b>
<b>Enrollment contract</b>	5 Points	2.5 Points	<b>0 Points</b>

**Explanation:**

There is no requirement in Illinois law that private postsecondary schools covered by the 1945 Act or the 1961 Act disclose information about filing a complaint with the Board.

***Type 2***

<b>Medium</b>	<b>Yes</b>	<b>Discretionary</b>	<b>No</b>
<b>Catalog</b>	10 Points	<b>5 Points</b>	0 Points
<b>Website</b>	<b>5 Points</b>	2.5 Points	0 Points
<b>Enrollment contract</b>	<b>5 Points</b>	2.5 Points	0 Points

**Explanation:**

Illinois law explicitly requires private postsecondary schools which are covered by the 2012 Act to disclose information about filing a complaint in the enrollment contract, on its website, and in

“promotional materials.” Because an institution’s catalog may be considered “promotional material,” Illinois is given partial credit for requiring inclusion of complaint process in promotional material. (105 ILCS 426/55(2)-(3).)

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

**8/10 POINTS**

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

**Explanation:**

The Board’s homepage has a prominent link to a complaints page which explains the complaint process and provides an electronic form for students to use to file and update complaints. In addition, the website contains a page with information about consumer protection with more contact information for students who may have questions.

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**VII. ENFORCEMENT: 67.5/100 POINTS**

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

**17.5/30 POINTS\***

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

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

**Explanation:**

***Type 1: Institutions governed by the 1945 and/or the 1961 Act.*** The law related to institutional approval requires the Board to evaluate an institution’s success in student progression and graduation, and success rates in programs preparing students for certification and licensure. At a minimum, the Board is required to evaluate graduation rates, degree completion rates, retention rates, and pass rates for licensure and certification. The law further requires the Board to evaluate an institution’s student loan default rates, student indebtedness rates, job placement rates, student learning measures and other success indicators. It clearly defines “success rates” and what is required for an institution to maintain success rates. Violation of any of the conditions governing issuance of the Certificate of Approval is grounds for revocation of Certificate of Approval. Presumably, if an institution is repeatedly falling short of the defined success rates, the institution would stand to lose approval, though the process is not specifically enumerated in the

law. Finally, institutions governed by the 1961 Act are required, in the case of a program in which state licensure is required for employment in the field, to maintain license exam pass rates in the objectives of the unit of instruction. If there is no such evidence, approval of the program may be withdrawn by the Board. Withdrawal of approval would impact the institution's eligibility to receive state aid. The revocation of an institution's certificate of approval in this situation is at the discretion of the Board.

**Type 2: Institutions governed by the 2012 Act.** Regarding exam passage rates, Illinois schools could lose approval to operate, and thus aid, if the school repeatedly falls below the standard. . A State licensing examination or professional certification examination passage rate of at least 50% of the average passage rate for schools within the industry for any State licensing examination or professional certification examination must be maintained. In the event that the school fails to meet the minimum standards, then that school shall be placed on probation for one year. If that school's passage rate in its next reporting period does not exceed 50% of the average passage rate of that class of school as a whole, then the Board shall revoke the school's approval for that program to operate in this State. Such revocation also shall be grounds for reviewing the institution's approval to operate. (23 Ill. Adm. Code 1095.200.) This is a great start, and Illinois should explore the expansion of this policy to graduation rates and cohort default rates, for example.

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

**30/30 POINTS**

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

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

**Explanation:**

**Type 1: Institutions governed by the 1945 and/or 1961 Acts.** Illinois law provides that no institution shall enter into any enrollment agreement in which the student waives the right to assert against the school or any assignee any claim or defense he or she may have against the school arising under the agreement. (23 Ill. Adm. Code 1030.30(a)(13)(A).)

**Type 2: Institutions governed by the 2012 Act.** Illinois law prohibits schools from entering into enrollment agreements in which the student waives the right to assert against the school or any assignee any claim or defense he or she may have against the school arising under the agreement. (23 Ill. Adm. Code 1095.40(k)(5).)

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

**0/20 POINTS**

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<b>Yes</b>	<b>Limited</b>	<b>No</b>
20 Points	15 Points	<b>0 Points</b>

**Explanation:**

Illinois law governing private for-profit institutions does not explicitly allow attorney fee awards for students who prevail in litigation against the institutions.

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**D. DOES STATE LAW EXPLICITLY AUTHORIZE ATTORNEY GENERAL INVOLVEMENT?**

**20/20 POINTS**

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<b>Yes</b>	<b>Limited circumstances</b>	<b>No</b>
<b>20 Points</b>	10 Points	0 Points

**Explanation:**

The Illinois Attorney General is authorized to take actions related to private for-profits and has done so on several occasions.

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**BONUS POINTS**

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Illinois does not receive any bonus points.




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**ILLUMINATING INFORMATION**

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**Notable Provision:**

**2016 Bill Text IL S.B. 1709:** Amends Higher Education Assistance Act by prohibiting grants under it from going to applicants from for profit colleges. Effective July 1, 2016.

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**RECIPROCITY AGREEMENTS**

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

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

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

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# INDIANA

## FINAL GRADING ANALYSIS

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OVERALL SCORE: **244/700 POINTS (35%)**  
LETTER GRADE: **F**

### I. OVERSIGHT BODY: **49/100 POINTS**

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A. IS THERE A STATUTORILY CREATED OVERSIGHT  
BODY THAT IS PUBLICLY ACCOUNTABLE?  
**42.5/60 POINTS**

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Element	Points	Type 1	Type 2	Average
1. Oversight body is a multi-member board, commission, or panel created by statute	10	0	10	10
2. Oversight body was statutorily created specifically to oversee private postsecondary institutions	10	5	10	7.5
3. Multi-member board, commission, or panel is the ultimate decision maker (as opposed to a single person, like the head of a department or director)	10	0	10	10
4. Oversight body can engage in rulemaking	10	10	10	10
5. Oversight body's meetings must be open to the public	5	5	5	5
6. Oversight body's meetings must allow public comment	5	0	0	0
7. Oversight body can initiate investigations	5	5	5	5
8. Oversight body can impose penalties for violations	5	5	5	5
<b>Total Points</b>	<b>60</b>	<b>30</b>	<b>55</b>	<b>42.5</b>

**Explanation:**

Indiana divides its private postsecondary educational institutions into two categories for the purposes of oversight and regulation. The first category (Type 1) includes non-credit-bearing, non-degree-granting institutions. As of July 1, 2016, the Department of Workforce Development (Department) is responsible for regulation and oversight of these institutions. (Ind. Code Ann. § 21-18.5-1-5; Ind. Code Ann. § 21-18.5-1-3; Ind. Code Ann. § 22-4.1-22-3.) The second category (Type 2) includes credit-bearing, degree-granting institutions. As of July 1, 2012, the Board for Proprietary Education (Board) is responsible for overseeing these institutions. (Ind. Code Ann. § 21-18.5-1-5; Ind. Code Ann. § 21-18.5-1-3; Ind. Code Ann. § 21-18.5-5-1.) Indiana requires meetings of both the Department and the Board to be open to the public pursuant to the Indiana Open Door Law. (Ind. Code Ann. § 5-14-1.5 *et seq.*) However, Indiana law does not require meetings to include an opportunity for the public to comment.

**Type 1: Non-credit-bearing, non-degree-granting institutions.** While Indiana created the Department for broader purposes than the oversight of private non-credit-bearing, non-degree-granting institutions, it also created the Office for Career and Technical Schools (OCTS) to carry out the responsibilities of the

Department. (Ind. Code Ann. § 22-4.1-21-10.) Thus, the state receives partial credit here. The OCTS has the authority to initiate investigations and impose penalties. However, the OCTS is not a “multi-member board or commission.”

**Type 2: Credit-bearing proprietary institutions.** Indiana created the Board for the purposes of authorization and oversight of credit-bearing proprietary institutions. (Ind. Code Ann. 21-18.5-6-2.) The Board has the authority to engage in rulemaking (Ind. Code Ann. § 21-18.5-5-4; Ind. Code Ann. § 21-18.5-6-27) and has the right to impose penalties (revoke authorization, for example). (Ind. Code Ann. § 21-18.5-6-13.)

## B. STATUTE-SPECIFIED MEMBERSHIP

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

**5/25 POINTS\***

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

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

#### **Explanation:**

**Type 1: Non-credit-bearing, non-degree-granting institutions.** Indiana law does not prohibit or discourage a for-profit majority on the OCTS, the office is part of the department of workforce development. Indiana law does not address for-profit participation on the OCTS.

**Type 2: Credit-bearing proprietary institutions.** Indiana law specifies that the Board must consist of seven members: the state superintendent or the superintendent’s designee; the executive officer of the Commission for Higher Education or the executive officer’s designee; five members appointed by the governor. Not more than three of the members appointed by the governor may be members of the same political party. Of the five members appointed by the governor, one must have been engaged for a period of at least five years immediately preceding appointment in an executive or a managerial position in a postsecondary proprietary educational institution; one must have been engaged in administering or managing an industrial employee training program for a period of at least five years immediately preceding appointment; and three must be representatives of the public at large who are not representatives of the types of postsecondary credit bearing proprietary educational institutions to be authorized. (Ind. Code Ann. § 21-18.5-5-2.) It is very unlikely that for-profits will comprise either a majority or a majority of the quorum on the board, but it is not explicitly prohibited. Because Indiana law effectively discourages a Board dominated by for-profit interest by virtue of the statutory structure, the state receives partial credit for this element.

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

**0/10 POINTS\***

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

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

**Explanation:**

**Type 1: Non-credit-bearing, non-degree-granting institutions.** Indiana law does not require the appointment of a consumer advocate to the Department or the OCTS.

**Type 2: Credit-bearing proprietary institutions.** Indiana law does not require the Board for proprietary education to include a consumer advocate.

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

**1.5/5 POINTS\***

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

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

**Explanation:**

**Type 1: Non-credit-bearing, non-degree-granting institutions.** The OCTS is a division of the Department of Workforce Development. There are not appointees, there is a staff consisting of department employees.

**Type 2: Credit-bearing proprietary institutions.** The governor appoints five of the seven members of the Board. (Ind. Code Ann. § 21-18.5-5-2.)

**II. STATE OVERSIGHT—EFFICACY:**

**43.5/100 POINTS**

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

**2/10 POINTS\***

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

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

**Explanation:**

**Type 1: Non-credit-bearing, non-degree-granting institutions.** The OCTS conducts an initial onsite review to confirm physical location of an institution (not for purposes of a comprehensive review) and for institutions with temporary accreditation as a part of the final accreditation process. The OCTS also has discretion to conduct impromptu onsite reviews based on “right to premises” to investigate complaints / concerns. (Ind. Code Ann. § 22-4.1-21-21.) Thus, Indiana receives credit for giving discretion to the Department and OCTS to conduct onsite visits on an annual basis, given that Indiana requires institutions to renew accreditation annually and the OCTS may conduct site visits to investigate concerns, many of which may arise in the course of the annual accreditation.

**Type 2: Credit-bearing, proprietary institutions.** The Board conducts onsite inspections of proprietary institutions during the course of the investigation for authorization. (Ind. Code Ann. §§ 21-18.5-6-8; 21-18.5-6-9.) Indiana does not specify the frequency of onsite inspections after an institution is authorized, so it receives 1 point for the initial onsite inspection.

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

**1.5/5 POINTS\***

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

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

**Explanation:**

**Type 1: Non-credit-bearing, non-degree-granting institutions.** OCTS has discretion to conduct impromptu onsite reviews based on “right to premises” to investigate complaints / concerns. (*Office for Career and Technical Schools (OCTS): 2015 Policies and Procedures.*)

**Type 2: Credit-bearing, proprietary institutions.** Indiana law does not specify a requirement or discretion for the Board to conduct unannounced onsite inspections.

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

**20/20 POINTS\***

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

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

**Explanation:**

**Type 1: Non-credit-bearing, non-degree-granting institutions.** Annual renewal is required upon the

payment of a \$25 fee, submission of a form and continued compliance with applicable Indiana law. (Ind. Code Ann. § 22-4.1-21-24.)

**Type 2: Credit-bearing, proprietary institutions.** Annual renewal is required upon the payment of a \$25 fee, submission of a form and continued compliance with applicable Indiana law. (Ind. Code Ann. § 21-18.5-6-12(f).)

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

**10/20 POINTS\***

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

	8 of 8	7 of 8	6 of 8	5 of 8	4 of 8	3 of 8	2 of 8	1 of 8	0 of 8
Type 1	20 Points	17.5 Points	<b>15 Points</b>	12.5 Points	10 Points	7.5 Points	5 Points	2.5 Points	0 Points
Type 2	20 Points	17.5 Points	15 Points	12.5 Points	10 Points	7.5 Points	<b>5 Points</b>	2.5 Points	0 Points

Element	Type 1	Type 2
Admission requirements	M	
Graduation requirements		
Placement rate	M	
Completion rate (or graduation rate)	M	
Advertising practices	M	M
Cohort default rate		
Accreditation status	M	M
Financial aid policies	M	

*M=Mandatory; D=Discretionary*

**Explanation:**

**Type 1: Non-credit-bearing, non-degree-granting institutions.** Indiana requires the Department to review advertising practices for accreditation. (Ind. Code Ann. § 22-4.1-21-23(4).) Other required elements are set forth on the required accreditation renewal application, available on the OCTS website at [www.in.gov/dwd/files/Accreditation\\_Renewal\\_Application.pdf](http://www.in.gov/dwd/files/Accreditation_Renewal_Application.pdf).

**Type 2: Credit-bearing, proprietary institutions.** Indiana requires the Board to review advertising practices and accreditation status for renewal of authorization. (Ind. Code Ann. § 21-18.5-6-11.) Institutions must remain in compliance with all laws, but the renewal form and laws that specify the process for renewal of authorization only expressly include the elements noted above.

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

**10/15 POINTS\***

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

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

**Explanation:**

**Type 1: Non-credit-bearing, non-degree-granting institutions.** Indiana law does not distinguish between for-profit and nonprofit private postsecondary educational institutions, but the OCTS policies and procedures do. “The general assembly has given the following charge regarding the regulation of private (for profit) schools....” (*Office for Career and Technical Schools (OCTS): 2015 Policies and Procedures.*)

**Type 2: Credit-bearing proprietary institutions.** Indiana distinguishes between proprietary (for-profit) institutions and nonprofit institutions. Religious institutions that offer educational instruction or an educational programs of a clearly religious nature are exempt. (Ind. Code Ann. § 21-18.5-6-2.5.)

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

**0/10 POINTS\***

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

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

**Explanation:**

**Type 1: Non-credit-bearing, non-degree-granting institutions.** There is no indication that Indiana requires non-credit-bearing, non-degree-granting institutions to undergo increased oversight/scrutiny based on poor performance.

**Type 2: Credit-bearing, proprietary institutions.** There is no indication that Indiana requires credit-bearing, proprietary institutions to undergo increased oversight/scrutiny based on poor performance.

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

**0/20 POINTS\***

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

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

**Explanation:**

**Type 1: Non-credit-bearing, non-degree-granting institutions.** There is no indication that Indiana has

put special protections in place specifically for veterans who attend non-credit-bearing, non-degree-granting institutions.

**Type 2: Credit-bearing, proprietary institutions.** There is no indication that Indiana has put special protections in place specifically for veterans who attend credit-bearing, proprietary institutions.

### III. STATE OVERSIGHT—SCOPE AND INCLUSION:

**0/100 POINTS**

#### A. ARE EXEMPTIONS TO STATE OVERSIGHT COVERAGE LIMITED?

**0/100 POINTS\***

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

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

#### **Explanation:**

**Type 1: Non-credit-bearing, non-degree-granting institutions.** The Department may waive inspection of a postsecondary proprietary educational institution that has been accredited by an accrediting unit whose standards are approved by the Department as meeting or exceeding the requirements enumerated in Indiana statute. (Ind. Code Ann. § 22-4.1-21-24.) Additionally, in specified circumstances, the Department may waive inspection if an institution presents a valid license, approval to operate, or other form of accreditation issued to a postsecondary proprietary educational institution by another state.

**Type 2: Credit-bearing, proprietary institutions.** Religious institutions that offer educational instruction or an educational programs of a clearly religious nature are exempt. (Ind. Code Ann. § 21-18.5-6-2.5.) The exemption for religious institutions that offer educational programs of a clearly religious nature is a common exemption and does not result in a large exemption that would leave students unprotected.

However, the Board may waive inspection of postsecondary credit-bearing proprietary educational institutions that have been authorized by an accrediting agency recognized by the United States Department of Education. (Ind. Code Ann. § 21-18.5-6-12.) Indiana loses some credit here because of this waiver, which still leaves institutions that qualify for the waiver subject to the oversight of the Board, but exempts them from inspections. Likewise, the Board may accept license, authorization to operate, or other form of authorization from another state in some circumstances if the requirements of the state meet or exceed those enumerated by Indiana. Additionally, Indiana expressly allows institutions to enter into reciprocity agreements with other states. (Ind. Code Ann. § 21-18.5-6-12.) Because reciprocity agreements may limit protections in place for students, Indiana loses points for this provision.

Taken together, Indiana law provides broad exemptions to Department and Board oversight and inspections private postsecondary institutions (both non-credit-bearing, non-degree-granting institutions and credit-bearing proprietary institutions).



#### IV. DISCLOSURE REQUIREMENTS: 7.5/100 POINTS

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

0/20 POINTS\*

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

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

##### Explanation:

**Type 1: Non-credit-bearing, non-degree-granting institutions.** Indiana does not require institutions to provide any fact sheet type performance disclosures to students or potential students.

**Type 2: Credit-bearing, proprietary institutions.** Indiana does not require institutions to provide any fact sheet type performance disclosures to students or potential students.

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

0/60 POINTS\*

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

##### **Type 1: Non-credit-bearing, non-degree-granting institutions**

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

##### Explanation:

Indiana does not require institutions to provide any performance disclosures to students or potential students.

##### **Type 2: Credit-bearing, proprietary institutions**

Disclosures	Mandatory	Discretionary	Not specified
Cohort default rate (CDR)	10 Points	5 Points	0 Points
Graduation / completion rates	10 Points	5 Points	0 Points
Placement rates	10 Points	5 Points	0 Points



<b>Wage information</b>	10 Points	5 Points	<b>0 Points</b>
<b>License exam passage rates</b>	10 Points	5 Points	<b>0 Points</b>
<b>Methods &amp; sources used to calculate</b>	10 Points	5 Points	<b>0 Points</b>

**Explanation:**

Indiana does not require institutions to provide any performance disclosures to students or potential students.

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

**7.5/20 POINTS\***

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

***Type 1: Non-credit-bearing, non-degree-granting institutions***

<b>Element Description</b>	<b>Mandatory</b>	<b>Discretionary</b>	<b>Not specified</b>
<b>Total cost of program</b>	<b>5 Points</b>	2.5 Points	0 Points
<b>Refund information</b>	<b>5 Points</b>	2.5 Points	0 Points
<b>Transferability of credits</b>	5 Points	2.5 Points	<b>0 Points</b>
<b>Length of program</b>	<b>5 Points</b>	2.5 Points	0 Points

**Explanation:**

Indiana requires institutions to include OCTS-approved refund policies, total cost of the program, time required for the program in enrollment agreements. (*Office for Career and Technical Schools (OCTS): 2017 Policies and Procedures.*) However, Indiana does not explicitly require inclusion of disclosures related to transferability of credits.

***Type 2: Credit-bearing, proprietary institutions***

<b>Element Description</b>	<b>Mandatory</b>	<b>Discretionary</b>	<b>Not specified</b>
<b>Total cost of program</b>	5 Points	2.5 Points	<b>0 Points</b>
<b>Refund information</b>	5 Points	2.5 Points	<b>0 Points</b>
<b>Transferability of credits</b>	5 Points	2.5 Points	<b>0 Points</b>
<b>Length of program</b>	5 Points	2.5 Points	<b>0 Points</b>

**Explanation:**

Indiana requires postsecondary credit-bearing proprietary educational institutions to have and follow a refund policy approved by the Board, but there is no indication that institutions are required to disclose the policy. (Ind. Code Ann. § 21-18.5-6-11(7).)

## V. REGULATION OF RECRUITING PRACTICES:

**50/100 POINTS**

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

**50/100 POINTS\***

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

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

### PROHIBITED ACTS

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

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

#### Explanation:

**Type 1: Non-credit-bearing, non-degree-granting institutions.** Indiana requires the Department to review an institution’s advertising to ensure that representations made therein are truthful and are free from misrepresentations and fraud. (Ind. Code Ann. § 22-4.1-21-23(4).) Further, Indiana prohibits institutions and their agents from making a statement or representation, in connection with the offering or publicizing of a course, if the person knows or should reasonably know the statement or representation is false, deceptive, substantially inaccurate, or misleading; promising or guaranteeing employment to a student or prospective students; and from doing an act that constitutes part of the conduct of administration of a course if the person knows, or should reasonably know, that the course is being carried on by the use of fraud, deception, or other misrepresentation. (Ind. Code Ann. § 22-4.1-21-28.)

**Type 2: Credit-bearing, proprietary institutions.** Indiana prohibits institutions and their agents from making a statement or representation, in connection with the offering or publicizing of a course, if the person knows or should reasonably know the statement or representation is false, deceptive, substantially inaccurate, or misleading; promising or guaranteeing employment to a student or prospective students; and from doing an act that constitutes part of the conduct of administration of a course if the person knows, or should reasonably know, that the course is being carried on by the use of fraud, deception, or other misrepresentation. (Ind. Code Ann. § 21-18.5-6-16.)

## VI. COMPLAINT PROCESS AND RELIEF FOR STUDENTS:

**69/100 POINTS**

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

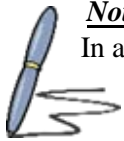
**20/20 POINTS\***

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

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

#### Explanation:

**Type 1: Non-credit-bearing, non-degree-granting institutions.** Indiana requires institutions to provide a surety bond with any application for accreditation. (Ind. Code Ann. § 22-4.1-21-15.)



#### Notable Provision:

In addition to requiring a surety bond, Indiana law creates a student assurance fund to provide indemnification to a student or an enrollee of a postsecondary proprietary educational institution who suffers loss or damage as a result of the failure or neglect of the postsecondary proprietary educational institution to faithfully perform all agreements, express or otherwise, with the student; the failure or neglect of the postsecondary proprietary educational institution to maintain and operate a compliant course or courses of instruction or study; or an agent's misrepresentation in procuring the student's enrollment. (Ind. Code Ann. § 22-4.1-21-19.) Each postsecondary proprietary educational institution in the state is required to make quarterly contributions to the fund. (Ind. Code Ann. § 22-4.1-21-19.)

**Type 2: Credit-bearing, proprietary institutions.** Indiana does not require credit-bearing proprietary institutions to provide a surety bond or a fund that sufficient to serve an equivalent purpose, however, the state does require schools to contribute to the career college student assurance fund. (Ind. Code Ann. § 21-18.5-6-6.) Because there is a fund in place to protect students, Indiana receives full credit.

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

**15/20 POINTS\***

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

	Yes, full refund	Yes, partial refund	No refund required
Type 1	20 15 Points	10 Points	0 Points
Type 2	20 15 Points	10 Points	0 Points

#### Explanation:

**Type 1: Non-credit-bearing, non-degree-granting institutions.** Indiana requires institutions to include a surety bond with any application for accreditation. The surety bond must cover the period of accreditation

and provides indemnification to any student or enrollee who suffers a loss or damage as a result of an agent's misrepresentation in procuring enrollment. (Ind. Code Ann. § 22-4.1-21-15(c)(3); Ind. Code Ann. § 22-4.1-21-18.) Indiana loses five points here because the statute does not explicitly state that institutions must provide a full refund. However, indemnification in instances in which a student enrolls due to misrepresentation could reasonably result in a full refund in most circumstances.

**Type 2: Credit-bearing proprietary institutions.** Indiana requires institutions to make a quarterly contribution to the career college student assurance fund. (Ind. Code Ann. § 21-18.5-6-7.) The career college student assurance fund provides indemnification to a student or an enrollee of a postsecondary credit bearing proprietary educational institution who suffers loss or damage as a result of an agent's misrepresentation in procuring the student's enrollment. (Ind. Code Ann. § 21-18.5-6-6(a)(3).) Indiana does not receive full credit here because the statute does not explicitly state that institutions must provide a full refund. However, indemnification in instances in which a student enrolls due to misrepresentation could reasonably result in a full refund in most circumstances.

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

**15/20 POINTS\***

---

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

	Yes, full refund	Yes, partial refund	Yes, refund in limited circumstances	No refund required
<b>Type 1:</b>	<b>20 Points</b>	15 Points	10 Points	0 Points
<b>Type 2:</b>	20 Points	<b>15 Points</b>	10 Points	0 Points

**Explanation:**

**Type 1: Non-credit-bearing, non-degree-granting institutions.** Indiana requires institutions to include a surety bond with any application for accreditation. The surety bond must cover the period of accreditation and provides indemnification to any student or enrollee who suffers a loss or damage as a result of the failure or neglect of the postsecondary proprietary educational institution to faithfully perform all agreements, express or otherwise, with the student or enrollee, the failure or neglect of the postsecondary proprietary educational institution to maintain and operate a course or courses of instruction or study in compliance with the standards enumerated in Indiana statute. Insolvency would result in an institution's failure to faithfully perform agreements and failure to maintain and operate courses of instruction in compliance with standards enumerated in Indiana statutes. The OCTS Policy and Procedure Manual clarifies that institutions that voluntarily close will be required to provide full refunds to students. (Ind. Code Ann. § 22-4.1-21-15; Ind. Code Ann. § 22-4.1-21-18; *Office for Career and Technical Schools (OCTS) 2017 Policy and Procedures*, p. 9.)

**Type 2: Credit-bearing, proprietary institutions.** Indiana requires proprietary institutions to make a quarterly contribution to the career college student assurance fund. (Ind. Code Ann. § 21-18.5-6-7.) The career college student assurance fund provides indemnification to any student or enrollee who suffers a loss or damage as a result of the failure or neglect of the postsecondary proprietary educational institution to faithfully perform all agreements, express or otherwise, with the student or enrollee, the failure or neglect of the postsecondary proprietary educational institution to maintain and operate a course or courses of instruction or study in compliance with the standards enumerated in Indiana statute. Insolvency would result in an institution's failure to faithfully perform agreements and failure to maintain and operate courses of instruction in compliance with standards enumerated in Indiana statutes. (Ind. Code

Ann. § 21-18.5-6-6(a), (b).) Thus, Indiana receives partial credit for this element because the state requires indemnification, but does not specify that indemnification must include a full refund.

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**D. DOES THE STATE ALLOW STUDENTS AMPLE TIME TO MAKE A COMPLAINT?**  
**7.5/10 POINTS\***

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

	<b>2 years or more (or no deadline)</b>	<b>1-2 years</b>	<b>Under 1 year</b>	<b>Not applicable</b>
Type 1	<b>10 Points</b>	5 Points	1 Point	0 Points
Type 2	10 Points	<b>5 Points</b>	1 Point	0 Points

**Explanation:**

**Type 1: Non-credit-bearing, non-degree-granting institutions.** Indiana does not specify a deadline for students to file complaints against institutions.

**Type 2: Credit-bearing, proprietary institutions.** The Board is part of the Indiana Commission for Higher Education; complaints must be submitted to the Commission within 2 years of the incident. (See <http://www.in.gov/che/2744.htm>.)

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**E. DOES THE STATE REQUIRE INSTITUTIONS TO DISCLOSE INFORMATION ABOUT FILING A COMPLAINT WITH THE STATE OVERSIGHT BODY?**  
**2.5/20 POINTS\***

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

**Type 1: Non-credit-bearing, non-degree-granting institutions**

<b>Medium</b>	<b>Mandatory</b>	<b>Discretionary</b>	<b>Not specified</b>
<b>Catalog</b>	10 Points	5 Points	<b>0 Points</b>
<b>Website</b>	5 Points	2.5 Points	<b>0 Points</b>
<b>Enrollment contract</b>	5 Points	2.5 Points	<b>0 Points</b>

**Explanation:**

Indiana does not require non-credit-bearing, non-degree-granting institutions to disclose information about filing complaints with the Department or OCTS. However, the Department maintains a website with information for students with instructions on the complaint process.

**Type 2: Credit-bearing proprietary institutions:**

<b>Medium</b>	<b>Mandatory</b>	<b>Discretionary</b>	<b>Not specified</b>
<b>Catalog</b>	10 Points	<b>5 Points</b>	0 Points
<b>Website</b>	5 Points	2.5 Points	<b>0 Points</b>
<b>Enrollment contract</b>	5 Points	2.5 Points	<b>0 Points</b>

**Explanation:**

Indiana requires proprietary institutions to include the Board's phone number and mailing address in the

institution's catalog, but does not specifically require inclusion of this information in relation to an explanation of the Board's complaint resolution process. Because Indiana requires inclusion the Board's contact information in the institution's catalog, the state receives partial credit for this element. There are no other requirements related to the disclosure of the Board's complaint process. (Ind. Code Ann. § 21-18.5-6-5.)

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

9/10 POINTS\*

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

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

**Explanation:**

**Type 1: Non-credit-bearing, non-degree-granting institutions.** Indiana maintains a website with instructions describing the student complaint process (<http://www.in.gov/dwd/2731.htm>) and providing a link to an online form, which includes a mailing address and an email address ([http://www.in.gov/dwd/files/Student\\_Complaint\\_Form.pdf](http://www.in.gov/dwd/files/Student_Complaint_Form.pdf).)

**Type 2: Credit-bearing, proprietary institutions.** The Commission for Higher Education maintains a website on which the Board has a page. Students can reach a webpage with step-by-step instructions on filing a complaint, deadlines, an email address, a phone number, and a link to a web form for students to use to file a complaint with the Commission/Board (<http://www.in.gov/che/2744.htm>.)

VII. ENFORCEMENT: 25/100 POINTS

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

0/30 POINTS\*

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

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

**Explanation:**

**Type 1: Non-credit-bearing, non-degree-granting institutions.** There is no indication that non-credit-bearing, non-degree-granting institutions that repeatedly produce substandard graduation, job placement and /or cohort default rates lose any state aid.

**Type 2: Credit-bearing, proprietary institutions.** There is no indication that credit-bearing, proprietary institutions that repeatedly produce substandard graduation, job placement and /or cohort default rates lose any state aid.

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

**15/30 POINTS\***

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

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

**Explanation:**

**Type 1: Non-credit-bearing, non-degree-granting institutions.** Indiana does not specifically enumerate a private right of action; however, the law does state explicitly that the fact that a bond is in force or that the fund exists does not limit or impair a right of recovery and the amount of damages or other relief to which a plaintiff may be entitled under applicable Indiana laws relating to these institutions. (Ind. Code Ann. § 22-4.1-21-31.) Thus, Indiana receives partial credit here because a private right of action exists in a least some circumstances.

**Type 2: Credit-bearing, proprietary institutions.** Indiana does not specifically enumerate a private right of action, however, the law does state explicitly that the fact that the career college student assurance fund exists does not limit or impair a right of recovery and the amount of damages or other relief to which a plaintiff may be entitled. (Ind. Code Ann. § 21-18.5-6-19.) Thus, Indiana receives partial credit here because a private right of action exists in a least some circumstances.

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

**0/20 POINTS\***

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

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

**Explanation:**

**Type 1: Non-credit-bearing, non-degree-granting institutions.** Indiana does not expressly provide for attorney fee awards for students who prevail in litigation against institutions who have violated the laws and regulations in place to govern them.

**Type 2: Credit-bearing, proprietary institutions.** Indiana does not expressly provide for attorney fee awards for students who prevail in litigation against institutions who have violated the laws and regulations in place to govern them.



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D. DOES STATE LAW EXPLICITLY AUTHORIZE  
ATTORNEY GENERAL INVOLVEMENT?

**10/20 POINTS\***

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

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

**Explanation:**

**Type 1: Non-credit-bearing, non-degree-granting institutions.** Indiana receives partial credit for this element because the prosecuting attorney of the county in which a relevant offense occurred shall, at the request of the Department or on the prosecuting attorney's own motion, bring any appropriate action, including a mandatory and prohibitive injunction. (Ind. Code Ann. § 22-4.1-21-36.)

**Type 2: Credit-bearing, proprietary institutions.** Indiana receives partial credit for this element because in some circumstances, violations of the laws governing proprietary institutions are actionable by the attorney general (Ind. Code Ann. § 21-18.5-6-22.5). Also, the prosecuting attorney of the county in which a relevant offense occurred shall in other circumstances bring appropriate action at the request of the board or on the prosecuting attorney's own motion. (Ind. Code Ann. § 21-18.5-6-23.)

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**BONUS POINTS:**

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Indiana does receive any bonus points.



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**ILLUMINATING INFORMATION**

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**RECIPROCITY AGREEMENTS**

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

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

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



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# IOWA

## FINAL GRADING ANALYSIS

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OVERALL SCORE: **319.5/700 POINTS (46%)**  
LETTER GRADE: **F**

### I. OVERSIGHT BODY: **53/100 POINTS**

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#### A. IS THERE A STATUTORILY CREATED OVERSIGHT BODY THAT IS PUBLICLY ACCOUNTABLE?

**50/60 POINTS**

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Element	Points Available	Points Awarded
1. Oversight body is a multi-member board, commission, or panel created by statute	10	10
2. Oversight body was statutorily created specifically to oversee private postsecondary institutions	10	0
3. Multi-member board, commission, or panel is the ultimate decision maker (as opposed to a single person, like the head of a department or director)	10	10
4. Oversight body can engage in rulemaking	10	10
5. Oversight body's meetings must be open to the public	5	5
6. Oversight body's meetings must allow public comment	5	5
7. Oversight body can initiate investigations	5	5
8. Oversight body can impose penalties for violations	5	5
<b>Total Points</b>	60	50

#### Explanation:

The College Student Aid Commission has the authority to oversee private postsecondary institutions in Iowa. (Iowa Code § 261.1; §261.2(7).) The Commission's authority is not limited to private postsecondary institutions. Among its duties, the Commission has authority to engage in rulemaking, initiate investigations, and impose penalties for violations. (Iowa Code § 261B.12.) Iowa law provides an opportunity for public comment and for meetings of the Commission at which rules are discussed to be open to the public. (Iowa Code § 17A.4; 283 IAC 2.5.)

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## B. STATUTE-SPECIFIED MEMBERSHIP:

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

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**0/25 POINTS**

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

**Explanation:**

Iowa's Student Aid Commission is statutorily mandated to include 14 members. The membership and appointments are as follows:

- 1) A member of the state Board of Regents to be named by the Board, or the executive director of the Board if so appointed by the Board, who serves for a four-year term or until the expiration of the member's term of office;
- 2) The director of the Department of Education or the director's designee;
- 3) Two members of the Senate, one appointed by the president of the Senate and one appointed by the minority leader of the Senate, to serve as ex officio, nonvoting members;
- 4) Two members of the House of Representatives, one appointed by the speaker and one appointed by the minority leader, to serve as ex officio, nonvoting members;
- 5) Eight members appointed by the governor. Iowa requires that one of these members is selected to represent private colleges and universities located in the state of Iowa. Notably, Iowa requires that the governor, in making this appointment, give careful consideration to any person or persons nominated or recommended by any organization or association of some or all private colleges and universities located in the state of Iowa. One of the members shall be selected to represent community colleges located in the state of Iowa. Iowa requires one member to be enrolled as a student at a Board of Regents institution, community college, or accredited private institution. Iowa requires one of the eight members appointed by the governor to be a representative of a lending institution located in this state and one to be an individual who is repaying or has repaid a student loan guaranteed by the Commission. The final three of the eight members appointed by the governor must be selected to represent the general public and not official board members or trustees of an institution of higher learning or affiliation of institutions of higher learning. (Iowa Code § 261.1.)

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

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**0/10 POINTS**

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Yes	No
10 Points	0 Points

**Explanation:**

See explanation above. While Iowa does require student representation on the Commission, the state does not mandate the presence of an experienced consumer advocate on the Commission. (Iowa Code § 261.1.)

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

**3/5 POINTS**

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

**Explanation:**

Aside from the Director of the Department of Education or his designee, the members of the Commission are either elected officials or they are appointed by elected officials. (Iowa Code § 261.1.)

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## II. STATE OVERSIGHT—EFFICACY:

**51/100 POINTS**

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

**0/10 POINTS**

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

**Explanation:**

Iowa requires postsecondary institutions to register every 2 years, however, the state does not require onsite inspections, nor does the state specify discretion for the Commission to do onsite inspections as a condition of registration renewal. (Iowa Code § 261B.3.)

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

**0/5 POINTS**

---

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

**Explanation:**

Iowa does not require or authorize the Commission to do unannounced inspections for onsite reviews.

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

**20/20 POINTS**

Mandatory			Discretionary	None
Every 2 Years or Less	Every 3-5 years	Over 5 years	Discretion to conduct reviews	No review specified
20 Points	15 Points	10 Points	5 Points	0 Points

**Explanation:**

Iowa requires schools to register with the College Student Aid Commission and to renew the registration every two years. Iowa requires registrations to be amended upon any substantive change in location, program offering, or accreditation. A school makes a substantive change in a program offering when the school proposes to offer or modify a program that requires the approval of the state board of education or any other state agency authorized to approve the school or its program in this state. (Iowa Code § 261B.3(1).)

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

**8.5/20 POINTS**

8 of 8	7 of 8	6 of 8	5 of 8	4 of 8	3 of 8	2 of 8	1 of 8	0 of 8
20 Points	17.5 Points	15 Points	12.5 Points	10 Points	<del>7.5</del> 8.5 Points	5 Points	2.5 Points	0 Points

Element	
Admission requirements	
Graduation requirements	
Placement rate	
Completion rate (or graduation rate)	M
Advertising practices	D
Cohort default rate	M
Accreditation status	M
Financial aid policies	

*M=Mandatory; D=Discretionary*

**Explanation:**

Iowa requires evidence of accreditation, reviews the school's Stafford loan cohort default rate, and requires information on the graduation rate. Notably, Iowa reviews the average student loan debt upon graduation of students completing programs at the school. Iowa does require some disclosure of advertising practices, but only as to the prohibition on a school's advertising that the school is approved or accredited by the commission or the state of Iowa. Thus, Iowa receives partial credit for advertising. (Iowa Code § 261B.3A, 261B.4.)

---

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

**5/15 POINTS**

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Yes, strongly distinguished	Yes, moderately distinguished	Yes, slightly distinguished	Not distinguished
15 Points	10 Points	5 Points	0 Points

**Explanation:**

Iowa law exempts some nonprofits from registration. (283 IAC 21.10.)

---

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

**7.5/10 POINTS**

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Yes, mandatory	Yes, mandatory but limited	Yes, discretionary	Yes, discretionary but limited	No
10 Points	7.5 Points	5 Points	2.5 Points	0 Points

**Explanation:**

When the Commission or the Commission's designee believes a school is in violation, the Commission must order the school to show cause why it should not issue a cease and desist order to the school. Thus, there is required increased oversight in this regard. However, there are no benchmarks in place to prompt this mandatory increased oversight. The mandatory oversight is limited to circumstances in which the Commissioner or its designee believes the school is in violation of the law. (Iowa Code § 261B.12.)

---

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

**10/20 POINTS**

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Yes	No
<del>20</del> 10 Points	0 Points

**Explanation:**

Iowa receives partial credit for this element because it has some provisions in place that recognize the unique situation of veterans. Iowa includes in its definition of "accredited private institution," an institution which adopts a policy to offer specified options to a student who is a member, or the spouse of a member if the member has a dependent child, of the Iowa national guard or reserve forces of the United States and who is ordered to national guard duty or federal active duty. (Iowa Code § 261.9 (applies to nonprofit schools); Iowa Code Section 261.61(9) (applies the same protection to for-profit cosmetology arts and sciences and barbering schools who are eligible for the Iowa barber and cosmetology arts and sciences tuition grant program); Iowa Administrative Code 283—21.2(261B) (applies the same special protection to in-state or out-of-state schools that are required to register or that voluntarily register under Iowa Code 261B for the purpose of complying with federal state authorization rules in 34 CFR 600.9, regardless of sector (i.e., public, private nonprofit, private for-profit)).)

### III. STATE OVERSIGHT—SCOPE AND INCLUSION:

**50/100 POINTS**

#### A. ARE EXEMPTIONS TO STATE OVERSIGHT COVERAGE LIMITED?

**50/100 POINTS**

No exemptions	Few exemptions	Moderate exemptions	Broad exemptions
100 Points	75 Points	50 Points	0 Points

**Explanation:**

Iowa provides moderate exemptions to state oversight. (Iowa Code § 261B.11.) Several of these exemptions are common sense exemptions that would not hinder protection of students, and many of the exemptions are intended to exempt long-standing, Iowa originating institutions. However, some exemptions allow for the exemption of several private for-profit schools and as such, weaken protections in place for students attending those schools.

### IV. DISCLOSURE REQUIREMENTS: **30/100 POINTS**

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

**0/20 POINTS**

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

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

**20/60 POINTS**

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

**Explanation:**

Iowa law requires proprietary schools that are not eligible for federal student financial aid under Title IV of the federal Higher Education Act of 1965 to inform students, prior to the time when a student is obligated for payment of any moneys, of the percentage of students who successfully complete the

postsecondary program. If claims are made by the proprietary school as to successful placement of students in jobs upon completion of the proprietary school's postsecondary educational programs, the proprietary school must provide information related to job placement to potential students. Finally, if claims are made by the proprietary school as to income levels of students who have graduated and are working in fields related to the proprietary school's postsecondary educational programs, the proprietary school must inform the student of the method used to derive such information. Iowa receives partial credit only for these elements because (1) only proprietary schools that are NOT eligible for student financial aid under Title IV of the Higher Education Act of 1965 are subject to these requirements, and (2) for "license exam passage rates" and "wage information," disclosures are required only if the school makes claims regarding either of these elements. (Iowa Code §714.25.)

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

**10/20 POINTS**

Element description	Mandatory	Discretionary	Not specified
Total cost of program	5 Points	2.5 Points	0 Points
Refund information	5 Points	2.5 Points	0 Points
Transferability of credits	5 Points	2.5 Points	0 Points
Length of program	5 Points	2.5 Points	0 Points

**Explanation:**

Iowa law requires that every person, firm, association, or corporation maintaining or conducting in Iowa any educational course by classroom instruction or by correspondence or by other delivery method, or soliciting in Iowa the sale of such course, shall file with the college student aid commission a copy of any catalog, prospectus, brochure, or other advertising material intended for distribution in Iowa. Such material shall state the cost of the educational course offered, the schedule of tuition refunds for portions of the educational course not completed, and if no refunds are to be paid, the material shall so state. (Iowa Code §§ 714.18; 261B.9; 714.25.)

**V. REGULATION OF RECRUITING PRACTICES:**

**50/100 POINTS**

**A. HAS THE STATE PUT INTO LAW A LIST OF PROHIBITED ACTS  
REGARDING ADVERTISING AND RECRUITING?**

**50/100**

Yes, strong regulation	Yes, moderate regulation	Yes, weak regulation	No list of prohibited acts
100 Points	75 Points	50 Points	0 Points

## PROHIBITED ACTS

Included in list of prohibited acts	
Misleading representations using the word “college” or “university”	
Misleading institution affiliations (re: military, public institution, businesses)	
Promise of employment	X
Compensation for enrollment	
Compensation or “bounty” to recruiters	
Deception (broad prohibition)	X
Misrepresentation (broad prohibition)	X
Misleading representations re: accreditation	

*1-3=Weak; 3.5-6=Moderate; 6.5-8=Strong*

### Explanation:

Prohibited acts can be found at Iowa Code § 714.16; Iowa Code § 714.17.

## VI. COMPLAINT PROCESS AND RELIEF FOR STUDENTS:

**65.5/100 POINTS**

### A. DOES THE STATE REQUIRE A BOND OR FUND AS A CONDITION OF AUTHORIZATION?

**20/20 POINTS**

Yes	No
20 Points	0 Points

### Explanation:

Iowa requires every person, firm, association, or corporation maintaining or conducting in Iowa any educational course by classroom instruction or by correspondence or by other delivery method, or soliciting in Iowa the sale of such course, to file with the college student aid commission a continuous corporate surety bond to the state of Iowa in the sum of \$50,000 conditioned on the faithful performance of all contracts and agreements with students made by such person, firm, association, or corporation, or their salespersons; but the aggregate liability of the surety for all breaches of the conditions of the bond shall not exceed the sum of the bond. (Iowa Code § 714.18.)

### B. DOES THE STATE REQUIRE A REFUND OF TUITION IF A STUDENT ENROLLS AS THE RESULT OF MISREPRESENTATION?

**10/20 POINTS**

Yes, full refund	Yes, partial refund	No refund required
20 Points	10 Points	0 Points

### Explanation:

Iowa does not explicitly require a full refund of tuition if a student enrolls as a result of misrepresentation.



However, the state requires a proprietary institution with at least one program of more than 4 months in length that leads to a recognized educational credential to refund, generally, 90% of tuition charged, multiplied by the ration of the period for which the student was charged that he or she did not complete, as compared to the total length of that period. This policy applies to all students at such a school who withdraw, regardless of the reason. This would include a student withdrawing because he or she had enrolled as a result of misrepresentation. (Iowa Code §714.23.) Thus, Iowa receives partial credit here. Note that Iowa officials report that there are more student-friendly tuition refund formulas for students that must withdraw due to exceptional circumstances, and for students that withdraw from schools with high default rates in the federal Stafford loan program.

**C. DOES THE STATE REQUIRE INSTITUTIONS TO REFUND TUITION IN THE EVENT OF CLOSURE?**

**15/20 POINTS**

Yes, full refund	Yes, partial refund	Yes, refund in limited circumstances	No refund required
20 Points	<b>15 Points</b>	10 Points	0 Points

**Explanation:**

Iowa does not explicitly require a full refund of tuition in the event of closure. However, the state requires a proprietary institution with at least one program of more than 4 months in length that leads to a recognized educational credential to refund, generally, 90% of tuition charged, multiplied by the ration of the period for which the student was charged that he or she did not complete, as compared to the total length of that period. This policy applies to all students at such a school who withdraw, regardless of the reason; this would include students who have to discontinue attendance due to closure of the school. (Iowa Code §714.23.) Again, Iowa receives partial credit here.

**D. DOES THE STATE ALLOW STUDENTS AMPLE TIME TO MAKE A COMPLAINT?**

**10/10 POINTS**

2 years or more (or no deadline)	1-2 years	Under 1 year	Not applicable
<b>10 Points</b>	5 Points	1 Point	0 Points

**Explanation:**

Iowa law and regulation do not specify a timeframe for students wishing to file a complaint.

**E. DOES THE STATE REQUIRE INSTITUTIONS TO DISCLOSE INFORMATION ABOUT FILING A COMPLAINT WITH THE STATE OVERSIGHT BODY?**

**7.5/20 POINTS**

Medium	Yes	Discretionary	No
Catalog	10 Points	<b>5 Points</b>	0 Points
Website	5 Points	<b>2.5 Points</b>	0 Points
Enrollment contract	5 Points	2.5 Points	<b>0 Points</b>

**Explanation:**

Iowa Code §261B.7 requires schools to disclose that the school is registered by the Commission on behalf of the state of Iowa and provide the Commission's contact information for students who wish to inquire about the school or file a complaint. It does not, however, specify where this information is to be disclosed. Therefore, it is up to the discretion of the school to determine where this information is made available. The two most common places for schools to disclose this information are the school catalog and/or the school website. Therefore, Iowa receives partial credit for catalog and website inclusion.

**F. IS THE COMPLAINT PROCESS READILY ACCESSIBLE AND AVAILABLE ON THE STATE OVERSIGHT BODY WEBSITE?**

**3/10 POINTS**

Yes, with address	Yes, with phone #	Yes, with email address	Yes, with electronic form	No
2 Points	2 Points	3 Points	3 Points	0 Points

**Explanation:**

The Iowa Student Aid Commission maintains a webpage with a form for student complaints. There are no other easily available methods or contacts related specifically to student complaints beyond the web-based form.

**VII. ENFORCEMENT: 20/100 POINTS**

**A. IS THERE LOSS OF STATE AID FOR SCHOOLS THAT REPEATEDLY PRODUCE SUBSTANDARD GRADUATION RATES, JOB PLACEMENT RATES, AND/OR COHORT DEFAULT RATES?**

**0/30 POINTS**

Yes, required	Yes, required but limited	Yes, discretionary	Yes, discretionary but limited	No
30 Points	20 Points	15 Points	5 Points	0 Points

**Explanation:**

Iowa law does not provide that schools that repeatedly produce substandard graduation rates, job placement rates, and/or cohort default rates will lose state aid as a result of poor performance in any or all of these areas.

**B. DOES STATE LAW EXPLICITLY AUTHORIZE A PRIVATE RIGHT OF ACTION FOR STUDENTS AGAINST INSTITUTIONS THAT HAVE VIOLATED THE LAWS AND REGULATIONS IN PLACE TO GOVERN THEM?**

**0/30 POINTS**

Yes	Limited circumstances	No
30 Points	15 Points	0 Points

**Explanation:**

Iowa law does not explicitly authorize a private right of action for students against institutions that have violated the laws and regulations in place to govern them.

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**C. DOES STATE LAW EXPLICITLY ALLOW ATTORNEY FEE AWARDS FOR STUDENTS WHO PREVAIL IN LITIGATION AGAINST PRIVATE FOR-PROFIT POSTSECONDARY INSTITUTIONS?**

**0/20 POINTS**

---

<b>Yes</b>	<b>Limited</b>	<b>No</b>
20 Points	15 Points	<b>0 Points</b>

**Explanation:**

Iowa law does not explicitly allow attorney fee awards for students who prevail in litigation against private for-profit postsecondary institutions.

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**D. DOES STATE LAW EXPLICITLY AUTHORIZE ATTORNEY GENERAL INVOLVEMENT?**

**20/20 POINTS**

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<b>Yes</b>	<b>Limited circumstances</b>	<b>No</b>
<b>20 Points</b>	10 Points	0 Points

**Explanation:**

The state authorizes Attorney General involvement. (Iowa Code § 261B.12; § 714.16.)

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**BONUS POINTS:**

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Iowa does not receive any bonus points.



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**ILLUMINATING INFORMATION**

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**RECOPROCITY AGREEMENTS**

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Iowa is a part of the State Authorization Reciprocity Agreements (SARA).

## LITIGATION, INVESTIGATIONS, AND ACTIONS INVOLVING PRIVATE FOR-PROFIT EDUCATIONAL INSTITUTIONS IN IOWA

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For information about pending and recent federal and state government investigations and actions regarding for-profit colleges see David Halperin's compilation at <http://www.republicreport.org/2014/law-enforcement-for-profit-colleges/#sthash.1vc4HmPw.dpuf>.

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# KANSAS

## FINAL GRADING ANALYSIS

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OVERALL SCORE: **296/700 POINTS (42.3%)**  
LETTER GRADE: **F**

### I. OVERSIGHT BODY: **75/100 POINTS**

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#### A. IS THERE A STATUTORILY CREATED OVERSIGHT BODY THAT IS PUBLICLY ACCOUNTABLE?

**45/60 POINTS**

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Element	Points Available	Points Awarded
1. Oversight body is a multi-member board, commission, or panel created by statute	10	10
2. Oversight body was statutorily created specifically to oversee private postsecondary institutions	10	0
3. Multi-member board, commission, or panel is the ultimate decision maker (as opposed to a single person, like the head of a department or director)	10	10
4. Oversight body can engage in rulemaking	10	10
5. Oversight body's meetings must be open to the public	5	5
6. Oversight body's meetings must allow public comment	5	0
7. Oversight body can initiate investigations	5	5
8. Oversight body can impose penalties for violations	5	5
<b>Total Points</b>	60	45

#### Explanation:

The Kansas State Board of Regents is charged with the oversight of private postsecondary institutions, among other postsecondary institutions in the state. (K.S.A. §74-3202a(a)(1); K.S.A. § 74-32,163; K.S.A. § 74-32,165; K.S.A. §74-3202a.) The Board is authorized to engage in rulemaking, initiate investigations, and impose some penalties, and may revoke a certificate of approval or impose reasonable conditions upon the continued approval represented by a certificate. (K.S.A. §74-32-172.) Kansas law does not authorize the Board to levy fines, but the attorney general, or the county or district attorney upon petition to the court, may recover a civil penalty on behalf of the state. (K.S.A. §74-32-178.)

The Kansas Open Meetings Act requires Board meetings to be open to the public. (K.S.A. §75-4317 et seq.) However, the Act does not require that the public be allowed to speak at meetings, and nothing in the laws or regulations governing the Board requires that the public be allowed to speak at its meetings.

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**B. STATUTE-SPECIFIED MEMBERSHIP:**

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**1. TO WHAT EXTENT ARE LIMITATIONS PLACED ON FOR-PROFIT MEMBERSHIP ON THE OVERSIGHT BODY?**

**25/25 POINTS**

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Explicit prohibition on for-profit majority, plus no possibility of a majority of the quorum	Explicit prohibition on for-profit majority	Discouraged	No prohibition specified, but not discouraged	For-profit majority mandated
25 Points	20 Points	10 Points	0 Points	–5 points

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**Explanation:**

Kansas law explicitly prohibits membership on the Board of anyone who is an elected official or an officer or employee of any postsecondary institution. (K.S.A. §74-3202a(b)(3).)

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**2. IS THE OVERSIGHT BODY MANDATED TO INCLUDE AT LEAST ONE CONSUMER ADVOCATE?**

**0/10 POINTS**

---

Yes	No
10 Points	0 Points

---

**Explanation:**

Kansas law does not require the Board to include a consumer advocate.

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**3. ARE THE MEMBERS APPOINTED BY A PUBLICLY ACCOUNTABLE OFFICIAL OR ELECTED IN A GENERAL ELECTION?**

**5/5 POINTS**

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All	Majority	Half	Minority	None
5 Points	3 Points	2.5 Points	1 Point	0 Points

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**Explanation:**

The Board consists of nine members, all appointed by the governor subject to confirmation by the senate. (K.S.A. §74-3202a(a)(1).)

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**II. STATE OVERSIGHT—EFFICACY: 36/100 POINTS**

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**A. DOES THE STATE REQUIRE ONSITE REVIEW OF PRIVATE POSTSECONDARY INSTITUTIONS?**

**2.5/10 POINTS**

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Mandatory onsite reviews			Discretionary	None
Every 2 years or less	Every 3-5 years	Over 5 years	Discretion to conduct onsite reviews	No review specified
10 Points	8 Points	<del>5</del> <b>2.5 Points</b>	3 Points	0 Points

**Explanation:**

Onsite reviews are mandatory for some degree-granting institutions (those without accreditation from an agency recognized by the U.S. Department of Education). These onsite reviews will occur “no more frequently than every five years.” (K.A.R. §88-28-4.) Partial credit is given because the regulation does not apply to institutions which do not have degree-granting authority or to institutions with accreditation from an agency recognized by the federal government. Onsite review is discretionary for these institutions, no more frequently than every five years.

**B. DOES THE STATE REQUIRE UNANNOUNCED INSPECTIONS FOR ONSITE REVIEWS?**

**0/5 POINTS**

Required unannounced visits	Discretion to do unannounced visits	No indication
5 Points	3 Points	<b>0 Points</b>

**Explanation:**

When the Board’s executive officer has determined that an institution is ready for an onsite visit, he/she is required to arrange a visit with the owner of the institution. (K.A.R. §88-28-4(b).)

**C. DOES THE STATE REQUIRE REGULAR REVIEWS OF PRIVATE POSTSECONDARY APPROVAL TO OPERATE?**

**20/20 POINTS**

Mandatory			Discretionary	None
Every 2 Years or Less	Every 3-5 years	Over 5 years	Discretion to conduct reviews	No review specified
<b>20 Points</b>	15 Points	10 Points	5 Points	0 Points

**Explanation:**

Certificates of approval are valid for one year. (K.S.A. § 74-32,170(b).)

**D. DO THE CRITERIA FOR RENEWAL OF AUTHORIZATION MANDATE A REVIEW OF FACTORS ESSENTIAL TO ACADEMIC AND ETHICAL INTEGRITY?**

**11/20 POINTS**

8 of 8	7 of 8	6 of 8	5 of 8	4 of 8	3 of 8	2 of 8	1 of 8	0 of 8
20 Points	17.5 Points	15 Points	12.5 Points	<del>10</del> <b>11 Points</b>	7.5 Points	5 Points	2.5 Points	0 Points

Element	
Admission Requirements	M
Graduation Requirements	M
Placement Rate	
Completion Rate (or Graduation Rate)	
Advertising Practices	M
Cohort Default Rate	
Accreditation Status	M
Financial Aid Policies	D

*M=Mandatory; D=Discretionary*

**Explanation:**

Kansas law requires institutions to submit a catalog with their application for approval to operate. (K.A.R. §88-28-3(c)(6).) The catalog includes information about admission requirements, graduation requirements and accreditation status. (K.A.R. §88-28-2.) Institutions must also submit with their application copies of any advertising used (K.A.R. §88-28-3(c)(10)) and a copy of any certificate of accreditation issued to the institution by a regional or national accrediting agency recognized by the U.S. Department of Education. (K.A.R. §88-28-3(c)(11).)

**E. DOES THE STATE'S OVERSIGHT DISTINGUISH BETWEEN FOR-PROFIT AND NONPROFIT POSTSECONDARY INSTITUTIONS?**

**0/15 POINTS**

Yes, strongly distinguished	Yes, moderately distinguished	Yes, slightly distinguished	Not distinguished
15 Points	10 Points	5 Points	0 Points

**Explanation:**

Kansas law does not distinguish private for-profit institutions from private nonprofit institutions in any significant way related to regulation of postsecondary institutions.

**F. DOES THE STATE REQUIRE INCREASED OVERSIGHT/SCRUTINY OF PRIVATE POSTSECONDARY INSTITUTIONS BASED ON POOR PERFORMANCE?**

**2.5/10 POINTS**

Yes, mandatory	Yes, mandatory but limited	Yes, discretionary	Yes, discretionary but limited	No
10 Points	7.5 Points	5 Points	2.5 Points	0 Points

**Explanation:**

Violation of the law may result in conditions being place on continued approval, which requires increased scrutiny, but nothing is in place relevant to schools that are in compliance with the law but performing poorly. (K.S.A. § 74-32,172.)

**G. DOES STATE LAW INCLUDE ANY SPECIAL PROTECTIONS FOR VETERANS WHO ATTEND PRIVATE POSTSECONDARY INSTITUTIONS?**

**0/20 POINTS**



<b>Yes</b>	<b>No</b>
<b>20 Points</b>	<b>0 Points</b>

**Explanation:**

Kansas law has no special protections in place for veterans who attend private postsecondary institutions.

### **III. STATE OVERSIGHT—SCOPE AND INCLUSION:**

**0/100 POINTS**

#### **A. ARE EXEMPTIONS TO STATE OVERSIGHT COVERAGE LIMITED?**

**0/100 POINTS**

<b>No exemptions</b>	<b>Few exemptions</b>	<b>Moderate exemptions</b>	<b>Broad Exemptions</b>
<b>100 Points</b>	<b>75 Points</b>	<b>50 Points</b>	<b>0 Points</b>

**Explanation:**

Many of the institutions that Kansas exempts are common exemptions for certain religious institutions, employer-sponsored programs, public institutions, avocational programs, etc., and would likely not hinder protection of students.

However, Kansas law also exempts any postsecondary educational institution which was granted approval to confer academic or honorary degrees by the state Board of Education under the provisions of K.S.A. 17-6105, prior to its repeal, and any institution that does not have a physical presence in Kansas and that is otherwise subject to applicable law, but only to the extent that and for the period of time that such institution is participating in the State Authorization Reciprocity Agreement. (K.S.A. § 74-32,164.)

In addition, institutions that have accreditation from an agency recognized by the U.S. Department of Education are not required to submit to an onsite visit. (K.A.R. §88-28-4(a).)

And the Board of Regents may issue a certificate of approval to any institution accredited by a regional or national accrediting agency recognized by the U.S. Department of Education without further evidence. (K.S.A. § 74-32,168(c).)

### **IV. DISCLOSURE REQUIREMENTS: 20/100 POINTS**

#### **A. ARE INSTITUTIONS REQUIRED TO DISCLOSE INSTITUTIONAL PERFORMANCE MEASURES TO POTENTIAL STUDENTS?**

**0/20 POINTS**

<b>Yes, mandatory</b>	<b>Yes, discretionary</b>	<b>None</b>
Fact sheet or equivalent required to be given to students	Fact sheet or equivalent given to students upon request	No fact sheet required
<b>20 Points</b>	<b>10 Points</b>	<b>0 Points</b>

**Explanation:**

Kansas state law does not require institutions to disclose any institutional performance measure to potential students.

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**B. WHICH INSTITUTIONAL PERFORMANCE DISCLOSURES ARE  
REQUIRED TO BE GIVEN TO STUDENTS PRIOR TO ENROLLMENT?**

**0/60 POINTS**

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Disclosures	Mandatory	Discretionary	Not specified
Cohort default rate (CDR)	10 Points	5 Points	0 Points
Graduation / completion rates	10 Points	5 Points	0 Points
Placement rates	10 Points	5 Points	0 Points
Wage information	10 Points	5 Points	0 Points
License exam passage rates	10 Points	5 Points	0 Points
Methods & sources used to calculate	10 Points	5 Points	0 Points

**Explanation:**

Kansas state law does not require institutions to disclose any of these institutional performance measure to potential students.

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**C. DOES THE STATE REQUIRE SCHOOLS TO INCLUDE ELEMENTS  
ESSENTIAL TO STUDENT PROTECTION PRIOR TO ENROLLMENT  
OR IN THE ENROLLMENT CONTRACT?**

**20/20 POINTS**

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Element description	Mandatory	Discretionary	Not specified
Total cost of program	5 Points	2.5 Points	0 Points
Refund information	5 Points	2.5 Points	0 Points
Transferability of credits	5 Points	2.5 Points	0 Points
Length of program	5 Points	2.5 Points	0 Points

**Explanation:**

Kansas law requires institutions to provide their refund policy, total tuition and fees, and the number of clock hours or credit hours for each course in each curriculum, and the transferability of credit hours in their catalogs. (KAR 88-28-2(9)(A) & (11)(G),(P),(R).) Kansas law requires institutions to provide students with a catalog before accepting any payment from the student. (K.A.R. 88-28-7(a)(1).) Also, institutions are required to include in the enrollment agreement the number of clock-hours or credit hours and the number of weeks or months required for completion of the program or each course in which the student is enrolling. (K.A.R. 88-28-7(b)(4).) The enrollment agreement must include the total amount of tuition required for the program or each course in which the student is currently enrolling. If the total number of clock-hours or credit hours required for completion of the program will span more than one enrollment period, the enrollment agreement shall include a statement that tuition is subject to change. (K.A.R. 88-28-7(b)(6).)

## V. REGULATION OF RECRUITING PRACTICES:

**75/100 POINTS**

### A. HAS THE STATE PUT INTO LAW A LIST OF PROHIBITED ACTS REGARDING ADVERTISING AND RECRUITING?

**75/100 POINTS**

Yes, strong regulation	Yes, moderate regulation	Yes, weak regulation	No list of prohibited acts
100 Points	75 Points	50 Points	0 Points

#### PROHIBITED ACTS

Included in list of prohibited acts	
Misleading representations using the word “college” or “university”	X
Misleading institution affiliations (e.g., military, public institution, businesses)	
Promise of employment	X
Compensation for enrollment	/
Compensation or “bounty” to recruiters	
Deception (broad prohibition)	X
Misrepresentation (broad prohibition)	X
Misleading representations re: accreditation	X

*1–3=Weak; 3.5–6=Moderate; 6.5–8=Strong*

#### **Explanation:**

Kansas law prohibits institutions from using fraud or misrepresentation in advertising or in procuring the enrollment of a student; using the term “accredited” in the name or advertisement of the institution unless such institution is accredited; and using the term “university” in the name or advertisement of the institution unless such institution is a university. (K.S.A. § 74-32,177(a)(4-6); K.A.R. §88-28-2(13)(F).) Further, although Kansas law does not explicitly prohibit deception in its list of prohibited acts, it does state that institutions may not use erroneous or misleading advertising either by actual statement, omission, or intimation. (K.S.A. § 74-32,169.) Further, Kansas law states that “if the court finds that a person willfully used any deceptive or misleading act or practice ... the attorney general or a county or district attorney, upon petition to the court, may recover on behalf of the state, in addition to the criminal penalties provided in this act, a civil penalty not exceeding \$5,000 for each violation.” (K.S.A. § 74-32,178.) These provisions have the same effect as if Kansas were to explicitly prohibit deceptive advertising. Kansas law prohibits schools from advertising in the “help wanted” section of the classified ads, and it prohibits schools from making any overt or implied claim of guaranteed employment during training or upon completion of training, in any manner. (K.A.R. §88-28-2(13)(C),(G).) State law prohibits institutions from making offers of institutional scholarships or partial institutional scholarships, unless the scholarships are bona fide reductions in tuition and are issued under specific, published criteria (which is one way to prohibit offers of compensation for enrollment). (K.A.R. §88-28-2(13)(E).)

## VI. COMPLAINT PROCESS AND RELIEF FOR STUDENTS:

**70/100 POINTS**

### A. DOES THE STATE REQUIRE A BOND OR FUND AS A CONDITION OF AUTHORIZATION?

**20/20 POINTS**

Yes	No
20 Points	0 Points

**Explanation:**

Kansas law requires institutions to provide a bond or similar certificate or evidence of indebtedness or insurance before the state will issue a certificate of approval to that institution. (K.S.A. §74-32,175; K.A.R. §88-28-3(e).)

### B. DOES THE STATE REQUIRE A REFUND OF TUITION IF A STUDENT ENROLLS AS THE RESULT OF MISREPRESENTATION?

**20/20 POINTS**

Yes, full refund	Yes, partial refund	No refund required
20 Points	10 Points	0 Points

**Explanation:**

Kansas law does not explicitly require a refund of tuition if as student enrolls as the result of misrepresentation. However, Kansas law does specify that any note or contract taken by any institution or its officers, directors, agents or representatives, without having complied with specified law, shall be null and void and any person who has entered into a contract with such institution or its officers, directors, agents or representatives shall be entitled to a full refund of the money or consideration paid plus interest accruing from the date of payment. (K.S.A. § 74-32,179.) Use of misrepresentation in advertising or in procuring enrollment of a student is prohibited pursuant to K.S.A. § 74-32,177(4). Therefore a student who enrolls as a result of misrepresentation is entitled to a full refund plus interest accruing from the date of payment.

### C. DOES THE STATE REQUIRE INSTITUTIONS TO REFUND TUITION IN THE EVENT OF CLOSURE?

**0/20 POINTS**

Yes, full refund	Yes, partial refund	Yes, refund in limited circumstances	No refund required
20 Points	15 Points	10 Points	0 Points

**Explanation:**

There are no provisions in Kansas law that require institutions to refund tuition in the event of closure.

### D. DOES THE STATE ALLOW STUDENTS AMPLE TIME TO MAKE A COMPLAINT?

**10/10 POINTS**

<b>2 years or more (or no deadline)</b>	<b>1-2 years</b>	<b>Under 1 year</b>	<b>Not applicable</b>
<b>10 Points</b>	5 Points	1 Point	0 Points

**Explanation:**

Kansas law does specify a specific deadline for filing student complaints.

**E. DOES THE STATE REQUIRE INSTITUTIONS TO DISCLOSE INFORMATION ABOUT FILING A COMPLAINT WITH THE STATE OVERSIGHT BODY?**

**10/20 POINTS**

<b>Medium</b>	<b>Yes</b>	<b>Discretionary</b>	<b>No</b>
<b>Catalog</b>	10 Points	<b>5 Points</b>	0 Points
<b>Website</b>	5 Points	<b>2.5 Points</b>	0 Points
<b>Enrollment contract</b>	5 Points	<b>2.5 Points</b>	0 Points

**Explanation:**

Kansas law requires institutions to adopt, publish and adhere to a procedure for handling student complaints. Further, the state requires institutions to post information so that students will be aware of the complaint process available to them. The information must be posted in locations that are used or seen by all students on a regular basis such as the institution's web site, enrollment agreement, catalogue or other media. (K.S.A. § 74-32,169(l).) Kansas requires institutions to have a complaint policy and to post it, but leaves to the discretion of the institutions the location or locations at which the procedure is posted. The only mandate with regard to location is that the information is posted in a location that is used or seen by all students on a regular basis. Finally, there is no mention that the school policy must include information regarding how to contact the state Board to file a complaint, so the inclusion of this information is left to the discretion of the school as well.

**F. IS THE COMPLAINT PROCESS READILY ACCESSIBLE AND AVAILABLE ON THE STATE OVERSIGHT BODY'S WEBSITE?**

**10/10 POINTS**

<b>Yes, with address</b>	<b>Yes, with phone #</b>	<b>Yes, with email address</b>	<b>Yes, with electronic form</b>	<b>No</b>
<b>2 Points</b>	<b>2 Points</b>	<b>3 Points</b>	<b>3 Points</b>	0 Points

**Explanation:**

Kansas maintains a webpage on which students can find a form, a mailing address, an email address and phone number for questions, and a fax number.

**VII. ENFORCEMENT: 20/100 POINTS**

**A. IS THERE LOSS OF STATE AID FOR SCHOOLS THAT REPEATEDLY PRODUCE SUBSTANDARD GRADUATION RATES, JOB PLACEMENT RATES, AND/OR COHORT DEFAULT RATES?**

**0/30 POINTS**

Yes, required	Yes, required but limited	Yes, discretionary	Yes, discretionary but limited	No
30 Points	20 Points	15 Points	5 Points	0 Points

**Explanation:**

Kansas law contains no provisions requiring a loss of state aid for schools that repeatedly produce substandard graduation rates, job placement rates, and/or cohort default rates.

**B. DOES STATE LAW EXPLICITLY AUTHORIZE A PRIVATE RIGHT OF ACTION FOR STUDENTS AGAINST INSTITUTIONS THAT HAVE VIOLATED THE LAWS AND REGULATIONS IN PLACE TO GOVERN THEM?**

**0/30 POINTS**

Yes	Limited circumstances	No
30 Points	15 Points	0 Points

**Explanation:**

Kansas law does not explicitly authorize a private right of action for students against institutions that have violated the laws and regulations in place to govern them.

**C. DOES STATE LAW EXPLICITLY ALLOW ATTORNEY FEE AWARDS FOR STUDENTS WHO PREVAIL IN LITIGATION AGAINST PRIVATE FOR-PROFIT POSTSECONDARY INSTITUTIONS?**

**0/20 POINTS**

Yes	Limited	No
20 Points	15 Points	0 Points

**Explanation:**

Kansas law does not explicitly allow attorney fee awards for students who prevail in litigation against such institutions.

**D. DOES STATE LAW EXPLICITLY AUTHORIZE ATTORNEY GENERAL INVOLVEMENT?**

**20/20 POINTS**

Yes	Limited circumstances	No
20 Points	10 Points	0 Points

**Explanation:**

“...If it appears to the state board on the basis of its own inquiries or investigations or as a result of a complaint that any provision of this act has been or may be violated, the state board may request the attorney general to institute an action enjoining such violation or for an order directing compliance with the provisions of this act.” (K.S.A. § 74-32,173.)

## BONUS POINTS:

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Kansas does not receive any bonus points.



## ILLUMINATING INFORMATION

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## RECOPROCITY AGREEMENTS

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Kansas is a member of the State Authorization Reciprocity Agreements (SARA).

## LITIGATION, INVESTIGATIONS, AND ACTIONS INVOLVING PRIVATE FOR-PROFIT EDUCATIONAL INSTITUTIONS IN KANSAS

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For information about pending and recent federal and state government investigations and actions regarding for-profit colleges see David Halperin's compilation at <http://www.republicreport.org/2014/law-enforcement-for-profit-colleges/#sthash.1vc4HmPw.dpuf>.

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# KENTUCKY

## FINAL GRADING ANALYSIS

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OVERALL SCORE: **349/700 POINTS (49.9%)**  
LETTER GRADE: **F**

### I. OVERSIGHT BODY: **55.25/100 POINTS**

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#### A. IS THERE A STATUTORILY CREATED OVERSIGHT BODY THAT IS PUBLICLY ACCOUNTABLE?

**46.25/60 POINTS**

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Element	Points Available	Type 1	Type 2	Points Awarded (Average)
1. Oversight body is a multi-member board, commission, or panel created by statute	10	10	10	10
2. Oversight body was statutorily created specifically to oversee private postsecondary institutions	10	10	0	5
3. Multi-member board, commission, or panel is the ultimate decision maker (as opposed to a single person, like the head of a department or director)	10	10	10	10
4. Oversight body can engage in rulemaking	10	10	10	10
5. Oversight body's meetings must be open to the public	5	5	5	5
6. Oversight body's meetings must allow public comment	5	0	0	0
7. Oversight body can initiate investigations	5	5	0	2.5
8. Oversight body can impose penalties for violations	5	5	2.5	3.75
Total Points	60	55	37.5	46.25

#### Explanation:

Kentucky uses two parallel regulatory structures to oversee private postsecondary institutions. Proprietary institutions (Type 1) are private for-profit institutions including but not limited to traditional, Web-based, distance learning, or correspondence schools. Proprietary schools do not include those schools that offer a four-year bachelor's degree. Proprietary schools are regulated by the Kentucky Commission on Proprietary Education, which was created specifically for the purpose of overseeing and regulating proprietary schools. (KRS §165A.320; KRS §165A.340.) The Commission has authority to initiate investigations and to impose penalties on proprietary schools. (KRS §165A.370(2).)

Private postsecondary institutions that offer four-year bachelor's degrees (Type 2) are regulated and overseen by the Kentucky Council on Postsecondary Education, which is charged more broadly with the oversight of all public postsecondary institutions as well as the oversight of degree-granting private

postsecondary institutions. (KRS § 164.020; KRS §165A.320; KRS §164.947.) There is no specific authority granted to the Council to initiate investigations. If it is determined that the public interest requires that sanctions be imposed, the president of the Council shall take one of several specified actions. (13 KAR 1:020, Section 14.)

Both the Commission and the Council engage in rulemaking. (KRS § 165A.340(6)(a); KRS § 165A.400; KRS § 164.947(1); KRS §164.002; KRS § 164.947.)

Kentucky's Open Meetings Act provides that meetings of both the Commission and the Council are open to the public. However, Kentucky only encourages public bodies to allow public comment; opportunity for public comment is not required under Kentucky's Open Meetings Act. (KRS §61.805 to §61.850.)

## B. STATUTE-SPECIFIED MEMBERSHIP:

### 1. TO WHAT EXTENT ARE LIMITATIONS PLACED ON FOR-PROFIT MEMBERSHIP ON THE OVERSIGHT BODY?

**5/25 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Explicit prohibition on for-profit majority, plus no possibility of a majority of the quorum	Explicit prohibition on for-profit majority	Discouraged	No prohibition specified, but not discouraged	For-profit majority mandated
<b>Type 1</b>	25 Points	20 Points	10 Points	<b>0 Points</b>	-5 Points
<b>Type 2</b>	25 Points	20 Points	<b>10 Points</b>	0 Points	-5 Points

#### **Explanation:**

**Type 1: Proprietary institutions.** Kentucky requires four of the eleven commissioners to be representative of privately owned for-profit postsecondary institutions licensed by the Commission and appointed by the Governor from a list names submitted by the Kentucky Association of Career Colleges and Schools. Four commissioners must be representative of the public at large with a background in education, business, or industry in Kentucky (appointed by the Governor). (KRS § 165A.340.) There is no express prohibition on these four members having a material interest in the for-profit institutions they are regulating. The final three commissioners are the Secretary of the Education and Workforce Development Cabinet or the Secretary's designee, the President of the Council on Postsecondary Education or the President's designee, and the Commissioner of Education or the Commissioner's designee. (KRS § 165A.340.) Given that a quorum exists when a majority of the commissioners are present (6 commissioners), the for-profit owners could constitute a majority of the quorum. Thus, though Kentucky does not specifically mandate that a majority of the Commission be comprised of for-profit interests, there is a possibility that for profit interest may govern this Commission, given the statutory requirements for membership.

Kentucky has recognized the potential conflict in one provision. The Chairperson of the Commission's Complaint Committee must not be employed by, have ownership interest in, or be otherwise affiliated with a licensed institution, and school representatives who are commissioners must not constitute a majority of the Committee's membership. (KRS §165A.340(12).)

**Type 2: Degree-granting institutions.** The Council includes the Commissioner of Education, a faculty

member, a student member, and thirteen citizen members appointed by the Governor. The citizen members must be confirmed by the Senate and the House of Representatives, and the Commissioner of Education serves as a nonvoting ex officio member. Citizen council members are selected from a list of nominees provided to the Governor under a nominating process. (KRS § 164.011(1).) The nominating committee is explicitly prohibited from having any conflicts of interests as defined in KRS § 45A.340. The explicit prohibition by incorporation of KRS § 45A.340 is notably absent from the statute related to membership on the Council. However, the conflicts provision may have some applicability to membership on the Council, so Kentucky is given partial credit here for discouraging a for-profit majority.

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**2. IS THE OVERSIGHT BODY MANDATED TO INCLUDE  
AT LEAST ONE CONSUMER ADVOCATE?**

**0/10 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	No
<b>Type 1</b>	10 Points	<b>0 Points</b>
<b>Type 2</b>	10 Points	<b>0 Points</b>

**Explanation:**

**Type 1: Proprietary institutions.** Kentucky law does not mandate that the Kentucky Commission on Proprietary Education include any consumer advocates.

**Type 2: Degree-granting institutions.** Kentucky law does not mandate that the Kentucky Council on Postsecondary Education include any consumer advocates.

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**3. ARE THE MEMBERS APPOINTED BY A PUBLICLY ACCOUNTABLE  
OFFICIAL OR ELECTED IN A GENERAL ELECTION?**

**4/5 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	All	Majority	Half	Minority	None
<b>Type 1</b>	5 Points	<b>3 Points</b>	2.5 Points	1 Point	0 Points
<b>Type 2</b>	<b>5 Points</b>	3 Points	2.5 Points	1 Point	0 Points

**Explanation:**

**Type 1: Proprietary institutions.** The majority of the members of the members of the Kentucky Commission on Proprietary Education are appointed by the Governor. (KRS § 165A.340.)

**Type 2: Degree-granting institutions.** All of the voting members of the Kentucky Council on Postsecondary Education are appointed by the Governor and confirmed by the Senate and the House of Representatives. (KRS § 164.011(1).) The Commissioner of Education is a nonvoting ex officio member.

## II. STATE OVERSIGHT—EFFICACY: 49/100 POINTS

### A. DOES THE STATE REQUIRE ONSITE REVIEW OF PRIVATE POSTSECONDARY INSTITUTIONS?

4.5/10 POINTS\*

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Mandatory onsite reviews			Discretionary	None
	Every 2 years or less	Every 3-5 years	Over 5 years	Discretion to conduct onsite reviews	No review specified
Type 1	10 Points	8 Points	5 6 Points	3 Points	0 Points
Type 2	10 Points	8 Points	5 Points	3 Points	0 Points

#### Explanation:

**Type 1: Proprietary institutions.** The only physical inspection of a proprietary school's premises that is mandatory at a set time under Kentucky law occurs during the initial determination for a new proprietary school. (KSA §165A.370(1).) Kentucky receives one point here, because there is a set mandatory onsite review; regular physical inspections are mandatory as well, however, these reviews are not required with any specified regularity ("from time to time"). (KSA §165A.370(2).)

**Type 2: Degree-granting institutions.** The President of the Council may conduct or have conducted a site visit within ninety working days of the receipt of a full and complete application for a license, a supplementary application, or Application for Annual Maintenance of License or for Renewal of License. (13 KAR 1:020, Section 4.)

### B. DOES THE STATE REQUIRE UNANNOUNCED INSPECTIONS FOR ONSITE REVIEWS?

4/5 POINTS\*

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Required unannounced visits	Discretion to do unannounced visits	No indication
Type 1	5 Points	3 Points	0 Points
Type 2	5 Points	3 Points	0 Points

#### Explanation:

**Type 1: Proprietary institutions.** The Commission is required conduct unannounced inspections "from time to time" at reasonable times and places without prior notice. (KRS §165A.370(2).)

**Type 2: Degree-granting institutions.** The President may conduct, or may have conducted, an announced or unannounced site visit of a licensed college during reasonable business hours to inspect the files, facilities, and equipment as well as conduct interviews to determine the college's compliance with governing regulations. (13 KAR 1:020, Section 4.)

C. DOES THE STATE REQUIRE REGULAR REVIEWS OF PRIVATE POSTSECONDARY APPROVAL TO OPERATE?

**20/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Mandatory			Discretionary	None
	Under 3 years	Every 3-5 years	Over 5 years	Discretion to conduct reviews	No review specified
<b>Type 1</b>	<b>20 Points</b>	15 Points	10 Points	5 Points	0 Points
<b>Type 2</b>	<b>20 Points</b>	15 Points	10 Points	5 Points	0 Points

**Explanation:**

**Type 1: Proprietary institutions.** A certificate of approval is good for one school year, and must be renewed each year. (KRS § 165A.360(8); 165A.370(4).)

**Type 2: Degree-granting institutions.** A college shall submit an Application for Annual Maintenance of License or for Renewal of License by April 1 of each year. (13 KAR 1:020, Section 10.)

D. DOES THE CRITERIA FOR RENEWAL OF AUTHORIZATION MANDATE A REVIEW OF FACTORS ESSENTIAL TO ACADEMIC AND ETHICAL INTEGRITY?

**8/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	8 of 8	7 of 8	6 of 8	5 of 8	4 of 8	3 of 8	2 of 8	1 of 8	0 of 8
Type 1	20 Points	17.5 Points	15 Points	12.5 Points	10 Points	7.5 Points	<b>5 Points</b>	2.5 Points	0 Points
Type 2	20 Points	17.5 Points	15 Points	12.5 Points	<b>10 11 Points</b>	7.5 Points	5 Points	2.5 Points	0 Points

Elements:	Type 1	Type 2
Admission requirements		<b>M</b>
Graduation requirements		<b>M</b>
Placement rate	<b>M</b>	
Completion rate (or graduation rate)		<b>D</b>
Advertising practices	<b>M</b>	
Cohort default rate		
Accreditation status		<b>M</b>
Financial aid policies		<b>M</b>

*M=Mandatory and D=Discretionary*

**Type 1: Proprietary institutions.** Proprietary institutions must comply with minimum standards to be issued a certificate: it must not utilize advertising of any type which is untrue, deceptive, or misleading and it must be able to document all advertised claims. (KRS § 165A.370(1)(m).) Further, each institution must publicly disclose information about the job placement rates of graduates in the field of study. Thus, while Kentucky does not specifically require the review of job placement rates as part of the

Commission's review, the rates are available in the materials the schools are required to provide (minimum requirements), which the Commission does review; as such the Commission has access to review these rates. However, there is no mandate that the Commission review them and there are no penalties stated for a proprietary school's failure to maintain a reasonable job placement rate. (KRS §165A.340(6)(b).)

**Type 2: Degree-granting institutions.** Postsecondary institutions are required to submit information on their accreditation status. They are not explicitly required to submit admission requirements or graduation requirements for review with their Application for Annual Maintenance of License or for Renewal, but they are required to submit detailed program information and a copy of their catalog, both of which would include admission and graduation requirements. There is no explicit requirement that colleges submit information on their financial aid policies for review, but these policies are in the institutional catalog and would be available for review. There is no requirement that colleges disclose completion or graduation rates for review by the Council, but there is a broad requirement for colleges to submit student attendance and performance data; because performance data would likely include completion/graduation rates, so Kentucky receives partial credit for this element.

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**E. DOES THE STATE'S OVERSIGHT DISTINGUISH BETWEEN FOR-PROFIT AND NONPROFIT EDUCATIONAL INSTITUTIONS?**

**7.5/15 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, strongly distinguished	Yes, moderately distinguished	Yes, slightly distinguished	Not distinguished
<b>Type 1</b>	<b>15 Points</b>	10 Points	5 Points	0 Points
<b>Type 2</b>	15 Points	10 Points	5 Points	<b>0 Points</b>

**Explanation:**

**Type 1: Proprietary institutions.** The Kentucky statute that governs proprietary schools is intended to apply to and regulate for-profit proprietary schools, including but not limited to traditional, Web-based, distance learning, or correspondence schools, which are operated as or are organized for profit, whether profit is ever realized. It does not apply to nonprofit postsecondary institutions. (KRS § 165A.320.)

**Type 2: Degree-granting institutions.** The only distinction between for-profits and nonprofits is an exemption provided so certain nonprofit religious postsecondary institutions. (13 KAR 1:020, Section 2 (7)(a).)

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**F. DOES THE STATE REQUIRE INCREASED OVERSIGHT/SCRUTINY OF PRIVATE POSTSECONDARY INSTITUTIONS BASED ON POOR PERFORMANCE?**

**5/10 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, mandatory	Yes, mandatory but limited	Yes, discretionary	Yes, discretionary but Limited	No
<b>Type 1</b>	10 Points	7.5 Points	<b>5 Points</b>	2.5 Points	0 Points
<b>Type 2</b>	10 Points	7.5 Points	<b>5 Points</b>	2.5 Points	0 Points

**Explanation:**

**Type 1: Proprietary institutions.** The Commission may deny the issuance of a certificate or may establish conditions in conformity with these provisions which shall be met by the school prior to issuance of a certificate. The Commission may issue a conditional license for up to a nine month period of time.

**Type 2: Degree-granting institutions.** The President of the Council has the option to issue a conditional license for up to two years for a college which has not met all of the standards for licensure at the time the application for maintenance or renewal of license is filed; if the college provides a written business plan to the president demonstrating it will meet the standards for licensure within a period not to exceed one year. (13 KAR 1:020, Section 10 (3)(e).)

**G. DOES STATE LAW INCLUDE ANY SPECIAL PROTECTIONS FOR VETERANS WHO ATTEND PRIVATE POSTSECONDARY INSTITUTIONS?**

**0/20 POINTS**

Yes	No
20 Points	<b>0 Points</b>

**Explanation:**

Kentucky does not have any special protections in place for veterans who attend private postsecondary institutions, whether those institutions are private for-profit proprietary institutions or private degree-granting institutions.

**III. STATE OVERSIGHT—SCOPE AND INCLUSION:**

**75/100 POINTS**

**A. ARE EXEMPTIONS TO STATE OVERSIGHT COVERAGE LIMITED?**

**75/100 POINTS**

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	No exemptions	Few exemptions	Moderate exemptions	Broad Exemptions
Type 1	100 Points	<b>75 Points</b>	50 Points	0 Points
Type 2	100 Points	<b>75 Points</b>	50 Points	0 Points

**Explanation:**

**Type 1: Proprietary institutions.** The provisions related to proprietary schools in Kentucky exempt any institution offering a four (4) year bachelor's degree recognized by the Council on Postsecondary Education. It also exempts any religious or nonprofit institution exempt from taxation under the laws of this state. (KRS 165A.320.)



**Type 2: Degree-granting institutions.** The provisions of Kentucky law which govern private degree-granting schools exempt certain religious schools (13 KAR 1:020, Section 7); this is the only exemption noted.

Taken together, the laws and regulations covering institutions under the authority of the Kentucky Commission on Proprietary Education and those covering institutions under the authority of the Kentucky Council on Postsecondary Education exempt only nonprofit and religious institutions; thus, Kentucky receives credit for having “few exemptions.”

#### IV. DISCLOSURE REQUIREMENTS: **31.25/100 POINTS**

##### A. ARE INSTITUTIONS REQUIRED TO DISCLOSE INSTITUTIONAL PERFORMANCE MEASURES TO POTENTIAL STUDENTS?

**10/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, mandatory	Yes, discretionary	None
	Fact sheet or equivalent required to be given to students	Fact sheet or equivalent given to students upon request	No fact sheet required
<b>Type 1</b>	<b>20 Points</b>	10 Points	0 Points
<b>Type 2</b>	20 Points	10 Points	<b>0 Points</b>

##### Explanation:

**Type 1: Proprietary institutions.** A copy of the course outline and a schedule of all tuition and fees, program completion rates, and program placement rates of the school's graduates for the preceding 12 months must be furnished to each student applicant prior to enrollment. (KRS § 165A.370(1)(f).)

**Type 2: Degree-granting institutions.** There is no indication that these colleges are required to disclose information on institutional performance to students. Schools are required to disclose information to the state and to the federal Department of Education, but not directly to the students.

##### B. WHICH INSTITUTIONAL PERFORMANCE DISCLOSURES ARE REQUIRED TO BE GIVEN TO STUDENTS PRIOR TO ENROLLMENT?

**10/60 POINTS**

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

##### **Type 1: Proprietary institutions:**

Disclosures	Mandatory	Discretionary	Not specified
<b>Cohort default rate (CDR)</b>	10 Points	5 Points	<b>0 Points</b>
<b>Graduation / completion rates</b>	<b>10 Points</b>	5 Points	0 Points
<b>Placement rates</b>	<b>10 Points</b>	5 Points	0 Points
<b>Wage information</b>	10 Points	5 Points	<b>0 Points</b>
<b>License exam passage rates</b>	10 Points	5 Points	<b>0 Points</b>
<b>Methods &amp; sources used to calculate</b>	10 Points	5 Points	<b>0 Points</b>



**Explanation:**

A copy of the course outline and a schedule of all tuition and fees, program completion rates, and program placement rates of the school's graduates for the preceding 12 months must be furnished to each student applicant prior to enrollment. (KRS § 165A.370(1)(f).)

***Type 2: Degree-granting institutions:***

Disclosures	Mandatory	Discretionary	Not specified
Cohort default rate (CDR)	10 Points	5 Points	0 Points
Graduation / completion rates	10 Points	5 Points	0 Points
Placement rates	10 Points	5 Points	0 Points
Wage information	10 Points	5 Points	0 Points
License exam passage rates	10 Points	5 Points	0 Points
Methods & sources used to calculate	10 Points	5 Points	0 Points

**Explanation:**

There is no indication that these colleges are required to disclose information on institutional performance to students. They are required to disclose information to the state and federal governments, but not directly to the students.

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**C. DOES THE STATE REQUIRE SCHOOLS TO DISCLOSE  
ELEMENTS ESSENTIAL TO STUDENT PROTECTION PRIOR TO  
ENROLLMENT OR IN THE ENROLLMENT CONTRACT?**

**11.25/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

***Type 1: Proprietary institutions:***

Element description	Mandatory	Discretionary	Not specified
Total cost of program	5 Points	2.5 Points	0 Points
Refund information	5 Points	2.5 Points	0 Points
Transferability of credits	5 Points	2.5 Points	0 Points
Length of program	5 Points	2.5 Points	0 Points

**Explanation:**

Kentucky requires proprietary schools to provide students with copy of the course outline and a schedule of all tuition and fees, program completion rates, and program placement rates of the school's graduates for the preceding twelve (12) months be furnished each student applicant prior to enrollment. (KRS § 165A.370(1)(f).) Further, the state requires proprietary schools to adhere to a tuition refund schedule as presented in published form prior to enrollment if the student shall discontinue the training or be excluded therefrom. (KRS § 165A.370(1)(o).)

***Type 2: Degree-granting institutions:***

Element description	Mandatory	Discretionary	Not specified
Total cost of program	5 Points	2.5 Points	0 Points
Refund information	5 Points	2.5 Points	0 Points
Transferability of credits	5 Points	2.5 Points	0 Points
Length of program	5 Points	2.5 Points	0 Points

**Explanation:**

Colleges that are under the authority of the Council are required to furnish students with the college's policies on grades, attendance, and conduct; a description of the instructional program; a detailed schedule of all charges, rentals, and deposits; the schedule of refunds of all charges, rentals, and deposits; and the student enrollment application, contract, or agreement prior to enrollment. Kentucky receives full credit for the elements "total cost of program" and "refund information" because it requires a detailed schedule of all charges, and it requires the schedule of refunds. (13 KAR 1:020, Section 8 (12).) Kentucky receives partial credit for "Length of Program" because while the state does not specify that this must be disclosed, it does require a description of the instructional program which might include information on the time required to complete the program. There is nothing in Kentucky law or regulation that requires schools to disclose information about the transferability of credits. While it is true that schools are generally required to provide courses for which credits are transferable among accredited colleges where the program is at a corresponding degree level, there are some exceptions, and all colleges should be required to disclose this information.

## V. REGULATION OF RECRUITING PRACTICES:

**50/100 POINTS**

### A. HAS THE STATE PUT INTO LAW A LIST OF PROHIBITED ACTS REGARDING ADVERTISING AND RECRUITING?

**50/100\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, strong regulation	Yes, moderate regulation	Yes, weak regulation	No list of prohibited acts
<b>Type 1</b>	100 Points	75 Points	<b>50 Points</b>	0 Points
<b>Type 2</b>	100 Points	75 Points	<b>50 Points</b>	0 Points

#### PROHIBITED ACTS

Included in list of prohibited acts	Type 1	Type 2
Misleading representations using the word "college" or "university"		
Misleading Institution Affiliations (e.g., military, public institution, businesses)		
Promise of employment		
Compensation for enrollment		
Compensation or "bounty" to recruiters		
Deception (broad prohibition)	<b>X</b>	<b>X</b>
Misrepresentation (broad prohibition)	<b>X</b>	<b>X</b>
Misleading representations re: accreditation		<b>X</b>

*1-3=Weak; 3.5-6=Moderate; 6.5-8=Strong*

**Type 1: Proprietary institutions.** Proprietary schools are prohibited from advertising of any type which is untrue, deceptive, or misleading and the school must be able to document all advertised claims. (KRS §165A.370(m).) Credit is given for broad prohibition on "misrepresentation" because the broad prohibitions on any type of untrue and misleading advertising achieve the same purpose.

**Type 2: Degree-granting institutions.** “Advertisements, announcements, or promotional material of any kind which are distributed in Kentucky shall not contain any statements that are untrue, deceptive, or misleading with respect to the college, its personnel, its services, or the content, accreditation status, or transferability of its courses or degree programs.” (13 KAR 1:020, Section 8 (11).)

## VI. COMPLAINT PROCESS AND RELIEF FOR STUDENTS:

**66/100 POINTS**

### A. DOES THE STATE REQUIRE A BOND OR FUND AS A CONDITION OF AUTHORIZATION?

**20/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	No
Type 1	20 Points	0 Points
Type 2	20 Points	0 Points

#### **Explanation:**

**Type 1: Proprietary institutions.** No proprietary school shall be issued a certificate unless its application is accompanied by a fee as established by the Commission and a good and sufficient surety bond or other collateral in a penal sum of not less than \$20,000. (KRS 165A.360(2).)

**Type 2: Degree-granting institutions.** Schools under the authority of the Council are required to secure and maintain a surety bond, and to maintain an unrestricted cash reserve equal to or in excess of the largest amount of unearned tuition held by the college at any time during the most recently completed fiscal year, or provide a letter of credit equal to or in excess of the largest amount of unearned tuition held by the college at any time during the most recently completed fiscal year. (13 KAR 1:020, Section 8.)

### B. DOES THE STATE REQUIRE A REFUND OF TUITION IF A STUDENT ENROLLS AS THE RESULT OF MISREPRESENTATION?

**10/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, full refund	Yes, partial refund	No refund required
Type 1	20 Points	10 Points	0 Points
Type 2	20 Points	10 Points	0 Points

**Type 1: Proprietary institutions.** The surety bond or other collateral required is in place to provide indemnification to any student or enrollee or his parent or guardian who suffers loss or damage as a result of fraud or misrepresentation to the student or enrollee in procuring his enrollment in a course or courses of instruction or study offered or maintained by the proprietary school. (KRS §165.350(4)(a); KRS § 165.360(3)(a).)

**Type 2: Degree-granting institutions.** No refund for enrollment as the result of misrepresentation is specified. The aggrieved party must attempt to resolve the issue with the college in question, if a

resolution cannot be reached, the aggrieved party may submit a complaint to the President of the Council, who will attempt to facilitate a solution, but shall not take legal action on behalf of either of the parties. (13 KAR 1:020, Section 13.)

**C. DOES THE STATE REQUIRE INSTITUTIONS TO REFUND TUITION IN THE EVENT OF CLOSURE?**

**15/20 POINTS**

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, full refund	Yes, limited refund	Yes, refund in limited circumstances	No refund Required
<b>Type 1</b>	20 Points	<b>15 Points</b>	10 Points	0 Points
<b>Type 2</b>	20 Points	<b>15 Points</b>	10 Points	0 Points

**Explanation:**

**Type 1: Proprietary institutions.** Proprietary schools are required to contribute to a student protection fund which is used to pay off debts, including refunds to students enrolled or on leave of absence, incurred due to the closing of a school, discontinuance of a program, loss of license, or loss of accreditation by a school or program. (KRS § 165A.450.) Therefore, there are provisions in place to provide a refund in the event of insolvency. The amount to be refunded shall equal the actual amount of loans and cash that have been applied to tuition, books, and fees on behalf of the student's attendance at the school. However, if the claims resulting from a school closing exceed the balance in the fund, the Commission shall provide for a pro rata distribution of the fund balance. (791 KAR 1:035, Section 3(3).)

**Type 2: Degree-granting institutions.** Colleges are required to guaranty the refund of any unearned tuition. (13 KAR 1:020, Section 8(3).)

**D. DOES THE STATE ALLOW STUDENTS AMPLE TIME TO MAKE A COMPLAINT?**

**10/10 POINTS**

	2 years or more (or no deadline)	1-2 years	Under 1 year	Not applicable
<b>Type 1</b>	<b>10 Points</b>	5 Points	1 Point	0 Points
<b>Type 2</b>	<b>10 Points</b>	5 Points	1 Point	0 Points

**Explanation:**

**Type 1: Proprietary institutions.** There is no deadline specified regarding how long a student has to file a complaint with the Commission.

**Type 2: Degree-granting institutions.** There is no deadline specified regarding how long a student has to file a complaint with the Council.

**E. DOES THE STATE REQUIRE INSTITUTIONS TO DISCLOSE INFORMATION ABOUT FILING A COMPLAINT WITH THE STATE OVERSIGHT BODY?**

**5/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

**Type 1: Proprietary institutions:**

Medium	Yes	Discretionary	No
Catalog	10 Points	5 Points	0 Points
Website	5 Points	2.5 Points	0 Points
Enrollment contract	5 Points	2.5 Points	0 Points

**Explanation:**

Schools are required to make complaint procedures available to students both in print and web-based materials, but there is no specification that the complaint procedures must be included in the catalog or in the enrollment contract, and there is no specification that an institution's complaint procedures must include information about filing a complaint with the Commission. (KRS §165A.340.)

**Type 2: Degree-granting institutions:**

Medium	Yes	Discretionary	No
Catalog	10 Points	5 Points	0 Points
Website	5 Points	2.5 Points	0 Points
Enrollment contract	5 Points	2.5 Points	0 Points

**Explanation:**

There is no indication that colleges must disclose information on how to file a complaint with the Council.

**F. IS THE COMPLAINT PROCESS READILY ACCESSIBLE AND AVAILABLE ON THE STATE OVERSIGHT BODY WEBSITE?**

**6/10 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, with address	Yes, with phone #	Yes, with email address	Yes, with electronic form	No
Type 1	2	2	3	3	0
Type 2	2	2	3	3	0

**Explanation:**

**Type 1: Proprietary institutions.** The Commission provides a form electronically (which must be mailed to the address on the form); the form contains a phone number and is accessible from a link on the main Commission webpage.

**Type 2: Degree-granting Institutions.** The Council maintains a webpage with instructions on how students can file a complaint. The webpage includes an address and an email address.

## VII. ENFORCEMENT: 22.5/100 POINTS

### A. IS THERE LOSS OF STATE AID FOR SCHOOLS THAT REPEATEDLY PRODUCE SUBSTANDARD GRADUATION RATES, JOB PLACEMENT RATES, AND/OR COHORT DEFAULT RATES?

**0/30 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, required	Yes, required but limited	Yes, discretionary	Yes, discretionary but limited	No
Type 1	30 Points	20 Points	15 Points	5 Points	0 Points
Type 2	30 Points	20 Points	15 Points	5 Points	0 Points

#### **Explanation:**

There is no indication that either proprietary or degree-granting schools which repeatedly produce substandard graduation, job placement rates, and/or cohort default rates will lose state aid as a result.

### B. DOES STATE LAW EXPLICITLY AUTHORIZE A PRIVATE RIGHT OF ACTION FOR STUDENTS AGAINST INSTITUTIONS WHO HAVE VIOLATED THE LAWS AND REGULATIONS IN PLACE TO GOVERN THEM?

**7.5/30 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	Limited circumstances	No
Type 1	30 Points	15 Points	0 Points
Type 2	30 Points	15 Points	0 Points

#### **Explanation:**

**Type 1: Proprietary institutions.** “Restitution of any money paid by a student under a contract voided pursuant to this section, may be obtained through action brought by the student in either District Court or Circuit Court in the country of the student’s residence or other appropriate court, at the option of the student.” (KRS § 165A.360.)

**Type 2: Degree-granting institutions.** There is no explicit private right of action enumerated.

### C. DOES STATE LAW EXPLICITLY ALLOW ATTORNEY FEE AWARDS FOR STUDENTS WHO PREVAIL IN LITIGATION AGAINST PRIVATE FOR-PROFIT POSTSECONDARY INSTITUTIONS?

**0/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	Limited	No
Type 1	20 Points	15 Points	0 Points
Type 2	20 Points	15 Points	0 Points

**Explanation:**

Kentucky does not explicitly allow attorney fee awards for students who prevail in litigation against either proprietary or degree-granting institutions.

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**D. DOES STATE LAW EXPLICITLY AUTHORIZE  
ATTORNEY GENERAL INVOLVEMENT?**

**15/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	Limited circumstances	No
Type 1	20 Points	10 Points	0 Points
Type 2	20 Points	10 Points	0 Points

**Explanation:**

**Type 1: Proprietary institutions.** “The Attorney General may, at the request of the Kentucky Commission on Proprietary Education or on his own motion, bring in a Circuit Court appropriate action for the enforcement of the provisions of this chapter.” (KRS § 165A.410.)

**Type 2: Degree-granting institutions.** Kentucky does not explicitly authorize Attorney General involvement with issues relating to degree-granting private colleges. If it is determined that the public interest requires that sanctions be imposed, the president has the option to “refer the case to other officials to appropriate legal action.” (13 KAR 1:020, Section 14 (4).) Presumably, one of these officials could be the Attorney General. The only explicit mention of any public attorney involvement is in regulation at 13 KAR 1:020, Section 9, which states that if a college which is subject to this administrative regulation fails to apply for a license, the President of the Council shall notify the college by registered mail of the requirement to obtain a license, if a license application is not then received within sixty days, the president must require the chief administrative officer to appear for a hearing, if the chief administrative officer does not appear for the hearing, “the president shall refer the case to the appropriate county attorney for enforcement.”

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**BONUS POINTS:**

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Kentucky does not receive any bonus points.



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**ILLUMINATING INFORMATION**

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**RECIPROCITY AGREEMENTS**

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Kentucky is a part of the State Authorization Reciprocity Agreements (SARA).

## LITIGATION, INVESTIGATIONS, AND ACTIONS INVOLVING PRIVATE FOR-PROFIT EDUCATIONAL INSTITUTIONS IN KENTUCKY

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For information about pending and recent federal and state government investigations and actions regarding for-profit colleges see David Halperin's compilation <http://www.republicreport.org/2014/law-enforcement-for-profit-colleges/#sthash.1vc4HmPw.dpuf>.



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# LOUISIANA

## FINAL GRADING ANALYSIS

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OVERALL SCORE: **328/700 POINTS (47%)**  
LETTER GRADE: **F**

### I. OVERSIGHT BODY: **54.25/100 POINTS**

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#### A. IS THERE A STATUTORILY CREATED OVERSIGHT BODY THAT IS PUBLICLY ACCOUNTABLE? **51.25/60 POINTS**

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Element	Points Available	Type 1	Type 2	Points Awarded (Average)
1. Oversight body is a multi-member board, commission, or panel created by statute	10	10	10	10
2. Oversight body was statutorily created specifically to oversee private postsecondary institutions	10	5	0	2.5
3. Multi-member board, commission, or panel is the ultimate decision maker (as opposed to a single person, like the head of a department or director)	10	10	10	10
4. Oversight body can engage in rulemaking	10	10	10	10
5. Oversight body's meetings must be open to the public	5	5	5	5
6. Oversight body's meetings must allow public comment	5	5	5	5
7. Oversight body can initiate investigations	5	5	5	2.5
8. Oversight body can impose penalties for violations	5	5	2.5	3.25
Total Points	60	55	47.5	51.25

#### **Explanation:**

Louisiana has two types of private for-profit postsecondary educational institutions: proprietary institutions that provide education and vocational training, preparing students for gainful employment, but do not grant degrees (Type 1) and private degree-granting institutions that have authority to confer degrees (Type 2).

**Type 1: Proprietary institutions.** The Louisiana Board of Regents serves as the oversight body for Type 1 institutions. Louisiana has also created the Advisory Commission on Proprietary Schools under the jurisdiction of the Board of Regents. (La. R.S. § 17:3141.3(G).) Although the Commission is advisory in nature, the state receives partial credit #2 above for creating a body specifically focused on these institutions. Both the Board and the Commission have the authority to engage in rulemaking, are required

to conduct meetings that are open to the public and allow public comment; can initiate investigations and assess and impose sanctions.

**Type 2: Private degree-granting institutions.** The Louisiana Board of Regents is responsible for regulation and oversight of private degree-granting institutions. The Board has authority to engage in rulemaking. (La. R.S. § 17:1808.) All public and private postsecondary, academic degree-granting institutions offering instruction in Louisiana must register annually with the Board. Regular licenses are reviewed every two years. (LAC 28:IX.103(A).) The Board has some authority to impose penalties, specifically to revoke authorization; however, because its authority appears to be limited in this regard, the state receives partial credit for the element. (LAC 28:IX.501.) The Board is authorized to monitor institutional compliance with applicable law and may request any such information necessary to do so (i.e., conduct investigations). (La. R.S. § 17:1808(E)(1).) Pursuant to the Louisiana Open Meetings Law, the Board’s meetings must be open to the public and allow public comment. (La. R.S. § 42:11 *et seq.*)

## B. STATUTE-SPECIFIED MEMBERSHIP:

### 1. TO WHAT EXTENT ARE LIMITATIONS PLACED ON FOR-PROFIT MEMBERSHIP ON THE OVERSIGHT BODY?


**-1.5/25 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Explicit prohibition on for-profit majority, plus no possibility of a majority of the quorum	Explicit prohibition on for-profit majority	Discouraged	No prohibition specified, but not discouraged	For-profit majority mandated
Type 1	25 Points	20 Points	10 Points	<b>0 -3 Points</b>	-5 points
Type 2	25 Points	20 Points	10 Points	<b>0 Points</b>	-5 points

#### **Explanation:**

**Type 1: Proprietary institutions.** The Board of Regents is composed of fifteen members appointed by the governor with the consent of the Senate, who are electors of the state. Two members shall be from each congressional district and the remaining member or members from the state at large. (La. R.S. § 17:3121.) For-profit interests are not prohibited or discouraged from serving on the Board of Regents.

 **A note of caution.** The Advisory Commission on Proprietary Schools also does not prohibit a for-profit majority, and its structure creates a possibility that for-profit interests may constitute majority of the quorum. The nine members of the Commission are appointed as follows: one member by the commissioner of higher education; two members by the Board of Regents; three members by the Louisiana Proprietary Schools Association, one member by the Board of Supervisors of Community and Technical Colleges; one member by the State Association of Better Business Bureaus; one member by the Louisiana Association of Chamber of Commerce Executives. (La. R.S. § 17:3141.3(A).)

Although the Commission is advisory only, it is concerning that three of its members are appointed by the Louisiana Proprietary Schools Association. Members of the industry being regulated are appointing the regulators, creating a potential conflict of interest. Three points are deducted from the state’s score to reflect the three members of the Commission appointed by proprietary education industry members.

**Type 2: Private degree-granting institutions.** The Board of Regents is composed of fifteen members appointed by the governor with the consent of the Senate, who are electors of the state. Two members shall be from each congressional district and the remaining member or members from the state at large. (La. R.S. § 17:3121.) For-profit interests are not prohibited or discouraged from serving on the Board of Regents.

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**2. IS THE OVERSIGHT BODY MANDATED TO INCLUDE  
AT LEAST ONE CONSUMER ADVOCATE?**

**0/10 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	No
Type 1	10 Points	0 Points
Type 2	10 Points	0 Points

**Explanation:**

**Type 1: Proprietary institutions.** Louisiana law does not require the Board of Regents to include a consumer advocate member. Although Louisiana law does require that one member of the Commission be appointed by the State Association of Better Business Bureaus (La. R.S. § 17:3141.3(A)), this element requires that a member of the oversight body be an independent, experienced consumer advocate.

**Type 2: Private degree-granting institutions.** Louisiana does not require the Board of Regents to include a consumer advocate member.

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**3. ARE THE MEMBERS APPOINTED BY A PUBLICLY ACCOUNTABLE  
OFFICIAL OR ELECTED IN A GENERAL ELECTION?**

**4.5/5 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	All	Majority	Half	Minority	None
Type 1	5 4 Points	3 Points	2.5 Points	1 Point	0 Points
Type 2	5 Points	3 Points	2.5 Points	1 Point	0 Points

**Explanation:**

**Type 1: Proprietary institutions.** The Louisiana governor appoints members to the Board of Regents with the consent of the Senate. (La. R.S. § 17:3121.)

As described above, a minority of the Commission members are appointed by elected officials. (La. R.S. § 17:3141.3(A).) Because the Commission advises the Board, one point is deducted from the state's score.

**Type 2: Private degree-granting institutions**

The Louisiana governor appoints members to the Board of Regents with the consent of the Senate. (La. R.S. § 17:3121.)

## II. STATE OVERSIGHT – EFFICACY: 39/100 POINTS

### A. DOES THE STATE REQUIRE ONSITE REVIEW OF PRIVATE POSTSECONDARY INSTITUTIONS?

**3/10 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Mandatory onsite reviews			Discretionary	None
	Every 2 years or less	Every 3-5 years	Over 5 years	Discretion to conduct onsite reviews	No review specified
<b>Type 1</b>	10 Points	8 Points	5 Points	<b>3 Points</b>	0 Points
<b>Type 2</b>	10 Points	8 Points	5 Points	<b>3 Points</b>	0 Points

#### **Explanation:**

**Type 1: Proprietary institutions.** The Board of Regents may conduct onsite visits and require such information as may be necessary to grant a license and monitor institutional compliance. Louisiana requires the Board to monitor institutional compliance, and institutions must renew their licenses every year, therefore the state receives credit for giving the Board discretion to conduct onsite reviews annually. (LAC 28:III.509(D).)

**Type 2: Private degree-granting institutions.** Louisiana does not require the Board to do regular onsite inspections, however, the Board has discretion to conduct onsite reviews as a part of initial licensure and in the course of investigations where necessary. (LAC 28:IX.501.)

### B. DOES THE STATE REQUIRE UNANNOUNCED INSPECTIONS FOR ONSITE REVIEWS?

**1.5/ 5 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Required unannounced visits	Discretion to do unannounced visits	No indication
<b>Type 1</b>	5 Points	<b>3 Points</b>	0 Points
<b>Type 2</b>	5 Points	3 Points	<b>0 Points</b>

#### **Explanation:**

**Type 1: Proprietary institutions.** The Commission has discretion to conduct an onsite investigation of a school. The inspection may or may not be announced at the discretion of the staff. (LAC 28:III.1501(C).)

**Type 2: Private degree-granting institutions.** Louisiana law does not expressly require or authorize unannounced inspections for onsite reviews.

### C. DOES THE STATE REQUIRE REGULAR REVIEWS OF PRIVATE POSTSECONDARY APPROVAL TO OPERATE?

**20/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Mandatory			Discretionary	None
	2 years or less	Every 3-5 years	Over 5 years	Discretion to conduct reviews	No review specified
<b>Type 1:</b>	<b>20 Points</b>	15 Points	10 Points	5 Points	0 Points
<b>Type 2:</b>	<b>20 Points</b>	15 Points	10 Points	5 Points	0 Points

**Explanation:**

**Type 1: Proprietary institutions.** The Board of Regents requires proprietary institutions to renew licenses annually, which requires an application, a fee, and review. (La. R.S. § 17:3141.4; LAC 28:III.509(D); LAC 28:III.2301(A).)

**Type 2: Private degree-granting institutions.** The Board of Regents requires institutions to renew registration annually and reviews licenses every two years. (LAC 28:IX.103.)

**D. DO THE CRITERIA FOR RENEWAL OF AUTHORIZATION MANDATE A REVIEW OF FACTORS ESSENTIAL TO ACADEMIC AND ETHICAL INTEGRITY?**

**12/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	8 of 8	7 of 8	6 of 8	5 of 8	4 of 8	3 of 8	2 of 8	1 of 8	0 of 8
<b>Type 1</b>	20 Points	17.5 Points	15 Points	<del>12.5</del> <b>15.5 Points</b>	10 Points	7.5 Points	5 Points	2.5 Points	0 Points
<b>Type 2</b>	20 Points	17.5 Points	15 Points	12.5 Points	10 Points	<del>7.5</del> <b>8.5 Points</b>	5 Points	2.5 Points	0 Points

Element:	Type 1	Type 2
Admission Requirements	M	M
Graduation Requirements	M	
Placement Rate	D	
Completion Rate (or Graduation Rate)	D	D
Advertising Practices	M	M
Cohort Default Rate	D	
Accreditation Status	M	M
Financial Aid Policies	M	

*M=Mandatory; D=Discretionary*

**Explanation:**

**Type 1: Proprietary institutions.** Louisiana requires review of advertising practices, accreditation status, admission and graduation requirements (procedures), and financial aid policies as a condition of licensure. The applicable renewal forms require schools to disclose number of students enrolled in the previous year the number of students who graduated in the previous year. The state has indicated that a review of cohort default rates is discretionary and review of placement rates and graduation rates is mandatory, the state has been credited for discretionary review of these elements because no requirement stated in the law, the regulations, or on the various forms requiring review of these elements could be

located. (La. R.S. § 17:3141.5; LAC 28:III.2301) Also, see online forms at <http://www.regents.la.gov/page/proprietary-schools>.

**Type 2: Private degree-granting institutions.** The Board requires a review of admission requirements, advertising practices, and accreditation status for license renewal. The online renewal form also requests information on graduation rates, if applicable. Louisiana receives partial credit for requiring review of graduation rates. (LAC 28:IX.103; LAC 28:IX.305; LAC 28:IX.311.)

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**E. DOES THE STATE'S OVERSIGHT DISTINGUISH BETWEEN FOR-PROFIT AND NONPROFIT EDUCATIONAL INSTITUTIONS?**

**2.5/15 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, strongly distinguished	Yes, moderately distinguished	Yes, slightly distinguished	Not distinguished
Type 1	15 Points	10 Points	5 Points	0 Points
Type 2	15 Points	10 Points	5 Points	0 Points

**Explanation:**

**Type 1: Proprietary institutions.** Louisiana law does not distinguish between for-profit and nonprofit proprietary institutions for the purposes of regulation.

**Type 2: Private degree-granting institutions.** Louisiana law provides an exception for nonprofit religious institutions whose primary purpose is to provide religious training or theological education, including sacred music, and whose degree is limited to evidence of completion of that education. (La. R.S. § 17:1808(J)(2).)

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**F. DOES THE STATE REQUIRE INCREASED OVERSIGHT/SCRUTINY OF PRIVATE POSTSECONDARY INSTITUTIONS BASED ON POOR PERFORMANCE?**

**0/10 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, mandatory	Yes, mandatory but limited	Yes, discretionary	Yes, discretionary but limited	No
Type 1	10 Points	7.5 Points	5 Points	2.5 Points	0 Points
Type 2	10 Points	7.5 Points	5 Points	2.5 Points	0 Points

**Explanation:**

**Type 1: Proprietary institutions.** Louisiana law does not require increased oversight / scrutiny of proprietary schools based on poor performance (poor graduation rates, high cohort default rates, poor placement rates, etc.).

**Type 2: Private degree-granting institutions.** Louisiana law does not require increased oversight / scrutiny of private degree-granting institutions based on poor performance (poor graduation rates, high cohort default rates, poor placement rates, etc.).

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G. DOES STATE LAW INCLUDE ANY SPECIAL PROTECTIONS FOR VETERANS WHO ATTEND PRIVATE POSTSECONDARY INSTITUTIONS?

**0/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	No
Type 1	20 Points	0 Points
Type 2	20 Points	0 Points

**Explanation:**

**Type 1: Proprietary institutions.** Louisiana law does not have special protections in place for veterans who attend proprietary institutions.

**Type 2: Private degree-granting institutions.** Louisiana law does not have special protections in place for veterans who attend private degree-granting institutions.

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### III. STATE OVERSIGHT—SCOPE AND INCLUSION:

**75/100 POINTS**

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A. ARE EXEMPTIONS TO STATE OVERSIGHT COVERAGE LIMITED?

**75/100 POINTS**

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	No exemptions	Few exemptions	Moderate exemptions	Broad exemptions
Type 1	100 Points	75 Points	50 Points	0 Points
Type 2	100 Points	75 Points	50 Points	0 Points

**Explanation:**

**Type 1: Proprietary institutions.** Louisiana law provides for several common exemptions, such as schools that provide religious training or theological education and do not offer training in a secular field; schools that provide training in recreation; courses of instruction sponsored by an employer for the training of its own employees; a course of study sponsored by a recognized trade, business or professional organization for the instruction of the members of such organization; tutors; day camps; yoga instruction; test preparation; and several other similar exemptions. Louisiana law specifically includes two exclusions that are of concern. First, a private school which provides a basic academic education comparable to that provided in the public schools of the state. Second, a school which is otherwise regulated and licensed under the laws of this state. (LAC 28:III.103.)

Private colleges and universities which only award a baccalaureate or higher degree and which maintain and operate educational programs for which credits are given and schools which are regulated and licensed under the laws of the state are exempt from the statutes and regulations that govern proprietary schools. (The Board of Regents provides oversight for these institutions.)



**Type 2: Private degree-granting institutions.** Louisiana law provides an exception for nonprofit religious institutions whose primary purpose is to provide religious training or theological education, including sacred music, and whose degree is limited to evidence of completion of that education. (La. R.S. § 17:1808(J)(2).) The Board will consider a possible waiver of the accreditation requirement in the case of single purpose institutions. (LAC 28:IX.302.) Taken together, there are very few exemptions to private for-profit postsecondary institutions in Louisiana. There are no exemptions, for example, for accredited institutions. Most exemptions are common-sense exemptions common in most states. The state gives discretion in very narrow circumstances for the Board of Regents to grant a waiver of accreditation to some private degree-granting institutions.

#### IV. DISCLOSURE REQUIREMENTS: **13.75/100 POINTS**

##### A. ARE INSTITUTIONS REQUIRED TO DISCLOSE INSTITUTIONAL PERFORMANCE MEASURES TO POTENTIAL STUDENTS?

**0/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, mandatory	Yes, discretionary	None
	Fact sheet or equivalent required to be given to students	Fact sheet or equivalent given to students upon request	No performance fact sheet provided
Type 1	20 Points	10 Points	0 Points
Type 2	20 Points	10 Points	0 Points

##### **Explanation:**

**Type 1: Proprietary institutions.** Louisiana law does not require proprietary institutions to provide a performance fact sheet to students.

**Type 2: Private degree-granting institutions.** Louisiana law does not require private degree-granting institutions to provide a performance fact sheet to students.

##### B. WHICH INSTITUTIONAL PERFORMANCE DISCLOSURES ARE REQUIRED TO BE GIVEN TO STUDENTS PRIOR TO ENROLLMENT?

**0/60 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

##### **Type 1: Proprietary institutions**

Disclosures	Mandatory	Discretionary	Not specified
Cohort default rate (CDR)	10 Points	5 Points	0 Points
Graduation / completion rates	10 Points	5 Points	0 Points
Placement rates	10 Points	5 Points	0 Points
Wage information	10 Points	5 Points	0 Points
License exam passage rates	10 Points	5 Points	0 Points
Methods & sources used to calculate	10 Points	5 Points	0 Points



**Explanation:**

Louisiana law does not require proprietary institutions to disclose information including any of the above performance measures to students prior to enrollment.

***Type 2: Degree-granting institutions***

Disclosures	Mandatory	Discretionary	Not specified
Cohort default rate (CDR)	10 Points	5 Points	0 Points
Graduation / completion rates	10 Points	5 Points	0 Points
Placement rates	10 Points	5 Points	0 Points
Wage information	10 Points	5 Points	0 Points
License exam passage rates	10 Points	5 Points	0 Points
Methods & sources used to calculate	10 Points	5 Points	0 Points

**Explanation:**

Louisiana law does not require degree-granting schools to disclose information including any of the above performance measures to students prior to enrollment.

C. DOES THE STATE REQUIRE SCHOOLS TO DISCLOSE ELEMENTS  
ESSENTIAL TO STUDENT PROTECTION PRIOR TO ENROLLMENT OR  
IN THE ENROLLMENT CONTRACT?

**16.25/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

***Type 1: Proprietary Institutions***

Element description	Mandatory	Discretionary	Not specified
Total cost of program	5 Points	2.5 Points	0 Points
Refund information	5 Points	2.5 Points	0 Points
Transferability of credits	5 Points	2.5 Points	0 Points
Length of program	5 Points	2.5 Points	0 Points

**Explanation:**

Louisiana law requires proprietary institutions to disclose the total costs of the program, refund information, and length of program to students prior to enrollment. (La. R.S. § 17:3141.5(A).)

***Type 2: Private degree-granting institutions***

Element description	Mandatory	Discretionary	Not specified
Total cost of program	5 Points	2.5 Points	0 Points
Refund information	5 Points	2.5 Points	0 Points
Transferability of credits	5 Points	2.5 Points	0 Points
Length of program	5 Points	2.5 Points	0 Points

**Explanation:**

Louisiana law requires institutions to provide prospective students with information about admissions policies; program descriptions and objectives; schedule of tuition, fees, and other charges; cancellation

and refund policies; and other material information about the institution and its programs which may impact a student’s enrollment decision. (LAC 28:IX.305(B).) Louisiana law requires private degree-granting institutions to include in the enrollment contract commencement date of the program; titles of courses within the student's chosen curriculum; total hours (quarter, trimester, semester); a payment schedule which includes the total cost to the student; the refund policy of the institution; a statement indicating that the individual signing the agreement has read and understands all aspects of the agreement; and the student grievance procedures. (LAC 28:IX.311(C).) Louisiana does not require institutions to provide potential students with information regarding the transferability of credits earned at the institution. However, because transferability of credits reasonably may be considered “material information about the institution and its programs which may impact a student’s enrollment decision,” Louisiana receives partial credit for this element.

## V. REGULATION OF RECRUITING PRACTICES:

### 62.5/100 POINTS

#### A. HAS THE STATE PUT INTO LAW A LIST OF PROHIBITED ACTS REGARDING ADVERTISING AND RECRUITING?

62.5/100

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, strong regulation	Yes, moderate regulation	Yes, weak regulation	No list of prohibited acts
<b>Type 1</b>	100 Points	75 Points	50 Points	0 Points
<b>Type 2</b>	100 Points	75 Points	50 Points	0 Points

#### PROHIBITED ACTS

Included in list of prohibited acts	Type 1	Type 2
Misleading representations using the word “college” or “university”	/	
Misleading institution affiliations (e.g., military, public institution, business)	/	
Promise of employment	X	
Compensation for enrollment		
Compensation or “bounty” to recruiters		
Deception (broad prohibition)	X	X
Misrepresentation (broad prohibition)	X	X
Misleading representations re: accreditation	/	X

*1-3=Weak; 3.5-6=Moderate; 6.5-8=Strong*

#### **Explanation:**

**Type 1: Proprietary institutions.** Louisiana law requires proprietary institutions to disclose the purpose of the advertising, that education training, not a job, is offered. It prohibits proprietary schools from directly, or by implication, misrepresenting the services it renders. It further prohibits proprietary schools from conveying false, misleading or exaggerated impressions with respect to the school, its personnel, its courses and services, or the occupational opportunities for its graduates. (LAC 28:III.1301.) Taken together, these requirements and prohibitions achieve the purposes reflected by some of the elements above (prohibiting misrepresentation, deception, and promises of employment).

Additionally, Louisiana regulations expressly state that “Every advertisement shall constitute to the reader a clear statement of a bonafide offer or announcement made in good faith. It shall be written to its anticipated readership, normally persons unsophisticated in the traditional word usage of the education industry. Therefore, all solicitation must be truthful and conducted with extreme care.” (LAC 28:III.1301.) The state receives partial credit for three elements because the above quoted language reasonably could be interpreted to encompass the following elements aimed at prohibiting misleading representations regarding accreditation, misleading institutional affiliations, and misleading representations using the words college or university.

**Type 2: Private degree-granting institutions.** Louisiana law prohibits institutions from engaging in false advertising or other misleading practices. These prohibitions encompass broadly both deception and misrepresentation. Further, Louisiana law requires institutions claiming accreditation by agencies not recognized by the U.S. Department of Education to clearly state in all advertising and promotional literature that the institutions’ accreditation is not recognized by either the U.S. Department of Education or the State of Louisiana. (LAC 28:IX.321.) The effect of this regulation is to prohibit misleading representations related to accreditation.

## VI. COMPLAINT PROCESS AND RELIEF FOR STUDENTS:

**61/100 POINTS**

### A. DOES THE STATE REQUIRE A BOND OR FUND AS A CONDITION OF AUTHORIZATION?

**20/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	No
Type 1	20 Points	0 Points
Type 2	20 Points	0 Points

#### **Explanation:**

**Type 1: Proprietary institutions.** Louisiana law requires proprietary institutions to post a surety bond with application for licensure. (La. R.S. § 17:3141.5(D)(1)(a).)

**Type 2: Private degree-granting institutions.** Louisiana law requires institutions to post a surety bond issued by a surety authorized to do business in the state of Louisiana in the amount of \$10,000 to cover the period of the license. These bonds are intended to protect students in the event of a sudden closure of the institution. (LAC 28:IX.319.)

### B. DOES THE STATE REQUIRE A REFUND OF TUITION IF A STUDENT ENROLLS AS THE RESULT OF MISREPRESENTATION?

**7.5/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, full refund	Yes, partial refund	No refund required
Type 1	20 15 Points	10 Points	0 Points
Type 2	20 Points	10 Points	0 Points

**Explanation:**

**Type 1: Proprietary institutions.** Louisiana law requires institutions to include a surety bond with any application for accreditation; the bond covers the period of the license. The bond provides for the indemnification of any person suffering loss or damages due to a number of circumstances of which use of fraud or misrepresentation in procuring enrollment. Louisiana loses five points here because the statute does not explicitly state that institutions must provide a full refund. However, indemnification in instances in which a student enrolls due to fraud or misrepresentation could reasonably be assumed to result in a full refund in most circumstances. (La. R.S. § 17:3141.5(D)(1)(b).)

**Type 2: Private degree-granting institutions.** Louisiana law does not expressly require a refund of tuition if a student enrolls as the result of misrepresentation.

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**C. DOES THE STATE REQUIRE INSTITUTIONS TO REFUND  
TUITION IN THE EVENT OF CLOSURE?**

**15/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, full refund	Yes, partial refund	Yes, refund in limited circumstances	No refund required
<b>Type 1</b>	20 Points	<b>15 Points</b>	10 Points	0 Points
<b>Type 2</b>	20 Points	<b>15 Points</b>	10 Points	<b>0</b> Points

**Explanation:**

**Type 1: Proprietary institutions.** Louisiana law requires proprietary institutions to include a surety bond with any application for accreditation; the bond covers the period of the license. The bond provides for the indemnification of any person suffering loss or damages due to a number of circumstances including the inability of the student to complete the course or courses because the school ceased operation or failed to furnish the facilities advertised or included in the contracted agreement. (La. R.S. § 17:3141.5(D).) The tuition refund policy enumerated in statute and regulation limits the refund available in these circumstances. (La. R.S. § 17:3141.5(A).)

Louisiana also requires schools to contribute to a student protection fund, which is used to indemnify students when a school's surety bond has been exhausted. Refunds from the student protection fund are limited. (LAC 28:III.1101.)

**Type 2: Private degree-granting institutions.** Louisiana law has provisions in place to protect students and provide refund in the event of closure of the institution. The state requires institutions to post a surety bond issued by a surety authorized to do business in the state of Louisiana in the amount of \$10,000 to cover the period of the license. These bonds are intended to protect students in the event of a sudden closure of the institution. (LAC 28:IX.319.)

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**D. DOES THE STATE ALLOW STUDENTS AMPLE TIME TO MAKE A COMPLAINT?**

**10/10 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	2 years or more (or no deadline)	1-2 years	Under 1 year	Not Applicable
<b>Type 1</b>	<b>10 Points</b>	5 Points	1 Point	0 Points
<b>Type 2</b>	<b>10 Points</b>	5 Points	1 Point	0 Points

**Explanation:**

**Type 1: Proprietary institutions.** Louisiana law outlines a complaint process for students at proprietary institutions, but does not specify a deadline for the initial filing. (LAC 28:III.1701(A).)

**Type 2: Private degree-granting institutions.** Louisiana law does not specify a deadline for student complaints.

**E. DOES THE STATE REQUIRE INSTITUTIONS TO DISCLOSE INFORMATION ABOUT FILING A COMPLAINT WITH THE STATE OVERSIGHT BODY?**

**5/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

**Type 1: Proprietary institutions**

Medium	Yes	Discretionary	No
<b>Catalog</b>	10 Points	<b>5 Points</b>	0 Points
<b>Website</b>	5 Points	<b>2.5 Points</b>	0 Points
<b>Enrollment contract</b>	5 Points	<b>2.5 Points</b>	0 Points

**Explanation:**

Louisiana law requires proprietary schools to include in either their catalog or their enrollment agreement the following:

Complaints relative to actions of school officials may be made and must be in writing, addressed to the Louisiana Board of Regents, Proprietary Schools Section, P.O. Box 3677, Baton Rouge, LA 70821-3677, 225/342-4253. Such complaints may be made only after the student has unsuccessfully attempted to resolve the matter with the school by having first filed a written and signed complaint with that school's officials. Any student who wishes to review the student complaint procedure may make a request for a copy of the procedure, in writing, addressed to the Louisiana Board of Regents, Proprietary Schools Section, P.O. Box 3677, Baton Rouge, LA 70821-3677, (225)342-4253. (LAC 28:III.1701(A)(3).)

The state receives partial credit for requiring schools to include information on the school website because it is a common practice for schools to include a catalog on the school website.

**Type 2: Private degree-granting institutions**

Medium	Yes	Discretionary	No
<b>Catalog</b>	10 Points	5 Points	<b>0 Points</b>
<b>Website</b>	5 Points	2.5 Points	<b>0 Points</b>
<b>Enrollment contract</b>	5 Points	2.5 Points	<b>0 Points</b>

**Explanation:**

Louisiana law does not require private degree-granting institutions to disclose information to students with regard to filing a complaint with the Board of Regents.

F. IS THE COMPLAINT PROCESS READILY ACCESSIBLE AND AVAILABLE ON THE STATE OVERSIGHT BODY'S WEBSITE?

**3.5/10 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, with address	Yes, with phone #	Yes, with email address	Yes, with electronic form	No
Type 1	<del>2</del> 1 Points	<del>2</del> 1 Points	<del>3</del> 1.5 Points	3 Points	0 Points
Type 2	<del>2</del> 1 Points	<del>2</del> 1 Points	<del>3</del> 1.5 Points	3 Points	0 Points

**Explanation:**

**Type 1: Proprietary institutions.** The Board of Regents has a webpage for proprietary schools. The webpage contains a link to a description of the student complaint process. However, there is no contact information on this page. In order to find any contact information, a student would need to search for “student complaint,” which brings up a page with some contact information. The same page applies to private degree-granting schools. Louisiana receives partial credit here.

**Type 2: Private degree-granting institutions.** The Board of Regents webpage states that “While the Board of Regents (BoR) has no direct jurisdiction over the day-to-day operations of postsecondary institutions, the BoR does receive student complaints from students. Students are encouraged to exhaust all appropriate internal campus processes. If a complaint is not resolved at the institution level to the student’s satisfaction, BoR staff will assist in referring the student to the appropriate entity, such as the institution’s governing/management board.” The website gives the addresses, phone numbers, and email addresses of the Office of Consumer Protection and the Office for Civil Rights. There is no contact information on the webpage specifically for students to contact the Board of Regents with complaints, but there is a general phone number, address, and fax number. Because there is no contact information specifically intended for students to use to file complaints with the Board of Regents, Louisiana receives partial credit for this element.

**VII. ENFORCEMENT: 20/100 POINTS**

A. IS THERE LOSS OF STATE AID FOR SCHOOLS THAT REPEATEDLY PRODUCE SUBSTANDARD GRADUATION RATES, JOB PLACEMENT RATES, AND/OR COHORT DEFAULT RATES?

**0/30 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, required	Yes, required but limited	Yes, discretionary	Yes, discretionary but limited	No
Type 1	30 Points	20 Points	15 Points	5 Points	0 Points
Type 2	30 Points	20 Points	15 Points	5 Points	0 Points

**Explanation:**

**Type 1: Proprietary institutions.** Louisiana law does not mandate the loss of state aid for proprietary schools that repeatedly produce substandard graduation rates, job placement rates, and/or cohort default rates.

**Type 2: Private degree-granting institutions.** Louisiana law does not mandate the loss of state aid for private degree-granting institutions that repeatedly produce substandard graduation rates, job placement rates, and/or cohort default rates.

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**B. DOES STATE LAW EXPLICITLY AUTHORIZE A PRIVATE RIGHT OF ACTION FOR STUDENTS AGAINST INSTITUTIONS THAT HAVE VIOLATED THE LAWS AND REGULATIONS IN PLACE TO GOVERN THEM?**

**0/30 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	Limited circumstances	No
Type 1	30 Points	15 Points	0 Points
Type 2	30 Points	15 Points	0 Points

**Explanation:**

**Type 1: Proprietary institutions.** While Louisiana law expressly allows for either party to request judicial review of Board decisions (LAC 28:III.1701(E)), it does not explicitly authorize a private right of action against institutions that have violated the laws and regulations in place to govern them.

**Type 2: Private degree-granting institutions.** Louisiana law does not explicitly authorize a private right of action for students against institutions that have violated the laws and regulations in place to govern them.

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**C. DOES STATE LAW EXPLICITLY ALLOW ATTORNEY FEE AWARDS FOR STUDENTS WHO PREVAIL IN LITIGATION AGAINST PRIVATE FOR-PROFIT POSTSECONDARY INSTITUTIONS?**

**0/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	Limited	No
Type 1	20 Points	15 Points	0 Points
Type 2	20 Points	15 Points	0 Points

**Explanation:**

**Type 1: Proprietary institutions.** Louisiana law does not explicitly allow attorney fee awards for students who prevail in litigation against proprietary schools that have violated the laws and regulations in place to govern them.

**Type 2: Private degree-granting institutions.** Louisiana law does not explicitly allow attorney fee awards for students who prevail in litigation against private degree-granting institutions that have violated the laws and regulations in place to govern them. Louisiana law does specify that all costs, incurred by the state in instances in which the attorney general in seeking injunctive relief against an institution operating



in noncompliance with the law, shall be borne by the institution if it is found to be operating illegally. (LAC 28:IX.501(D).)

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**D. DOES STATE LAW EXPLICITLY AUTHORIZE  
ATTORNEY GENERAL INVOLVEMENT?**

**20/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	Limited Circumstances	No
Type 1	20 Points	10 Points	0 Points
Type 2	20 Points	10 Points	0 Points

**Explanation:**

**Type 1: Proprietary institutions.** Louisiana law allows attorney general involvement in matters regarding proprietary institutions.

**Type 2: Private degree-granting institutions.** Louisiana law contains provisions allowing for attorney general involvement when an institution is in violation of Louisiana law. (LAC 28:IX.501(D).)

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**BONUS POINTS:**

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Louisiana does not receive any bonus points.



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**ILLUMINATING INFORMATION**

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**RECIPROCITY AGREEMENTS**

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Louisiana is a member of the State Authorization Reciprocity Agreements (SARA).

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**LITIGATION, INVESTIGATIONS, AND ACTIONS INVOLVING PRIVATE  
FOR-PROFIT EDUCATIONAL INSTITUTIONS IN LOUISIANA**

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For more information about pending and recent federal and state government investigations and actions regarding for-profit colleges see David Halperin's compilation at <http://www.republicreport.org/2014/law-enforcement-for-profit-colleges/#sthash.1vc4HmPw.dpuf>.



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# MAINE

## FINAL GRADING ANALYSIS

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OVERALL SCORE: **216.25/700 POINTS (30.9%)**  
LETTER GRADE: **F**

### I. OVERSIGHT BODY: **37.75/100 POINTS**

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#### A. IS THERE A STATUTORILY CREATED OVERSIGHT BODY THAT IS PUBLICLY ACCOUNTABLE?

**30/60 POINTS**

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Element	Points Available	Type 1	Type 2	Points Awarded (Average)
1. Oversight body is a multi-member board, commission, or panel created by statute	10	0	5	2.5
2. Oversight body was statutorily created specifically to oversee private postsecondary institutions	10	0	0	0
3. Multi-member board, commission, or panel is the ultimate decision maker (as opposed to a single person, like the head of a department or director)	10	0	5	2.5
4. Oversight body can engage in rulemaking	10	10	10	10
5. Oversight body's meetings must be open to the public	5	0	2.5	2.5
6. Oversight body's meetings must allow public comment	5	0	2.5	2.5
7. Oversight body can initiate investigations	5	5	5	5
8. Oversight body can impose penalties for violations	5	5	5	5
<b>Total Points</b>	60	20	35	30

#### **Explanation:**

Maine has a separate statutory and regulatory structure for proprietary schools (Type 1) and degree-granting schools (Type 2).

**Type 1: Proprietary schools.** Proprietary schools are defined as (1) any private postsecondary school in Maine offering a program or course of instruction conducted for the purpose of teaching any trade or any industrial, occupational, vocational, business or technical skill except those that are exempt under specified law (which, among other things, exempts any school authorized by the state to grant degrees), and (2) any private postsecondary school as described above located outside of Maine that hires or authorizes solicitors or agents to recruit students or to promote the school or its program within Maine. Proprietary schools are governed by 20-A M.R.S. § 9501 et seq.; 05-071 CMR 147; and 05-071 CMR 150.

Maine has not created public board or commission to oversee proprietary schools; they are governed by the Maine Department of Education. (CMR 05-071-147.) The Commissioner of the Maine Department of Education is the ultimate decision maker with regard to oversight and regulation of proprietary schools.

Investigations may be conducted at the discretion of the Commissioner, who is ultimately responsible for oversight. (20-A M.R.S. § 9507.) The Maine Department of Education may investigate, refer cases to authorities, or bring an action in Superior Court; any fines may be paid to the state, to be recovered in a civil act. The Department and/or Commissioner may investigate, hold hearings, refer investigations to authorities, and hold meetings with school officials. The Commissioner may also deny license renewal or revoke license. (20-A M.R.S. § 9503; CMR 05-071-147(7), (9).)

Although Maine has free access laws that cover public records and proceedings (1 M.R.S. §§ 402, 403), which may cover some meetings related to the regulation and oversight of proprietary schools, it is not clear that all meetings related to proprietary school regulation and oversight are open to the public. It is not clear whether public comment is invited in the course of the Commissioner’s decision making process.

**Type 2: Degree-granting schools.** These schools are governed by 20-A M.R.S. § 10701 et seq.; 05-071 CMR 149; and 05-071 CMR 170. As with proprietary schools, the Department of Education and the Commissioner of the Department of Education are responsible for regulation and oversight of these postsecondary schools. However, because the State Board of Education also has some oversight and advisory responsibilities related to degree-granting private postsecondary schools, Maine receives partial credit for #1 above. (20-A M.R.S. § 10005.) Maine also receives partial credit for #3 above because the Board has some responsibilities related to approval to use the name “college,” “university,” or “community college;” and related to approval to grant additional degrees (initial approval to grant degrees must be given by the legislature). The Department (and in some instances the Board) can initiate investigations and impose penalties for violations.

Maine has free access laws that cover public records and proceedings. (1 M.R.S. § 402; § 403.) Although much of the oversight of degree-granting institutions is under the purview of the Department of Education (and decisions made by that body may or may not be made at public meetings), meetings of the Board of Education are subject to the free access laws. Thus, partial credit has been awarded for #5 above. As to public comment, ultimately all decisions are made by the Commissioner, but because comments may be allowed at meetings of the Board of Education, partial credit has been awarded for #6 above.

## B. STATUTE-SPECIFIED MEMBERSHIP:

### 1. TO WHAT EXTENT ARE LIMITATIONS PLACED ON FOR-PROFIT MEMBERSHIP ON THE OVERSIGHT BODY?

**5/25 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Explicit prohibition on for-profit majority, plus no possibility of a majority of the quorum	Explicit prohibition on for-profit majority	Discouraged	No prohibition specified, but not discouraged	For-profit majority mandated
<b>Type 1</b>	25 Points	20 Points	10 Points	<b>0 Points</b>	–5 Points
<b>Type 2</b>	25 Points	20 Points	<b>10 Points</b>	0 Points	–5 Points

**Explanation:**

**Type 1: Proprietary schools.** The Department of Education and the Commissioner of the Department of Education are responsible for oversight, and there is no prohibition on for-profit interests.

**Type 2: Degree-granting schools.** Again, the ultimate responsibility for oversight and regulation of degree-granting institutions lies with the Commissioner of the Department of Education, and there are no prohibitions on for-profit interests serving in the Department. However, the Board of Education has some oversight and advisory authority, and anyone whose income is derived in substantial portion from work as a teacher or as an administrator in an educational institution is not eligible for appointment to or service on the Board. (20-A M.R.S. § 401.) Therefore, Maine receives partial credit for this element.

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2. IS THE OVERSIGHT BODY MANDATED TO INCLUDE  
AT LEAST ONE CONSUMER ADVOCATE?

**0/10 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	No
Type 1	10 Points	0 Points
Type 2	10 Points	0 Points

**Explanation:**

**Type 1: Proprietary schools.** Maine law does not require a consumer advocate to be associated with the oversight body (Department of Education).

**Type 2: Degree-granting schools.** Maine law does not require a consumer advocate to be associated with either the Department of Education or the State Board of Education.

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3. ARE THE MEMBERS APPOINTED BY A PUBLICLY ACCOUNTABLE  
OFFICIAL OR ELECTED IN A GENERAL ELECTION?

**2.75/5 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	All	Majority	Half	Minority	None
Type 1	5 Points	3 Points	2.5 Points	1 Point	0 Points
Type 2	5 Points	3 Points	2.5 Points	1 Point	0 Points

**Explanation:**

**Type 1: Proprietary schools.** Maine's Commissioner of Education, who is the ultimate decision maker with regard to oversight, accountability, and regulation of proprietary schools in Maine, is nominated by the governor and confirmed by the legislature. (20-A M.R.S. § 251.) Thus, there is some public accountability related to this position. Partial credit is awarded because the Commissioner is not part of a multi-member body.

**Type 2: Degree-granting schools.** Maine's Commissioner of Education, who is the ultimate decision maker with regard to oversight, accountability, and regulation of degree-granting schools in Maine, is nominated by the governor and confirmed by the legislature. (20-A M.R.S. § 251.) Thus, there is some

public accountability related to the position. Additionally, members of the Board of Education are appointed by the Governor subject to review by the joint standing committee of the Legislature having jurisdiction over education matters and to confirmation by the Senate. (20-A M.R.S. § 401(1).) The state receives more credit here because the Board has an oversight and advisory role; however, Maine does not receive full credit because the Commissioner is the ultimate decision maker and is not a member of a multimember body.

## II. STATE OVERSIGHT—EFFICACY: 23.5/100 POINTS

### A. DOES THE STATE REQUIRE ONSITE REVIEW OF PRIVATE POSTSECONDARY INSTITUTIONS?

**1/10 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Mandatory onsite reviews			Discretionary	None
	Every 2 years or less	Every 3-5 years	Over 5 years	Discretion to conduct onsite reviews	No review specified
<b>Type 1</b>	10 Points	8 Points	5 Points	3 Points	<b>0 1 Point</b>
<b>Type 2</b>	10 Points	8 Points	5 Points	3 Points	<b>0 1 Point</b>

#### **Explanation:**

**Type 1: Proprietary schools.** Maine law requires the initial licensing process to include an onsite evaluation when appropriate, thus giving the Commissioner discretion to do an onsite visit during that process. Maine law does not require or authorize onsite visits at any time after the initial licensing process. Maine receives one point authorizing the initial discretionary onsite evaluation.

**Type 2: Degree-granting schools.** The reviews for initial authorization for a degree-granting institution and additional authorization to grant degrees may include an onsite review by the Review Committee, which is formed by the Commissioner of the Department of Education. (CMR 05-071-149.) However, there is no indication that these reviews are conducted with any regularity. Maine receives one point because it provides for discretionary reviews during licensing.

### B. DOES THE STATE REQUIRE UNANNOUNCED INSPECTIONS FOR ONSITE REVIEWS?

**0/5 POINTS**

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Required unannounced visits	Discretion to do unannounced visits	No indication
<b>Type 1</b>	5 Points	3 Points	<b>0 Points</b>
<b>Type 2</b>	5 Points	3 Points	<b>0 Points</b>

#### **Explanation:**

**Type 1: Proprietary schools.** There is no indication that the Department or Commissioner is either required or authorized to do unannounced visits.

**Type 2: Degree-granting schools.** There is no indication that the Department, Commissioner, or Board is either required or authorized to do unannounced visits.

**C. DOES THE STATE REQUIRE REGULAR REVIEWS OF PRIVATE POSTSECONDARY APPROVAL TO OPERATE?**

**10/20 POINTS**

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Mandatory			Discretionary	None
	Every 2 years or less	Every 3-5 years	Over 5 years	Discretion to conduct reviews	No review specified
<b>Type 1</b>	<b>20 Points</b>	15 Points	10 Points	5 Points	0 Points
<b>Type 2</b>	20 Points	15 Points	10 Points	5 Points	<b>0 Points</b>

**Explanation:**

**Type 1: Proprietary schools.** Licenses are good for the calendar year in which they are issued. All licenses expire on December 31 of each year and must be renewed. (20-A M.R.S. § 9502(1)(B); CMR 05-071-147(5).)

**Type 2: Degree-granting schools.** There is no indication that Maine law requires the Department of Education or the Board of Education to conduct regular reviews of private degree-granting postsecondary schools.

**D. DO THE CRITERIA FOR RENEWAL OF AUTHORIZATION MANDATE A REVIEW OF FACTORS ESSENTIAL TO ACADEMIC AND ETHICAL INTEGRITY?**

**5/20 POINTS**

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	8 of 8	7 of 8	6 of 8	5 of 8	4 of 8	3 of 8	2 of 8	1 of 8	0 of 8
<b>Type 1</b>	20 Points	17.5 Points	15 Points	12.5 Points	<b>10 Points</b>	7.5 Points	5 Points	2.5 Points	0 Points
<b>Type 2</b>	20 Points	17.5 Points	15 Points	12.5 Points	10 Points	7.5 Points	5 Points	2.5 Points	<b>0 Points</b>

Element	Type 1	Type 2
Admission Requirements	M	
Graduation Requirements	M	
Placement Rate		
Completion Rate (or Graduation Rate)		

Advertising Practices	M	
Cohort Default Rate		
Accreditation Status	M	
Financial Aid Policies		

*M= Mandatory, D=Discretionary*

**Explanation:**

**Type 1: Proprietary schools.** Only two of the above elements—accreditation and advertising practices (advertisements and promotional materials must be submitted)—are explicitly required for renewal of a proprietary school’s license, and both are required for an initial license and all standards for an initial license must continue to be met for a license renewal. (CMR 05-071-147(3), (4).) Because the state also requires schools to submit copies of their catalogs, which might include some of the above information, credit is also awarded for admission requirements and graduation requirements.

**Type 2: Degree-granting schools.** There is no indication that Maine law requires the Department of Education or the Board of Education to conduct regular reviews that include a review of factors essential to academic and ethical integrity.

**E. DOES THE STATE’S OVERSIGHT DISTINGUISH BETWEEN FOR-PROFIT AND NONPROFIT EDUCATIONAL INSTITUTIONS?**

**7.5/15 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, strongly distinguished	Yes, moderately distinguished	Yes, slightly distinguished	Not distinguished
<b>Type 1</b>	15 Points	10 Points	5 Points	0 Points
<b>Type 2</b>	15 Points	10 Points	5 Points	0 Points

**Explanation:**

**Type 1: Proprietary schools.** Nonprofits are exempt from licensing requirements. (CMR 05-071-147(2).)

**Type 2: Degree-granting schools.** Degree-granting nonprofits are not distinguished from for-profits in any significant way in Maine law.

**F. DOES THE STATE REQUIRE INCREASED OVERSIGHT/SCRUTINY OF PRIVATE POSTSECONDARY INSTITUTIONS BASED ON POOR PERFORMANCE?**

**0/10 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, mandatory	Yes, mandatory but limited	Yes, discretionary	Yes, discretionary but limited	No
<b>Type 1</b>	10 Points	7.5 Points	5 Points	2.5 Points	0 Points
<b>Type 2</b>	10 Points	7.5 Points	5 Points	2.5 Points	0 Points

**Explanation:**

**Type 1: Proprietary schools.** There is no indication that Maine law requires increased oversight based on poor performance.

**Type 2: Degree-granting schools.** There is no indication that Maine law requires increased oversight based on poor performance.

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**G. DOES STATE LAW INCLUDE ANY SPECIAL PROTECTIONS FOR VETERANS WHO ATTEND PRIVATE POSTSECONDARY INSTITUTIONS?**

**0/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	No
Type 1	20 Points	0 Points
Type 2	20 Points	0 Points

**Explanation:**

**Type 1: Proprietary schools.** There is no indication that Maine law has any special protections in place for veterans who attend proprietary schools.

**Type 2: Degree-granting schools.** There is no indication that Maine law has any special protections in place for veterans who attend private degree-granting schools.

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**III. STATE OVERSIGHT—SCOPE AND INCLUSION:**

**50/100 POINTS**

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**A. ARE EXEMPTIONS TO STATE OVERSIGHT COVERAGE LIMITED?**

**50/100 POINTS**

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	No exemptions	Few exemptions	Moderate exemptions	Broad exemptions
Type 1	100 Points	75 Points	50 Points	0 Points
Type 2	100 Points	75 Points	50 Points	0 Points

**Explanation:**

**Type 1: Proprietary schools.** Maine law exempts the following schools from the statutes and regulations governing proprietary schools: educational programs related to the real estate professions that are subject to approval under Title 32, chapter 59 of Maine Revised Statutes; commercial driver education schools subject to approval by the Secretary of State under Title 29-A, chapter 11, subchapter 3, Maine revised Statutes; schools of barbering and schools of cosmetology subject to approval by the Director of the Office of Professional and Occupational Regulation under Title 32, chapter 126, Maine Revised Statutes; educational programs offered by any Maine nonprofit corporation; any educational programs offered by



any professional or trade association primarily for the benefit of its own members; and any educational institution authorized by Maine law to grant a degree. (20-A M.R.S. § 9501(2).)

**Type 2: Degree-granting schools.** Maine law exempts any institution of higher education whose course or program offerings would not be granted academic credit; any institution of higher education whose course or program offerings would be conducted on a federal reservation over which the United States Government has exclusive jurisdiction; and certain narrowly defined religious, nonpublic, educational institutions. Also, institutions with a lack of “physical presence” in the state are exempt. (05-071 CMR 149; 20-A M.R.S. § 10708.)

#### IV. DISCLOSURE REQUIREMENTS: 10/100 POINTS

##### A. ARE INSTITUTIONS REQUIRED TO DISCLOSE INSTITUTIONAL PERFORMANCE MEASURES TO POTENTIAL STUDENTS?

0/20 POINTS\*

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, mandatory	Yes, discretionary	None
	Fact sheet or equivalent required to be given to students	Fact sheet or equivalent given to students upon request	No fact sheet required
Type 1	20 Points	10 Points	0 Points
Type 2	20 Points	10 Points	0 Points

##### Explanation:

**Type 1: Proprietary schools.** There is no requirement that proprietary schools provide a fact sheet or similar document disclosing institutional performance to students either as a mandatory disclosure document during the enrollment process or when requested by the student.

**Type 2: Degree-granting schools.** There is no requirement that degree granting schools provide a fact sheet or similar document disclosing institutional performance to students either as a mandatory disclosure document during the enrollment process or when requested by the student.

##### B. WHICH INSTITUTIONAL PERFORMANCE DISCLOSURES ARE REQUIRED TO BE GIVEN TO STUDENTS PRIOR TO ENROLLMENT?

0/60 POINTS

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

##### **Type 1: Proprietary schools**

Disclosures	Mandatory	Discretionary	Not specified
Cohort default rate (CDR)	10 Points	5 Points	0 Points
Graduation / completion rates	10 Points	5 Points	0 Points
Placement rates	10 Points	5 Points	0 Points
Wage information	10 Points	5 Points	0 Points



<b>License exam passage rates</b>	10 Points	5 Points	<b>0 Points</b>
<b>Methods &amp; sources used to calculate</b>	10 Points	5 Points	<b>0 Points</b>

**Explanation:**

Maine law does not require proprietary schools to provide any of the above institutional performance disclosures to students prior to enrollment.

***Type 2: Degree-granting schools***

<b>Disclosures</b>	<b>Mandatory</b>	<b>Discretionary</b>	<b>Not specified</b>
<b>Cohort default rate (CDR)</b>	10 Points	5 Points	<b>0 Points</b>
<b>Graduation / completion rates</b>	10 Points	5 Points	<b>0 Points</b>
<b>Placement rates</b>	10 Points	5 Points	<b>0 Points</b>
<b>Wage information</b>	10 Points	5 Points	<b>0 Points</b>
<b>License exam passage rates</b>	10 Points	5 Points	<b>0 Points</b>
<b>Methods &amp; sources used to calculate</b>	10 Points	5 Points	<b>0 Points</b>

**Explanation:**

Maine law does not require private degree-granting schools to provide any of the above institutional performance disclosures to students prior to enrollment.

**C. DOES THE STATE REQUIRE SCHOOLS TO INCLUDE ELEMENTS ESSENTIAL TO STUDENTS PROTECTION IN THE ENROLLMENT CONTRACT?**

**10/20 POINTS**

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

***Type 1: Proprietary schools***

<b>Element description</b>	<b>Mandatory</b>	<b>Discretionary</b>	<b>Not specified</b>
<b>Total cost of program</b>	<b>5 Points</b>	2.5 Points	0 Points
<b>Refund information</b>	<b>5 Points</b>	2.5 Points	0 Points
<b>Transferability of credits</b>	5 Points	2.5 Points	<b>0 Points</b>
<b>Length of program</b>	<b>5 Points</b>	2.5 Points	0 Points

**Explanation:**

Prior to enrollment, Maine requires schools to provide each student a copy of the school bulletins and course outlines; schedule of tuition, fees, and other charges; refund policy; enrollment contract; and regulations pertaining to absences, grading policies, and rules of operation and conduct. In addition, Maine requires the enrollment agreement (student contract) to contain information on the name and length of the course or program of instruction; the tuition and other costs; the beginning and approximate completion date of the program; and a statement of the registration fee and the refund policy in the event a student does not start the course or discontinues prior to completion. (CMR 05-071-147(6)(C).)

***Type 2: Degree-granting schools***

<b>Element description</b>	<b>Mandatory</b>	<b>Discretionary</b>	<b>Not specified</b>
<b>Total cost of program</b>	5 Points	2.5 Points	<b>0 Points</b>

<b>Refund information</b>	5 Points	<b>2.5 Points</b>	0 Points
<b>Transferability of credits</b>	5 Points	2.5 Points	<b>0 Points</b>
<b>Length of program</b>	5 Points	<b>2.5 Points</b>	0 Points

**Explanation:**

Maine law requires degree-granting institutions to have a written policy detailing the criteria and procedure to be followed in providing for a refund of tuition and fees (05-071 CMR 149), but does not require them to make this information available to students prior to enrollment, nor does it require schools to make the information available upon request. Thus, providing this information to students prior to enrollment is left to the discretion of the schools. State law also requires schools' admission policies to include the criteria for transfer credit, but there is no indication that these policies include any information with regard to the transferability of the credits earned at the institution and there is no requirement that this information be provided to students prior to enrollment. Maine law requires schools to specify, in writing, the requirements for each degree which would include the semester hours required to complete a degree, and sets forth required minimum semester hours for each level of degree, but does not expressly require schools to provide this information to students prior to enrollment, leaving it to the discretion of the schools. (05-071 CMR 149(C).)

## V. REGULATION OF RECRUITING PRACTICES: **62.5/100 POINTS**

### A. HAS THE STATE PUT INTO LAW A LIST OF PROHIBITED ACTS REGARDING ADVERTISING AND RECRUITING?

**62.5/100 POINTS**

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	<b>Yes, strong regulation</b>	<b>Yes, moderate regulation</b>	<b>Yes, weak regulation</b>	<b>No list of prohibited acts</b>
<b>Type 1</b>	100 Points	<b>75 Points</b>	50 Points	0 Points
<b>Type 2</b>	100 Points	75 Points	<b>50 Points</b>	0 Points

#### PROHIBITED ACTS

<b>Included in list of prohibited acts</b>	<b>Type 1</b>	<b>Type 2</b>
<b>Misleading representations using the word “college” or “university”</b>	<b>X</b>	<b>X</b>
<b>Misleading institution affiliations (re: military, public institution, businesses)</b>	<b>X</b>	
<b>Promise of employment</b>	<b>X</b>	
<b>Compensation for enrollment</b>		
<b>Compensation or “bounty” to recruiters</b>		
<b>Deception (broad prohibition)</b>	<b>X</b>	
<b>Misrepresentation (broad prohibition)</b>		
<b>Misleading representations re: accreditation</b>		

*1-3=weak; 3.5-6=moderate; 6.5-8=strong*

**Explanation:**

**Type 1: Proprietary schools.** Maine law explicitly prohibits private business, vocational, and technical schools from using the terms use the words “Maine” or “State of Maine” or any title or name commonly accepted as descriptive of collegiate or university institutions. (CMR 05-071-147(6).) Maine law prohibits schools from advertising that “misleads or tends to mislead the public” (CMR 05-071-147 (6)(G).) This prohibition would accomplish the same goal as would a broad prohibition on deception.

**Type 2: Degree-granting schools.** An educational institution may use the term “community college” “college” or “university” in connection with its operation or use any other name, title or descriptive matter that might tend to indicate that it is an institution of higher learning with the authority to confer degrees, only if it meets specified criteria. (20-A M.R.S. § 10702.) Aside from this one prohibition, regulation here is extremely weak, and there is no effective list of prohibited acts, therefore the state receives no credit for this element as it relates to degree-granting institutions.

## **VI. COMPLAINT PROCESS & RELIEF FOR STUDENTS:**

**32.5/100 POINTS**

**A. DOES THE STATE REQUIRE A BOND OR FUND  
AS A CONDITION OF AUTHORIZATION?**

**10/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	<b>Yes</b>	<b>No</b>
<b>Type 1</b>	<b>20 Points</b>	0 Points
<b>Type 2</b>	20 Points	<b>0 Points</b>

**Explanation:**

**Type 1: Proprietary schools.** The application for a required license must be made on forms furnished by the Commissioner and be accompanied by a fee of \$100 and a surety bond. The amount of the bond for a new applicant is \$20,000. For renewal applicants, the amount of the bond must be equal to the greater of 10% of the applicant’s gross receipts from tuition in the 12 months prior to the application for renewal or \$20,000. (20-A M.R.S. § 9502(1).)

**Type 2: Degree-granting schools.** Degree-granting institutions must submit a five-year financial plan with their application for authorization, but there is no indication that they must post a bond an equivalent security as a condition of authorization to grant degrees. (CMR 05-071-149.)

**B. DOES THE STATE REQUIRE A REFUND OF TUITION IF A STUDENT  
ENROLLS AS THE RESULT OF MISREPRESENTATION?**

**5/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	<b>Yes, full refund</b>	<b>Yes, partial refund</b>	<b>No refund required</b>
<b>Type 1</b>	20 Points	<b>10 Points</b>	0 Points
<b>Type 2</b>	20 Points	10 Points	<b>0 Points</b>

**Explanation:**

**Type 1: Proprietary schools.** Maine law does not explicitly require a full refund if a student enrolls as a result of misrepresentation. However, state law does require that schools provide a surety bond as a condition of licensure. The bond is to be used, in part, to provide indemnification to any student suffering loss as a result of any fraud or misrepresentation. (20-A M.R.S. § 9502(1)(B).)

**Type 2: Degree-granting schools.** Maine law requires degree-granting schools to have a written procedure detailing the criteria and procedure to be followed in providing for a refund of tuition and fees, but there is no indication that schools are required to provide a full or even a partial refund if a student enrolls in the school as a result of misrepresentation. (CMR 05-071-149.)

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**C. DOES THE STATE REQUIRE INSTITUTIONS TO REFUND  
TUITION IN THE EVENT OF CLOSURE?**

**7.5/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, full refund	Yes, partial refund	Yes, refund in limited circumstances	No refund required
<b>Type 1</b>	20 Points	<b>15 Points</b>	10 Points	0 Points
<b>Type 2</b>	20 Points	15 Points	10 Points	<b>0 Points</b>

**Explanation:**

**Type 1: Proprietary schools.** There is no indication that proprietary schools are required to provide a full refund to students upon insolvency or closure of a school. If a school cancels the program or courses for which it is licensed to offer in Maine and ceases operation for whatever reason, officials shall notify the Commissioner and all enrolled students at least 30 days prior to the date of the scheduled cessation of the school's activities. All refunds which are due students under the school's published refund policy shall be made during this 30-day period. The refund, therefore, is limited by the school's published refund policy, and there is nothing in Maine's law that requires school policies to include a full refund in instances of insolvency or school closure. (CMR 05-071-147(11).)

**Type 2: Degree-granting schools.** Maine law requires degree-granting schools to have a written procedure detailing the criteria and procedure to be followed in providing for a refund of tuition and fees, but there is no indication that schools must provide a refund of tuition to students if a school becomes insolvent. (CMR 05-071-149.)

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**D. DOES THE STATE ALLOW STUDENTS AMPLE TIME TO MAKE A COMPLAINT?**

**10/10 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	2 years or more (or no deadline)	1-2 years	Under 1 year	Not applicable
<b>Type 1</b>	<b>10 Points</b>	5 Points	1 Point	0 Points
<b>Type 2</b>	<b>10 Points</b>	5 Points	1 Point	0 Points

**Explanation:**

**Type 1: Proprietary schools.** There is no timeline stated with regard to filing student complaints.

**Type 2: Degree-granting schools.** There is no timeline stated with regard to filing student complaints.

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**E. DOES THE STATE REQUIRE INSTITUTIONS TO DISCLOSE INFORMATION ABOUT FILING A COMPLAINT WITH THE STATE OVERSIGHT BODY?**

**0/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

**Type 1: Proprietary schools**

Medium	Mandatory	Discretionary	No
Catalog	10 Points	5 Points	0 Points
Website	5 Points	2.5 Points	0 Points
Enrollment contract	5 Points	2.5 Points	0 Points

**Explanation:**

Maine law does not require proprietary schools to provide students with information about how to file a complaint with the Department, either as a mandatory disclosure in the school catalog, website and/or enrollment contract, or as a discretionary disclosure on any of the above listed media.

**Type 2: Degree-granting schools**

Medium	Mandatory	Discretionary	No
Catalog	10 Points	5 Points	0 Points
Website	5 Points	2.5 Points	0 Points
Enrollment contract	5 Points	2.5 Points	0 Points

**Explanation:**

Maine law does not require private degree-granting schools to provide students with information about how to file a complaint with the Department, either as a mandatory disclosure in the school catalog, website and/or enrollment contract or as a discretionary disclosure on any of the above listed media.

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**F. IS THE COMPLAINT PROCESS READILY ACCESSIBLE AND AVAILABLE ON THE STATE OVERSIGHT BODY WEBSITE?**

**0/10 POINTS**

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, with address	Yes, with phone #	Yes, with email address	Yes, with electronic form	No
Type 1	2 Points	2 Points	3 Points	3 Points	0 Points
Type 2	2 Points	2 Points	3 Points	3 Points	0 Points

**Explanation:**

**Type 1: Proprietary schools.** There is no easily accessible, user-friendly information detailing how to file a complaint about a proprietary school on the Maine Department of Education website.

**Type 2: Degree-granting schools.** There is no easily accessible, user-friendly information detailing how to file a complaint about a private degree-granting school on the Maine Department of Education website.

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## VII. ENFORCEMENT: 0/100 POINTS

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### A. IS THERE LOSS OF STATE AID FOR SCHOOLS THAT REPEATEDLY PRODUCE SUBSTANDARD GRADUATION RATES, JOB PLACEMENT RATES, AND/OR COHORT DEFAULT RATES?

**0/30 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, required	Yes, required but limited	Yes, discretionary	Yes, discretionary but limited	No
Type 1	30 Points	20 Points	15 Points	5 Points	0 Points
Type 2	30 Points	20 Points	15 Points	5 Points	0 Points

**Explanation:**

**Type 1: Proprietary schools.** There is no indication that proprietary schools that repeatedly produce substandard graduation rates, job placement rates, or cohort default rates will lose state aid.

**Type 2: Degree-granting schools.** There is no indication that private degree-granting schools that repeatedly produce substandard graduation rates, job placement rates, or cohort default rates will lose state aid.

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### B. DOES STATE LAW EXPLICITLY AUTHORIZE A PRIVATE RIGHT OF ACTION FOR STUDENTS AGAINST INSTITUTIONS THAT HAVE VIOLATED THE LAWS AND REGULATIONS IN PLACE TO GOVERN THEM?

**0/30 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	Limited circumstances	No
Type 1	30 Points	15 Points	0 Points
Type 2	30 Points	15 Points	0 Points

**Explanation:**

**Type 1: Proprietary schools.** The state may bring actions on behalf of students in some instances. (20-A M.R.S. § 9503.) It may bring one or more actions in any state or federal court having jurisdiction on behalf of students harmed by fraud, misrepresentation, violation of this chapter or applicable rules, breach of contract or failure to pay refunds of tuition due from the school or its owners or employees. The Finance Authority of Maine has concurrent power to bring one or more actions in any state or federal court having jurisdiction on behalf of students harmed by failure to pay refunds of tuition due from the

school or its owners or employees. (20-A M.R.S. § 9508.) However, there is nothing in Maine’s law that explicitly authorizes a private right of action for students against institutions who have violated the laws and regulations in place to govern them.

**Type 2: Degree-granting schools.** There is nothing in Maine law that explicitly authorizes a right of action for students against private degree-granting institutions who have violated the laws and regulations in place to govern them.

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**C. DOES STATE LAW EXPLICITLY ALLOW ATTORNEY FEE AWARDS FOR STUDENTS WHO PREVAIL IN LITIGATION AGAINST PRIVATE FOR-PROFIT POSTSECONDARY INSTITUTIONS?**

**0/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	Limited	No
Type 1	20 Points	15 Points	0 Points
Type 2	20 Points	15 Points	0 Points

**Explanation:**

**Type 1: Proprietary schools.** Maine law does not explicitly allow attorney fee awards for students who prevail in lawsuits against proprietary institutions who have violated the laws and regulations in place to govern them.

**Type 2: Degree-granting schools.** Maine law does not explicitly allow attorney fee awards for students who prevail in lawsuits against private degree-granting institutions who have violated the laws and regulations in place to govern them.

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**D. DOES STATE LAW EXPLICITLY AUTHORIZE ATTORNEY GENERAL INVOLVEMENT?**

**0/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	Limited circumstances	No
Type 1	20 Points	10 Points	0 Points
Type 2	20 Points	10 Points	0 Points

**Explanation:**

**Type 1: Proprietary schools.** Maine law does not explicitly authorize attorney general involvement.

**Type 2: Degree-granting schools.** Maine law does not explicitly authorize attorney general involvement.

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**BONUS POINTS:**

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Maine does not receive any bonus points.



## ILLUMINATING INFORMATION

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### RECIPROCITY AGREEMENTS

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Maine is a member of the State Authorization Reciprocity Agreements (SARA).

### LITIGATION, INVESTIGATIONS, AND ACTIONS INVOLVING PRIVATE FOR-PROFIT EDUCATIONAL INSTITUTIONS IN MAINE

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For information about pending and recent federal and state government investigations and actions regarding for-profit colleges see David Halperin's compilation at <http://www.republicreport.org/2014/law-enforcement-for-profit-colleges/#sthash.1vc4HmPw.dpuf>.



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# MARYLAND

## FINAL GRADING ANALYSIS

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OVERALL SCORE: **407/700 POINTS (58.2%)**  
LETTER GRADE: **F**

### I. OVERSIGHT BODY: **75/100 POINTS**

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#### A. IS THERE A STATUTORILY CREATED OVERSIGHT BODY THAT IS PUBLICLY ACCOUNTABLE?

**45/60 POINTS**

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Element	Points	Points Awarded
1. Oversight body is a multi-member board, commission, or panel created by statute	10	10
2. Oversight body was statutorily created specifically to oversee private postsecondary institutions	10	0
3. Multi-member board, commission, or panel is the ultimate decision maker (as opposed to a single person, like the head of a department or director)	10	10
4. Oversight body can engage in rulemaking	10	10
5. Oversight body's meetings must be open to the public	5	5
6. Oversight body's meetings must allow public comment	5	0
7. Oversight body can initiate investigations	5	5
8. Oversight body can impose penalties for violations	5	5
<b>Total Points</b>	60	45

**Explanation:**

The Maryland Higher Education Commission is authorized to oversee and regulate postsecondary institutions, define as a school or other institution that offers an educational program for individuals who are at least 16 years old and who have graduated from or left elementary or secondary school. This definition encompasses both types of private postsecondary schools covered in this report: for-profit institutions of higher education, which are degree-granting postsecondary institutions (Type 1) and private career schools, which are non-degree-granting postsecondary institutions (Type 2), as well as private nonprofit institutions of higher education. (Md. EDUCATION Code Ann. § 10-101.)

The Commission has authority to establish minimum standards for issuing certificates, diplomas, and degrees by institutions of postsecondary education. (Md. EDUCATION Code Ann. § 11-201.) The Commission has authority to establish rules, investigate institutions, and to impose penalties on postsecondary institutions in Maryland. (Md. EDUCATION Code Ann. § 11-204.)

Because the Commission is subject to the Maryland Open Meetings Act, meetings must be open to the public. (Md. General Provisions Code Ann. § 3-101, *et seq.*) Although the Commission must provide the public with an opportunity to observe its meetings, Maryland law does not require the Commission to give the public an opportunity to participate or comment.

## B. STATUTE-SPECIFIED MEMBERSHIP:

### 1. TO WHAT EXTENT ARE LIMITATIONS PLACED ON FOR-PROFIT MEMBERSHIP ON THE OVERSIGHT BODY?

**25/25 POINTS**

Explicit prohibition on for-profit majority, plus no possibility of a majority of the quorum	Explicit prohibition on for-profit majority	Discouraged	No prohibition specified, but not discouraged	For-profit majority mandated
25 Points	20 Points	10 Points	0 Points	–5 points

**Explanation:**

Maryland law does not include an explicit prohibition on a for-profit-interest member majority on the Commission. However, Maryland receives full credit for this element because the applicable statute explicitly prohibits Commission members from being employed by any agency or institution of postsecondary education or be a member of the governing board of any agency or institution of postsecondary education that is subject to the jurisdiction of the Commission. (Md. EDUCATION Code Ann. § 11-102(g).) This provision has the same effect as an explicit prohibition on for-profit majority—there will be no conflict of interest because members of the industry regulated will not be on the Commission charged with regulation.

### 2. IS THE OVERSIGHT BODY MANDATED TO INCLUDE AT LEAST ONE CONSUMER ADVOCATE?

**0/10 POINTS**

Yes	No
10 Points	0 Points

**Explanation:**

While Maryland law does require one member of the Commission to be a student (Md. EDUCATION Code Ann. § 11-102(b)), it does not mandate inclusion of an established, professional consumer advocate on the Commission.

### 3. ARE THE MEMBERS APPOINTED BY A PUBLICLY ACCOUNTABLE OFFICIAL OR ELECTED IN A GENERAL ELECTION?

**5/5 POINTS**

All	Majority	Half	Minority	None
5 Points	3 Points	2.5 Points	1 Point	0 Points

**Explanation:**

The Commission consists of 12 members appointed by the Governor, with the advice and consent of the Senate.

## II. STATE OVERSIGHT—EFFICACY: 47/100 POINTS

### A. DOES THE STATE REQUIRE ONSITE REVIEW OF PRIVATE POSTSECONDARY INSTITUTIONS?

**6/10 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Mandatory onsite reviews			Discretionary	None
	Every 2 years or less	Every 3-5 years	Over 5 years	Discretion to conduct onsite reviews	No review specified
<b>Type 1</b>	10 Points	8 Points	5 Points	<b>3 4 Points</b>	0 Points
<b>Type 2</b>	10 Points	<b>8 Points</b>	5 Points	3 Points	0 Points

**Explanation:**

**Type 1: Institutions of higher education.** Maryland requires an onsite review of each institution of higher education as part of the initial approval process. (COMAR 13B.02.02.06.) Thereafter, the Commission has discretion to conduct an onsite review as part of the annual review to ensure continued compliance with the minimum requirements established in applicable statute and regulations. (COMAR 13B.02.02.08.) Maryland receives 3 points because it provides for annual discretionary review and an additional point because it requires an onsite review as a part of the initial approval process.

**Type 2: Private career schools.** Maryland requires an onsite review of each private career college as part of the initial approval process, unless the applicant career college operates a private career school outside Maryland. (COMAR 13B.01.01.04(B).) The Secretary of Higher Education issues a certificate of authorization to private career schools; the certificate is valid for a period of up to five years. Maryland requires an onsite review of private career schools as a part of the renewal of approval to operate. (COMAR 13B.01.01.04(C).) Maryland receives 8 points for requiring an onsite review at least once every five years.

### B. DOES THE STATE REQUIRE UNANNOUNCED INSPECTIONS FOR ONSITE REVIEWS?

**0/5 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Required unannounced visits	Discretion to do unannounced visits	No indication
<b>Type 1</b>	5 Points	3 Points	<b>0 Points</b>
<b>Type 2</b>	5 Points	3 Points	<b>0 Points</b>

**Explanation:**

Maryland does not explicitly require institutions of higher education (Type 1) or private career schools (Type 2) to conduct unannounced visits, nor does state law give the Commission discretion to conduct unannounced visits for either type of private postsecondary institution.

**C. DOES THE STATE REQUIRE REGULAR REVIEWS OF PRIVATE POSTSECONDARY APPROVAL TO OPERATE?**

**20/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	<b>Mandatory</b>			<b>Discretionary</b>	<b>None</b>
	<b>Every 2 years or less</b>	<b>Every 3-5 years</b>	<b>Over 5 years</b>	<b>Discretion to conduct reviews</b>	<b>No review specified</b>
<b>Type 1</b>	<b>20 Points</b>	15 Points	10 Points	5 Points	0 Points
<b>Type 2</b>	<b>20 Points</b>	15 Points	10 Points	5 Points	0 Points

**Explanation:**

**Type 1: Institutions of higher education.** An approval granted by the Maryland Secretary of Higher Education or the Commission remains in effect in accordance with its terms unless the Secretary or the Commission has limited the approval for a certain period of time. However, Maryland requires institutions of higher education to annually submit documents to the Commission relevant to the financial and academic health of the institution. (COMAR 13B.02.02.08.)

**Type 2: Private career schools.** A certificate of approval may be issued by the Secretary of Higher Education for a period not to exceed 5 years. However, Maryland requires approved private career schools to submit an annual report which covers the fiscal and managerial aspects of the school's operation. (COMAR 13B.01.01.06.)

**D. DO THE CRITERIA FOR RENEWAL OF AUTHORIZATION MANDATE A REVIEW OF FACTORS ESSENTIAL TO ACADEMIC AND ETHICAL INTEGRITY?**

**11/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	<b>8 of 8</b>	<b>7 of 8</b>	<b>6 of 8</b>	<b>5 of 8</b>	<b>4 of 8</b>	<b>3 of 8</b>	<b>2 of 8</b>	<b>1 of 8</b>	<b>0 of 8</b>
<b>Type 1</b>	20 Points	17.5 Points	15 Points	<b>12.5 Points</b>	10 Points	7.5 Points	5 Points	2.5 Points	0 Points
<b>Type 2</b>	20 Points	17.5 Points	15 Points	12.5 Points	10 Points	<b>7.5 9.5 Points</b>	5 Points	2.5 Points	0 Points

Element	Type 1	Type 2
Admission requirements	M	D
Graduation requirements		D
Placement rate		M
Completion rate (or graduation rate)	M	M
Advertising practices	M	
Cohort default rate	M	
Accreditation status	M	M
Financial aid policies		

*M=Mandatory; D=Discretionary*

### **Explanation:**

**Type 1: Institutions of higher education.** Maryland requires institutions of higher education to annually submit to the Commission documents relevant to the financial and academic health of the institution. These include documents reflecting the graduation rate, cohort default rate, and any change in accreditation status of the institution. (COMAR 13B.02.02.08.) The documents also include information reflecting the academic profile of entering students (which would likely include information about admission requirements). The Commission further monitors the advertising practices of institution to ensure continued compliance. (COMAR 13B.02.01.08 and COMAR 13B.01.01.04.)



**Notable provision.** Maryland requires schools to submit to the Commission several documents reflecting institutional expenditures including their advertising budget as a percentage of total expenditures; instructional expenses as a percentage of total expenditures; and reinvestment of gross revenues to support educational purposes and programs. (COMAR 13B.02.02.08(D).)

**Type 2: Private career schools.** Maryland requires private career schools to provide program performance data as part of their annual report to the Secretary. This data includes completion/graduation rates and placement rates. (Policies and Procedures for Maryland Private Career Schools at 25; available at <https://www.mhec.state.md.us/career/pcs/policiesmanual-6-15-05.pdf>.) Though the requirements specified for the annual report do not expressly require review of graduation requirements, Maryland requires schools to provide a current catalog to the Secretary of Higher Education. (COMAR 13B.01.01.15(C).) Because the catalog must include graduation requirements, the state receives partial credit here.

Likewise, the requirements specified for the annual report do not expressly include review of admission requirements; however, Maryland requires schools to maintain student records which must include evidence of compliance with the school's admissions requirements. (COMAR 13B.01.01.11(A).) The Policies and Procedures for Maryland Private Career Schools specifies that these documents are required of private career schools along with a copy of the school catalog, enrollment agreement, and annual report. Thus, the state receives partial credit for this element as well.

Finally, an approved school shall file with the Secretary, within 5 days of receipt by the school, any reports or notices from government agencies, accreditation agencies, or other entities or organizations which notify the school of any actual or potential adverse actions to be taken against the school, including, but not limited to suspension or revocation of approval or accreditation. (COMAR 13B.01.01.06(C).) While this is not specifically included in the requirements for the annual report, the specified policy necessarily includes review of accreditation, should any adverse action occur and achieves the purpose of the element's inclusion.

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E. DOES THE STATE'S OVERSIGHT DISTINGUISH BETWEEN FOR-PROFIT AND NONPROFIT EDUCATIONAL INSTITUTIONS?

**5/15 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, strongly distinguished	Yes, moderately distinguished	Yes, slightly distinguished	Not distinguished
Type 1	15 Points	10 Points	5 Points	0 Points
Type 2	15 Points	10 Points	5 Points	0 Points

**Explanation:**

**Type 1: Institutions of higher education.** Some private nonprofit institutions of higher education, specifically those operating under a charter granted by the General Assembly, may operate without a certificate of approval from the Commission. (Md. EDUCATION Code Ann. § 11-202.1(A).) Further, Maryland does not require nonprofit institutions to get Commission approval before adding new academic programs or before modifying existing ones. (MD Code, Education, § 11-206.)

**Type 2: Private career schools.** Maryland defines a private career school as privately owned and privately operated institution of postsecondary education other than an institution of higher education that furnishes or offers to furnish programs, whether or not requiring a payment of tuition or fee, for the purpose of training, retraining, or upgrading individuals for gainful employment as skilled or semiskilled workers or technicians in recognized occupations or in new and emerging occupations. (Md. EDUCATION Code Ann. § 10-101(j).) State law does not distinguish between private nonprofit and private for-profit career schools in the statutes and regulations that govern these schools.

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F. DOES THE STATE REQUIRE INCREASED OVERSIGHT/SCRUTINY OF PRIVATE POSTSECONDARY INSTITUTIONS BASED ON POOR PERFORMANCE?

**5/10 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, mandatory	Yes, mandatory but limited	Yes, discretionary	Yes, discretionary but limited	No
Type 1	10 Points	7.5 Points	5 Points	2.5 Points	0 Points
Type 2	10 Points	7.5 Points	5 Points	2.5 Points	0 Points

**Explanation:**

**Type 1: Institutions of higher education.** Maryland law does not require institutions of higher education to submit performance data nor does the state require additional scrutiny for schools with poor performance outcomes.

**Type 2: Private career schools.** Maryland law requires private career schools to submit program performance data as part of its annual report to the Secretary of Higher Education. The Secretary / Commission will evaluate the data for compliance with the minimum standards Maryland has set for completion/graduation, placement, and exam passage. If any program is determined to be below the minimum standards for completion/graduation, placement and/or passage rate on the applicable licensing examination, the school will be required to develop and implement a plan of corrective action approved by the Secretary of Higher Education. The corrective action plan will be considered to be successful if the

program meets the minimum performance criteria when it is reevaluated with the submittal of the following year's annual report. If the corrective actions of a school fail to bring the program's rate of completion/graduation, placement, and/or passage on the licensing examination into compliance with minimum standards as reflected in the school's next annual report, a notice of deficiency will be issued to the school. As in the case of all notices of deficiencies, the school will be afforded the opportunity either to take corrective action as prescribed by the Secretary, or to dispute the Secretary's findings through a formal hearing process. (Policies and Procedures for Maryland Private Career Schools, at 24-25.)

#### G. DOES STATE LAW INCLUDE ANY SPECIAL PROTECTIONS FOR VETERANS WHO ATTEND PRIVATE POSTSECONDARY INSTITUTIONS?

**0/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	No
Type 1	20 Points	0 Points
Type 2	20 Points	0 Points

#### **Explanation:**

**Type 1: Institutions of higher education.** While Maryland requires institutions of higher education to include in their catalog a full description of services for veterans, disadvantaged individuals, and other special groups (COMAR 13B.02.02.22(B)(12)(d)), and the state has put in place admirable scholarship and grant opportunities for veterans (Md. EDUCATION Code Ann. §§ 18-604, 15-106.4, and 18-601), it does not specifically create any special protections for veterans, such as heightened scrutiny for schools that receive more than a specified percentage of revenue from veterans, or schools that specifically target veterans in their marketing/advertising campaigns.

**Type 2: Private career schools.** Maryland does not specifically create any special protections for veterans who attend private career schools.

### III. STATE OVERSIGHT—SCOPE AND INCLUSION:

**75/100 POINTS**

#### A. ARE EXEMPTIONS TO STATE OVERSIGHT COVERAGE LIMITED?

**75/100 POINTS**

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	No exemptions	Few exemptions	Moderate exemptions	Broad exemptions
Type 1	100 Points	75 Points	50 Points	0 Points
Type 2	100 Points	75 Points	50 Points	0 Points

#### **Explanation:**

**Type 1: Institutions of higher education.** Maryland provides exemptions from requiring a certificate of approval to some private nonprofit institutions of higher education and some religious educational institutions. (Md. EDUCATION Code Ann. § 11-202.1.) Notably, Maryland exempts private institutions



of higher learning which provide distance education and participate in the State Authorization Reciprocity Agreement (SARA). (Md. EDUCATION Code Ann. § 11-202.2.)

**Type 2: Private career schools.** Maryland provides several common sense exemptions for private career schools, such as continuing education, refresher courses provided by a professional organization for the benefit of its members, religious institutions, tutors, and instruction provided by an organization for its employees. The one exemption of concern with regard to private career schools is the following: “A program delivered entirely by distance education to a single individual at a Maryland location by a person, firm, corporation, or other organization that operates all aspects of the business outside of Maryland, including but not limited to, the origination, transmission, and administration of the distance education program from outside of Maryland.” (COMAR 13B.01.01.03(B).)

Maryland exempts private career schools that provide online distance learning from contributing to the private career school fund after 3 years of claims history during which no claim against the fund has been sustained on behalf of a Maryland student participating in a fully online distance education program offered in the State. (Md. EDUCATION Code Ann. § 11-203(d).)

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#### **IV. DISCLOSURE REQUIREMENTS: 57.5/100 POINTS**

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##### **A. ARE INSTITUTIONS REQUIRED TO DISCLOSE INSTITUTIONAL PERFORMANCE MEASURES TO POTENTIAL STUDENTS?**

**10/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	<b>Yes, mandatory</b>	<b>Yes, discretionary</b>	<b>None</b>
	Fact sheet or equivalent required to be given to students	Fact sheet or equivalent given to students upon request	No fact sheet required
<b>Type 1</b>	20 Points	10 Points	<b>0 Points</b>
<b>Type 2</b>	<b>20 Points</b>	10 Points	0 Points

**Explanation:**

**Type 1: Institutions of higher education.** Maryland requires institutions of higher education to disclose performance information consistent with the institutions’ performance accountability plans. The performance accountability plans may include information such as graduation rate, retention rates, information on regional and professional accreditation and certification. Accountability reports must be made available annually to the Commission for review, but there is no indication that a fact sheet-type disclosure is required for students. (Md. Code Ann., Educ. § 11-305.)

**Type 2: Private career schools.** Maryland requires each school to provide a catalog to all students at the time of enrollment. The catalog must provide program performance information including data pertaining to each program’s enrollment, completion, withdrawal, placement, and rate of passage on any applicable licensing examination. (COMAR 13B.01.01.15(K); COMAR 13B.01.01.15.)



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**B. WHICH INSTITUTIONAL PERFORMANCE DISCLOSURES ARE  
REQUIRED TO BE GIVEN TO STUDENTS PRIOR TO ENROLLMENT?**

**40/60 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

***Type 1: Institutions of higher education***

Disclosures	Mandatory	Discretionary	Not specified
Cohort default rate (CDR)	10 Points	5 Points	0 Points
Graduation / completion rates	10 Points	5 Points	0 Points
Placement rates	10 Points	5 Points	0 Points
Wage information	10 Points	5 Points	0 Points
License exam passage rates	10 Points	5 Points	0 Points
Methods & sources used to calculate	10 Points	5 Points	0 Points

**Explanation:**

Maryland law requires institutions to develop performance accountability plans, which are reviewed annually, and must include retention and graduation rates, and other performance measures. (Md. Code Ann., Educ. § 11-305.) The state receives partial credit for the performance standards listed above that are not specified in the law.

***Type 2: Private career schools***

Disclosures	Mandatory	Discretionary	Not specified
Cohort default rate (CDR)	10 Points	5 Points	0 Points
Graduation / completion rates	10 Points	5 Points	0 Points
Placement rates	10 Points	5 Points	0 Points
Wage information	10 Points	5 Points	0 Points
License exam passage rates	10 Points	5 Points	0 Points
Methods & sources used to calculate	10 Points	5 Points	0 Points

**Explanation:**

The program performance information provided by the school to students and prospective students must be complete, verifiable, and consistent with the program performance information required to be reported by the school in its most recent annual report to the Secretary. Program performance information includes data pertaining to each program's enrollment, completion, withdrawal, placement, and rate of passage on any applicable licensing examination. Maryland requires schools to provide, in the catalog, program performance information required by the federal government to be disclosed by the school. (COMAR 13B.01.01.15.) The state requires schools to provide validated placement statistics to students or prospective students on request to substantiate employment claims made by the school. A validated range of possible earnings shall be provided by the school to students or prospective students upon request. (COMAR 13B.01.01.15.)

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**C. DOES THE STATE REQUIRE SCHOOLS TO DISCLOSE ELEMENTS  
ESSENTIAL TO STUDENT PROTECTION PRIOR TO ENROLLMENT OR  
IN THE ENROLLMENT CONTRACT?**

**7.5/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

***Type 1: Institutions of higher education:***

Element Description	Mandatory	Discretionary	Not specified
Total cost of program	5 Points	2.5 Points	0 Points
Refund information	5 Points	2.5 Points	0 Points
Transferability of credits	5 Points	2.5 Points	0 Points
Length of program	5 Points	2.5 Points	0 Points

**Explanation:**

Maryland law does not specify any required elements for enrollment agreements.

***Type 2: Private career schools:***

Element Description	Mandatory	Discretionary	Not specified
Total cost of program	5 Points	2.5 Points	0 Points
Refund information	5 Points	2.5 Points	0 Points
Transferability of credits	5 Points	2.5 Points	0 Points
Length of program	5 Points	2.5 Points	0 Points

**Explanation:**

Maryland requires private career schools to publish in the school's catalog a schedule of tuition and fees and methods of payment. The school may not deviate from its published tuition and fees and methods of payment. Maryland requires schools to include all terms and conditions relating to the entire length and total cost of the program. (COMAR 13B.01.01.12(I),(J).) Additionally, Maryland requires schools to disclose their approved refund policy on the student enrollment contracts, on application forms, and in the catalog. (COMAR 13B.01.01.12(O).)

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**V. REGULATION OF RECRUITING PRACTICES:**

**68.75/100 POINTS**

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**A. HAS THE STATE PUT INTO LAW A LIST OF PROHIBITED ACTS  
REGARDING ADVERTISING AND RECRUITING?**

**75/100 POINTS**

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, strong regulation	Yes, moderate regulation	Yes, weak regulation	No list of prohibited acts
Type 1	100 Points	75 Points	50 Points	0 Points
Type 2	100 Points	75 Points	50 Points	0 Points

## PROHIBITED ACTS

Included in list of prohibited acts	Type 1	Type 2
Misleading representations using the word “college” or “university”	X	X
Misleading institution affiliations (e.g., military, public institution, businesses)		X
Promise of employment		X
Compensation for enrollment		X
Compensation or “bounty” to recruiters	X	
Deception (broad prohibition)		
Misrepresentation (broad prohibition)	/	X
Misleading representations re: accreditation	X	

*1-3=Weak; 3.5-6=Moderate; 6.5-8=Strong*

### **Explanation:**


**Type 1: Institutions of higher education.** An institution of higher education may not pay a commission, a bonus, or any other incentive payment based on success in securing enrollments or the award of financial aid to a person or entity engaged in student recruitment or admission activity. (Md. EDUCATION Code Ann. § 11-402.1.) Further, Maryland requires, for institutions providing distance education, that advertising, recruiting, and admissions materials clearly and accurately represent the program and the services available. This provision can reasonably be interpreted to serve the same purpose as a prohibition on misrepresentation. The state receives partial credit for this element because it is included only for institutions which provide distance education. (13B.02.02.16(O).)

Maryland requires that any institution of higher education that does not possess regional accreditation from the Commission on Accreditation of the Middle States Commission on Higher Education or another regional accrediting body approved by the Commission shall require its students to sign a letter of acknowledgment that the transfer of credits may be difficult if the student intends to transfer the credits to a regionally accredited institution of higher education in the state. (Md. EDUCATION Code Ann. § 11-404(a)(1).) Maryland receives credit for prohibiting misleading representations because this provision serves the purpose of ensuring that students are informed about the accreditation status of the school.

**Type 2: Private career schools.** Maryland prohibits a person, firm, association, corporation, or other entity from using the name “college,” “university,” “regional higher education center,” or word of similar import, in such manner as to connote the offering of a postsecondary educational course or program, unless that person, firm, association, or corporation has first met the criteria established by, and obtained a certificate of approval from, the Commission in the manner provided by law. (COMAR 13B.02.02.04(A).) This prohibition applies to private career schools and institutions of higher education.

Maryland expressly prohibits career colleges from exaggeration and misrepresentation of any kind in its advertising, through its field representatives, or through any other agency. Further, the state prohibits schools from advertising in help wanted columns in newspapers or other publications and it prohibits schools from advertising endorsement by manufacturers, business firms, organizations, or individuals engaged in the line of work for which it trains, unless it can present written evidence of the endorsement or endorsements the date of which must be included in the advertisement. (COMAR 13B.01.01.15.)

Taken together, Maryland’s regulation of recruiting practices is moderate; this is due, in large part, to the stronger regulations in place with regard to private career schools.

 The state's regulation of recruiting practices at private institutions of higher education is weaker than its regulation of recruiting practices at career colleges. Both types of institutions have histories of abuse where recruiting practices are concerned, so the level of regulation should be similar.

## VI. COMPLAINT PROCESS AND RELIEF FOR STUDENTS:

**58/100 POINTS**

### A. DOES THE STATE REQUIRE A BOND OR FUND AS A CONDITION OF AUTHORIZATION?

**10/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	No
Type 1	<del>20</del> 10 Points	0 Points
Type 2	<del>20</del> 10 Points	0 Points

#### **Explanation:**

**Type 1: Institutions of higher education.** Maryland requires institutions of higher education to provide a surety bond or a letter of credit to the Commission before it will consider initial approval. The state receives partial credit here because the surety bond or letter of credit must be in effect for only 6 years (for institutions granting baccalaureate or higher degrees and for only 4 years for institutions granting associate degrees). (COMAR 13B.02.02.07(C).)

**Type 2: Private Career Schools.** Maryland requires private career schools to pay into the Guaranty Student Tuition Fund, but the state gives discretion to the Secretary of Higher Education with regard to whether or not to require a private career school to provide a renewable performance bond or an irrevocable letter of credit prior to receiving initial approval. (COMAR 13B.01.01.04(B(6).) The state receives partial credit for this element because the bond is discretionary, not required.

### B. DOES THE STATE REQUIRE A REFUND OF TUITION IF A STUDENT ENROLLS AS THE RESULT OF MISREPRESENTATION?

**10/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, full refund	Yes, partial refund	No refund required
Type 1	20 Points	10 Points	0 Points
Type 2	20 Points	10 Points	0 Points

#### **Explanation:**

Maryland provides, in specific circumstances, for a full refund to students in instances in which a student enrolls as the result of misrepresentation. Specifically, Md. EDUCATION Code Ann. § 11-107(c) provides that “[f]or any institution of postsecondary education required to have Commission approval before offering a program, if the institution offers an unapproved program, the Secretary may require the institution to refund all tuition and fees paid by students who enrolled in the program, and may revoke the certificate of approval of any institution that fails to make a required refund within the time specified by

the Secretary.” It is reasonable to assume that a student enrolled in an unapproved program likely enrolled as a result of misrepresentation, thus, Maryland receives partial credit for this element. The above provision applies to both institutions of higher education (type 1) and private career schools (type 2), both of which are included in the definition of “institution of postsecondary education.”

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**C. DOES THE STATE REQUIRE INSTITUTIONS TO REFUND  
TUITION IN THE EVENT OF CLOSURE?**

**15/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	<b>Yes, full refund</b>	<b>Yes, partial refund</b>	<b>Yes, refund in limited circumstances</b>	<b>No refund required</b>
<b>Type 1</b>	20 Points	<b>15 Points</b>	10 Points	0 Points
<b>Type 2</b>	20 Points	<b>15 Points</b>	10 Points	0 Points

**Explanation:**

**Type 1: Institutions of higher education.** Maryland regulations require schools to use the balance of the required financial guarantee with the approval of the Secretary or the Secretary's designee in order to refund tuition monies owed to students. The state does not specify that institutions must provide a full refund, and the required surety bonds are only required for 4 years (for institutions granting associate's degrees) or 6 years (for institutions granting baccalaureate degrees), which may limit the availability of funds. Thus, the state receives partial credit for including provisions for refund in some of these circumstances.

**Type 2: Private career schools.** Maryland requires private career schools to contribute to the Guaranty Student Tuition Fund. (COMAR 13B.01.01.18(D).) If a private career school closes or discontinues a course or program, Maryland requires the school to refund to each currently enrolled student monies paid by the student for tuitions and fees and monies for which the student is liable for tuitions and fees. (COMAR 13B.01.01.12(I).) With the approval of the Secretary, a school that closes or discontinues a course or program, instead of refunding monies to a student, may arrange for that student to complete his or her educational program at another approved school offering a similar program. It is the student's option to receive the refund or to accept the transfer to another school. (COMAR 13B.01.01.12(J).)

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**D. DOES THE STATE ALLOW STUDENTS AMPLE TIME TO MAKE A COMPLAINT?**

**10/10 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	<b>2 years or more (or no deadline)</b>	<b>1-2 years</b>	<b>Under 1 year</b>	<b>Not applicable</b>
<b>Type 1</b>	<b>10 Points</b>	5 Points	1 Points	0 Points
<b>Type 2</b>	<b>10 Points</b>	5 Points	1 Points	0 Points

**Explanation:**

Maryland does not specify a deadline for filing complaints for students whether the student is attending an institution of higher education or a private career school.

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E. DOES THE STATE REQUIRE INSTITUTIONS TO DISCLOSE INFORMATION ABOUT FILING A COMPLAINT WITH THE STATE OVERSIGHT BODY?

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**13/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

***Type 1: Institutions of higher education***

Medium	Mandatory	Discretionary	Not specified
Catalog	10 Points	5 Points	0 Points
Website	5 Points	<del>2.5</del> 3.5 points	0 Points
Enrollment contract	5 Points	2.5 Points	0 Points

**Explanation:**

Maryland requires institutions of higher education to include in their catalogs a statement of student rights and responsibilities, including a student grievance procedure and a contact office for the resolution of complaints. (COMAR 13B.02.02.22(B)(13).) The only instance in which the state requires institutions of higher education to post on their website information regarding the process by which to make complaints against the institution is where an institution of higher education enrolls Maryland students in a fully online distance education program in the State. (Md. EDUCATION Code Ann. § 11-202.2(C)(5)(ii).) Maryland receives partial credit for giving discretion regarding the disclosure of information about filing a complaint with the state oversight body because it is reasonable to believe that some institutions may include these disclosures in the student grievance procedure that they are required to include in the catalog; also, institutions may post their catalogs online. Finally, Maryland receives one additional point for requiring online distance education programs to post information on how to file a complaint against the institution online.

***Type 2: Private career schools***

Medium	Mandatory	Discretionary	Not specified
Catalog	10 Points	5 Points	0 Points
Website	5 Points	2.5 Points	0 Points
Enrollment contract	5 Points	2.5 Points	0 Points

**Explanation:**

Maryland requires private career schools to develop a statement of student rights, privileges, and responsibilities and make this statement available to students through the catalog, student handbook, or other appropriate publication. The school must publish a student grievance procedure in its catalog, student handbook, or other appropriate publication. If a student has exhausted a school's grievance procedure and still claims to be aggrieved, the school shall inform the student of his or her right to appeal to the Secretary. (COMAR 13B.01.01.14.) There is no indication, however, that private career schools must disclose information about filing a complaint with the Secretary or the Commission on their websites, in catalogs, or in enrollment contracts. It is reasonable to believe that in some cases this information may be a part of the grievance procedure, which the state requires to be published in private career school catalogs or other "appropriate publications," which may include the school website. Thus, the state receives partial credit for this element.

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F. IS THE COMPLAINT PROCESS READILY ACCESSIBLE AND AVAILABLE ON THE STATE OVERSIGHT BODY'S WEBSITE?

**0/10 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, with address	Yes, with phone #	Yes, with email address	Yes, with electronic form	No
Type 1	2 Points	2 Points	3 Points	3 Points	0 Points
Type 2	2 Points	2 Points	3 Points	3 Points	0 Points

**Explanation:**

**Type 1: Institutions of higher education and Type 2: private career schools.** The Maryland Commission of Higher Education oversees both types of institutions in Maryland. There is no easily located and readily accessible complaint process available on Commission's website with regard to either type of institution.

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**VII. ENFORCEMENT: 20/100 POINTS**

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A. IS THERE LOSS OF STATE AID FOR SCHOOLS THAT REPEATEDLY PRODUCE SUBSTANDARD GRADUATION RATES, JOB PLACEMENT RATES, AND/OR COHORT DEFAULT RATES?

**0/30 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, required	Yes, required but limited	Yes, discretionary	Yes, discretionary but limited	No
Type 1	30 Points	20 Points	15 Points	5 Points	0 Points
Type 2	30 Points	20 Points	15 Points	5 Points	0 Points

**Explanation:**

**Type 1: Institutions of higher education.** Maryland does not require the loss of state aid for institutions of higher education that repeatedly produce substandard graduation rates, job placement rates, and/or cohort default rates.

**Type 2: Private career schools.** Though the state monitors performance indicators for private career schools, Maryland does not expressly require the loss of state aid for institutions of higher education that repeatedly produce substandard graduation rates, job placement rates, and/or cohort default rates.



B. DOES STATE LAW EXPLICITLY AUTHORIZE A PRIVATE RIGHT OF ACTION FOR STUDENTS AGAINST INSTITUTIONS THAT HAVE VIOLATED THE LAWS AND REGULATIONS IN PLACE TO GOVERN THEM?

**0/30 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	Limited circumstances	No
Type 1	30 Points	15 Points	0 Points
Type 2	30 Points	15 Points	0 Points

**Explanation:**

*Type 1: Institutions of higher education and Type 2: private career schools.* Maryland does not expressly authorize a private right of action for students against either institutions of higher education or private career schools that have violated the laws and regulations in place to govern them.

C. DOES STATE LAW EXPLICITLY ALLOW ATTORNEY FEE AWARDS FOR STUDENTS WHO PREVAIL IN LITIGATION AGAINST PRIVATE FOR-PROFIT POSTSECONDARY INSTITUTIONS?

**0/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	Limited	No
Type 1	20 Points	15 Points	0 Points
Type 2	20 Points	15 Points	0 Points

**Explanation:**

*Type 1: Institutions of higher education and Type 2: private career schools.* Maryland does not explicitly allow attorney fee awards for students who prevail in litigation against either institutions of higher education or private career schools that have violated the laws and regulations in place to govern them.

D. DOES STATE LAW EXPLICITLY AUTHORIZE ATTORNEY GENERAL INVOLVEMENT?

**20/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	Limited circumstances	No
Type 1	20 Points	10 Points	0 Points
Type 2	20 Points	10 Points	0 Points

**Explanation:**

The Commission may authorize the Secretary, acting through the Attorney General, to seek an injunction, or other judicial remedy, against a school for any violation of applicable law. This applies to both



institutions of higher education and private career schools. This remedy is in addition to other remedies provided by law. (Md. EDUCATION Code Ann. § 11-107.)

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## BONUS POINTS:

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Maryland does not receive any bonus points.



## ILLUMINATING INFORMATION

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## RECIPROCITY AGREEMENTS

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Maryland is a member of the State Authorization Reciprocity Agreements (SARA).

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## LITIGATION, INVESTIGATIONS, AND ACTIONS INVOLVING PRIVATE FOR-PROFIT EDUCATIONAL INSTITUTIONS IN MARYLAND

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For information about pending and recent federal and state government investigations and actions regarding for-profit colleges see David Halperin's compilation at <http://www.republicreport.org/2014/law-enforcement-for-profit-colleges/#sthash.1vc4HmPw.dpuf>.

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# MASSACHUSETTS

## FINAL GRADING ANALYSIS

OVERALL SCORE: **440.25/700 POINTS (62.8%)**  
 LETTER GRADE: **D**

### I. OVERSIGHT BODY: **48/100 POINTS**

#### A. IS THERE A STATUTORILY CREATED OVERSIGHT BODY THAT IS PUBLICLY ACCOUNTABLE?

**40/60 POINTS**

Element	Points	Points Type 1	Points Type 2	Total Points
1. Oversight body is a multi-member board, commission, or panel created by statute	10	10	0	5
2. Oversight body was statutorily created specifically to oversee private postsecondary institutions	10	0	5	2.5
3. Multi-member board, commission, or panel is the ultimate decision maker (as opposed to a single person, like the head of a department or director)	10	10	0	5
4. Oversight body can engage in rulemaking	10	10	10	10
5. Oversight body's meetings must be open to the public	5	5	2.5	3.75
6. Oversight body's meetings must allow public comment	5	5	2.5	3.75
7. Oversight body can initiate investigations	5	5	5	5
8. Oversight body can impose penalties for violations	5	5	5	5
<b>Total Points</b>	<b>60</b>	<b>50</b>	<b>30</b>	<b>40</b>

#### Explanation:

Massachusetts distinguishes between degree-granting and non-degree-granting private for-profit postsecondary educational institutions in their oversight.

**Type 1: Independent degree-granting institutions.** Massachusetts has not created a board specifically to oversee private postsecondary institutions; however, the Massachusetts Board of Higher Education is a multi-member public board created to oversee all postsecondary institutions, including private postsecondary institutions. (M.G.L. 15A § 4.) The Board is authorized to engage in rulemaking, initiate investigations, and impose penalties on private postsecondary institutions. (610 CMR 2.07(4)(c); M.G.L. 69 §30A.) Board meetings must be open to the public, and the Board must allow an opportunity for public comment. (M.G.L. 30A § 20.)

**Type 2: Private non-degree granting occupational schools.** Massachusetts' Division of Professional Licensure is responsible for the oversight of private occupational schools in the state. The Division was not created specifically to oversee occupational schools, but is designated to oversee private occupational schools. The Division is under the supervision of a commissioner (Director), who is appointed by the governor. (M.G.L.A. 13 § 8.) Within the Division is the Office of Private Occupational School Education, which is responsible for assisting the commissioner in carrying out the powers, duties and responsibilities. Additionally, there is an advisory council on private occupational schools within the Division. (M.G.L.A. 112 § 263.) Some members of the advisory council are designated by the commissioner and others are state officials or their designees.

It is the responsibility of the Division to administer and enforce laws governing private occupational schools; adopt rules and regulations governing the licensure and the operation of private occupational schools; grant licenses to qualified applicants; approve the curriculum, instructors and staff; investigate complaints, conduct inspections, review billing and student records and to review the criminal offender record information of principals, administrators, employees and other individuals related to private occupational schools for purposes of licensure and reviewing complaints. (M.G.L. 112 § 263(b).)

Meetings of the advisory council are open to the public. However, the advisory council is not ultimately responsible for making decisions. The Division head is ultimately responsible for the oversight. Therefore, Massachusetts receives partial credit for this element. There is opportunity for public input and there is some transparency. (M.G.L. 30A § 20.) However, public accountability should be improved.

## B. STATUTE-SPECIFIED MEMBERSHIP:

### 1. TO WHAT EXTENT ARE LIMITATIONS PLACED ON FOR-PROFIT MEMBERSHIP ON THE OVERSIGHT BODY?

**5/25 POINTS**

	Explicit prohibition on for-profit majority, plus no possibility of a majority of the quorum	Explicit prohibition on for-profit majority	Discouraged	No prohibition specified, but not discouraged	For-profit majority mandated
<b>Type 1</b>	25 Points	20 Points	<b>10 Points</b>	0 Points	-5 points
<b>Type 2</b>	25 Points	20 Points	10 Points	<b>0 Points</b>	-5 points

**Explanation:**

**Type 1: Independent degree-granting institutions.** The Board has 13 voting members. One member is the Secretary of Education, ex officio, or her designee. Of the nine members appointed by the Governor based on geographic location, one must represent organized labor, one must represent the business community, and one must be appointed from a group of students in public, higher education that are nominated by the Student Advisory Committee. The remaining three members represent public institutions of higher education (one member must be from the University of Massachusetts board of trustees, one member must be from the board of trustees from the state university system, and one member shall be from community college board of trustees).

A representative from an independent institution may be appointed. But if appointed, the representative may not be involved in a matter, as a board member, that affects the financial interest of the independent institution. The representative's affiliation must be recorded in the meeting minutes. (M.G.L. 15A § 4.)

**Type 2: Private non-degree granting occupational schools.** The governor appoints the commissioner who is charged with oversight of the Division. The commissioner appoints employees to the Office of Private Occupational School Education. The 12 Members of the advisory council are designated as follows: the state auditor, or a designee; the secretary of education, or a designee, the secretary of labor and workforce development, or a designee the undersecretary of the office of consumer affairs and business regulation, or a designee; 8 persons to be appointed by the commissioner of the division, 1 of whom shall be the president of the Massachusetts association of private career schools, or a designee, 1 of whom shall be a president of a non-profit private occupational school and 6 of whom shall have knowledge and understanding of the fiscal, educational, workforce development and consumer protection issues relating to post-secondary education. (M.G.L. 112 § 263(r).) The secretary of education, the secretary of labor and workforce development, the undersecretary of the office of consumer affairs and business regulation are all appointed to those positions by the governor. There is nothing that prohibits or discourages private for-profit postsecondary educational institutions' interests from dominating the division's decision-making process.

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**2. IS THE OVERSIGHT BODY MANDATED TO INCLUDE  
AT LEAST ONE CONSUMER ADVOCATE?**

**0/10 POINTS**

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	Yes	No
<b>Type 1</b>	10 Points	<b>0 Points</b>
<b>Type 2</b>	10 Points	<b>0 Points</b>

**Explanation:**

**Type 1: Independent degree-granting institutions.** Massachusetts law does not mandate a consumer advocate position on the Board.

**Type 2: Private non-degree granting occupational schools.** Massachusetts law does not require the commissioner (Director) or any employees appointed to the office of private occupational school education to be a consumer advocate. Massachusetts requires 6 of the members appointed to the advisory council on private occupational schools to "have knowledge and understanding of the fiscal, educational, workforce development and consumer protection issues relating to post-secondary education," but does not specifically require a consumer advocate to be appointed to that advisory body. (M.G.L. 112 § 263(r).)

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**3. ARE THE MEMBERS APPOINTED BY A PUBLICLY ACCOUNTABLE  
OFFICIAL OR ELECTED IN A GENERAL ELECTION?**

**3/5 POINTS**

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	All	Majority	Half	Minority	None
<b>Type 1</b>	<b>5 Points</b>	3 Points	2.5 Points	1 Point	0 Points
<b>Type 2</b>	5 Points	3 Points	2.5 Points	<b>1 Point</b>	0 Points

**Explanation:**

***Type 1: Independent degree-granting institutions.*** All board members consist of elected officials or individuals appointed by the Governor. (M.G.L. 15A § 4.)

***Type 2: Private non-degree granting occupational schools.*** As noted above, the commissioner (Director) is appointed by the governor. Ultimately, the commissioner responsible for oversight of the division is responsible for the oversight of private occupational schools. The commissioner is accountable to the governor, who is a publicly accountable official. The employees of the office for private occupational schools are appointed by the commissioner, and only 4 members of the advisory council for private occupational schools are appointed by the governor.

## II. STATE OVERSIGHT—EFFICACY:

**32.75/100 POINTS**

### A. DOES THE STATE REQUIRE ONSITE REVIEW OF PRIVATE POSTSECONDARY INSTITUTIONS?

**3/10 POINTS**

	Mandatory onsite reviews			Discretionary	None
	Every 2 years or less	Every 3-5 years	Over 5 years	Discretion to conduct onsite reviews	No review specified
<b>Type 1</b>	10 Points	8 Points	5 Points	<b>3 Points</b>	0 Points
<b>Type 2</b>	10 Points	8 Points	5 Points	<b>3 Points</b>	0 Points

**Explanation:**

***Type 1: Independent degree-granting institutions.*** Each proprietary institution shall be subject to review by the Board every 5 years. A visiting committee is appointed to review the institution, but Massachusetts law does not require the committee to perform an onsite review. When a review or inspection is necessary, the Board, in consultation with the applicant institution, may select and appoint a visiting committee to participate in the evaluation. The visiting committee will review the materials submitted by the institution, may visit the institution, and will submit a report to the Board containing recommendations regarding the requested authorization. (610 CMR 2.05(5); M.G.L. 69, § 30; 610 CMR 2.06(2).)

***Type 2: Private non-degree granting occupational schools.*** The division has discretion to conduct onsite reviews. The division may observe and inspect any location used for instructional purpose by a School at any time. These locations include, but are not limited to, the premises of a School and the site of any clinical training or on-site job training. (230 CMR 15.01(12).) Additionally, any person or entity desiring to operate a private occupational school within Massachusetts must submit relevant financial information to the state auditor. The auditor is authorized to review the full records of the school and may carry out on-site reviews of the school.

### B. DOES THE STATE REQUIRE UNANNOUNCED INSPECTIONS FOR ONSITE REVIEWS?

**0/5 POINTS**

	Required unannounced visits	Discretion to do unannounced visits	No indication
<b>Type 1</b>	5 Points	3 Points	<b>0 Points</b>
<b>Type 2</b>	5 Points	3 Points	<b>0 Points</b>

**Explanation:**

**Type 1: Independent degree-granting institutions.** Massachusetts law does not require onsite visits to be unannounced and makes provisions for scheduling visits. (610 CMR 2.06(1)(b)(2).)

**Type 2: Private non-degree granting occupational schools.** Massachusetts law does not require onsite visits to be unannounced and does not indicate that there is discretion to do so. (230 CMR 15.01(12).)

**C. DOES THE STATE REQUIRE REGULAR REVIEWS OF PRIVATE POSTSECONDARY APPROVAL TO OPERATE?**

**17.5/20 POINTS**

	Mandatory			Discretionary	None
	Every 2 years or less	Every 3-5 years	Over 5 years	Discretion to conduct reviews	No review specified
<b>Type 1</b>	20 Points	<b>15 Points</b>	10 Points	5 Points	0 Points
<b>Type 2</b>	<b>20 Points</b>	15 Points	10 Points	5 Points	0 Points

**Explanation:**

**Type 1: Independent degree-granting institutions.** Institutions must submit an annual report to the Board each year. The Board reviews institutions' reports every five years. (610 CMR 2.05(5).)

**Type 2: Private non-degree granting occupational schools.** Licenses must be renewed every 2 years. (230 CMR 13.05.)

**D. DO THE CRITERIA FOR RENEWAL OF AUTHORIZATION MANDATE A REVIEW OF FACTORS ESSENTIAL TO ACADEMIC AND ETHICAL INTEGRITY?**

**9.75/20 POINTS**

	8 of 8	7 of 8	6 of 8	5 of 8	4 of 8	3 of 8	2 of 8	1 of 8	0 of 8
<b>Type 1</b>	20 Points	17.5 Points	15 Points	12.5 Points	10 Points	<del>7.5</del> <b>11.5 Points</b>	5 Points	2.5 Points	0 Points
<b>Type 2</b>	20 Points	17.5 Points	15 Points	12.5 Points	10 Points	7.5 Points	<del>5</del> <b>8 Points</b>	2.5 Points	0 Points

Element	Type 1	Type 2
Admission requirements	<b>D</b>	
Graduation requirements	<b>D</b>	<b>M</b>
Placement rate	<b>M</b>	<b>D</b>
Completion rate (or graduation rate)	<b>M</b>	<b>D</b>
Advertising practices	<b>D</b>	
Cohort default rate		<b>D</b>

Accreditation status	M	M
Financial aid policies	D	

*M=Mandatory D=Discretionary*

**Explanation:**

**Type 1: Independent degree-granting institutions.** When an investigation is undertaken to make a periodic inspection of an institution, the Board may require the institution to provide some or all of the information described in 610 CMR 2.07. (610 CMR 2.09.) Review of admission requirements, graduation requirements, advertising practices, and financial aid policies may be included in the review. There are also several additional requirements specifically related to proprietary institutions. Each year the proprietary institution is required to submit a report in two copies to the Board, reviewing the status of the institution's degree-granting programs. This report, to be titled "annual report," should evaluate the general quality of curricula, the faculty and the student body. It should provide statistical information on the number of students completing the requirements for the degree, job placement and/or transfer statistics, the financial status of the institution, operating costs and revenues. (610 CMR 2.07(4)(b).)

**Type 2: Private non-degree granting occupational schools.** The division requires private occupational schools to submit several documents for renewal of license. Among these documents, schools must submit a program/course approval form. Program and course approval information includes program completion requirements. Schools must also submit information related to accreditation status. (230 CMR 13.02; 230 CMR 13.04; Massachusetts Division of Professional Licensure Office of Private Occupational School Education: Initial and Renewal License Application and Checklist; Program Course Approval Form: Attachment M). Massachusetts receives partial credit for requiring review of placement rate, completion rate, and cohort default rate because while these are not required as a part of the renewal application or process, Massachusetts requires each school to submit this information to the state annually, so it has provisions in place to monitor these measures (230 CMR 15.05(4).)



**Notable Provision:**

Massachusetts requires private occupational schools applying for licensure or renewal to submit a certification from the State Auditor that the applicant is financially qualified to operate a School. (230 CMR 13.02.) Each licensee shall be reviewed by the auditor at least once every 3 years. (M.G.L. 112 § 263.) Massachusetts' focus on monitoring the fiscal wellbeing of private occupational schools is something other states should explore and consider modeling.

**E. DOES THE STATE'S OVERSIGHT DISTINGUISH BETWEEN FOR-PROFIT AND NON-PROFIT EDUCATIONAL INSTITUTIONS?**

**2.5/15 POINTS**

	Yes, strongly distinguished	Yes, moderately distinguished	Yes, slightly distinguished	Not distinguished
<b>Type 1</b>	15 Points	10 Points	<b>5 Points</b>	0 Points
<b>Type 2</b>	15 Points	10 Points	5 Points	<b>0 Points</b>

**Explanation:**

**Type 1: Independent degree-granting institutions.** Although Massachusetts law lays out guidelines that are applicable to all degree-granting postsecondary institutions, it also applies some special additional criteria to for-profit (proprietary) institutions in some circumstances. (610 CMR 2.07(4)(b).)



**Type 2: Private non-degree granting occupational schools.** Massachusetts does not distinguish between for-profit and non-profit private occupational schools. (M.G.L. 112 § 263(a).)

F. DOES THE STATE REQUIRE INCREASED OVERSIGHT/SCRUTINY OF PRIVATE POSTSECONDARY INSTITUTIONS BASED ON POOR PERFORMANCE?

0/10 POINTS

	Yes, mandatory	Yes, mandatory but limited	Yes, discretionary	Yes, discretionary but limited	No
Type 1	10 Points	7.5 Points	5 Points	2.5 Points	0 Points
Type 2	10 Points	7.5 Points	5 Points	2.5 Points	0 Points

**Explanation:**

**Type 1: Independent degree-granting institutions.** Though Massachusetts monitors the performance of proprietary schools, there is no specific provision requiring increased oversight or scrutiny for schools that perform poorly or for schools that exhibit a pattern of poor performance as reflected in the annual report.

**Type 2: Private non-degree granting occupational schools.** The division requires private occupational schools to report specified performance measures annually, so it monitors school performance. There is no specific provision requiring increased oversight or scrutiny for schools that perform poorly or for schools that exhibit a pattern of poor performance.

G. DOES STATE LAW INCLUDE ANY SPECIAL PROTECTIONS FOR VETERANS WHO ATTEND PRIVATE POSTSECONDARY INSTITUTIONS?

0/20 POINTS

	Yes	No
Type 1	20 Points	0 Points
Type 2	20 Points	0 Points

**Explanation:**

**Type 1: Independent degree-granting institutions.** Massachusetts law has no special provisions in place for veterans who attend for-profit independent degree-granting schools.

**Type 2: Private non-degree granting occupational schools.** Massachusetts law has no special provisions in place for veterans who attend private for-profit occupational schools.

III. STATE OVERSIGHT—SCOPE AND INCLUSION:

75/100 POINTS

A. ARE EXEMPTIONS TO STATE OVERSIGHT COVERAGE LIMITED?

75/100 POINTS

	No exemptions	Few exemptions	Moderate exemptions	Broad exemptions
<b>Type 1</b>	100 Points	<b>75 Points</b>	50 Points	0 Points
<b>Type 2</b>	100 Points	<b>75 Points</b>	50 Points	0 Points

**Explanation:**

**Type 1: Independent degree-granting institutions.** Massachusetts has one minor, but important exemption to Board oversight related to inspections. The law requires the Board to consider an institution's participation in and/or review of New England Association of Schools and Colleges accreditation visits or reports to constitute periodic inspection of an institution. (610 CMR 2.09). In other instances, states that exempt institutions from oversight due to accreditation receive zero points for this element. Massachusetts receives 75 points because the language that creates this exemption is very narrow. It is tailored in two important ways (1) it is limited to periodic inspections and (2) it is limited to one specific accrediting agency, it does not include, for example, "any nationally recognized accrediting agency".

**Type 2: Private non-degree granting occupational schools.** Massachusetts law provides for a few exemptions, such as for "a school providing distance learning or online correspondence services having no place of business in the commonwealth." (M.G.L. 112 § 263(c)(iv).)

## IV. DISCLOSURE REQUIREMENTS: **72.5/100 POINTS**

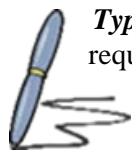
### A. ARE INSTITUTIONS REQUIRED TO DISCLOSE INSTITUTIONAL PERFORMANCE MEASURES TO POTENTIAL STUDENTS?

**20/20 POINTS**

	Yes, mandatory	Yes, discretionary	None
	Fact sheet or equivalent required to be given to students	Fact sheet or equivalent given to students upon request	No fact sheet required
<b>Type 1</b>	<b>20 Points</b>	10 Points	0 Points
<b>Type 2</b>	<b>20 Points</b>	10 Points	0 Points

**Explanation:**

**Notable Provisions:**



**Type 1: Independent degree-granting institutions.** Independent degree-granting institutions are required to make specified performance related disclosures at least 72 hours prior to entering into an enrollment agreement with a consumer or prospective student.

**Type 2: Private non-degree granting occupational schools.** Effective beginning in January 2018, Massachusetts law requires private occupational schools to disclose to current students and, prior to enrollment, prospective students specified performance information in a form acceptable to the division. (230 CMR 15.05(2).)

### B. WHICH INSTITUTIONAL PERFORMANCE DISCLOSURES ARE REQUIRED TO BE GIVEN TO STUDENTS PRIOR TO ENROLLMENT?

**37.5/60 POINTS**

*Type 1: Independent degree-granting institutions*

Disclosures	Mandatory	Discretionary	Not specified
Cohort default rate (CDR)	10 Points	5 Points	0 Points
Graduation / completion rates	10 Points	5 Points	0 Points
Placement rates	10 Points	5 Points	0 Points
Wage information	10 Points	5 Points	0 Points
License exam passage rates	10 Points	5 Points	0 Points
Methods & sources used to calculate	10 Points	5 Points	0 Points

**Explanation:**

Massachusetts requires independent degree-granting institutions to disclose default rates, graduation rates, and placement rates to students at least **72 hours prior** to entering an enrollment agreement. (940 CMR 31.05.) Massachusetts does not require this type of disclosure for license exam passage rates, but it does specify if a school offers or requires students to take an examination, certification examination, or similar test of the students' competence to enter, continue with, or graduate from a program, or to be certified in a particular occupational field, and the examination or test is available directly from an outside vendor, it is an unfair or deceptive act or practice for a school to fail to disclose the actual cost of such examination or test prior to the time of enrollment.

*Type 2: Private non-degree granting occupational schools*

Disclosures	Mandatory	Discretionary	Not specified
Cohort default rate (CDR)	10 Points	5 Points	0 Points
Graduation / completion rates	10 Points	5 Points	0 Points
Placement rates	10 Points	5 Points	0 Points
Wage information	10 Points	5 Points	0 Points
License exam passage rates	10 Points	5 Points	0 Points
Methods & sources used to calculate	10 Points	5 Points	0 Points

**Explanation:**

Effective beginning in January 2018, Massachusetts law requires private occupational schools to disclose to current and potential students prior to enrollment, information about cohort default rate, graduation / completion rates, and license exam passage rates (success rates of graduates in obtaining a professional license where applicable). The state further requires relevant employment statistics if the school is required to maintain such information in order to receive federal or state funding or if the school refers to employment prospects or job placement in advertising. (230 CMR 15.05(2).)

Occupational schools are required to disclose placement rates to potential students at least **72 hours prior** to entering into an enrollment agreement. (940 CMR 31.05(4).)

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**C. DOES THE STATE REQUIRE SCHOOLS TO DISCLOSE ELEMENTS  
ESSENTIAL TO STUDENT PROTECTION PRIOR TO ENROLLMENT OR  
IN THE ENROLLMENT CONTRACT?**

**15/20 POINTS**

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*Type 1: Independent degree-granting institutions*

Element description	Mandatory	Discretionary	Not specified
<b>Total cost of program</b>	<b>5 Points</b>	2.5 Points	0 Points
<b>Refund information</b>	<b>5 Points</b>	2.5 Points	0 Points
<b>Transferability of credits</b>	5 Points	2.5 Points	<b>0 Points</b>
<b>Length of program</b>	<b>5 Points</b>	2.5 Points	0 Points

**Explanation:**

Massachusetts law requires disclosure of all education costs and refund information. (610 CMR 2.07(3)(g)(1)(f).) Credit transferability and amount of classes and time required to complete a program need not be disclosed by law.

Note that while there is no requirement that independent degree-granting schools disclose information about the transferability of credits to students prior to enrollment, it is an unfair or deceptive act or practice for a school to represent to a student or prospective student or to any other person that its credits are or may be transferable to another educational institution without: identifying the school(s) with which it has written agreements or other documentation verifying that credits can be transferred to said school(s); and indicating it is aware of no other schools that accept the transfer of its credits. (940 CMR 31.05(7).)

***Type 2: Private non-degree granting occupational schools***

Element description	Mandatory	Discretionary	Not specified
<b>Total cost of program</b>	<b>5 Points</b>	2.5 Points	0 Points
<b>Refund information</b>	<b>5 Points</b>	2.5 Points	0 Points
<b>Transferability of credits</b>	5 Points	2.5 Points	<b>0 Points</b>
<b>Length of program</b>	<b>5 Points</b>	2.5 Points	0 Points

**Explanation:**

The division requires private occupational schools to provide a written disclosure to students prior to enrollment which includes disclosures related to the cost of the program, notably including financial education disclosures as prescribed by the division for Programs exceeding \$2,000 in total cost. The disclosures must also include refund information, and the length of the program. (230 CMR 15.05(1).)

Note that while there is no requirement that a private occupational school disclose information about the transferability of credits to students prior to enrollment, it is an unfair or deceptive act or practice for a school to represent to a student or prospective student or to any other person that its credits are or may be transferable to another educational institution without: identifying the school(s) with which it has written agreements or other documentation verifying that credits can be transferred to said school(s); and indicating it is aware of no other schools that accept the transfer of its credits. (940 CMR 31.05(7).)



Also notable, the division requires private occupational schools to include in all prerequisites for Program completion and employment in the occupation, including but not limited to whether certification or licensure is required and the conditions to obtain such certification or licensure.

## **V. REGULATION OF RECRUITING PRACTICES:**

**87.5/100 POINTS**

**A. HAS THE STATE PUT INTO LAW A LIST OF PROHIBITED ACTS  
REGARDING ADVERTISING AND RECRUITING?**

**87.5/100**

	Yes, strong regulation	Yes, moderate regulation	Yes, weak regulation	No list of prohibited acts
<b>Type 1</b>	100 Points	<b>75 Points</b>	50 Points	0 Points
<b>Type 2</b>	<b>100 Points</b>	75 Points	50 Points	0 Points

**PROHIBITED ACTS**

Included in list of prohibited acts	Type 1	Type 2
Deceptive or misleading representations using the word “college” or “university”	<b>X</b>	<b>X</b>
Misleading institution affiliations (e.g., military, public institution, businesses)	/	<b>X</b>
Promise of employment	<b>X</b>	<b>X</b>
Compensation for enrollment		
Compensation or “bounty” to recruiters		<b>X</b>
Deception	<b>X</b>	<b>X</b>
Misrepresentation	<b>X</b>	<b>X</b>
Deceptive or misleading representations re: accreditation	<b>X</b>	<b>X</b>

*1-3=Weak; 3.5-6=Moderate; 6.5-8=Strong*

**Explanation:**

**Type 1: Independent degree-granting institutions.** Institutions and their agents are forbidden from engaging in any advertising, recruiting, sales, collection, financial credit, or other practices of any type that are false, deceptive, misleading, or unfair. (610 CMR 2.07(3)(g)(2).) In addition, Massachusetts has several provisions that deal specifically with the precise definition of “university” and “junior college,” and require proprietary institutions to meet very specific criteria in order to use either title in their institution name. (610 CMR 2.07(4).) Massachusetts receives partial credit for prohibiting institution names that misleadingly indicate an institution is affiliated with the military or a public institution because the law prohibits postsecondary institutions from engaging in advertising, recruiting, sales, etc. that is misleading; however, because this is a common abuse, the state should address it more precisely.

**Type 2: Private non-degree granting occupational schools.** Private occupational schools in Massachusetts are prohibited from representing themselves as a college or university. There are several prohibitions in place related to misleading affiliations, deception, misrepresentation, and deceptive or misleading representations related to accreditation. Finally, there are specific prohibitions on promises of employment and on providing any commission, bonus, or other incentive payment based in any part, directly or indirectly, upon success in securing enrollments or the award of financial aid, to any person or entity who is engaged in any student recruitment or admission activity. (230 CMR 15.01(5); 230 CMR 15.06.)



**Notable Provision:**

Sales representatives representing private occupational schools in Massachusetts must be licensed, as a condition of licensure, they must complete a division approved training in ethics and they must post a \$1,000 bond. (230 CMR 13.04.)

## VI. COMPLAINT PROCESS AND RELIEF FOR STUDENTS:

**42/100 POINTS**

### A. DOES THE STATE REQUIRE A BOND OR FUND AS A CONDITION OF AUTHORIZATION?

**10/20 POINTS**

	Yes	No
Type 1	20 Points	0 Points
Type 2	20 Points	0 Points

#### Explanation:

**Type 1: Independent degree-granting institutions.** Massachusetts law does not require a bond or fund as a condition of authorization. Institutions are required to submit an application to the Board (610 CMR 2.07(1), disclose information regarding their financial stability to the Board, and safeguard the needs of students in the event of a closure or merger. (610 CMR 2.07(3)(f).)

**Type 2: Private non-degree granting occupational schools.** Private occupational schools in Massachusetts must submit a surety in the amount determined by the State Auditor. (230 CMR 13.02(d).)

### B. DOES THE STATE REQUIRE A REFUND OF TUITION IF A STUDENT ENROLLS AS THE RESULT OF MISREPRESENTATION?

**0/20 POINTS**

	Yes, full refund	Yes, partial refund	No refund required
Type 1	20 Points	10 Points	0 Points
Type 2	20 Points	10 Points	0 Points

#### Explanation:

**Type 1: Independent degree-granting institutions.** Although Massachusetts law prohibits educational institution from engaging in untrue and misleading advertisements and specifies several types of misleading information are unfair or deceptive acts (610 CMR 2.07(3)(g)(2), 940 CMR 31.04.), it does not specifically require a refund when a student enrolls due to a misrepresentation. Students may file a claim if the institution engaged in an unfair act or practice (see below)

**Type 2: Private non-degree granting occupational schools.** Although Massachusetts law prohibits educational institution from engaging in untrue and misleading advertisements and specifies several types of misleading information are unfair or deceptive acts (610 CMR 2.07(3)(g)(2), 940 CMR 31.04.), it does not specifically require a refund when a student enrolls due to a misrepresentation. A student may file a claim if the institution engaged in an unfair act or practice. (see below)

### C. DOES THE STATE REQUIRE INSTITUTIONS TO REFUND TUITION IN THE EVENT OF CLOSURE?

**0/20 POINTS**

	Yes, full refund	Yes, partial refund	Yes, refund in limited circumstances	No refund required
<b>Type 1</b>	20 Points	15 Points	10 Points	<b>0 Points</b>
<b>Type 2</b>	20 Points	15 Points	10 Points	<b>0 Points</b>

**Explanation:**

**Type 1: Independent degree-granting institutions.** In the event of a closure or merger, institutions must notify the Board and safeguard students' needs, which include arranging for transfers and preserving student records. (610 CMR 2.07(3)(f).) The state requires schools to have refund policies which are fair, equitable, and available publicly. (610 CMR 2.07(3)(e)(4).) There are guidelines for the refund policy, but nothing that requires a refund upon closure.

**Type 2: Private non-degree granting occupational schools.** The division has a policy related to how private occupational schools are required to handle student records upon closure. The state also requires schools to follow specified refund guidelines when a student stops attending or withdraws from a program. There is no specific law or policy that requires a refund upon school closure.

**D. DOES THE STATE ALLOW STUDENTS AMPLE TIME TO MAKE A COMPLAINT?**  
**10/10 POINTS**

	2 years or more (or no deadline)	1-2 years	Under 1 year	Not applicable
<b>Type 1</b>	<b>10 Points</b>	5 Points	1 Point	0 Points
<b>Type 2</b>	<b>10 Points</b>	5 Points	1 Point	0 Points

**Explanation:**

**Type 1: Independent degree-granting institutions.** Massachusetts law does specify a mandatory timeline for students to file complaints. However, institutions are required to create a general process for handling complaints. (610 CMR 2.07(3)(g)(1)(h).) In addition, when the Board receives a complaint regarding an institution, it forwards the complaint to the institution for resolution. If the institution's response does not satisfy the Board, then the matter is forwarded to the Attorney General's Office. (610 CMR 2.11(1).)

**Type 2: Private non-degree granting occupational schools.** Massachusetts law does not specify a timeframe for students to file complaints.

**E. DOES THE STATE REQUIRE INSTITUTIONS TO DISCLOSE INFORMATION ABOUT FILING A COMPLAINT WITH THE STATE OVERSIGHT BODY?**  
**15/20 POINTS**

**Type 1: Independent degree-granting institutions**

Medium	Yes	Discretionary	No
<b>Catalog</b>	<b>10 Points</b>	5 Points	0 Points
<b>Website</b>	5 Points	<b>2.5 Points</b>	0 Points
<b>Enrollment contract</b>	5 Points	2.5 Points	<b>0 Points</b>

**Explanation:**

Institutions must disclose their procedures for handling student complaints prior to student enrollment by means of the institutions' catalog. Catalogs are commonly available online. (610 CMR 2.07(3)(g)(1).)



***Type 2: Private non-degree granting occupational schools***

Medium	Yes	Discretionary	No
Catalog	10 Points	5 Points	0 Points
Website	5 Points	2.5 Points	0 Points
Enrollment contract	5 Points	2.5 Points	0 Points

**Explanation:**

The division requires private occupational schools to establish a written procedure for resolving student complaints. The division requires the procedure to be made available to students at the time of enrollment and upon request, and to be published in the School catalog. Catalogs are commonly available online, the state receives partial credit for the element. (230 CMR 15.07)

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**F. IS THE COMPLAINT PROCESS READILY ACCESSIBLE AND AVAILABLE ON THE STATE OVERSIGHT BODY'S WEBSITE?**

**7/10 POINTS**

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	Yes, with address	Yes, with phone #	Yes, with email address	Yes, with electronic form	No
Type 1	2 Points	2 Points	3 Points	3 Points	0 Points
Type 2	2 Points	2 Points	3 Points	3 Points	0 Points

**Explanation:**

**Type 1: Independent degree-granting institutions.** The Board's website has an electronic form, and downloadable forms that have the Board's address, phone number, and email address.

**Type 2: Private non-degree granting occupational schools.** There is a link to a complaint form online. Students must print the complaint form and mail it.

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**VII. ENFORCEMENT: 57.5/100 POINTS**

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**A. IS THERE LOSS OF STATE AID FOR SCHOOLS THAT REPEATEDLY PRODUCE SUBSTANDARD GRADUATION RATES, JOB PLACEMENT RATES, AND/OR COHORT DEFAULT RATES?**

**2.5/30 POINTS**

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	Yes, required	Yes, required but limited	Yes, discretionary	Yes, discretionary but limited	No
Type 1	30 Points	20 Points	10 Points	5 Points	0 Points
Type 2	30 Points	20 Points	10 Points	5 Points	0 Points

**Explanation:**

**Type 1: Independent degree-granting institutions.** Massachusetts law does not require loss of state aid for poor performance. However, the Board requires proprietary institutions to submit an annual report containing information about graduation rates, placement rates and other statistical information related to



institutional performance. (610 CMR 2.07(4).) Massachusetts receives partial credit as the Board monitors institutional performance and has discretion to take action that would lead to loss of state aid.

**Type 2: Private non-degree granting occupational schools.** The division monitors the performance of private occupational schools, but there is no indication that there is a required loss of state aid for schools that repeatedly produce substandard graduation rates, job placement rates, and/or cohort default rates.

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**B. DOES STATE LAW EXPLICITLY AUTHORIZE A PRIVATE RIGHT OF ACTION FOR STUDENTS AGAINST INSTITUTIONS THAT HAVE VIOLATED THE LAWS AND REGULATIONS IN PLACE TO GOVERN THEM?**

**15/30 POINTS**

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	Yes	Limited circumstances	No
Type 1	30 Points	15 Points	0 Points
Type 2	30 Points	15 Points	0 Points

**Explanation:**

**Type 1: Independent degree-granting institutions.** If an independent degree-granting institution engages in an unfair act or practice, a student may file a claim. (M.G.L. 93A, § 9; 940 CMR 31.01 *et seq.*)

**Type 2: Private non-degree granting occupational schools.** If an independent degree-granting institution engages in an unfair act or practice, a student may file a claim. (M.G.L. 93A, § 9; 940 CMR 31.01 *et seq.*)

Also, any pupil of a private occupational school who is misled by an officer or representative of the school or by any advertisement or circular issued by the school, which representation is false, deceptive or misleading, may recover treble damages or \$10,000, whichever is greater, plus court costs and reasonable attorney's fees. (M.G.L. 112 § 263(n); M.G.L. 93A, § 9)

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**C. DOES STATE LAW EXPLICITLY ALLOW ATTORNEY FEE AWARDS FOR STUDENTS WHO PREVAIL IN LITIGATION AGAINST PRIVATE FOR-PROFIT POSTSECONDARY INSTITUTIONS?**

**20/20 POINTS**

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	Yes	Limited	No
Type 1	20 Points	15 Points	0 Points
Type 2	20 Points	15 Points	0 Points

**Explanation:**

**Type 1: Independent degree-granting institutions.** If an independent degree-granting institution engages in an unfair or deceptive act or practice, students may recover double or treble damages, costs, and attorney's fees. (M.G.L. 93A, § 9)

**Type 2: Private non-degree granting occupational schools.** Any pupil of a private occupational school who is misled by an officer or representative of the school or by any advertisement or circular issued by the school, which representation is false, deceptive or misleading, may recover treble damages or \$10,000, whichever is greater, plus court costs and reasonable attorney's fees. (M.G.L. 112 § 263(n); 93A, § 9.)

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D. DOES STATE LAW EXPLICITLY AUTHORIZE  
ATTORNEY GENERAL INVOLVEMENT?

**20/20 POINTS**

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	Yes	Limited circumstances	No
Type 1	20 Points	10 Points	0 Points
Type 2	20 Points	10 Points	0 Points

**Explanation:**

**Type 1: Independent degree-granting institutions.** The law expressly authorizes the involvement of the Attorney General in matters related to independent degree-granting institutions related to consumer protection. (940 CMR 31.00 *et seq.*) Additionally, the Attorney General is involved when the Board is unable to reach a satisfactory resolution with an institution regarding a consumer complaint against the institution. The Attorney General is also involved when a consumer complaint concerns an institution which does not come under the purview of the Board (610 CMR 2.11(1).)

**Type 2: Private non-degree granting occupational schools.** The law expressly authorizes the involvement of the Attorney General in matters related to private non-degree-granting occupational schools related to consumer protection. (940 CMR 31.00 *et seq.*) Massachusetts law further authorizes Attorney General involvement in relation to defending members of the division. (M.G.L. 112 § 263.)

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**BONUS POINTS:**

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Massachusetts receives 25 bonus points because it is not a member of the State Authorization Reciprocity Agreements (SARA). The state does not receive 50 points because it has passed enabling legislation and is in the process of drafting regulations that would allow it to join SARA in the near future.



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**ILLUMINATING INFORMATION**

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**RECIPROCITY AGREEMENTS**

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Massachusetts is not yet a member of the State Authorization Reciprocity Agreements (SARA). However the state has passed enabling legislation and is in the process of drafting regulations that would allow it to join SARA in the near future.

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**LITIGATION, INVESTIGATIONS, AND ACTIONS INVOLVING PRIVATE  
FOR-PROFIT EDUCATIONAL INSTITUTIONS IN MASSACHUSETTS**

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For information about pending and recent federal and state government investigations and actions regarding for-profit colleges see David Halperin's compilation at <http://www.republicreport.org/2014/law-enforcement-for-profit-colleges/#sthash.1vc4HmPw.dpuf>.

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# MICHIGAN

## FINAL GRADING ANALYSIS

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OVERALL SCORE: **207.1/700 POINTS (30%)**  
LETTER GRADE: **F**

### I. OVERSIGHT BODY: **21.9/100 POINTS**

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#### A. IS THERE A STATUTORILY CREATED OVERSIGHT BODY THAT IS PUBLICLY ACCOUNTABLE?

**21.6/60 POINTS**

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Element	Points	Type 1	Type 2	Type 3	Points Awarded (Average)
1. Oversight body is a multi-member board, commission, or panel created by statute	10	0	0	0	0
2. Oversight body was statutorily created specifically to oversee private postsecondary institutions	10	0	0	0	0
3. Multi-member board, commission, or panel is the ultimate decision maker (as opposed to a single person, like the head of a department or director)	10	0	0	0	0
4. Oversight body can engage in rulemaking	10	10	10	10	10
5. Oversight body's meetings must be open to the public	5	0	2.5	0	0.8
6. Oversight body's meetings must allow public comment	5	0	2.5	0	0.8
7. Oversight body can initiate investigations	5	5	5	5	5
8. Oversight body can impose penalties for violations	5	5	5	5	5
<b>Total Points</b>	60	20	25	20	<b>21.6</b>

#### Explanation:

Michigan has three categories of private postsecondary institutions:

- proprietary schools that do not grant degrees and which provide training in a specific trade, occupation or vocation (Type 1); students attending these schools do not receive a degree, but may earn a certificate of completion.
- educational corporations (private colleges and universities that have the authority to grant degrees) (Type 2).

- nonincorporated private postsecondary educational institutions that may have authority to grant degrees, but are prohibited from using the terms “college” or “university” in their names (Type 3). (MCLS § 450.171.)

**Type 1: Proprietary schools.** The Michigan Department of Licensing and Regulatory Affairs (LARA) is responsible for the licensing and oversight of proprietary schools. (MCLS § 395.101.) Michigan does not have a multi-member public board responsible for the oversight and regulation of proprietary schools; instead, the Department head is the final decision maker. The Department is not required to hold public meetings or allow public comment. (MCLS § 15.262.) Further, instead of having a public board engage in rulemaking and investigations, the Department is authorized to do so.

**Type 2: Educational corporations.** LARA has statutory powers, duties, functions, and responsibilities regarding the establishment and approval of non-public incorporated private colleges and universities. (MCLS § 450.171.) However, policy-making authority is vested in the Board of Education. (Executive Order No. 2003-18.) Because the multi-member Board plays a part in the oversight and regulation of educational corporations, Michigan receives partial credit for two elements: meetings of the Board must be public and Board meetings must allow public comment. (MCLS § 15.261 et seq.)

**Type 3: Nonincorporated private educational institutions.** The Michigan Department of Education is authorized to approve or disapprove educational programs, which are post high school in nature designed for transfer of credit, which purport to lead to diplomas, certificates or degrees, known as nonincorporated private educational institutions. (MCLS § 390.771.) The Department is not a multi-board, was not created specifically to oversee these institutions, the head of the agency is the final decision maker, there is no board to hold open meetings, and there is no board to engage in rulemaking or investigations.

## B. STATUTE-SPECIFIED MEMBERSHIP:

### 1. TO WHAT EXTENT ARE LIMITATIONS PLACED ON FOR-PROFIT MEMBERSHIP ON THE OVERSIGHT BODY?

**0/25 POINTS**

*\*points for Type 1, Type 2, and Type 3 schools have been averaged to calculate the above score*

	Explicit prohibition on for-profit majority, plus no possibility of a majority of the quorum	Explicit prohibition on for-profit majority	Strongly discouraged	Discouraged	No prohibition specified, but not discouraged	For-profit majority mandated
<b>Type 1</b>	25 Points	20 Points	15 Points	10 Points	<b>0 Points</b>	–5 Points
<b>Type 2</b>	25 Points	20 Points	15 Points	10 Points	<b>0 Points</b>	–5 Points
<b>Type 3</b>	25 Points	20 Points	15 Points	10 Points	<b>0 Points</b>	–5 Points

**Type 1: Proprietary schools.** Because LARA is not a multi-member body, this element is inapplicable.

**Type 2: Educational corporations.** LARA is not a multi-member body, and Michigan law does not have any restrictions in place with regard to the membership of the Board of Education.

**Type 3: Nonincorporated private educational institutions.** Because the Department of Education is not a multi-member body, this element is inapplicable.

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2. IS THE OVERSIGHT BODY MANDATED TO INCLUDE  
AT LEAST ONE CONSUMER ADVOCATE?

**0/10 POINTS**

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*\*points for Type 1, Type 2, and Type 3 schools have been averaged to calculate the above score*

	Yes	No
Type 1	10 Points	0 Points
Type 2	10 Points	0 Points
Type 3	10 Points	0 Points

**Explanation:**

**Type 1: Proprietary schools.** LARA is not a multi-member body and there are no specifications related to its composition.

**Type 2: Educational corporations.** LARA is not a multi-member body and Michigan law does not require the membership of the Board of Education to include a consumer advocate.

**Type 3: Nonincorporated private educational institutions.** The Department of Education is not a multi-member body and there are no specifications related to its composition.

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3. ARE THE MEMBERS APPOINTED BY A PUBLICLY ACCOUNTABLE  
OFFICIAL OR ELECTED IN A GENERAL ELECTION?

**0.3/5 POINTS**

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*\*points for Type 1, Type 2, and Type 3 schools have been averaged to calculate the above score*

	All	Majority	Half	Minority	None
Type 1	5 Points	3 Points	2.5 Points	1 Point	0 Points
Type 2	5 Points	3 Points	2.5 Points	1 Point	0 Points
Type 3	5 Points	3 Points	2.5 Points	1 Point	0 Points

**Explanation:**

**Type 1: Proprietary schools.** Because LARA is not a multi-member body, this element is inapplicable.

**Type 2: Educational corporations.** Although LARA is not a multi-member body, the Board of Education also plays a small part in overseeing educational corporations. Board members are nominated and elected in accordance with state election laws. (MCLS § 388.1002.) Thus, Michigan receives partial credit.

**Type 3: Nonincorporated private educational institutions.** Because the Department of Education is not a multi-member body, this element is inapplicable.

## II. STATE OVERSIGHT—EFFICACY: 21/100 POINTS

### A. DOES THE STATE REQUIRE ONSITE REVIEW OF PRIVATE POSTSECONDARY INSTITUTIONS?

2.7/10 POINTS

*\*points for Type 1, Type 2, and Type 3 schools have been averaged to calculate the above score*

	Mandatory onsite reviews			Discretionary	None
	Every 2 years or less	Every 3-5 years	Over 5 years	Discretion to conduct onsite reviews	No review specified
Type 1	10 Points	8 Points	5 Points	3 Points	0 Points
Type 2	10 Points	8 Points	5 Points	3 Points	0 Points
Type 3	10 Points	8 Points	5 Points	3 Points	0 Points

#### Explanation:

**Type 1: Proprietary schools.** There is no indication in Michigan law that proprietary schools are subject to regular onsite review.

**Type 2: Educational corporations.** Michigan law requires the Board of Education to visit and inspect educational corporations, in person or through visitors or inspectors appointed by the Board, at least once every 3 years. (MCLS § 450.177; MCLS §388.1010.)

**Type 3: Nonincorporated private educational institutions.** There is no indication in Michigan law that nonincorporated private educational institutions are subject to regular onsite review.

### B. DOES THE STATE REQUIRE UNANNOUNCED INSPECTIONS FOR ONSITE REVIEWS?

0/5 POINTS

*\*points for Type 1, Type 2, and Type 3 schools have been averaged to calculate the above score*

	Required Unannounced Visits	Discretion to do Unannounced Visits	No indication
Type 1	5 Points	3 Points	0 Points
Type 2	5 Points	3 Points	0 Points
Type 3	5 Points	3 Points	0 Points

#### Explanation:

**Type 1: Proprietary schools.** There is no indication in Michigan law that proprietary schools are subject to onsite review—unannounced or otherwise.

**Type 2: Educational corporations.** There is no indication in Michigan law that educational corporations are subject to unannounced onsite visits.

**Type 3: Nonincorporated private educational institutions.** There is no indication in Michigan law that nonincorporated private educational institutions are subject to unannounced onsite visits.

**C. DOES THE STATE REQUIRE REGULAR REVIEWS OF  
PRIVATE POSTSECONDARY APPROVAL TO OPERATE?**

**10.8/20 POINTS**

*\*points for Type 1, Type 2, and Type 3 schools have been averaged to calculate the above score*

	Mandatory			Discretionary	None
	Every 2 years or less	Every 3-5 years	Over 5 years	Discretion to conduct reviews	No review specified
<b>Type 1</b>	20 Points	<del>15</del> <b>17.5 Points</b>	10 Points	5 Points	0 Points
<b>Type 2</b>	20 Points	<b>15 Points</b>	10 Points	5 Points	0 Points
<b>Type 3</b>	20 Points	15 Points	10 Points	5 Points	<b>0 Points</b>

**Explanation:**

**Type 1: Proprietary schools.** Licenses for proprietary schools that are accredited by a national or regional accrediting agency recognized by the U.S. Secretary of Education are valid for 3 years. A license issued to any other proprietary school is not valid for more than 1 year. Licenses can be renewed after the term of 1 or 3 years if a proprietary school continues to comply with the law and regulations in place to govern it. Michigan receives 15 points because it requires license renewal for accredited proprietary schools every 3 years, which would require review of whether or not the schools is continuing to comply with applicable laws and regulations. Michigan receives an additional 2.5 points because the state requires schools that are not accredited to renew their licenses annually, and the state requires schools who are issued a temporary permit to renew it after 1 year. Michigan requires the Department to issue a temporary permit for 12 months prior to issuing a license to a proprietary schools. (MCLS § 395.101(2), (3); MCLS §395.102(2), MICH. ADMIN. CODE R 390.562(2).)

**Type 2: Educational corporations.** Michigan law requires the Board of Education to inspect educational corporations every 3 years. The Board must report on all matters pertaining to the condition, management, instruction and practices of the educational corporation, and file a copy of their report with the Michigan Corporation and Securities Commission. (MCLS § 450.177.)

**Type 3: Nonincorporated private educational institutions.** Michigan law does not require nonincorporated private educational institutions to undergo regular inspections. Although the law states an intent that nonincorporated private educational institutions meet minimum standards equivalent to those for institutions incorporated under the general corporations statute (educational corporations), there is no specific requirement that nonincorporated private educational institutions be inspected on a regular basis to ensure continued compliance with minimum standards.

**D. DO THE CRITERIA FOR RENEWAL OF AUTHORIZATION MANDATE A  
REVIEW OF FACTORS ESSENTIAL TO ACADEMIC AND ETHICAL INTEGRITY?**

**0.8/20 POINTS**

*\*points for Type 1, Type 2, and Type 3 schools have been averaged to calculate the above score*

	8 of 8	7 of 8	6 of 8	5 of 8	4 of 8	3 of 8	2 of 8	1 of 8	0 of 8
<b>Type 1</b>	20 Points	17.5 Points	15 Points	12.5 Points	10 Points	7.5 Points	5 Points	<b>2.5 Points</b>	0 Points



<b>Type 2</b>	20 Points	17.5 Points	15 Points	12.5 Points	10 Points	7.5 Points	5 Points	2.5 Points	<b>0 Points</b>
<b>Type 3</b>	20 Points	17.5 Points	15 Points	12.5 Points	10 Points	7.5 Points	5 Points	2.5 Points	<b>0 Points</b>

<b>Element:</b>	<b>Type 1</b>	<b>Type 2</b>	<b>Type 3</b>
<b>Admission requirements</b>			
<b>Graduation requirements</b>			
<b>Placement rate</b>	<b>M</b>		
<b>Completion rate (or graduation rate)</b>			
<b>Advertising practices</b>			
<b>Cohort default rate</b>			
<b>Accreditation status</b>			
<b>Financial aid policies</b>			

*M=Mandatory; D=Discretionary*

**Explanation:**

**Type 1: Proprietary schools.** Michigan law provides that student records, including enrollment data, payment of fees, attendance, progress, awards, interviews, and placement, be maintained for not less than 3 years following graduation. This is articulated under the standards for operation. (MICH. ADMIN. CODE R 390.564.)

**Type 2: Educational corporations.** There is no indication that Michigan's required regular reviews of educational corporations include any of the above elements. Michigan law requires that each educational corporation demonstrates that it meets five areas of adequacy upon submitting its articles of incorporation. One of the five areas specifies that the "proposed educational program leading to the diplomas or degrees that it proposes to offer is adequate." (MCLS § 450.171(3)(b).) The law further states that the Board of Education must review educational corporations every three years and upon evidence that any such educational corporation is not complying with the provisions of this act, they shall serve notice on such corporation to remedy the defects within a reasonable time to be fixed in such notice, and in case the deficiency is not corrected within the time fixed by them, they may institute proceedings at law for the dissolution of such corporation. (MCLS § 450.177.) However, nothing in the law specifies that any of the elements above are requisite to the definition of "adequate" as it relates to the educational programs offered by educational corporations, and nothing in Michigan law indicates that any of the above elements must be included in the required reviews.

**Type 3: Nonincorporated private educational institutions.** There is no indication that Michigan requires reviews of nonincorporated private educational institutions to include any of the above elements.

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**E. DOES THE STATE'S OVERSIGHT DISTINGUISH BETWEEN FOR-PROFIT AND NONPROFIT EDUCATIONAL INSTITUTIONS?**

**5/15 POINTS**

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*\*points for Type 1, Type 2, and Type 3 schools have been averaged to calculate the above score*



	Yes, strongly distinguished	Yes, moderately distinguished	Yes, slightly distinguished	Not distinguished
<b>Type 1</b>	15 Points	10 Points	<b>5 Points</b>	0 Points
<b>Type 2</b>	15 Points	10 Points	<b>5 Points</b>	0 Points
<b>Type 3</b>	15 Points	10 Points	<b>5 Points</b>	0 Points

**Explanation:**

**Type 1: Proprietary schools.** Michigan law distinguishes one type of nonprofit, a school maintained or a program conducted, without profit, by a person for that person's employees. (MCLS § 395.101a.)

**Type 2: Educational corporations.** Michigan law includes a very narrow exception for some religious colleges (MCLS § 450.171(2)) and distinguishes educational corporations that are instituted and maintained by an ecclesiastical or religious order, society, corporation, or corporations that retain control of the institution for denominational purposes from other classes of educational corporations. (MCLS § 450.171(1)(d).)

**Type 3: Nonincorporated private educational institutions.** Michigan law includes a narrow exception for religious colleges. (MCLS § 390.771a.)

**F. DOES THE STATE REQUIRE INCREASED OVERSIGHT/SCRUTINY OF PRIVATE POSTSECONDARY INSTITUTIONS BASED ON POOR PERFORMANCE?**

**1.7/10 POINTS**

*\*points for Type 1, Type 2, and Type 3 schools have been averaged to calculate the above score*

	Yes, mandatory	Yes, mandatory but limited	Yes, discretionary	Yes, discretionary but limited	No
<b>Type 1</b>	10 Points	7.5 Points	5 Points	2.5 Points	<b>0 Points</b>
<b>Type 2</b>	10 Points	7.5 Points	5 Points	<b>2.5 Points</b>	0 Points
<b>Type 3</b>	10 Points	7.5 Points	5 Points	<b>2.5 Points</b>	0 Points

**Explanation:**

**Type 1: Proprietary schools.** There is no indication in Michigan law that poorly performing proprietary schools are subject to increased scrutiny.

**Type 2: Educational corporations.** Michigan law does not require increased oversight when an educational corporation is performing poorly. However, Michigan receives some credit here because state law provides that if an educational corporation is not complying with applicable law, regulators shall serve notice on such corporation to remedy the defects within a reasonable time to be fixed in such notice, and in case the deficiency is not corrected within the time fixed by them, they may institute proceedings at law for the dissolution of such corporation. (MCLS § 450.177.) Thus, a poorly performing educational corporation could potentially be impacted if the poor performance constitutes noncompliance with the provisions of the governing statute.

**Type 3: Nonincorporated private educational institutions.** Michigan does not require increased oversight when a nonincorporated private educational institution is performing poorly. However, Michigan receives some credit here because the law related to nonincorporated private educational institutions specifies that if a nonincorporated private educational institution fails to meet minimum standards set by the Department of Education, the Department may take such legal action as it deems necessary to cause the

owners or administrators of the institution to refrain from offering any part or all of such educational programs which the Department shall have found to be inadequate. (MCLS § 390.772.) Given this, it is reasonable to assume that the Department's legal action may include increased oversight / scrutiny in some cases in which an institution is performing poorly.

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**G. DOES STATE LAW INCLUDE ANY SPECIAL PROTECTIONS FOR VETERANS WHO ATTEND PRIVATE POSTSECONDARY INSTITUTIONS?**

**0/20 POINTS**

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*\*points for Type 1, Type 2, and Type 3 schools have been averaged to calculate the above score*

	Yes	No
<b>Type 1</b>	20 Points	<b>0 Points</b>
<b>Type 2</b>	20 Points	<b>0 Points</b>
<b>Type 3</b>	20 Points	<b>0 Points</b>

**Explanation:**

**Type 1: Proprietary schools.** Michigan law contains no special protections for veterans who attend proprietary schools.

**Type 2: Educational corporations.** Michigan law contains no special protections for veterans who attend educational corporations.

**Type 3: Nonincorporated private educational institutions.** Michigan law contains no special protections for veterans who attend private educational institutions.

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**III. STATE OVERSIGHT—SCOPE AND INCLUSION:**

**100/100 POINTS**

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**A. ARE EXEMPTIONS TO STATE OVERSIGHT COVERAGE LIMITED?**

**100/100 POINTS**

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*\*points for Type 1, Type 2, and Type 3 schools have been averaged to calculate the above score*

	No exemptions	Few exemptions	Moderate exemptions	Broad exemptions
<b>Type 1</b>	<b>100 Points</b>	75 Points	50 Points	0 Points
<b>Type 2</b>	<b>100 Points</b>	75 Points	50 Points	0 Points
<b>Type 3</b>	<b>100 Points</b>	75 Points	50 Points	0 Points

**Explanation:**

Michigan law does not contain any significant exceptions to oversight. All private for-profit postsecondary educational institutions in Michigan are regulated under the laws applicable to proprietary schools, educational corporations, or non-incorporated private educational institutions.

#### IV. DISCLOSURE REQUIREMENTS: 1.7/100 POINTS

##### A. ARE INSTITUTIONS REQUIRED TO DISCLOSE INSTITUTIONAL PERFORMANCE MEASURES TO POTENTIAL STUDENTS?

0/20 POINTS

*\*points for Type 1, Type 2, and Type 3 schools have been averaged to calculate the above score*

	Yes, mandatory	Yes, discretionary	None
	Fact sheet or equivalent required to be given to students	Fact sheet or equivalent given to students on request	No fact sheet required
Type 1	20 Points	10 Points	0 Points
Type 2	20 Points	10 Points	0 Points
Type 3	20 Points	10 Points	0 Points

##### Explanation:

**Type 1: Proprietary schools.** Michigan law does not require proprietary schools to disclose institutional performance measures to potential students.

**Type 2: Educational corporations.** Michigan law does not require educational corporations to disclose institutional performance measures to potential students.

**Type 3: Nonincorporated private educational institutions.** Michigan law does not require nonincorporated private educational institutions to disclose institutional performance measures to potential students.

##### B. WHICH INSTITUTIONAL PERFORMANCE DISCLOSURES ARE REQUIRED TO BE GIVEN TO STUDENTS PRIOR TO ENROLLMENT?

0/60 POINTS

*\*points for Type 1, Type 2, and Type 3 schools have been averaged to calculate the above score*

##### **Type 1: Proprietary schools**

Disclosures	Mandatory	Discretionary	Not specified
Cohort default rate (CDR)	10 Points	5 Points	0 Points
Graduation / completion rates	10 Points	5 Points	0 Points
Placement rates	10 Points	5 Points	0 Points
Wage information	10 Points	5 Points	0 Points
License exam passage rates	10 Points	5 Points	0 Points
Methods & sources used to calculate	10 Points	5 Points	0 Points

##### Explanation:

Michigan law does not require proprietary schools to disclose institutional performance measures to potential students.

##### **Type 2: Educational corporations**

Disclosures	Mandatory	Discretionary	Not specified
Cohort default rate (CDR)	10 Points	5 Points	0 Points
Graduation / completion rates	10 Points	5 Points	0 Points
Placement rates	10 Points	5 Points	0 Points
Wage information	10 Points	5 Points	0 Points
License exam passage rates	10 Points	5 Points	0 Points
Methods & sources used to calculate	10 Points	5 Points	0 Points

**Explanation:**

Michigan law does not require educational corporations to disclose institutional performance measures to potential students.

*Type 3: Nonincorporated private educational institutions*

Disclosures	Mandatory	Discretionary	Not specified
Cohort default rate (CDR)	10 Points	5 Points	0 Points
Graduation / completion rates	10 Points	5 Points	0 Points
Placement rates	10 Points	5 Points	0 Points
Wage information	10 Points	5 Points	0 Points
License exam passage rates	10 Points	5 Points	0 Points
Methods & sources used to calculate	10 Points	5 Points	0 Points

**Explanation:**

Michigan law does not require nonincorporated private educational institutions to disclose institutional performance measures to potential students.

C. DOES THE STATE REQUIRE SCHOOLS TO DISCLOSE ELEMENTS  
ESSENTIAL TO STUDENT PROTECTION PRIOR TO ENROLLMENT OR  
IN THE ENROLLMENT CONTRACT?

**1.7/20 POINTS**

*Type 1: Proprietary schools*

Element description	Mandatory	Discretionary	Not specified
Total cost of program	5 Points	2.5 Points	0 Points
Refund information	5 Points	2.5 Points	0 Points
Transferability of credits	5 Points	2.5 Points	0 Points
Length of program	5 Points	2.5 Points	0 Points

**Explanation:**

Michigan law provides that the student's application form and contract shall correspond with the catalog furnished to the student. Any modification of the student's application and contract, as contained in the catalog, shall be agreed to, in writing, by all parties. The refund policy shall be stated in the contract. (MICH. ADMIN. CODE R 390.564(2).)

*Type 2: Educational corporations*

Element description	Mandatory	Discretionary	Not specified
Total cost of program	5 Points	2.5 Points	0 Points
Refund information	5 Points	2.5 Points	0 Points
Transferability of credits	5 Points	2.5 Points	0 Points
Length of program	5 Points	2.5 Points	0 Points

**Explanation:**

Michigan law does not specifically require educational corporations to disclose any of the above elements to students prior to enrolling.

*Type 3: Nonincorporated private educational institutions*

Element description	Mandatory	Discretionary	Not specified
Total cost of program	5 Points	2.5 Points	0 Points
Refund information	5 Points	2.5 Points	0 Points
Transferability of credits	5 Points	2.5 Points	0 Points
Length of program	5 Points	2.5 Points	0 Points

**Explanation:**

Michigan law does not specifically require nonincorporated private educational institutions to disclose any of the above elements to students prior to enrolling.

## V. REGULATION OF RECRUITING PRACTICES:

**58.3/100 POINTS**

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### A. HAS THE STATE PUT INTO LAW A LIST OF PROHIBITED ACTS REGARDING ADVERTISING AND RECRUITING?

**58.3/100**

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*\*points for Type 1, Type 2, and Type 3 schools have been averaged to calculate the above score*

	Yes, strong regulation	Yes, moderate regulation	Yes, weak regulation	No list of prohibited acts
Type 1	100 Points	75 Points	50 Points	0 Points
Type 2	100 Points	75 Points	50 Points	0 Points
Type 3	100 Points	75 Points	50 Points	0 Points

### PROHIBITED ACTS

Included in list of prohibited acts	Type 1	Type 2	Type 3
Misleading representations using the word “college” or “university”	X	X	X
Misleading institution affiliations (e.g., military, public institution, business)			
Promise of employment	X		
Compensation for enrollment			
Compensation or “bounty” to recruiters			

Deception (broad prohibition)	X		
Misrepresentation (broad prohibition)	X		
Misleading representations re: accreditation			

1-3=Weak; 3.5-6=Moderate; 6.5-8=Strong

**Explanation:**

**Type 1: Proprietary schools.** Michigan law requires the content of all published literature and advertising, illustrations, diagrams, and pictures to convey only true meaning, relationships, and conditions supported by facts and statistics about the school, its management, instruction, offerings, and opportunities. (MICH. ADMIN. CODE R 390.566.)

**Type 2: Educational corporations.** Michigan law contains detailed definitions of “college” and “university” and specifies the circumstances under which a school may use those titles. (MCLS § 450.171(5).)

**Type 3: Nonincorporated private educational institutions.** Michigan law contains detailed definitions of “college” and “university” and specifies the circumstances under which a school may use those titles. (MCLS § 450.171(5).)

## VI. COMPLAINT PROCESS AND RELIEF FOR STUDENTS:

**24.2/100 POINTS**

### A. DOES THE STATE REQUIRE A BOND OR FUND AS A CONDITION OF AUTHORIZATION?

**6.7/20 POINTS**

*\*points for Type 1, Type 2, and Type 3 schools have been averaged to calculate the above score*

	Yes	No
Type 1	20 Points	0 Points
Type 2	20 Points	0 Points
Type 3	20 Points	0 Points

**Explanation:**

**Type 1: Proprietary schools.** Michigan law requires an accredited school is to provide evidence of surety of not less than \$5,000 for 1 to 100 full-time equated students, not less than \$7,500 for 101 to 500 full-time equated students, and not less than \$10,000 for 501 to 1,000 or more full-time equated students. It also requires a non-accredited school to provide evidence of surety in an amount equal to \$200 per student, but not less than \$5,000. (MCLS § 395.102b, MICH. ADMIN. CODE R 390.562a.)

**Type 2: Educational corporations.** Michigan law does not require an educational corporation to post a bond or contribute to a fund as a condition of authorization.

**Type 3: Nonincorporated private educational institutions.** Michigan law does not require a nonincorporated private educational institution to post a bond or contribute to a fund as a condition of authorization.

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**B. DOES THE STATE REQUIRE A REFUND OF TUITION IF A STUDENT ENROLLS AS THE RESULT OF MISREPRESENTATION?**

**0/20 POINTS**

---

*\*points for Type 1, Type 2, and Type 3 schools have been averaged to calculate the above score*

	Yes, full refund	Yes, partial refund	No refund required
<b>Type 1</b>	20 Points	10 Points	<b>0 Points</b>
<b>Type 2</b>	20 Points	10 Points	<b>0 Points</b>
<b>Type 3</b>	20 Points	10 Points	<b>0 Points</b>

**Explanation:**

**Type 1: Proprietary schools.** Michigan law prohibits misrepresentation (MICH. ADMIN. CODE R 390.566); however, there is no explicit requirement that a student who enrolls in a proprietary school as the result of misrepresentation is entitled to a refund.

**Type 2: Educational corporations.** There is no explicit requirement that a student who enrolls in an educational corporation as the result of misrepresentation is entitled to a refund.

**Type 3: Nonincorporated private educational institutions.** There is no explicit requirement that a student who enrolls in a nonincorporated private educational institution as the result of misrepresentation is entitled to a refund.

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**C. DOES THE STATE REQUIRE INSTITUTIONS TO REFUND TUITION IN THE EVENT OF CLOSURE?**

**0/20 POINTS**

---

*\*points for Type 1, Type 2, and Type 3 schools have been averaged to calculate the above score*

	Yes, full refund	Yes, partial refund	Yes, refund in limited circumstances	No refund required
<b>Type 1</b>	20 Points	15 Points	10 Points	<b>0 Points</b>
<b>Type 2</b>	20 Points	15 Points	10 Points	<b>0 Points</b>
<b>Type 3</b>	20 Points	15 Points	10 Points	<b>0 Points</b>

**Explanation:**

**Type 1: Proprietary schools.** Michigan law does not require proprietary schools to refund tuition in the event of closure.

**Type 2: Educational corporations.** Michigan law does not require educational corporations to refund tuition in the event of closure.

**Type 3: Nonincorporated private educational institutions.** Michigan law does not require nonincorporated private educational institutions to refund tuition in the event of closure.

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**D. DOES THE STATE ALLOW STUDENTS AMPLE TIME TO MAKE A COMPLAINT?**

**10/10 POINTS**

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*\*points for Type 1, Type 2, and Type 3 schools have been averaged to calculate the above score*

	2 years or more (or no deadline)	1-2 years	Under 1 year	Not applicable
<b>Type 1</b>	<b>10 Points</b>	5 Points	1 Point	0 Points
<b>Type 2</b>	<b>10 Points</b>	5 Points	1 Point	0 Points
<b>Type 3</b>	<b>10 Points</b>	5 Points	1 Point	0 Points

**Explanation:**

**Type 1: Proprietary schools.** Michigan law does not specify a deadline for students to file complaints.

**Type 2: Educational corporations.** Michigan law does not specify a deadline for students to file complaints.

**Type 3: Nonincorporated private educational institutions.** Michigan law does not specify a deadline for students to file complaints.

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**E. DOES THE STATE REQUIRE INSTITUTIONS TO DISCLOSE INFORMATION ABOUT FILING A COMPLAINT WITH THE STATE OVERSIGHT BODY?**

**2.5/20 POINTS**

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*\*points for Type 1, Type 2, and Type 3 schools have been averaged to calculate the above score*

**Type 1: Proprietary Schools**

Medium	Yes	Discretionary	No
<b>Catalog</b>	10 Points	<b>5 Points</b>	0 Points
<b>Website</b>	5 Points	<b>2.5 Points</b>	0 Points
<b>Enrollment contract</b>	5 Points	2.5 Points	<b>0 Points</b>

**Explanation:**

Michigan law requires proprietary schools to adopt and publish a written policy that allows students to file a complaint with LARA for any violation of the act governing proprietary schools or rules promulgated under it. (MCLS § 395.102c.) However, the law does not specify where the policy should be posted, leaving it up to the discretion of the school. Because a common places for schools to post these types of policies is on the school website and in the catalog, partial credit has been awarded.

**Type 2: Educational corporations**

Medium	Yes	Discretionary	No
<b>Catalog</b>	10 Points	5 Points	<b>0 Points</b>
<b>Website</b>	5 Points	2.5 Points	<b>0 Points</b>
<b>Enrollment contract</b>	5 Points	2.5 Points	<b>0 Points</b>

**Explanation:**

Michigan does not require educational corporations to disclose information about filing a complaint with the state oversight body.

**Type 3: Nonincorporated private educational institutions**

Medium	Yes	Discretionary	No
<b>Catalog</b>	10 Points	5 Points	<b>0 Points</b>
<b>Website</b>	5 Points	2.5 Points	<b>0 Points</b>



Enrollment contract	5 Points	2.5 Points	0 Points
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**Explanation:**

Michigan law does not require nonincorporated private educational institutions to disclose information about filing a complaint with the state oversight body

**F. IS THE COMPLAINT PROCESS READILY ACCESSIBLE AND AVAILABLE ON THE STATE OVERSIGHT BODY'S WEBSITE?**

**5/10 POINTS**

*\*points for Type 1, Type 2, and Type 3 schools have been averaged to calculate the above score*

	Yes, with address	Yes, with phone #	Yes, with email address	Yes, with electronic form	No
Type 1	2 Points	2 Points	3 Points	3 Points	0 Points
Type 2	2 Points	2 Points	3 Points	3 Points	0 Points
Type 3	2 Points	2 Points	3 Points	3 Points	0 Points

**Explanation:**

**Type 1: Proprietary schools.** Information for students who would like to file a complaint against a postsecondary institution is located on LARA's website. The information includes a mailing address, instructions, and an electronic form.

**Type 2: Educational corporations.** Information for students who would like to file a complaint against a postsecondary institution is located on LARA's website. The information includes a mailing address, instructions, and an electronic form.

**Type 3: Nonincorporated private educational institutions.**

Information for students who would like to file a complaint against a postsecondary institution is located on LARA's website. The information includes a mailing address, instructions, and an electronic form.

**VII. ENFORCEMENT: 0/100 POINTS**

**A. IS THERE LOSS OF STATE AID FOR SCHOOLS THAT REPEATEDLY PRODUCE SUBSTANDARD GRADUATION RATES, JOB PLACEMENT RATES, AND/OR COHORT DEFAULT RATES?**

**0/30 POINTS**

*\*points for Type 1, Type 2, and Type 3 schools have been averaged to calculate the above score*

	Yes, required	Yes, required but limited	Yes, discretionary	Yes, discretionary but limited	No
Type 1	30 Points	20 Points	15 Points	5 Points	0 Points
Type 2	30 Points	20 Points	15 Points	5 Points	0 Points
Type 3	30 Points	20 Points	15 Points	5 Points	0 Points

**Explanation:**

**Type 1: Proprietary schools.** Michigan law does not require the loss of state aid for proprietary schools that repeatedly produce substandard graduation rates, job placement rates, and/or cohort default rates.

**Type 2: Educational corporations.** Michigan law does not require the loss of state aid for educational corporations that repeatedly produce substandard graduation rates, job placement rates, and/or cohort default rates.

**Type 3: Nonincorporated private educational institutions.** Michigan law does not require the loss of state aid for educational corporations that repeatedly produce substandard graduation rates, job placement rates, and/or cohort default rates. The law allows the Department to take legal action to compel institutions that are not meeting minimum standards to refrain from offering any part or all of such educational programs which the Department shall have found to be inadequate. However, the minimum standards do not specifically include performance measures such as graduation rate, job placement, exam passage, and cohort default rates.

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**B. DOES STATE LAW EXPLICITLY AUTHORIZE A PRIVATE RIGHT OF ACTION FOR STUDENTS AGAINST INSTITUTIONS THAT HAVE VIOLATED THE LAWS AND REGULATIONS IN PLACE TO GOVERN THEM?**

**0/30 POINTS**

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*\*points for Type 1, Type 2, and Type 3 schools have been averaged to calculate the above score*

	Yes	Limited circumstances	No
Type 1	30 Points	15 Points	0 Points
Type 2	30 Points	15 Points	0 Points
Type 3	30 Points	15 Points	0 Points

**Explanation:**

**Type 1: Proprietary schools.** Michigan law does not authorize a private right of action for students against proprietary schools that have violated the laws and regulations in place to govern them.

**Type 2: Educational corporations.** Michigan law does not authorize a private right of action for students against educational corporations that have violated the laws and regulations in place to govern them.

**Type 3: Nonincorporated private educational institutions.** Michigan law does not authorize a private right of action for students against educational corporations that have violated the laws and regulations in place to govern them.

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**C. DOES STATE LAW EXPLICITLY ALLOW ATTORNEY FEE AWARDS FOR STUDENTS WHO PREVAIL IN LITIGATION AGAINST PRIVATE FOR-PROFIT POSTSECONDARY INSTITUTIONS?**

**0/20 POINTS**

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*\*points for Type 1, Type 2, and Type 3 schools have been averaged to calculate the above score*

	Yes	Limited	No
Type 1	20 Points	15 Points	0 Points
Type 2	20 Points	15 Points	0 Points
Type 3	20 Points	15 Points	0 Points

**Explanation:**

**Type 1: Proprietary schools.** Michigan law does not explicitly allow attorney fee awards to students who prevail in litigation against proprietary schools that have violated the laws and regulations in place to govern them.

**Type 2: Educational corporations.** Michigan law does not explicitly allow attorney fee awards to students who prevail in litigation against proprietary schools that have violated the laws and regulations in place to govern them.

**Type 3: Nonincorporated private educational institutions.** Michigan law does not explicitly allow attorney fee awards to students who prevail in litigation against proprietary schools that have violated the laws and regulations in place to govern them.

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**D. DOES STATE LAW EXPLICITLY AUTHORIZE  
ATTORNEY GENERAL INVOLVEMENT?**

**0/20 POINTS**

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*\*points for Type 1, Type 2, and Type 3 schools have been averaged to calculate the above score*

	Yes	Limited circumstances	No
Type 1	20 Points	10 Points	0 Points
Type 2	20 Points	10 Points	0 Points
Type 3	20 Points	10 Points	0 Points

**Explanation:**

**Type 1: Proprietary schools.** Michigan law does not explicitly authorize attorney general involvement. If a postsecondary institution is violating state or federal law, the attorney general may become involved, but there is nothing in Michigan law that specifies a role for the attorney general in matters related to proprietary schools.

**Type 2: Educational corporations.** Michigan law does not explicitly authorize attorney general involvement. If a postsecondary institution is violating state or federal law, the attorney general may become involved, but there is nothing in Michigan law that specifies a role for the attorney general in matters related to educational corporations.

**Type 3: Nonincorporated private educational institutions.** Michigan law does not explicitly authorize attorney general involvement. If a postsecondary institution is violating state or federal law, the attorney general may become involved, but there is nothing in Michigan law that specifies a role for the attorney general in matters related to educational corporations.

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**BONUS POINTS:**

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Michigan does not receive any bonus points.



## ILLUMINATING INFORMATION

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### RECIPROCITY AGREEMENTS

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Michigan is a member of the State Authorization Reciprocity Agreements (SARA).

### LITIGATION, INVESTIGATIONS, AND ACTIONS INVOLVING PRIVATE FOR-PROFIT EDUCATIONAL INSTITUTIONS IN MICHIGAN

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For more information about pending and recent federal and state government investigations and actions regarding for-profit colleges see David Halperin's compilation at <http://www.republicreport.org/2014/law-enforcement-for-profit-colleges/#sthash.1vc4HmPw.dpuf>.

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# MINNESOTA

## FINAL GRADING ANALYSIS

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OVERALL SCORE: **314.75/700 POINTS (45%)**  
LETTER GRADE: **F**

### I. OVERSIGHT BODY: **30/100 POINTS**

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#### A. IS THERE A STATUTORILY CREATED OVERSIGHT BODY THAT IS PUBLICLY ACCOUNTABLE?

**25/60 POINTS**

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Element	Points	Points Awarded
1. Oversight body is a multi-member board, commission, or panel created by statute	10	0
2. Oversight body was statutorily created specifically to oversee private postsecondary institutions	10	5
3. Multi-member board, commission, or panel is the ultimate decision maker (as opposed to a single person, like the head of a department or director)	10	0
4. Oversight body can engage in rulemaking	10	10
5. Oversight body's meetings must be open to the public	5	0
6. Oversight body's meetings must allow public comment	5	0
7. Oversight body can initiate investigations	5	5
8. Oversight body can impose penalties for violations	5	5
Total Points	60	25

#### Explanation:

Minn. Stat. § 136A.01, Subd. 1 creates the Office of Higher Education with a Commissioner appointed by the Governor. Minn. Stat. § 136A.01, Subd. 2(a) specifies the responsibilities of the Office.

Although Minnesota law does not provide for a multi-member panel / board to oversee private postsecondary institutions, Minn. Stat. § 136A.01 specifically authorizes the Office of Higher Education to oversee private postsecondary education.

The Commissioner is the sole decision maker with regard to fulfilling the responsibilities of the Office.

Minn. Stat. § 136A.01, Subd. 2(a)(8) authorizes the Office to prescribe rules (in accordance with Chapter 14, Administrative Procedure) necessary to administer the programs under its supervision.

The Office is not statutorily mandated to conduct meetings open to the public or to allow public comment during such meetings. Minnesota law does not expressly authorize the Office to initiate investigations.

Minn. Stat. § 136A.705 authorizes the director (assumed to be a reference to the Commissioner) to assess fines for violations of a provision of sections Minn. Stat. § 136A.61 to 136A.71.

With regard to schools that conduct programs at less than an associate degree level (Minn. Stat. § 141.29, subd. 3(c)), the Office may upon its own motion, and shall upon the verified complaint in writing of any person setting forth fact which, if proved, would constitute grounds for refusal or revocation under Laws 1973, chapter 714, investigate the actions of any applicant or any person or persons holding or claiming to hold a license or permit.

## B. STATUTE-SPECIFIED MEMBERSHIP:

### 1. TO WHAT EXTENT ARE LIMITATIONS PLACED ON FOR-PROFIT MEMBERSHIP ON THE OVERSIGHT BODY?

**0/25 POINTS**

Explicit prohibition on for-profit majority, plus no possibility of a majority of the quorum	Explicit prohibition on for-profit majority	Discouraged	No prohibition specified, but not discouraged	For-profit majority mandated
25 Points	20 Points	10 Points	0 Points	-5 points

#### **Explanation:**

Pursuant to Minn. Stat. § 136A.01 et seq., the Office of Higher Education, and specifically the Commissioner thereof, provides the oversight for private for-profit postsecondary institutions. Minnesota law does not set forth limitations or qualifications with regard to the Commissioner, who is appointed by the Governor.

### 2. IS THE OVERSIGHT BODY MANDATED TO INCLUDE AT LEAST ONE CONSUMER ADVOCATE?

**0/10 POINTS**

Yes	No
10 Points	0 Points

#### **Explanation:**

Pursuant to Minn. Stat. § 136A.01 et seq., the Office of Higher Education, and specifically the Commissioner thereof, provides the oversight for private for-profit postsecondary institutions. Minnesota law does not require that the Commissioner be or have any background in consumer advocacy.

3. ARE THE MEMBERS APPOINTED BY A PUBLICLY ACCOUNTABLE OFFICIAL OR ELECTED IN A GENERAL ELECTION?

**5/5 POINTS**

All	Majority	Half	Minority	None
5 Points	3 Points	2.5 Points	1 Point	0 Points

**Explanation:**

Pursuant to **Minn. Stat. § 136A.01 et seq.**, the Commissioner of the Office of Higher Education is appointed by the Governor with the advice and consent of the Senate, and serves at the pleasure of the Governor.

**II. STATE OVERSIGHT—EFFICACY:**

**36.75/100 POINTS**

A. DOES THE STATE REQUIRE ONSITE REVIEW OF PRIVATE POSTSECONDARY INSTITUTIONS?

**1/10 POINTS**

Mandatory onsite reviews			Discretionary	None
Every 2 years or less	Every 3-5 years	Over 5 years	Discretion to conduct onsite reviews	No review specified
10 Points	8 Points	5 Points	3 Points	<b>0 1 Point</b>

**Explanation:**

With regard to schools that conduct programs or courses leading to a degree (defined as an award given by a school for completion of a program or course which is designated by the term degree, associate, bachelor, baccalaureate, masters, or doctorate, or any other award which the Office shall include by rule), Minnesota law neither mandates such inspections nor provides any guidance on how often inspections should be performed. However, Minn. Stat. §§ 136A.23, 136A.64, 136A.65, and 136A.69 do authorize the Office to conduct inspections of private postsecondary institutions that are registered as private institutions under Minn. Stat. §§ 136A.61–136A.71.

With regard to schools that conduct programs at less than an associate degree level, Minn. Stat. § 141.30 authorizes (but does not mandate) the Office or a delegate to inspect the instructional books and records, classrooms, dormitories, tools, equipment and classes of any school or applicant for license pursuant to Minn. Stat. § 141.20 et seq. at any reasonable time.

B. DOES THE STATE REQUIRE UNANNOUNCED INSPECTIONS FOR ONSITE REVIEWS?

**0/5 POINTS**

Required unannounced visits	Discretion to do unannounced visits	No indication
5 Points	3 Points	0 Points

**Explanation:**

Minnesota law neither mandates nor expressly provides the Office with discretion to conduct announced visits to private postsecondary institutions.

**C. DOES THE STATE REQUIRE REGULAR REVIEWS OF PRIVATE  
POSTSECONDARY APPROVAL TO OPERATE?**

**17/20 POINTS**

Mandatory			Discretionary	None
Every 2 years or less	Every 3-5 years	Over 5 years	Discretion to conduct reviews	No review specified
<b>20 17 Points</b>	15 Points	1 Point	10 Points	0 Points

**Explanation:**

Minn. Stat. § 136A.63 requires all schools located within Minnesota and all schools located outside Minnesota which offer degree programs or courses within Minnesota to register annually with the Office.

With regard to schools that conduct programs at less than an associate degree level, Minn. Stat. § 141.25, subd. 8 provides that licenses expire after one year (requiring annual renewal), except as provided in Minn. Stat. § 141.251, which authorizes the Office to adopt rules permitting two levels of renewal based on the record of the school. Minn. Stat. § 141.251 provides that “[a] school that has demonstrated the quality of its program and operation through longevity and performance in the state may renew its license based on a relaxed standard of scrutiny. A school that has been in operation in Minnesota for a limited period of time or that has not performed adequately on performance indicators shall renew its license based on a strict standard of scrutiny.” Although the Office has not adopted rules explicitly addressing the renewal process, Minn. R. 4880.2500, subp. 3, provides that category A schools “are required to submit a full licensure report every year”, while category B schools “are required to submit a full relicensure report once every four years” and in the interim years are exempt from specified reporting requirements. Although Minn. R. 4880.2500, subp. 2, requires that schools licensed under Minnesota Statutes, chapter 141, must qualify as either a category A or category B school, no Minnesota statute or regulation defines the distinction or specifies how schools are to be classified as category A or B.

Because some schools are subject to an annual renewal process, but the renewal cycle for other schools is not expressly set forth by Minnesota statute or regulation, 3 points are deducted from the score.

**D. DO THE CRITERIA FOR RENEWAL OF AUTHORIZATION MANDATE A  
REVIEW OF FACTORS ESSENTIAL TO ACADEMIC AND ETHICAL INTEGRITY?**

**11.25/20 POINTS\***

*\*points for the state’s two types of institutions have been averaged to calculate the above score*

	8 of 8	7 of 8	6 of 8	5 of 8	4 of 8	3 of 8	2 of 8	1 of 8	0 of 8
<b>Degree-granting</b>	20 Points	17.5 Points	15 Points	12.5 Points	10 Points	<b>7.5 Points</b>	5 Points	2.5 Points	0 Points
<b>Non-degree-granting</b>	20 Points	17.5 Points	<b>15 Points</b>	12.5 Points	10 Points	7.5 Points	5 Points	2.5 Points	0 Points



Element	Degree-granting	Non-degree-granting
Admission requirements	M	
Graduation requirements	M	M
Placement rate		M
Completion rate (or graduation rate)		M
Advertising practices	M	M
Cohort default rate		M
Accreditation status		M
Financial aid policies		

*M=Mandatory D=Discretionary*

### **Explanation:**

With regard to schools that conduct programs or courses leading to a degree, Minn. Stat. § 136A.64 mandates that schools provide the Office with, among other things, “the school’s policies about student admission, evaluation, suspension, and dismissal” (Subd. 1(6)(xi)); “all requirements for satisfactory completion of courses, programs, and degrees” (Subd. 1(6)(vi)); and “all current promotional and recruitment materials and advertisements” (Subd. 1(5)). However, Minnesota law does not require or request schools to submit information pertaining to placement rates, graduation rates, cohort default rates, accreditation status, or financial aid policies. Although Minn. Stat. § 136A.64, subd. 2 references “accreditation reports” that a school might provide to the Office, and Minn. Stat. § 136A.65, subd. 1a provides that a school must not be registered or authorized to offer any degree at any level unless the school is accredited by an agency recognized by the United States Department of Education for purposes of eligibility to participate in Title IV federal financial aid programs, Minnesota law neither mandates nor requests schools to provide information about an institution’s accreditation status.

With regard to schools that conduct programs at less than an associate degree level, Minn. Stat. § 141.251, subd. 2, and Minn. R. 4880.2500, subp. 2(b) require that a school classified as category B must verify that it has achieved full institutional reaccreditation with an accreditation agency recognized by the U.S. Department of Education; the school must have a cohort default rate equal to or less than an average of 15% for the previous three consecutive years, as calculated by the U.S. Department of Education; the passing rate of the school’s graduates on licensure or other certification examinations must be equal to or greater than 85% of the national or state passing rate, based on a minimum of ten graduates sitting for the examination in any one year; the school must have a placement rate equal to or greater than 70%, based on a minimum of ten graduates from the school in any one year; the school’s withdrawal rate for the three most recent consecutive years, as established by the Code of Federal Regulations, title 34, section 668.16, paragraph (1), must not exceed 33%; the school must receive a satisfactory audit by the Office for the three most recent consecutive years. The school must provide evidence that it has adhered to: the refund policy as specified in Minnesota Statutes, section 141.271, or that any discrepancies noted by each audit report have been corrected within 90 days of issuance of the report to the school; and the requirement for student records pursuant to Minnesota Statutes, chapter 141, including acceptable academic transcripts and student financial account records, or that any discrepancies noted in an audit report have been corrected within 90 days of issuance of the report to the school; the school must provide evidence that there has been no determination of limitation, suspension, or termination by the U.S. Department of Education during the past five years; and the school must verify annually there have been no unresolved student complaints related to Minnesota Statutes, chapter 141, or its attendant rules during the preceding 12 months immediately prior to the relicensure notification from the office. Additionally, Minn. Stat. § 141.25, subd. 3, requires that the school submit copies of all media advertising and promotional literature and brochures or electronic display currently used or reasonably expected to be used by the school, Minn. R. 4880.1700, subp. 4, requires schools to provide, among other things, information on graduation/completion requirements and the number of graduates expected annually, and Minn. R.

4880.2200, subp. 2, requires schools to provide a certified copy of the school's placement record of students who graduated in the year prior to the year for which the license is to be issued.

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**E. DOES THE STATE'S OVERSIGHT DISTINGUISH BETWEEN  
FOR-PROFIT AND NON-PROFIT EDUCATIONAL INSTITUTIONS?**

**0/15 POINTS**

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<b>Yes, strongly distinguished</b>	<b>Yes, moderately distinguished</b>	<b>Yes, slightly distinguished</b>	<b>Not distinguished</b>
15 Points	10 Points	5 Points	0 Points

**Explanation:**

Minnesota law makes no discernable distinction between for-profit and non-profit educational institutions with regard to their oversight or regulation.

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**F. DOES THE STATE REQUIRE INCREASED OVERSIGHT/SCRUTINY OF PRIVATE  
POSTSECONDARY INSTITUTIONS BASED ON POOR PERFORMANCE?**

**7.5/10 POINTS**

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<b>Yes, mandatory</b>	<b>Yes, mandatory but limited</b>	<b>Yes, discretionary</b>	<b>Yes, discretionary but limited</b>	<b>No</b>
10 Points	7.5 Points	5 Points	2.5 Points	0 Points

**Explanation:**

With regard to schools that conduct programs or courses leading to a degree, there are some elements of increased oversight/scrutiny of private postsecondary institutions based on poor performance. For example, Minn. Stat. § 136A.675 requires the Office to develop a set of financial and programmatic evaluation metrics to aid in the detection of the failure or potential failure of a school to meet the standards established under sections 136A.61 to 136A.71. These metrics shall include indicators of financial stability, changes in the senior management or the financial aid and senior administrative staff of an institution, changes in enrollment, changes in program offerings, and changes in faculty staffing patterns. The development of financial standards shall use industry standards as benchmarks. The development of the nonfinancial standards shall include a measure of trends and dramatic changes in trends or practice. The agency must specify the metrics and standards for each area and provide a copy to each registered institution and post them on the agency Web site. The agency shall use regularly reported data submitted to the federal government or other regulatory or accreditation agencies wherever possible. The agency may require more frequent data reporting by an institution to ascertain whether the standards are being met.

Further, Minn. Stat. § 136A.646 provides that in the event any registered institution is notified by the U.S. Department of Education that it has fallen below minimum financial standards and that its continued participation in Title IV will be conditioned upon its satisfying either the Zone Alternative, Code of Federal Regulations, title 34, section 668.175, paragraph (f), or a Letter of Credit Alternative, Code of Federal Regulations, title 34, section 668.175, paragraph (c), the institution shall provide a surety bond conditioned upon the faithful performance of all contracts and agreements with students in a sum equal to the "letter of credit" required by the U.S. Department of Education in the Letter of Credit Alternative, but in no event shall such bond be less than \$10,000 nor more than \$250,000; in lieu of a bond, the applicant

may deposit with the commissioner of management and budget a sum equal to the amount of the required surety bond in cash, or securities, as may be legally purchased by savings banks or for trust funds, in an aggregate market value equal to the amount of the required surety bond.

With regard to schools that conduct programs at less than an associate degree level, Minn. Stat. § 141.251, subd. 2, provides that Office shall adopt rules establishing the conditions for renewal of a license. The conditions shall permit two levels of renewal based on the record of the school. A school that has demonstrated the quality of its program and operation through longevity and performance in the state may renew its license based on a relaxed standard of scrutiny. A school that has been in operation in Minnesota for a limited period of time or that has not performed adequately on performance indicators shall renew its license based on a strict standard of scrutiny. The Office shall specify minimum longevity standards and performance indicators that must be met before a school may be permitted to operate under the relaxed standard of scrutiny. The performance indicators used in this determination shall include, but not be limited to: regional or national accreditation, loan default rates, placement rate of graduates, student withdrawal rates, audit results, student complaints, and school status with the United States Department of Education. Schools that meet the requirements established in rule shall be required to submit a full relicensure report once every four years, and in the interim years will be exempt from specified requirements.

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**G. DOES STATE LAW INCLUDE ANY SPECIAL PROTECTIONS FOR VETERANS WHO ATTEND PRIVATE POSTSECONDARY INSTITUTIONS?**

**0/20 POINTS**

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Yes	No
20 Points	0 Points

**Explanation:**

Minnesota law does not include any special protections for veterans who attend private postsecondary institutions.

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**III. STATE OVERSIGHT—SCOPE AND INCLUSION:**

**75/100 POINTS**

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**A. ARE EXEMPTIONS TO STATE OVERSIGHT COVERAGE LIMITED?**

**75/100 POINTS**

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No exemptions	Few exemptions	Moderate exemptions	Broad exemptions
100 Points	75 Points	50 Points	0 Points

**Explanation:**

With regard to schools that conduct programs or courses leading to a degree, Minn. Stat. §§ 136A.653, 136A.657, and 136A.658 list categories of exemptions which are common sense and very narrowly tailored to specific purposes.

With regard to schools that conduct programs at less than an associate degree level, Minn. Stat. §§ 141.35 and 141.37 list categories of exemptions which are common sense and very narrowly tailored to specific purposes.

#### IV. DISCLOSURE REQUIREMENTS:

**15/100 POINTS**

##### A. ARE INSTITUTIONS REQUIRED TO DISCLOSE INSTITUTIONAL PERFORMANCE MEASURES TO POTENTIAL STUDENTS?

**0/20 POINTS**

Yes, mandatory	Yes, discretionary	None
Fact sheet or equivalent required to be given to students	Fact sheet or equivalent given to students upon request	No fact sheet required
20 Points	10 Points	0 Points

**Explanation:**

With regard to schools that conduct programs or courses leading to a degree, Minnesota law does not require private postsecondary schools to disclose institutional performance measures to potential students (although Minn. Stat. 136A.103 requires institution not participating in the federal Pell Grant program to disclose that information to students who enroll, and Minn. Stat. § 136A.67 requires registered schools to disclose in catalogues, applications, and enrollment materials that the school is registered with the Office, that registration is not an endorsement of the institution, and that credits earned at the institution may not transfer to all other institutions).

With regard to schools that conduct programs at less than an associate degree level, Minnesota law does not require private postsecondary schools to disclose institutional performance measures to potential students (although Minn. Stat. 141.28, subd. 5 provides that a school, agent, or solicitor shall not enroll a prospective student when it is obvious that the prospective student is unlikely to successfully complete a program or is unlikely to qualify for employment in the vocation or field for which the preparation is designed unless this fact is affirmatively disclosed to the prospective student, and Minn. Stat. § 141.28, subd. 1, requires licensed schools to disclose in catalogues, applications, and enrollment materials that the school is licensed with the Office, that licensure is not an endorsement of the institution, and that credits earned at the institution may not transfer to all other institutions).

##### B. WHICH INSTITUTIONAL PERFORMANCE DISCLOSURES ARE REQUIRED TO BE GIVEN TO STUDENTS PRIOR TO ENROLLMENT?

**0/60 POINTS**

Disclosures	Mandatory	Discretionary	Not specified
Cohort default rate (CDR)	10 Points	5 Points	0 Points
Graduation / completion rates	10 Points	5 Points	0 Points
Placement rates	10 Points	5 Points	0 Points
Wage information	10 Points	5 Points	0 Points
License exam passage rates	10 Points	5 Points	0 Points
Methods & sources used to calculate	10 Points	5 Points	0 Points

**Explanation:**

Minnesota law does not require private postsecondary schools to disclose institutional performance measures to students prior to enrollment.

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**C. DOES THE STATE REQUIRE SCHOOLS TO DISCLOSE ELEMENTS  
ESSENTIAL TO STUDENT PROTECTION PRIOR TO ENROLLMENT OR  
IN THE ENROLLMENT CONTRACT?**

**15/20 POINTS**

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Element description	Mandatory	Discretionary	Not specified
Total cost of program	5 Points	2.5 Points	0 Points
Refund information	5 Points	2.5 Points	0 Points
Transferability of credits	5 Points	2.5 Points	0 Points
Length of program	5 Points	2.5 Points	0 Points

**Explanation:**

With regard to schools that conduct programs or courses leading to a degree, Minn. Stat. § 136A.65, subd. 4(a)(9) requires schools to provide information to students and prospective students (although not necessarily as part of the contract) concerning comprehensive and accurate policies relating to student admission, evaluation, suspension, and dismissal; clear and accurate policies relating to granting credit for prior education, training, and experience and for courses offered by the school; current schedules of fees, charges for tuition, required supplies, student activities, housing, and all other standard charges; policies regarding refunds and adjustments for withdrawal or modification of enrollment status; and procedures and standards used for selection of recipients and the terms of payment and repayment for any financial aid program.

With regard to schools that conduct programs at less than an associate degree level, Minn. Stat. § 141.265, subd. 2, requires contracts to include the name and address of the school, clearly stated; a clear and conspicuous disclosure that the agreement is a legally binding instrument upon written acceptance of the student by the school unless canceled under section 141.271; the school's cancellation and refund policy that shall be clearly and conspicuously entitled "Buyer's Right to Cancel"; a clear statement of total cost of the program including tuition and all other charges; the name and description of the program, including the number of hours or credits of classroom instruction, or distance instruction, that shall be included; and a clear and conspicuous explanation of the form and means of notice the student should use in the event the student elects to cancel the contract or sale, the effective date of cancellation, and the name and address of the seller to which the notice should be sent or delivered. The contract or enrollment agreement must not include a wage assignment provision or a confession of judgment clause.

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**V. REGULATION OF RECRUITING PRACTICES:**

**75/100 POINTS**

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**A. HAS THE STATE PUT INTO LAW A LIST OF PROHIBITED ACTS  
REGARDING ADVERTISING AND RECRUITING?**

**75/100 POINTS\***

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*\*points for the state's two types of institutions have been averaged to calculate the above score*

	Yes, strong regulation	Yes, moderate regulation	Yes, weak regulation	No list of prohibited acts
Degree-granting	100 Points	75 Points	50 Points	0 Points
Non-degree-granting	100 Points	75 Points	50 Points	0 Points

## PROHIBITED ACTS

Included in list of prohibited acts	Degree-granting	Non-degree-granting
Deceptive or misleading representations using the word “college” or “university”	X	X
Misleading institution affiliations (e.g., military, public institution, businesses)		
Promise Employment	X	X
Compensation for enrollment		
Compensation or “bounty” to recruiters		
Deception (Broad prohibition)	X	X
Misrepresentation (Broad Prohibition)	X	X
Deceptive or misleading representations re: accreditation	X	X

*1-3=Weak; 3.5-6=Moderate; 6.5-8=Strong*

### **Explanation:**

With regard to schools that conduct programs or courses leading to a degree, Minn. Stat. § 136A.65, subd. 4(a)(7) requires that a school applying to be registered by the Office must use only publications and advertisements which are truthful and do not give any false, fraudulent, deceptive, inaccurate, or misleading impressions about the school, its personnel, programs, services, or occupational opportunities for its graduates for promotion and student recruitment; Minn. Stat. § 136A.65, subd. 1, provides that no school subject to registration may use the name "college" or "university" in its name without approval by the Office; Minn. Stat. § 136A.65, subd. 1a provides that a school must not be registered or authorized to offer any degree at any level unless the school is accredited by an agency recognized by the U.S. Department of Education for purposes of eligibility to participate in Title IV federal financial aid programs; and Minn. Stat. § 136A.67 provides that no school and none of its officials or employees shall advertise or represent in any manner that such school is approved or accredited by the Office or the state of Minnesota.

With regard to schools that conduct programs at less than an associate degree level, Minn. Stat. § 141.28 provides that no school organized after November 15, 1969, shall apply to itself either as a part of its name or in any other manner the designation of "college" or "university" (although operating schools now using such designation may continue use thereof); a school, agent, or solicitor shall not make, or cause to be made, any statement or representation, oral, written or visual, in connection with the offering or publicizing of a program, if the school, agent, or solicitor knows or reasonably should have known the statement or representation to be false, fraudulent, deceptive, substantially inaccurate, or misleading; a school, agent, or solicitor shall not enroll a prospective student when it is obvious that the prospective student is unlikely to successfully complete a program or is unlikely to qualify for employment in the vocation or field for which the preparation is designed unless this fact is affirmatively disclosed to the prospective student; and that schools, agents of schools, and solicitors may not advertise or represent in writing or orally that the school is approved or accredited by the state of Minnesota.



## VI. COMPLAINT PROCESS AND RELIEF FOR STUDENTS:

**48/100 POINTS**

### A. DOES THE STATE REQUIRE A BOND OR FUND AS A CONDITION OF AUTHORIZATION?

**20/20 POINTS**

<b>Yes</b>	<b>No</b>
<b>20 Points</b>	<b>0 Points</b>

#### Explanation:

With regard to schools that conduct programs or courses leading to a degree, Minn. Stat. § 136A.646 provides that in the event any registered institution is notified by the U.S. Department of Education that it has fallen below minimum financial standards and that its continued participation in Title IV will be conditioned upon its satisfying either the Zone Alternative, Code of Federal Regulations, title 34, section 668.175, paragraph (f), or a Letter of Credit Alternative, Code of Federal Regulations, title 34, section 668.175, paragraph (c), the institution shall provide a surety bond conditioned upon the faithful performance of all contracts and agreements with students in a sum equal to the "letter of credit" required by the United States Department of Education in the Letter of Credit Alternative, but in no event shall such bond be less than \$10,000 nor more than \$250,000.

With regard to schools that conduct programs at less than an associate degree level, Minn. Stat. § 141.25 provides that no license shall be issued to any school which maintains, conducts, solicits for, or advertises within the state of Minnesota any program, unless the applicant files with the office a continuous corporate surety bond written by a company authorized to do business in Minnesota conditioned upon the faithful performance of all contracts and agreements with students made by the applicant.

### B. DOES THE STATE REQUIRE A REFUND OF TUITION IF A STUDENT ENROLLS AS THE RESULT OF MISREPRESENTATION?

**10/20 POINTS**

<b>Yes, full refund</b>	<b>Yes, partial refund</b>	<b>No refund required</b>
<b>20 10 Points</b>	10 Points	0 Points

#### Explanation:

With regard to schools that conduct programs or courses leading to a degree, Minnesota law does not expressly mandate the refund of tuition if a student enrolls as the result of misrepresentation.

With regard to schools that conduct programs at less than an associate degree level, if the basis of the misrepresentation was that the school was not duly licensed by the Office, Minn. Stat. § 141.25 requires the school to refund tuition, fees, and other charges received from a student or on behalf of a student within 30 days of receiving written notification and demand for refund from the Office. However, Minnesota law does not expressly mandate the refund of tuition if a student enrolls as the result of any other type of misrepresentation.

Because Minnesota law requires a refund of tuition only under limited circumstances, ten points are deducted from the score above.

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C. DOES THE STATE REQUIRE INSTITUTIONS TO REFUND  
TUITION IN THE EVENT OF INSOLVENCY?

**10/20 POINTS**

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Yes, full refund	Yes, partial refund	Yes, refund in limited circumstances	No refund required
<b>20 10 Points</b>	15 Points	10 Points	0 Points

**Explanation:**

With regard to schools that conduct programs or courses leading to a degree, Minnesota law does not expressly mandate the refund of tuition in the event of insolvency. Although Minn. Stat. § 136A.65, subd. 5, requires a school to have financial resources sufficient to meet the school's financial obligations, including refunding tuition and other charges consistent with its stated policy if the institution is dissolved, it does not expressly mandate that such refunds be given. However, Minn. Stat. § 136A.645 does provide that when a school decides to cease postsecondary education operations, it must cooperate with the office in assisting students to find alternative means to complete their studies with a minimum of disruption.

With regard to schools that conduct programs at less than an associate degree level, Minn. Stat. § 141.271, subd. 14, provides that in the event a school closes for any reason during a term and interrupts and terminates classes during that term, all tuition for the term shall be refunded to the students or the appropriate state or federal agency or private lender that provided any funding for the term and any outstanding obligation of the student for the term is canceled.

Because Minnesota law requires a refund of tuition only with regard to schools that conduct programs at less than an associate degree level, ten points are deducted from the score above.

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D. DOES THE STATE ALLOW STUDENTS AMPLE TIME TO MAKE A COMPLAINT?

**1/10 POINTS**

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2 years or more (or no deadline)	1-2 years	Under 1 year	Not applicable
10 Points	5 Points	<b>1 Points</b>	0 Points

**Explanation:**

With regard to schools that conduct programs or courses leading to a degree and schools that conduct programs at less than an associate degree level, Minnesota law does not expressly state the amount of time within which a student must file a complaint against the school.

The website of the Minnesota Office of Higher Education indicates that if, after exhausting internal grievance procedures, the school or college has not responded to a student's satisfaction, the student can file a complaint with the Office. Complaints must be submitted to the Office within six months of the alleged violation or within six months from the date of the discovery of the alleged violation.

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E. DOES THE STATE REQUIRE INSTITUTIONS TO DISCLOSE INFORMATION  
ABOUT FILING A COMPLAINT WITH THE STATE OVERSIGHT BODY?

**0/20 POINTS**

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Medium	Yes	Discretionary	No
Catalog	10 Points	5 Points	0 Points
Website	5 Points	2.5 Points	0 Points
Enrollment contract	5 Points	2.5 Points	0 Points

**Explanation:**

With regard to schools that conduct programs or courses leading to a degree, Minnesota law does not expressly require institutions to disclose information about filing a complaint with the state oversight body.

With regard to schools that conduct programs at less than an associate degree level, Minnesota law does not expressly require institutions to disclose information about filing a complaint with the state oversight body. Although Minn. Stat. § 141.25, subd. 9(14)-(15) require that before a license is issued to a school, the school shall furnish to the Office a catalog, brochure, or electronic display including, among other things, a procedure for investigating and resolving student complaints and the name and address of the Minnesota Office of Higher Education, the law does not expressly require that the school provide information about filing a complaint with the Office.

**F. IS THE COMPLAINT PROCESS READILY ACCESSIBLE AND AVAILABLE ON THE STATE OVERSIGHT BODY WEBSITE?**

**7/10 POINTS**

Yes, with address	Yes, with phone #	Yes, with email address	Yes, with electronic form	No
2 Points	2 Points	3 Points	3 Points	0 Points

**Explanation:**

The website of the Minnesota Office of Higher Education provides information about filing complaints about private colleges and career schools, and provides an address, phone number, and email address but no electronic form.

**VII. ENFORCEMENT: 35/100 POINTS**

**A. IS THERE LOSS OF STATE AID FOR SCHOOLS THAT REPEATEDLY PRODUCE SUBSTANDARD GRADUATION RATES, JOB PLACEMENT RATES, AND/OR COHORT DEFAULT RATES?**

**15/30 POINTS**

Yes, required	Yes, required but limited	Yes, discretionary	Yes, discretionary but limited	No
30 15 Points	20 Points	15 Points	5 Points	0 Points

**Explanation:**

With regard to schools that conduct programs or courses leading to a degree, Minn. Stat. § 136A.103 provides that in order to be eligible for state student aid under chapter 136A and sections 197.791 and 299A.45, the institution must, among other things, maintain academic standards substantially equivalent to those of comparable institutions operated in Minnesota.

With regard to schools that conduct programs at less than an associate degree level, Minnesota law does not expressly make state aid eligibility contingent on the requirement that an institution maintain academic standards equivalent to those of comparable institutions operated in Minnesota.

Because Minnesota law expressly ties state aid eligibility to the maintenance of academic standards only to schools that conduct programs or courses leading to a degree, and not to schools that conduct programs at less than an associate level, 15 points have been deducted from possible full score of 30.

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**B. DOES STATE LAW EXPLICITLY AUTHORIZE A PRIVATE RIGHT OF ACTION FOR STUDENTS AGAINST INSTITUTIONS THAT HAVE VIOLATED THE LAWS AND REGULATIONS IN PLACE TO GOVERN THEM?**

**0/30 POINTS**

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<b>Yes</b>	<b>Limited Circumstances</b>	<b>No</b>
30 Points	15 Points	0 Points

**Explanation:**

Minnesota law does not explicitly allow students a private right to faction against private postsecondary institutions that have violated the laws or regulations in place to govern them.

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**C. DOES STATE LAW EXPLICITLY ALLOW ATTORNEY FEE AWARDS FOR STUDENTS WHO PREVAIL IN LITIGATION AGAINST PRIVATE FOR-PROFIT POSTSECONDARY INSTITUTIONS?**

**0/20 POINTS**

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<b>Yes</b>	<b>Limited</b>	<b>No</b>
20 Points	15 Points	0 Points

**Explanation:**

Minnesota law does not explicitly allow attorney fee awards for students who prevail in litigation against private for-profit postsecondary institutions.

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**D. DOES STATE LAW EXPLICITLY AUTHORIZE ATTORNEY GENERAL INVOLVEMENT?**

**20/20 POINTS**

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<b>Yes</b>	<b>Limited circumstances</b>	<b>No</b>
20 Points	10 Points	0 Points

**Explanation:**

With regard to schools that conduct programs or courses leading to a degree, Minn. Stat. § 136A.71 provides that upon application of the Attorney General the district courts shall have jurisdiction to enjoin any violations of sections 136A.61 to 136A.71.

With regard to schools that conduct programs at less than an associate degree level, Minn. Stat. § 141.31 provides that upon application of the Attorney General the district courts shall have jurisdiction to enjoin any violation of sections 141.21 to 141.35.

## BONUS POINTS:

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Minnesota does not receive any bonus points.



## ILLUMINATING INFORMATION

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## RECIPROCITY AGREEMENTS

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Minnesota is a member of the State Authorization Reciprocity Agreements (SARA).

## LITIGATION, INVESTIGATIONS, AND ACTIONS INVOLVING PRIVATE FOR-PROFIT EDUCATIONAL INSTITUTIONS IN MINNESOTA

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For more information about pending and recent federal and state government investigations and actions regarding for-profit colleges see David Halperin's compilation at <http://www.republicreport.org/2014/law-enforcement-for-profit-colleges/#sthash.1vc4HmPw.dpuf>.

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# MISSISSIPPI

## FINAL GRADING ANALYSIS

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OVERALL SCORE: **360.75/700 POINTS (51.5%)**  
LETTER GRADE: **F**

### I. OVERSIGHT BODY: **54.75/100 POINTS**

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#### A. IS THERE A STATUTORILY CREATED OVERSIGHT BODY THAT IS PUBLICLY ACCOUNTABLE? **53.75/60 POINTS**

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Element	Points Available	Type 1	Type 2	Average
1. Oversight body is a multi-member board, commission, or panel created by statute	10	10	10	10
2. Oversight body was statutorily created specifically to oversee private postsecondary institutions	10	10	0	5
3. Multi-member board, commission, or panel is the ultimate decision maker (as opposed to a single person, like the head of a department or director)	10	10	10	10
4. Oversight body can engage in rulemaking	10	10	10	10
5. Oversight body's meetings must be open to the public	5	5	5	5
6. Oversight body's meetings must allow public comment	5	5	5	5
7. Oversight body can initiate investigations	5	5	5	5
8. Oversight body can impose penalties for violations	5	5	2.5	3.75
Total Points	60	60	47.5	53.75

#### **Explanation:**

In Mississippi, two entities are responsible for authorizing colleges. The Commission on Proprietary School and College Registration is responsible for authorization and oversight of for-profit vocational (technical) postsecondary schools (Type 1), and the Commission on College Accreditation is responsible for authorization and oversight of all colleges and universities or other entities that offer postsecondary academic degrees or offer instruction and are domiciled, incorporated, or otherwise located in Mississippi (Type 2).

**Type 1: Proprietary schools.** The Commission on Proprietary School and College Registration (CPSCR) establishes and implements the registration program for proprietary schools and colleges in Mississippi. (Miss. Code Ann. § 75-60-4.) Mississippi law requires the CPSCR to adopt rules and regulations for administration of the proprietary school registration process (Miss. Code Ann. § 75-60-11) and initiate

investigations, and impose penalties where appropriate. (Miss. Code Ann. § 75-60-19; CMSR 09-000-007 (Rule 1.4; Rule 3.2).) Mississippi law requires all official meetings of public bodies to be public and open. (Miss. Code Ann. § 25-41-5.) Further, Mississippi law requires that CPSCR meetings include time for public participation on every agenda. (CMSR 09-000-007 (Rule 2.2).) Mississippi exempts nonprofit private colleges and universities or any private institution offering academic credits at primary, secondary or postsecondary levels from CPSCR oversight. (Miss. Code Ann. § 75-60-5(g); CMSR 09-000-007, Rule 3.5.) The CPSCR oversees proprietary schools, which are those schools that offer vocational and/or occupational training, not academic degrees.

**Type 2: Educational institutions offering postsecondary academic degrees.** The Mississippi Commission on College Accreditation (CCA) approves community, junior and senior colleges and universities, and all other entities which offer one or more postsecondary academic degrees and are domiciled, incorporated or otherwise located in the State of Mississippi. Postsecondary academic degrees include, but are not limited to, associate, bachelor, masters and doctorate degrees. (Miss. Code Ann. § 37-101-241.) CCA has the authority to engage in rulemaking (Miss. Code Ann. § 37-101-241), and it has authority to conduct reviews of the institutions under its jurisdiction and conduct onsite investigations as it deems necessary. There is no indication that the CCA has any authority to impose penalties beyond revoking approval, so Mississippi receives only partial credit for this element. The CCA must hold meetings open to the public (Miss. Code Ann. § 25-41-5) and must allow public participation and comment. (Miss. Code Ann § 25-43-105; CMSR 10-002-202.)

## B. STATUTE-SPECIFIED MEMBERSHIP:

### 1. TO WHAT EXTENT ARE LIMITATIONS PLACED ON FOR-PROFIT MEMBERSHIP ON THE OVERSIGHT BODY?

**0/25 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Explicit prohibition on for-profit majority, plus no possibility of a majority of the quorum	Explicit prohibition on for-profit majority	Discouraged	No prohibition specified, but not discouraged	For-profit majority mandated
<b>Type 1</b>	25 Points	20 Points	10 Points	<b>0 Points</b>	-5 Points
<b>Type 2</b>	25 Points	20 Points	10 Points	<b>0 Points</b>	-5 Points

#### **Explanation:**

**Type 1: Proprietary schools.** Mississippi requires the five members of the CPSCR to be persons who have held a teaching, managerial or other similar position with any public, private, trade, technical or other school. (Miss. Code Ann. § 75-60-4.) Further, at least one member of the CPSCR is required to be actively engaged in, or retired from, teaching, managerial or other similar position with a privately owned trade, technical or other school. (Miss. Code Ann. § 75-60-4.) Therefore, while the state does not mandate that a majority of the CPSCR be affiliated with for-profit interests, it is a possibility. The state has, however, adopted regulations to ensure that CPSCR members do not have a conflict of interest. (CMSR 09-000-007 (Rule 2.4(D); Rule 3.8).)

**Type 2: Educational institutions offering postsecondary academic degrees.** Mississippi does not place any explicit limitations on members with for-profit interests, and at least one member of the CCA must represent private colleges. Thus, it is possible but not mandated that at one or more CCA members will have for-profit interests. (Miss. Code Ann. § 37-101-241; CMSR 10-002-201 (Rule 1.1).)

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2. IS THE OVERSIGHT BODY MANDATED TO INCLUDE  
AT LEAST ONE CONSUMER ADVOCATE?

**0/10 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	No
Type 1	10 Points	0 Points
Type 2	10 Points	0 Points

**Explanation:**

**Type 1: Proprietary schools.** Mississippi law does not require CPSCR membership to include a consumer advocate. (Miss. Code Ann. § 75-60-4.)

**Type 2: Educational institutions offering postsecondary academic degrees.** Mississippi law does not require CCA membership to include a consumer advocate. (Miss. Code Ann. § 37-101-241(1).)

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3. ARE THE MEMBERS APPOINTED BY A PUBLICLY ACCOUNTABLE  
OFFICIAL OR ELECTED IN A GENERAL ELECTION?

**1/5 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	All	Majority	Half	Minority	None
Type 1	5 Points	3 Points	2.5 Points	1 Point	0 Points
Type 2	5 Points	3 Points	2.5 Points	1 Point	0 Points

**Explanation:**

**Type 1: Proprietary schools.** The Mississippi Community College Board appoints the members of the CPSCR. (Miss. Code Ann. § 75-60-4.) Members of the Mississippi College Board are appointed by the governor with the advice and consent of the senate. (Miss. Code Ann. § 37-4-3(2).) Thus, the members of the CPSCR are not directly appointed by a publicly appointed official or elected in a general election. Because the members of the Mississippi College Board responsible for appointing the CPSCR members are accountable in to the governor, a publicly elected official, Mississippi receives a point.

**Type 2: Educational institutions offering postsecondary academic degrees.** The five members of the CCA include the Executive Director of the Mississippi Community College Board, the Commissioner of Higher Education, or their designees, and three additional members, one of whom is selected by the foregoing two members and who represents the private colleges within the state, and two of whom are selected by the Mississippi Association of Colleges. The executive director of the Mississippi Community College Board (MCCB) is appointed as a member of the MCCB by the governor and elected as executive director by other board members. The governor appoints members to the Board of Trustees of State Institutions of Higher Learning Commissioner of Higher Learning (Miss. Code Ann. § 37-101-3) and the Board of Trustees appoints a nonmember as Commissioner of Higher Education. Ultimately, the Commissioner is appointed by officials with public accountability (Miss. Code Ann. § 37-101-7) but the remaining members of the CCA are not appointed by public officials nor are they elected in a public election.

## II. STATE OVERSIGHT—EFFICACY:

**52.25/100 POINTS**

### A. DOES THE STATE REQUIRE ONSITE REVIEW OF PRIVATE POSTSECONDARY INSTITUTIONS?

**3/10 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Mandatory onsite reviews			Discretionary	None
	Every 2 years or less	Every 3-5 years	Over 5 years	Discretion to conduct onsite reviews	No review specified
<b>Type 1</b>	10 Points	8 Points	5 Points	<b>3 Points</b>	0 Points
<b>Type 2</b>	10 Points	8 Points	5 Points	<b>3 Points</b>	0 Points

#### **Explanation:**

**Type 1: Proprietary schools.** Mississippi gives the CPSCR discretion to conduct periodic onsite evaluations, but does not require these visits to occur at specific intervals. Mississippi receives partial credit for giving the CPSCR discretion to do onsite evaluations.

**Type 2: Educational institutions offering postsecondary academic degrees.** Mississippi gives the CCA discretion to conduct onsite visits as it deems necessary, but does not provide any kind of a timetable, require regular onsite visits, or require onsite visits on any specified timetable. Mississippi receives partial credit for giving the CCA discretion to do onsite evaluations. (Miss. Code Ann. § 37-101-241; CMSR 10-002-201 (Rule 3.8).)

### B. DOES THE STATE REQUIRE UNANNOUNCED INSPECTIONS FOR ONSITE REVIEWS?

**1.5/5 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Required unannounced visits	Discretion to do unannounced visits	No indication
<b>Type 1</b>	5 Points	<b>3 Points</b>	0 Points
<b>Type 2</b>	5 Points	3 Points	<b>0 Points</b>

#### **Explanation:**

**Type 1: Proprietary schools.** The CPSCR has discretion to conduct unannounced visits. The CPSCR may conduct periodic announced and unannounced evaluations of any registered institution to determine if the institution is complying with the Mississippi Proprietary School and College Registration law and regulations. (CMSR 09-000-007 (Rule 3.26).)

**Type 2: Educational institutions offering postsecondary academic degrees.** The CCA has discretion to conduct site visits. (Miss. Code Ann. § 37-101-241.) There is no indication that these discretionary visits must be or may be unannounced and initial site visits must be at a pre-arranged time. (CMSR 10-002-201 (Rule 5.1.4).)



**C. DOES THE STATE REQUIRE REGULAR REVIEWS OF PRIVATE POSTSECONDARY APPROVAL TO OPERATE?**

**20/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Mandatory			Discretionary	None
	Every 2 years or less	Every 3-5 years	Over 5 years	Discretion to conduct reviews	No review specified
<b>Type 1</b>	20 Points	15 Points	10 Points	5 Points	0 Points
<b>Type 2</b>	20 Points	15 Points	10 Points	5 Points	0 Points

**Explanation:**

**Type 1: Proprietary schools.** Proprietary schools in Mississippi must renew their certificates of registration every two years. (Miss. Code Ann. § 75-60-11.)

**Type 2: Educational institutions offering postsecondary academic degrees.** The CCA must approve academic degree-granting postsecondary institutions in Mississippi annually. (CMSR 10-002-201, Rule 1.1(4).)

**D. DO THE CRITERIA FOR RENEWAL OF AUTHORIZATION MANDATE A REVIEW OF FACTORS ESSENTIAL TO ACADEMIC AND ETHICAL INTEGRITY?**

**12/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

8 of 8	7 of 8	6 of 8	5 of 8	4 of 8	3 of 8	2 of 8	1 of 8	0 of 8
20 Points	17.5 Points	15 Points	<del>12.5</del> <b>13.5</b> Points	10 Points	<del>7.5</del> <b>10.5</b> Points	5 Points	2.5 Points	0 Points

Element	Type 1	Type 2
Admission requirements	M	M
Graduation requirements	M	M
Placement rate	D	D
Completion rate (or graduation rate)	D	M
Advertising practices	M	M
Cohort default rate		
Accreditation status		M
Financial aid policies	D	

*M=Mandatory; D=Discretionary*

**Explanation:**

**Type 1: Proprietary schools.** Mississippi requires the CPSCR to review admission requirements, graduation requirements, and advertising practices. (CMSR 09-000-007 (Rules 3.9 and 3.10).) The state requires schools to disclose placement rates (percentage of graduates employed in the field is required, not placement rates) and completion rates to students, and requires proprietary institutions to maintain

records on these items and on financial aid issues. Therefore, Mississippi receives partial credit for reviewing these elements, given that the CPSCR may review a proprietary school's records and this information must be in the records. (CMSR 09-000-007 (Rules 3.9.2 and 3.11).)

**Type 2: Educational institutions offering postsecondary academic degrees.** Mississippi requires the CCA to review admissions requirements, graduation requirements, placement rate (discretionary, if required by the Commission), advertising practices, and accreditation. (CMSR 10-002-201, Rules 4.2.9, 4.2.18, and 4.2.13.3.4.)

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**E. DOES THE STATE'S OVERSIGHT DISTINGUISH BETWEEN FOR-PROFIT AND NONPROFIT EDUCATIONAL INSTITUTIONS?**

**5/15 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, strongly distinguished	Yes, moderately distinguished	Yes, slightly distinguished	Not distinguished
<b>Type 1</b>	15 Points	<b>10 Points</b>	5 Points	0 Points
<b>Type 2</b>	15 Points	10 Points	5 Points	<b>0 Points</b>

**Explanation**

**Type 1: Proprietary schools.** Private nonprofit institutions that offer academic credits are exempt. (Miss. Code Ann. § 75-60-5(f), (g).)

**Type 2: Educational institutions offering postsecondary academic degrees.** The CCA does not distinguish between for-profit and nonprofit institutions. (Miss. Code Ann. § 37-101-241; CMSR 10-002-201.)

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**F. DOES THE STATE REQUIRE INCREASED OVERSIGHT/SCRUTINY OF PRIVATE POSTSECONDARY INSTITUTIONS BASED ON POOR PERFORMANCE?**

**0/10 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, mandatory	Yes, mandatory but limited	Yes, discretionary	Yes, discretionary but limited	No
<b>Type 1</b>	10 Points	7.5 Points	5 Points	2.5 Points	<b>0 Points</b>
<b>Type 2</b>	10 Points	7.5 Points	5 Points	2.5 Points	<b>0 Points</b>

**Explanation:**

**Type 1: Proprietary schools.** Mississippi law does not require increased oversight/scrutiny of proprietary schools based on poor performance, such as high cohort default rates, low graduation rates, and/or low job placement rates.

**Type 2: Educational institutions offering postsecondary academic degrees.** Mississippi law does not require increased oversight/scrutiny of colleges and universities that offer postsecondary academic degrees based on poor performance. (Miss. Code Ann. § 37-101-241; CMSR 10-002-201.)

G. DOES STATE LAW INCLUDE ANY SPECIAL PROTECTIONS FOR VETERANS WHO ATTEND PRIVATE POSTSECONDARY INSTITUTIONS?

0/20 POINTS\*

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	No
Type 1	20 Points	0 Points
Type 2	20 Points	0 Points

**Explanation:**

**Type 1: Proprietary schools.** Mississippi law does not include any special protections for veterans who attend proprietary schools.

**Type 2: Educational institutions offering postsecondary academic degrees.** Mississippi law does not include any special protections for veterans who attend educational institutions that offer postsecondary academic degrees.

III. STATE OVERSIGHT—SCOPE AND INCLUSION:

50/100 POINTS

A. ARE EXEMPTIONS TO STATE OVERSIGHT COVERAGE LIMITED?

50/100 POINTS

	No exemptions	Few exemptions	Moderate exemptions	Broad exemptions
Type 1	100 Points	75 Points	50 Points	0 Points
Type 2	100 Points	75 Points	50 Points	0 Points

**Explanation:**

For both Type 1 and Type 2 institutions, Mississippi law contains several exemptions to oversight. (Miss. Code Ann. § 75-60-5; CMSR 09-000-007 (Rule 3.5); Miss. Code Ann. § 37-101-241; CMSR 10-002-201(Rule 3.4).)

IV. DISCLOSURE REQUIREMENTS: 67.5/100 POINTS

A. ARE INSTITUTIONS REQUIRED TO DISCLOSE INSTITUTIONAL PERFORMANCE MEASURES TO POTENTIAL STUDENTS?

20/20 POINTS\*

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, mandatory	Yes, discretionary	None
	Fact sheet or equivalent required to be given to students	Fact sheet equivalent given to students upon request	No fact sheet required
Type 1	20 Points	10 Points	0 Points
Type 2	20 Points	10 Points	0 Points

**Explanation:**

**Type 1: Proprietary schools.** Mississippi requires proprietary schools to provide performance disclosures to prospective students via the Institution Disclosure of Information Form (CPSCR Form 14). This form must be maintained by the institution and made available upon request to CPSCR representatives for use in verification of compliance with this regulatory requirement. Mississippi requires the student to sign acknowledgement of receipt of this information. (CMSR 09-000-007 (Rule 3.8).)

**Type 2: Educational institutions offering postsecondary academic degrees.** Mississippi requires educational institutions that offer postsecondary academic degrees to provide students and prospective students with clearly presented information indicating the institution's current graduation rate by program and, if required by the Commission, job placement rate by program. Mississippi does not require the student to sign acknowledgement of receipt of this information. (CMSR 10-002-201 (Rule 4.2.18.4).)

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**B. WHICH INSTITUTIONAL PERFORMANCE DISCLOSURES ARE  
REQUIRED TO BE GIVEN TO STUDENTS PRIOR TO ENROLLMENT?**

**27.5/60 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

**Type 1: Proprietary schools**

Disclosures	Mandatory	Discretionary	Not specified
Cohort default rate (CDR)	10 Points	5 Points	0 Points
Graduation / completion rates	10 Points	5 Points	0 Points
Placement rates	10 Points	5 Points	0 Points
Wage information	10 Points	5 Points	0 Points
License exam passage rates	10 Points	5 Points	0 Points
Methods & sources used to calculate	10 Points	5 Points	0 Points

**Explanation:**

Mississippi requires proprietary institutions to disclose information about the percentage of students who complete the program of study within 150% of the normal time, and information about the percentage of the institution's graduates employed in their field of study or related field within six months after completion of, or graduation from, their program of study. (CMSR 09-000-007 (Rule 3.8).) The latter requirement is not precisely the same as "placement rates," but serves to convey similar information, so Mississippi receives credit for requiring this disclosure. Mississippi also requires proprietary schools to disclose information about cohort default rates and license exam passage rates to prospective students in the school catalog.

**Type 2: Educational institutions offering postsecondary academic degrees**

Disclosures	Mandatory	Discretionary	Not specified
Cohort default rate (CDR)	10 Points	5 Points	0 Points
Graduation / completion rates	10 Points	5 Points	0 Points
Placement rates	10 Points	5 Points	0 Points
Wage information	10 Points	5 Points	0 Points
License exam passage rates	10 Points	5 Points	0 Points
Methods & sources used to calculate	10 Points	5 Points	0 Points

**Explanation:**

Mississippi requires educational institutions that offer postsecondary academic degrees to disclose to students' graduation/completion rates and gives the CCA discretion to require institutions to disclose placement rates. (CMSR 10-002-201 (Rule 4.2.18.4).)

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**C. DOES THE STATE REQUIRE SCHOOLS TO DISCLOSE ELEMENTS  
ESSENTIAL TO STUDENT PROTECTION PRIOR TO ENROLLMENT OR  
IN THE ENROLLMENT CONTRACT?**

**20/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

***Type 1: Proprietary schools***

Element description	Mandatory	Discretionary	Not specified
<b>Total cost of program</b>	<b>5 Points</b>	2.5 Points	0 Points
<b>Refund information</b>	<b>5 Points</b>	2.5 Points	0 Points
<b>Transferability of credits</b>	<b>5 Points</b>	2.5 Points	0 Points
<b>Length of program</b>	<b>5 Points</b>	2.5 Points	0 Points

**Explanation:**

Mississippi requires educational institutions that offer postsecondary academic degrees to disclose all of the above elements to students prior to enrollment. (CMSR 09-000-007 (Rule 3.8).)

***Type 2: Educational institutions offering postsecondary academic degrees***

Element description	Mandatory	Discretionary	Not specified
<b>Total cost of program</b>	<b>5 Points</b>	2.5 Points	0 Points
<b>Refund information</b>	<b>5 Points</b>	2.5 Points	0 Points
<b>Transferability of credits</b>	<b>5 Points</b>	2.5 Points	0 Points
<b>Length of program</b>	<b>5 Points</b>	2.5 Points	0 Points

**Explanation:**

Mississippi requires institutions to disclose all of the above elements to students and prospective students prior to enrollment. (CMSR 10-002-201 (Rule 4.2.18.2).)

**V. REGULATION OF RECRUITING PRACTICES:**

**62.5/100 POINTS**

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**A. HAS THE STATE PUT INTO LAW A LIST OF PROHIBITED ACTS  
REGARDING ADVERTISING AND RECRUITING?**

**62.5/100**

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, strong regulation	Yes, moderate regulation	Yes, weak regulation	No list of prohibited acts
<b>Type 1</b>	100 Points	<b>75 Points</b>	50 Points	0 Points
<b>Type 2</b>	100 Points	75 Points	<b>50 Points</b>	0 Points

#### PROHIBITED ACTS

Included in list of Prohibited Acts	Type 1	Type 2
Misleading representations using the word “college” or “university”		
Misleading institution affiliations (e.g., military, public institution, businesses)		
Promise of employment	<b>X</b>	
Compensation for enrollment	<b>X</b>	
Compensation or “bounty” to recruiters		
Deception (broad prohibition)	<b>X</b>	<b>X</b>
Misrepresentation (broad prohibition)	<b>X</b>	<b>X</b>
Misleading representations re: accreditation	<b>X</b>	<b>X</b>

*1-3=Weak; 3.5-6=Moderate; 6.58=Strong*

#### Explanation:

**Type 1: Proprietary schools.** Mississippi prohibits proprietary institutions from making exaggerated statements concerning employment opportunities (CMSR 09-000-007 Rule 3.9.2), fraud (Rule 3.19, 3.20, 3.23), and false, misleading, or deceptive advertising. (Rule 3.23.) Misleading representations regarding accreditation and compensation for enrollment. (Rule 3.24.)

**Type 2: Educational institutions offering postsecondary academic degrees.** Mississippi broadly prohibits educational institutions that offer postsecondary academic degrees from practices of any type that are false, deceptive, misleading, or unfair. The state requires these educational institutions to ensure that all publications, by any medium, represent accurately and fairly the institution, its programs, available resources, tuition and fees, requirements, and authorization and accreditation status. (CMSR 10-002-201 (Rule 4.2.18.1).)

## VI. COMPLAINT PROCESS & RELIEF FOR STUDENTS:

**53.75/100 POINTS**

### A. DOES THE STATE REQUIRE A BOND OR FUND AS A CONDITION OF AUTHORIZATION?

**10/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	No
<b>Type 1</b>	<b>20 Points</b>	0 Points
<b>Type 2</b>	20 Points	<b>0 Points</b>

#### Explanation:

**Type 1: Proprietary schools.** Mississippi requires proprietary schools to include a surety bond with the application for a certificate of registration. (Miss. Code Ann. § 75-60-17.)

**Type 2: Educational institutions offering postsecondary academic degrees.** Mississippi does not require educational institutions that offer postsecondary academic degrees to post a surety bond as a condition of authorization. (Miss. Code Ann. § 37-101-241; CMSR 10-002-201.)

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**B. DOES THE STATE REQUIRE A REFUND OF TUITION IF A STUDENT ENROLLS AS THE RESULT OF MISREPRESENTATION?**

**10/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, full refund	Yes, partial refund	No refund required
<b>Type 1</b>	20 Points	10 Points	0 Points
<b>Type 2</b>	20 Points	10 Points	0 Points

**Explanation:**

**Type 1: Proprietary schools.** The required surety bond shall provide for the indemnification of any person suffering loss as the result of any false certification, school closure, any fraud or misrepresentation used in behalf of the principal in procuring such person's enrollment in a course of instruction, including repayment of tuition paid in advance by any student. (Miss. Code Ann. § 75-60-17.)

**Type 2: Educational institutions offering postsecondary academic degrees.** Mississippi law does not require educational institutions that offer postsecondary academic degrees to provide a refund to students who enroll as a result of misrepresentation. (Miss. Code Ann. § 37-101-241; CMSR 10-002-201.)

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**C. DOES THE STATE REQUIRE INSTITUTIONS TO REFUND TUITION IN THE EVENT OF CLOSURE?**

**7.5/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, full refund	Yes, partial refund	Yes, refund in limited circumstances	No refund required
<b>Type 1</b>	20 Points	15 Points	10 Points	0 Points
<b>Type 2</b>	20 Points	15 Points	10 Points	0 Points

**Explanation:**

**Type 1: Proprietary schools.** Mississippi law does not explicitly require a refund in the event of closure. The law lays out a refund policy that may apply, thus, a refund is available but may be limited. (Miss. Code Ann. § 75-60-18 CMSR 09-000-007.) Rule 3.27 requires proprietary schools to provide students with refund information upon closure, but does not specify that a full refund must be provided. (CMSR 09-000-007.) Rule 3.7 requires proprietary schools to provide 100% refund if tuition and fees are collected in advance of the starting date of a program and the institution cancels the class, but again, the law does not specify that a full refund is required where the student has attended the class for a period of time and then the institution cancels the class because it the institution in closing.

**Type 2: Educational institutions offering postsecondary academic degrees.** Mississippi law does not require educational institutions that offer postsecondary academic degrees to provide a full refund to students upon school closure. A provision requires schools to provide students with refund information upon closure, but unlike proprietary schools in the state, there is no required refund and there are no guidelines set forth in the law regarding refunds in this circumstance. (CMSR 10-002-201 (Rule 5.5).)



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D. DOES THE STATE ALLOW STUDENTS AMPLE TIME TO MAKE A COMPLAINT?  
**10/10 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	2 years or more (or no deadline)	1-2 years	Under 1 year	Not applicable
Type 1	10 Points	5 Points	1 Point	0 Points
Type 2	10 Points	5 Points	1 Points	0 Points

**Explanation:**

**Type 1: Proprietary schools.** Any person who believes he has been aggrieved by a violation of this section shall have the right to file a written complaint within 2 years of the alleged violation. (Miss. Code Ann. § 75-60-19.) The CPSCR must receive all complaints within 2 years of the alleged violation. (CMSR 09-000-007 Rule 3.19(C).)

**Type 2: Educational institutions offering postsecondary academic degrees.** Mississippi law does not contain any information with regard to student/consumer complaints about educational institutions that offer postsecondary academic degrees. As such, there is no deadline by which a student must file a complaint. The online instructions regarding student complaints specify that the student has two years in which to file a complaint.

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E. DOES THE STATE REQUIRE INSTITUTIONS TO DISCLOSE INFORMATION  
ABOUT FILING A COMPLAINT WITH THE STATE OVERSIGHT BODY?  
**6.25/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

***Type 1: Proprietary schools***

Medium	Mandatory	Discretionary	Not specified
Catalog	10 Points	5 Points	0 Points
Website	5 Points	2.5 Points	0 Points
Enrollment contract	5 Points	2.5 Points	0 Points

**Explanation:**

Mississippi law requires proprietary schools to disclose information about filing a complaint with the state oversight body in the school catalog as part of the school's grievance process. Students may file a complaint with CPSCR once they have gone through the school's complaint process. Therefore, Mississippi receives 10 points for requiring the information in the school catalog and 2.5 points because schools often post the school catalog or information from the school catalog on the school website.

***Type 2: Educational institutions offering postsecondary academic degrees***

Medium	Mandatory	Discretionary	Not specified
Catalog	10 Points	5 Points	0 Points
Website	5 Points	2.5 Points	0 Points
Enrollment contract	5 Points	2.5 Points	0 Points



**Explanation:**

Mississippi law does not require educational institutions that offer postsecondary academic degrees to disclose information about filing a complaint with the state oversight body.

F. IS THE COMPLAINT PROCESS READILY ACCESSIBLE AND  
AVAILABLE ON THE STATE OVERSIGHT BODY WEBSITE?

**10/10 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, with address	Yes, with phone #	Yes, with email address	Yes, with electronic form	No
Type 1	2 Points	2 Points	3 Points	3 Points	0 Points
Type 2	2 Points	2 Points	3 Points	3 Points	0 Points

**Explanation:**

**Type 1: Proprietary schools.** CPSCR provides an online form with instructions, phone number, and email address. Students can print out the form, complete it, and mail it into the CPSCR.

**Type 2: Educational institutions offering postsecondary academic degrees.** CCA provides a web page with a detailed explanation on how a student can file a complaint, an address, a phone number, an email address, and an online form that a student can fill out and send into CCA.

**VII. ENFORCEMENT: 20/100 POINTS**

A. IS THERE LOSS OF STATE AID FOR SCHOOLS THAT REPEATEDLY  
PRODUCE SUBSTANDARD GRADUATION RATES, JOB PLACEMENT  
RATES, AND/OR COHORT DEFAULT RATES?

**0/30 POINTS**

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, required	Yes, required but limited	Yes, discretionary	Yes, discretionary but limited	No
Type 1	N/A	N/A	N/A	N/A	N/A
Type 2	30 Points	20 Points	15 Points	5 Points	0 Points

**Explanation:**

**Type 1: Proprietary schools.** Proprietary schools do not receive state aid in Mississippi.

**Type 2: Educational institutions offering postsecondary academic degrees.** While educational institutions that offer postsecondary academic degrees can lose aid for a number of reasons, Mississippi law contains no provisions that require the loss of aid for institutions that repeatedly produce substandard graduation, job placement or cohort default rates

B. DOES STATE LAW EXPLICITLY AUTHORIZE A PRIVATE RIGHT OF ACTION FOR STUDENTS AGAINST INSTITUTIONS THAT HAVE VIOLATED THE LAWS/REGULATIONS IN PLACE TO GOVERN THEM?

**0/30 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	Limited circumstances	No
Type 1	30 Points	15 Points	0 Points
Type 2	30 Points	15 Points	0 Points

**Explanation:**

**Type 1: Proprietary schools.** Mississippi law does not authorize a private right of action for students to use against proprietary institutions who have violated the laws/regulations in place to govern them.

**Type 2: Educational institutions offering postsecondary academic degrees.** Mississippi law does not authorize a private right of action for students to use against educational institutions that offer postsecondary academic degrees who have violated the laws / regulations in place to govern them.

C. DOES STATE LAW EXPLICITLY ALLOW ATTORNEY FEE AWARDS FOR STUDENTS WHO PREVAIL IN LITIGATION AGAINST PRIVATE FOR-PROFIT POSTSECONDARY INSTITUTIONS?

**0/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	Limited	No
Type 1	20 Points	15 Points	0 Points
Type 2	20 Points	15 Points	0 Points

**Explanation:**

**Type 1: Proprietary schools.** Mississippi law does not explicitly allow attorney fee awards for students who prevail in litigation against proprietary institutions who have violated the laws/regulations in place to govern them.

**Type 2: Educational institutions offering postsecondary academic degrees.** Mississippi law does not explicitly allow attorney fee awards for students who prevail in litigation against educational institutions that offer postsecondary academic degrees who have violated the laws / regulations in place to govern them.

D. DOES STATE LAW EXPLICITLY AUTHORIZE ATTORNEY GENERAL INVOLVEMENT?

**20/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

Yes	Limited circumstances	No
20 Points	10 Points	0 Points
20 Points	10 Points	0 Points

**Explanation:**

***Type 1: Proprietary schools.*** Mississippi law authorizes attorney general involvement. (Miss. Code Ann. § 75-60-21.)

***Type 2: Educational institutions offering postsecondary academic degrees.*** Mississippi law authorizes attorney general involvement. (Miss. Code Ann. § 37-101-241; CMSR 10-002-201, Rule 1.1(5).)

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## BONUS POINTS:

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Mississippi does not receive any bonus points.



## ILLUMINATING INFORMATION

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## RECIPROCITY AGREEMENTS

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Mississippi is a member of the State Authorization Reciprocity Agreements (SARA).

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## LITIGATION, INVESTIGATIONS, AND ACTIONS INVOLVING PRIVATE FOR-PROFIT EDUCATIONAL INSTITUTIONS IN MISSISSIPPI

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For information about pending and recent federal and state government investigations and actions regarding for-profit colleges see David Halperin's compilation at <http://www.republicreport.org/2014/law-enforcement-for-profit-colleges/#sthash.1vc4HmPw.dpuf>.

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# MISSOURI

## FINAL GRADING ANALYSIS

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OVERALL SCORE: **254/700 POINTS (36.3%)**  
LETTER GRADE: **F**

### I. OVERSIGHT BODY: **65/100 POINTS**

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#### A. IS THERE A STATUTORILY CREATED OVERSIGHT BODY THAT IS PUBLICLY ACCOUNTABLE? **50/60 POINTS**

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Element	Points Available	Points Awarded
1. Oversight body is a multi-member board, commission, or panel created by statute	10	10
2. Oversight body was statutorily created specifically to oversee private postsecondary institutions	10	5
3. Multi-member board, commission, or panel is the ultimate decision maker (as opposed to a single person, like the head of a department or director)	10	10
4. Oversight body can engage in rulemaking	10	10
5. Oversight body's meetings must be open to the public	5	5
6. Oversight body's meetings must allow public comment	5	0
7. Oversight body can initiate investigations	5	5
8. Oversight body can impose penalties for violations	5	5
Total Points	60	50

#### Explanation:

The Coordinating Board for Higher Education (CBHE) is the head of Missouri's Department of Higher Education. (§ 173.005 R.S.Mo.) One of the Board's responsibilities is the regulation and oversight of for-profit private postsecondary institutions in Missouri. (§ 173.612 R.S.Mo.) The Board has the authority to investigate institutions and impose penalties where appropriate. (§ 173.612 R.S.Mo.) Meetings of the Board must be open to the public pursuant to Missouri's Sunshine Law, but there is no indication that meetings must allow for public comment. (§ 610.010 R.S.Mo., et seq.)

Missouri receives partial credit for having a board that was statutorily-created specifically to oversee private postsecondary institutions because Missouri law creates the Proprietary School Advisory Committee within the Department of Higher Education. The Committee, which is strictly advisory, was created to advise the Board in the administration of sections 173.600 to 173.618 R.S.Mo; make recommendations with respect to the rules and regulations establishing minimum standards which are to

be adopted by the Board; and advise the Board with respect to grievances and complaints. (§ 173.614 R.S.Mo.)

**B. STATUTE-SPECIFIED MEMBERSHIP:**

**1. TO WHAT EXTENT ARE LIMITATIONS PLACED ON FOR-PROFIT MEMBERSHIP ON THE OVERSIGHT BODY?**

**10/25 POINTS**

Explicit prohibition on for-profit majority, plus no possibility of a majority of the quorum	Explicit prohibition on for-profit majority	Discouraged	No prohibition specified, but not discouraged	For-profit majority mandated
<b>25 10 Points</b>	20 Points	10 Points	0 Points	-5 points

**Explanation:**

Missouri law prohibits members of the Board from being engaged professionally as educators or educational administrators with a public or private institution of higher education at the time appointed or during their term. (§ 173.005 R.S.Mo.) However, Missouri loses 15 points because the state requires that all members of the Proprietary School Advisory Committee be owners or managerial employees of proprietary schools, and Missouri gives the Advisory Committee responsibilities that have the potential to greatly influence the Board. (§ 173.614 R.S.Mo.)

**2. IS THE OVERSIGHT BODY MANDATED TO INCLUDE AT LEAST ONE CONSUMER ADVOCATE?**

**0/10 POINTS**

Yes	No
10 Points	<b>0 Points</b>

**Explanation:**

Missouri law does not require either the Board or the Advisory Committee to include a consumer advocate. (§ 173.005 R.S.Mo.; § 173.614 R.S.Mo.)

**3. ARE THE MEMBERS APPOINTED BY A PUBLICLY ACCOUNTABLE OFFICIAL OR ELECTED IN A GENERAL ELECTION?**

**5/5 POINTS**

All	Majority	Half	Minority	None
<b>5 Points</b>	3 Points	2.5 Points	1 Points	0 Points

The Board consists of nine members appointed by the governor with the advice and consent of the senate. (§ 173.005 R.S.Mo.)

## II. STATE OVERSIGHT—EFFICACY:

**54/100 POINTS**

### A. DOES THE STATE REQUIRE ONSITE REVIEW OF PRIVATE POSTSECONDARY INSTITUTIONS?

**3/10 POINTS**

Mandatory onsite reviews			Discretionary	None
Every 2 years or less	Every 3-5 years	Over 5 years	Discretion to conduct onsite reviews	No review specified
10 Points	8 Points	5 Points	<b>3 Points</b>	0 Points

#### Explanation

Missouri law requires proprietary schools to have a certificate of approval to operate. The certificates must be renewed annually for newer schools; schools that have been in continuous operation for no less than five years are eligible to apply for certification that is valid for two years. Missouri requires the Board to review applications and may conduct an investigation of the applicant to ensure compliance with the rules and regulations. (§ 173.606 R.S.Mo.) The Board, therefore, has discretion to conduct reviews.

### B. DOES THE STATE REQUIRE UNANNOUNCED INSPECTIONS FOR ONSITE REVIEWS?

**0/5 POINTS**

Required unannounced visits	Discretion to do unannounced visits	No indication
5 Points	3 Points	<b>0 Points</b>

#### Explanation:

Missouri law does not require or authorize unannounced inspections for onsite reviews.

### C. DOES THE STATE REQUIRE REGULAR REVIEWS OF PRIVATE POSTSECONDARY APPROVAL TO OPERATE?

**20/20 POINTS**

Mandatory			Discretionary	None
Every 2 years or less	Every 3-5 years	Over 5 years	Discretion to conduct reviews	No review specified
<b>20 Points</b>	15 Points	10 Points	5 Points	0 Points

#### Explanation:

Missouri law requires proprietary schools to have a certificate of approval to operate. The certificates must be renewed annually for newer schools; schools that have been in continuous operation for no less than five years are eligible to apply for certification that is valid for two years. The Board must review and approve each of these applications. (§ 173.606 R.S.Mo.)

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D. DO THE CRITERIA FOR RENEWAL OF AUTHORIZATION MANDATE A REVIEW OF FACTORS ESSENTIAL TO ACADEMIC AND ETHICAL INTEGRITY?

**18.5/20 POINTS**

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8 of 8	7 of 8	6 of 8	5 of 8	4 of 8	3 of 8	2 of 8	1 of 8	0 of 8
20 Points	<del>17.5</del> <b>18.5 Points</b>	15 Points	12.5 Points	10 Points	7.5 Points	5 Points	2.5 Points	0 Points

Element	
Admission requirements	M
Graduation requirements	M
Placement rate	M
Completion rate (or graduation rate)	M
Advertising practices	M
Cohort default rate	D
Accreditation status	M
Financial aid policies	M

**Explanation:**

Missouri law outlines requirements for certification. (6 CSR 10-5.010.) Schools must obtain certification to operate and must renew annually. Missouri has standards in place related to admission requirements, graduation/completion requirements, placement rates, completion/graduation rate, advertising practices, accreditation, and financial aid policies. Some proprietary schools may qualify for biannual renewal. In order to qualify for biennial recertification, a school must maintain a cohort default rate of no more than five percent below the official threshold rate published by the United States Department of Education. (6 CSR 10-5.010.) Because the default rate is discretionary (it is required only for proprietary institutions subject to biennial recertification), Missouri receives only one point for that element.

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E. DOES THE STATE'S OVERSIGHT DISTINGUISH BETWEEN FOR-PROFIT AND NONPROFIT EDUCATIONAL INSTITUTIONS?

**10/15 POINTS**

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Yes, strongly distinguished	Yes, moderately distinguished	Yes, slightly distinguished	Not distinguished
15 Points	<b>10 Points</b>	5 Points	0 Points

**Explanation:**

Missouri law makes several distinctions between for-profit private postsecondary institutions and specified nonprofit private postsecondary institutions. For example, it exempts some religious and eleemosynary institutions from the statute governing proprietary institutions (§ 173.616 R.S.Mo) and it exempts nonprofit institutions that meet the definition of an “approved private institution.” (§ 173.1102 R.S.Mo.)



F. DOES THE STATE REQUIRE INCREASED OVERSIGHT/SCRUTINY OF PRIVATE POSTSECONDARY INSTITUTIONS BASED ON POOR PERFORMANCE?

2.5/10 POINTS

Yes, mandatory	Yes, mandatory but limited	Yes, discretionary	Yes, discretionary but limited	No
10 Points	7.5 Points	5 Points	2.5 Points	0 Points

**Explanation:**

Generally, proprietary institutions must renew certification annually. In specified circumstances, the Board will allow a proprietary school to renew its certification on a biennial basis. However, one of the factors that will lead the Board to require an institution to return to annual recertification is a cohort default rate that exceeds five percent below the official threshold rate published by the United States Department of Education. (6 CSR 10-5.010(4)(f).) Missouri law also allows the Board to place a proprietary school on probation, suspend certification and revoke certification. Probation requires increased oversight, but is intended for situations in which the school is not compliant with the statutes and regulations governing it. Probation, suspension, and revocation are not implemented in response to poor performance with regard to graduation rates, placement rates, and/or cohort default rates. Therefore, Missouri does not receive full credit for this element.

G. DOES STATE LAW INCLUDE ANY SPECIAL PROTECTIONS FOR VETERANS WHO ATTEND PRIVATE POSTSECONDARY INSTITUTIONS?

0/20 POINTS

Yes	No
20 Points	0 Points

**Explanation:**

Missouri law does not contain any special protections for veterans who attend private postsecondary institutions. (§ 173.600 R.S.Mo. et seq.; 6 CSR 10-5.010.)

III. STATE OVERSIGHT—SCOPE AND INCLUSION:

0/100 POINTS

A. ARE EXEMPTIONS TO STATE OVERSIGHT COVERAGE LIMITED?

0/100 POINTS

No exemptions	Few exemptions	Moderate exemptions	Broad exemptions
100 Points	75 Points	50 Points	0 Points

**Explanation:**

Missouri law contains extensive exemptions from the requirement to obtain certification from the Board. For example, these exemptions include any college or university represented directly or indirectly on the Advisory Committee of the Coordinating Board for Higher Education, and a “school that is otherwise licensed and approved under and pursuant to any other licensing law of this state.” (6 CSR 10-5.010(3).)

Additionally, Missouri law gives faith and credit consideration to accreditation by a national or regional accrediting association recognized by the United States Department of Education and to approval by other governmental agencies, including certification or licensing approval by another state. The Department has discretion to waive any part of the certification procedure for reason of such accreditation or approval. (6 CSR 10-5.010(4); § 173.604 R.S.Mo.)

#### IV. DISCLOSURE REQUIREMENTS: **15/100 POINTS**

##### A. ARE INSTITUTIONS REQUIRED TO DISCLOSE INSTITUTIONAL PERFORMANCE MEASURES TO POTENTIAL STUDENTS?

**0/20 POINTS**

Yes, mandatory	Yes, discretionary	None
Fact sheet or equivalent required to be given to students	Fact sheet or equivalent given to students upon request	No fact sheet required
20 Points	10 Points	0 Points

##### Explanation:

While Missouri law requires proprietary schools to provide students with a catalog containing information about admission, graduation, refunds, and other school policies, it does not require proprietary schools to provide potential students with a fact sheet or other document containing performance measure disclosures. (6 CSR 10-5.010(6).)

##### B. WHICH INSTITUTIONAL PERFORMANCE DISCLOSURES ARE REQUIRED TO BE GIVEN TO STUDENTS PRIOR TO ENROLLMENT?

**0/60 POINTS**

Disclosures	Mandatory	Discretionary	Not specified
Cohort default rate (CDR)	10 Points	5 Points	0 Points
Graduation / completion rates	10 Points	5 Points	0 Points
Placement rates	10 Points	5 Points	0 Points
Wage information	10 Points	5 Points	0 Points
License exam passage rates	10 Points	5 Points	0 Points
Methods & sources used to calculate	10 Points	5 Points	0 Points

##### Explanation:

Missouri law does not require proprietary institutions to disclose performance measures to potential students prior to enrollment.

C. DOES THE STATE REQUIRE SCHOOLS TO DISCLOSE ELEMENTS  
ESSENTIAL TO STUDENT PROTECTION PRIOR TO ENROLLMENT OR  
IN THE ENROLLMENT CONTRACT?

**15/20 POINTS**

Element Description	Mandatory	Discretionary	Not specified
Total cost of program	5 Points	2.5 Points	0 Points
Refund information	5 Points	2.5 Points	0 Points
Transferability of credits	5 Points	2.5 Points	0 Points
Length of program	5 Points	2.5 Points	0 Points

**Explanation:**

Missouri law requires proprietary schools to disclose information in the enrollment contract about total cost of a program, refund information, and the time required to complete a program. (6 CSR 10-5.010.)

**V. REGULATION OF RECRUITING PRACTICES:**

**75/100 POINTS**

A. HAS THE STATE PUT INTO LAW A LIST OF PROHIBITED ACTS  
REGARDING ADVERTISING AND RECRUITING?

**75/100**

Yes, strong regulation	Yes, moderate regulation	Yes, weak regulation	No list of prohibited acts
100 Points	75 Points	50 Points	0 Points

PROHIBITED ACTS

Included in list of prohibited acts	
Misleading representations using the word “college” or “university”	
Misleading institution affiliations (e.g., military, public institutions, businesses)	X
Promise of employment	X
Compensation for enrollment	
Compensation or “bounty” to recruiters	
Deception (broad prohibition)	X
Misrepresentation (broad prohibition)	X
Misleading representations re: accreditation	X

*1-3=Weak; 3.5-6=Moderate; 6.5-8=Strong*

**Explanation:**

In 6 CSR 10-5.010, Missouri specifies standards for proprietary school advertising. The standards effectively prohibit misleading promised employment (advertising in the want ads, etc.), deception, misrepresentation, and misleading representations related to a school’s accreditation.

## VI. COMPLAINT PROCESS AND RELIEF FOR STUDENTS:

**40/100 POINTS**

### A. DOES THE STATE REQUIRE A BOND OR FUND AS A CONDITION OF AUTHORIZATION?

**20/20 POINTS**

Yes	No
20 Points	0

#### **Explanation:**

Missouri requires each proprietary school to file a security bond covering the school and its agents to indemnify any student, enrollee or parent, guardian, or sponsor of a student or enrollee who suffers loss or damage because of the school's violation of sections 173.600 to 173.618, or because a student is unable to complete the course due to the school's ceasing operation, or because a student does not receive a refund to which he is entitled. The bond or other security shall cover all the facilities and locations of a proprietary school and shall not be less than \$5,000 or 10 percent of the preceding year's gross tuition, whichever is greater, but in no case shall it exceed \$100,000. (§ 173.612 R.S.Mo.)

### B. DOES THE STATE REQUIRE A REFUND OF TUITION IF A STUDENT ENROLLS AS THE RESULT OF MISREPRESENTATION?

**0/20 POINTS**

Yes, full refund	Yes, partial refund	No refund required
20 Points	10 Points	0 Points

#### **Explanation:**

Missouri does not explicitly require proprietary schools to provide a full or partial refund to students who enroll as the result of misrepresentation.

### C. DOES THE STATE REQUIRE INSTITUTIONS TO REFUND TUITION IN THE EVENT OF CLOSURE?

**10/20 POINTS**

Yes, full refund	Yes, partial refund	Yes, refund in limited circumstances	No refund required
20 Points	15 Points	10 Points	0 Points

#### **Explanation:**

Missouri gives proprietary schools discretion to provide a refund in situations in which the school closes or has its certificate of approval suspended, revoked, or not renewed. (6 CSR 10-5.010(8)(b).) Thus, students will receive refunds only if a school decides to provide them.

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**D. DOES THE STATE ALLOW STUDENTS AMPLE TIME TO MAKE A COMPLAINT?**  
**10/10 POINTS**

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2 years or more (or no deadline)	1-2 years	Under 1 year	Not applicable
10 Points	5 Points	1 Point	0 Points

**Explanation:**

Missouri law does not specify a timeframe for student complaints and does not give a deadline by which students must file an initial complaint.

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**E. DOES THE STATE REQUIRE INSTITUTIONS TO DISCLOSE INFORMATION ABOUT FILING A COMPLAINT WITH THE STATE OVERSIGHT BODY?**  
**0/20 POINTS**

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Medium	Mandatory	Discretionary	Not specified
Catalog	10 Points	5 Points	0 Points
Website	5 Points	2.5 Points	0 Points
Enrollment contract	5 Points	2.5 Points	0 Points

**Explanation:**

Missouri does not explicitly require institutions to disclose information about filing a complaint with the state oversight body.

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**F. IS THE COMPLAINT PROCESS READILY ACCESSIBLE AND AVAILABLE ON THE STATE OVERSIGHT BODY'S WEBSITE?**  
**0/10 POINTS**

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Yes, with address	Yes, with phone #	Yes, with email address	Yes, with electronic form	No
2 Points	2 Points	3 Points	3 Points	0 Points

**Explanation:**

The complaint process is explained in a form that can be found on the Department's website, and the form does contain a phone number—but it is not readily available. A student would have to go to the Board's website, run a search, and then sift through the documents to find this link. Further, the process requires that prior to filing a complaint, complainants must first call the Department of Higher Education to indicate their desire to file a complaint. At that time, the Department will ascertain whether the issue can be resolved through informal means and also determine whether administrative processes available within the institution of concern have been exhausted. If after that screening the complainant still desires to initiate a formal complaint, the Department will send the complainant the form to be filled out and returned for that purpose.

## VII. ENFORCEMENT: 5/100 POINTS

### A. IS THERE LOSS OF STATE AID FOR SCHOOLS THAT REPEATEDLY PRODUCE SUBSTANDARD GRADUATION RATES, JOB PLACEMENT RATES, AND/OR COHORT DEFAULT RATES?

**5/30 POINTS**

Yes, required	Yes, required but limited	Yes, discretionary	Yes, discretionary but limited	No
30 Points	20 Points	15 Points	<b>5 Points</b>	0 Points

**Explanation:**

In limited circumstances a school may be penalized for poor performance. Specifically, schools that meet eligibility criteria may request a certificate of approval to operate that is valid for a two-year period, rather than a one-year renewal period. If these schools fail to maintain an official cohort default rate of no more than 5 percent below the official threshold rate published by the United States Department of Education, the Board can rescind its biennial recertification. (6 CSR 10-5.010(4).)

### B. DOES STATE LAW EXPLICITLY AUTHORIZE A PRIVATE RIGHT OF ACTION FOR STUDENTS INSTITUTIONS THAT HAVE VIOLATED THE LAWS AND REGULATIONS IN PLACE TO GOVERN THEM?

**0/30 POINTS**

Yes	Limited circumstances	No
30 Points	15 Points	<b>0 Points</b>

**Explanation:**

Missouri law does not create a private right of action for students against institutions that have violated the laws and regulations in place to govern them.

### C. DOES STATE LAW EXPLICITLY ALLOW ATTORNEY FEE AWARDS FOR STUDENTS WHO PREVAIL IN LITIGATION AGAINST PRIVATE FOR-PROFIT POSTSECONDARY INSTITUTIONS?

**0/20 POINTS**

Yes	Limited	No
20 Points	15 Points	<b>0 Points</b>

**Explanation:**

Missouri law does not explicitly allow attorney fee awards for students who prevail in litigation against institutions who have violated the laws and regulations in place to govern them.

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D. DOES STATE LAW EXPLICITLY AUTHORIZE  
ATTORNEY GENERAL INVOLVEMENT?

**0/20 POINTS**

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Yes	Limited circumstances	No
20 Points	10 Points	0 Points

**Explanation:**

Missouri law does not explicitly authorize attorney general involvement in matters related to private postsecondary educational institutions in the state.

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BONUS POINTS:

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Missouri does not receive any bonus points.



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ILLUMINATING INFORMATION

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RECIPROCITY AGREEMENTS

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Missouri is a member of the State Authorization Reciprocity Agreements (SARA).

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LITIGATION, INVESTIGATIONS, AND ACTIONS INVOLVING PRIVATE  
FOR-PROFIT EDUCATIONAL INSTITUTIONS IN MISSOURI

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# MONTANA

## FINAL GRADING ANALYSIS

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OVERALL SCORE: **132/700 POINTS (18.9%)**  
LETTER GRADE: **F**

### I. OVERSIGHT BODY: **30/100 POINTS**

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#### A. IS THERE A STATUTORILY CREATED OVERSIGHT BODY THAT IS PUBLICLY ACCOUNTABLE? **25/60 POINTS**

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Element	Points Available	Type 1	Type 2	Points Awarded (Average)
1. Oversight body is a multi-member board, commission, or panel created by statute	10	10	0	5
2. Oversight body was statutorily created specifically to oversee private postsecondary institutions	10	0	0	0
3. Multi-member board, commission, or panel is the ultimate decision maker (as opposed to a single person, like the head of a department or director)	10	10	0	5
4. Oversight body can engage in rulemaking	10	10	0	5
5. Oversight body's meetings must be open to the public	5	5	5	5
6. Oversight body's meetings must allow public comment	5	5	5	5
7. Oversight body can initiate investigations	5	5	0	2.5
8. Oversight body can impose penalties for violations	5	5	0	2.5
Total Points	60	50	0	25

**Explanation:**

Montana has both degree-granting and non-degree-granting for-profit and nonprofit private postsecondary institutions. The Montana Board of Regents is responsible for approval and oversight of both for-profit and nonprofit degree-granting institutions (Type 1). No agency or board has responsibility for approval and oversight of non-degree-granting for-profit and nonprofit private postsecondary institutions (Type 2); the educational and business requirements are the same for these institutions as for degree-granting institutions.

Montana's open meetings law requires that all meetings of public or governmental bodies, boards, bureaus, commissions, agencies of the state, or any political subdivision of the state or organizations or agencies supported in whole or in part by public funds or expending public funds, including the supreme

court, must be open to the public. (2-3-203, MCA.) Further, the Montana Constitution contains both a right to know (Mont. Const., Art. II § 9) and a right of participation (Mont. Const., Art. II § 8). The Board of Regents, therefore, must hold meetings open to the public and must allow public participation. The scope of authority and the duties of the Board is articulated in Montana Board of Regents of Higher Education Policy and Procedures Manual (see, in particular, Policy 221, Authorization to Operate Postsecondary Institution in the State of Montana).

## B. STATUTE-SPECIFIED MEMBERSHIP:

### 1. TO WHAT EXTENT ARE LIMITATIONS PLACED ON FOR-PROFIT MEMBERSHIP ON THE OVERSIGHT BODY?

**0/25 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Explicit prohibition on for-profit majority, plus no possibility of a majority of the quorum	Explicit prohibition on for-profit majority	Discouraged	No prohibition specified, but not discouraged	For-profit majority mandated
Type 1	25 Points	20 Points	10 Points	0 Points	-5 points
Type 2	25 Points	20 Points	10 Points	0 Points	-5 points

#### **Explanation:**

**Type 1: Degree-granting private postsecondary educational institutions.** Montana does not prohibit for-profit interests from serving on the Board of Regents.

**Type 2: Non-degree-granting private postsecondary educational institutions.** Montana uses bureaus of the Department of Labor and Industry to regulate various types of non-degree-granting institutions, and there is no indication of a general prohibition on for profit-membership among bureau heads.

### 2. IS THE OVERSIGHT BODY MANDATED TO INCLUDE AT LEAST ONE CONSUMER ADVOCATE?

**0/10 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	No
Type 1	10 Points	0 Points
Type 2	10 Points	0 Points

#### **Explanation:**

**Type 1: Degree-granting private postsecondary educational institutions.** Montana does not require a consumer advocate on the Board of Regents. It does require a student member, which is commendable. (Montana Board of Regents of Higher Education, Policy and Procedures Manual, Policy 201.7-By-laws.) However, there is no requirement that the Board of Regents include an individual with expertise and experience in consumer advocacy.

**Type 2: Non-degree-granting private postsecondary educational institutions.** Montana does not require a consumer advocate on the regulatory body.

3. ARE THE MEMBERS APPOINTED BY A PUBLICLY ACCOUNTABLE OFFICIAL OR ELECTED IN A GENERAL ELECTION?

**5/5 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	All	Majority	Half	Minority	None
Type 1	5 Points	3 Points	2.5 Points	1 Point	0 Points
Type 2	5 Points	3 Points	2.5 Points	1 Point	0 Points

**Explanation:**

**Type 1: Degree-granting private postsecondary educational institutions.** The governor appoints, and the senate confirms, all seven members of the Board of Regents.

**Type 2: Non-degree-granting private postsecondary educational institutions.** Members of the various commissions, divisions, and bureaus that oversee various types of professional schools are appointed by the governor.

## II. STATE OVERSIGHT—EFFICACY:

**3.75/100 POINTS**

A. DOES THE STATE REQUIRE ONSITE REVIEW OF PRIVATE POSTSECONDARY INSTITUTIONS?

**0/10 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Mandatory onsite reviews			Discretionary	None
	Every 2 years or less	Every 3-5 years	Over 5 years	Discretion to conduct onsite reviews	No review specified
Type 1	10 Points	8 Points	5 Points	3 Points	0 Points
Type 2	10 Points	8 Points	5 Points	3 Points	0 Points

**Explanation:**

**Type 1: Degree-granting private postsecondary educational institutions.** Montana law does not explicitly require the Board to conduct onsite reviews.

**Type 2: Non-degree-granting private postsecondary educational institutions.** Montana law does not appear to require onsite reviews either in general, or in regard to the specific institutions that are overseen by bureaus.

**B. DOES THE STATE REQUIRE UNANNOUNCED INSPECTIONS FOR ONSITE REVIEWS?**

**0/5 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Required unannounced visits	Discretion to do unannounced visits	No indication
Type 1	5 Points	3 Points	0 Points
Type 2	5 Points	3 Points	0 Points

**Explanation:**

**Type 1: Degree-granting private postsecondary educational institutions.** Montana law does not explicitly require or authorize unannounced inspections by the Board.

**Type 2: Non-degree-granting private postsecondary educational institutions.** Montana law does not appear to explicitly require or authorize unannounced inspections of these institutions.

**C. DOES THE STATE REQUIRE REGULAR REVIEWS OF PRIVATE POSTSECONDARY APPROVAL TO OPERATE?**

**0/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Mandatory			Discretionary	None
	Every 2 years or less	Every 3-5 years	Over 5 years	Discretion to conduct reviews	No review specified
Type 1	20 Points	15 Points	10 Points	5 Points	0 Points
Type 2	20 Points	15 Points	10 Points	5 Points	0 Points

**Explanation:**

**Type 1: Degree-granting private postsecondary educational institutions.** Montana law does not require or address regular reviews of degree-granting private postsecondary institutions.

**Type 2: Non-degree-granting private postsecondary educational institutions.** Montana law does not require or address regular reviews of non-degree-granting private postsecondary institutions.

**D. DO THE CRITERIA FOR RENEWAL OF AUTHORIZATION MANDATE A REVIEW OF FACTORS ESSENTIAL TO ACADEMIC AND ETHICAL INTEGRITY?**

**1.25/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	8 of 8	7 of 8	6 of 8	5 of 8	4 of 8	3 of 8	2 of 8	1 of 8	0 of 8
Type 1	20 Points	17.5 Points	15 Points	12.5 Points	10 Points	7.5 Points	5 Points	2.5 Points	0 Points
Type 2	20 Points	17.5 Points	15 Points	12.5 Points	10 Points	7.5 Points	5 Points	2.5 Points	0 Points

Element:	Type 1	Type 2
Admission requirements		
Graduation requirements		
Placement rate		
Completion rate (or graduation rate)		
Advertising practices		
Cohort default rate		
Accreditation status	M	
Financial aid policies		

**Explanation:**

**Type 1: Degree-granting private postsecondary educational institutions.** The Board's Policy and Procedures Manual requires private institutions seeking authorization to operate in Montana to meet the following requirements: accreditation by one of several specified accrediting agencies and demonstration of financial integrity. (Policy 221.)

**Type 2: Non-degree-granting private postsecondary educational institutions.** There is no indication that non-degree-granting postsecondary institutions in Montana must meet any of the above standards to obtain or renew authorization.

**E. DOES THE STATE'S OVERSIGHT DISTINGUISH BETWEEN FOR-PROFIT AND NONPROFIT EDUCATIONAL INSTITUTIONS?**

**2.5/15 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, strongly distinguished	Yes, moderately distinguished	Yes, slightly distinguished	Not distinguished
Type 1	15 Points	10 Points	5 Points	0 Points
Type 2	15 Points	10 Points	5 Points	0 Points

**Explanation:**

**Type 1: Degree-granting private postsecondary educational institutions.** Montana exempts some religious private postsecondary educational institutions that are operated on a nonprofit basis. (Montana Board of Regents of higher education, Policy and Procedures Manual, Policy 221(C).)

**Type 2: Non-degree-granting private postsecondary educational institutions.** There is no designated overarching oversight board/body for either for-profit or nonprofit non-degree-granting private postsecondary educational institutions. Aside from potential distinctions in the formation of each type of entity, there appear to be no distinction made between for-profit and nonprofit institutions.

**F. DOES THE STATE REQUIRE INCREASED OVERSIGHT/SCRUTINY OF PRIVATE POSTSECONDARY INSTITUTIONS BASED ON POOR PERFORMANCE?**

**0/10 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, mandatory	Yes, mandatory but limited	Yes, discretionary	Yes, discretionary but limited	No
Type 1	10 Points	7.5 Points	5 Points	2.5 Points	0 Points
Type 2	10 Points	7.5 Points	5 Points	2.5 Points	0 Points

**Explanation:**

There is no indication that Montana increases oversight/scrutiny of private postsecondary institutions based on poor performance (as determined by graduation rate, cohort default rate, job placement rates, etc.) for either degree-granting or non-degree-granting private postsecondary educational institutions.

**G. DOES STATE LAW INCLUDE ANY SPECIAL PROTECTIONS FOR VETERANS WHO ATTEND PRIVATE POSTSECONDARY INSTITUTIONS?**

**0/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	No
Type 1	20 Points	0 Points
Type 2	20 Points	0 Points

**Explanation:**

There is no indication that Montana provides any special protections for veterans who attend private postsecondary educational institutions, whether those institutions are degree-granting institutions or non-degree-granting institutions.

**III. STATE OVERSIGHT—SCOPE AND INCLUSION:**

**0/100 POINTS**

**A. ARE EXEMPTIONS TO STATE OVERSIGHT COVERAGE LIMITED?**

**0/100 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	No exemptions	Few exemptions	Moderate exemptions	Broad exemptions
Type 1	100 Points	75 Points	50 Points	0 Points
Type 2	100 Points	75 Points	50 Points	0 Points

**Explanation:**

**Type 1: Degree-granting private postsecondary educational institutions.** Montana receives no credit for this element. The scope of the Board's oversight appears to be broad where degree-granting private postsecondary educational institutions are concerned. However, 20-25-107, MCA exempts any educational institution accredited by an educational accrediting association whose accrediting is found by the Board to be generally recognized by state and other universities in the United States, with regard to the adequacy of the course of study.

**Type 2: Non-degree-granting private postsecondary educational institutions.** Montana’s lack of regulatory structure and/or agency specifically tasked with the oversight of non-degree-granting private postsecondary institutions has the effect of exempting them from oversight. Because such a broad swath of institutions is encompassed by this exemption, the state receives zero points for this element.

#### IV. DISCLOSURE REQUIREMENTS: 0/100 POINTS

##### A. ARE INSTITUTIONS REQUIRED TO DISCLOSE INSTITUTIONAL PERFORMANCE MEASURES TO POTENTIAL STUDENTS?

**0/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, mandatory	Yes, discretionary	None
	Fact sheet or equivalent required to be given to students	Fact sheet or equivalent given to students upon request	No fact sheet required
<b>Type 1</b>	20 Points	10 Points	<b>0 Points</b>
<b>Type 2</b>	20 Points	10 Points	<b>0 Points</b>

##### **Explanation:**

There is no indication that Montana requires either degree-granting or non-degree-granting private postsecondary educational institutions to provide a document containing disclosures related to institutional performance standards to potential students.

##### B. WHICH INSTITUTIONAL PERFORMANCE DISCLOSURES ARE REQUIRED TO BE GIVEN TO STUDENTS PRIOR TO ENROLLMENT?

**0/60 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

##### **Type 1: Degree-granting private postsecondary educational institutions**

Disclosures	Mandatory	Discretionary	Not specified
<b>Cohort default rate (CDR)</b>	10 Points	5 Points	<b>0 Points</b>
<b>Graduation / completion rates</b>	10 Points	5 Points	<b>0 Points</b>
<b>Placement rates</b>	10 Points	5 Points	<b>0 Points</b>
<b>Wage information</b>	10 Points	5 Points	<b>0 Points</b>
<b>License exam passage rates</b>	10 Points	5 Points	<b>0 Points</b>
<b>Methods &amp; sources used to calculate</b>	10 Points	5 Points	<b>0 Points</b>

##### **Explanation:**

There is no indication that Montana requires degree-granting private postsecondary educational institutions to disclose any institutional performance measures to potential students.

*Type 2: Non-degree-granting private postsecondary educational institutions*

Disclosures	Mandatory	Discretionary	Not specified
Cohort default rate (CDR)	10 Points	5 Points	0 Points
Graduation / completion rates	10 Points	5 Points	0 Points
Placement rates	10 Points	5 Points	0 Points
Wage information	10 Points	5 Points	0 Points
License exam passage rates	10 Points	5 Points	0 Points
Methods & sources used to calculate	10 Points	5 Points	0 Points

**Explanation:**

There is no indication that Montana requires non-degree-granting private postsecondary educational institutions to disclose any institutional performance measures to potential students.

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**C. DOES THE STATE REQUIRE SCHOOLS TO DISCLOSE ELEMENTS  
ESSENTIAL TO STUDENT PROTECTION PRIOR TO ENROLLMENT OR  
IN THE ENROLLMENT CONTRACT?**

**0/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

*Type 1: Degree-granting private postsecondary educational institutions*

Element description	Mandatory	Discretionary	Not specified
Total cost of program	5 Points	2.5 Points	0 Points
Refund information	5 Points	2.5 Points	0 Points
Transferability of credits	5 Points	2.5 Points	0 Points
Length of program	5 Points	2.5 Points	0 Points

**Explanation:**

Montana does not specify what information and/or disclosures degree-granting private postsecondary educational institutions must include in their enrollment contracts.

*Type 2: Non-degree-granting private postsecondary educational institutions*

Element description	Mandatory	Discretionary	Not specified
Total cost of program	5 Points	2.5 Points	0 Points
Refund information	5 Points	2.5 Points	0 Points
Transferability of credits	5 Points	2.5 Points	0 Points
Length of program	5 Points	2.5 Points	0 Points

**Explanation:**

Montana does not specify what information and/or disclosures non-degree-granting private postsecondary educational institutions must include in their enrollment contracts.



## V. REGULATION OF RECRUITING PRACTICES:

**50/100 POINTS**

### A. HAS THE STATE PUT INTO LAW A LIST OF PROHIBITED ACTS REGARDING ADVERTISING AND RECRUITING?

**50/100\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, strong regulation	Yes, moderate regulation	Yes, weak regulation	No list of prohibited acts
Type 1	100 Points	75 Points	50 Points	0 Points
Type 2	100 Points	75 Points	50 Points	0 Points

#### PROHIBITED ACTS

Included in list of prohibited acts	Type 1	Type 2
Misleading representations using the word “college” or “university”		
Misleading institution affiliations (e.g., military, public institution, businesses)	X	X
Promise of employment		
Compensation for enrollment		
Compensation or “bounty” to recruiters		
Deception (broad prohibition)	X	X
Misrepresentation (broad prohibition)		
Misleading representations re: accreditation		

*1-3=Weak; 3.5-6=Moderate; 6.5-8=Strong*

#### Explanation:

**Type 1: Degree-granting private postsecondary educational institutions.** Montana has the exclusive right to the name “Montana university system,” and prohibits any other institution of learning or corporation from use of the name or any similar name—thereby prohibiting misleading affiliations with the Montana university system. (20-25-102, MCA.) In addition, 30-14-103, MCA prohibits unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce. This broad prohibition would apply to degree-granting private postsecondary educational institutions.

**Type 2: Non-degree-granting private postsecondary educational institutions.** Montana has the exclusive right to the name “Montana university system,” and prohibits any other institution of learning or corporation from use of the name or any similar name—thereby prohibiting misleading affiliations with the Montana university system. (20-25-102, MCA.) In addition, 30-14-103, MCA prohibits unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce. This broad prohibition would apply to non-degree-granting private postsecondary educational institutions.

## VI. COMPLAINT PROCESS AND RELIEF FOR STUDENTS:

**38.25/100 POINTS**

### A. DOES THE STATE REQUIRE A BOND OR FUND AS A CONDITION OF AUTHORIZATION?

**5/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	No
Type 1	<b>20 10 Points</b>	0 Points
Type 2	20 Points	<b>0 Points</b>

#### **Explanation:**

**Type 1: Degree-granting private postsecondary educational institutions.** Montana requires degree-granting private postsecondary educational institutions to post surety bonds, but only in limited circumstances. Degree-granting private postsecondary educational institutions must demonstrate financial integrity as a condition of authorization to operate. A private institution can achieve this demonstration by (1) having been accredited for at least twenty years by an accrediting agency that is recognized by the U.S. Department of Education, operating continuously in Montana for at least twenty years and never filing for bankruptcy protection pursuant to Title 11 of the United States Code; (2) maintaining a Financial Responsibility Composite Score of at least 1.0, determined by the U.S. Department of Education pursuant to 20 U.S.C. § 1099c; or (3) submitting a good and sufficient surety bond in an amount to be determined by the Office of the Commissioner of Higher Education. (Montana Board of Regents of higher education, Policy and Procedures Manual, Policy 221(E)(2).)

**Type 2: Non-degree-granting private postsecondary educational institutions.** Montana does not appear to require non-degree-granting private postsecondary educational institutions to post a surety bond.

### B. DOES THE STATE REQUIRE A REFUND OF TUITION IF A STUDENT ENROLLS AS THE RESULT OF MISREPRESENTATION?

**5/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, full refund	Yes, partial refund	No refund required
Type 1	20 Points	<b>10 Points</b>	0 Points
Type 2	20 Points	10 Points	<b>0 Points</b>

#### **Explanation:**

**Type 1: Degree-granting private postsecondary educational institutions.** The Board's Policy and Procedures Manual, Policy 221(E)(2), specifies that if an institution submits a bond as the means to demonstrate financial integrity, the bond shall be conditioned to provide indemnification to any student or enrollee or his or her parent or guardian, determined to have suffered loss of tuition or any fees as a result of any act or practice of the institution. This may include enrolling as a result of misrepresentation, but the provision does not necessarily guarantee a full refund under such circumstances. Further, it is unclear what refund rights students have at institutions that have not posted such a bond.

**Type 2: Non-degree-granting private postsecondary educational institutions.** There is no indication that Montana requires non-degree-granting private postsecondary educational institutions to provide a refund of tuition if a student enrolls as the result of misrepresentation.

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**C. DOES THE STATE REQUIRE INSTITUTIONS TO REFUND TUITION IN THE EVENT OF CLOSURE?**

**7.5/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, full refund	Yes, partial refund	Yes, refund in limited circumstances	No refund required
<b>Type 1</b>	20 Points	<b>15 Points</b>	10 Points	0 Points
<b>Type 2</b>	20 Points	15 Points	10 Points	<b>0 Points</b>

**Type 1: Degree-granting private postsecondary educational institutions.** The Board's Policy and Procedures Manual, Policy 221(E)(2), specifies that if an institution submits a bond as the means to demonstrate financial integrity, the bond shall be conditioned to provide indemnification to any student or enrollee or his or her parent or guardian, determined to have suffered loss of tuition or any fees as a result of any act or practice of the institution. This may include instances when an institution closes, but the provision does not necessarily guarantee a full refund under such circumstances. Further, it is unclear what refund rights students have at institutions that have not posted such a bond.

**Type 2: Non-degree-granting private postsecondary educational institutions.** There is no indication that Montana requires non-degree-granting private postsecondary educational institutions to provide a refund of tuition if the institution closes.

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**D. DOES THE STATE ALLOW STUDENTS AMPLE TIME TO MAKE A COMPLAINT?**

**10/10 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	2 years or more (or no deadline)	1-2 years	Under 1 year	Not applicable
<b>Type 1</b>	<b>10 Points</b>	5 Points	1 Point	0 Points
<b>Type 2</b>	<b>10 Points</b>	5 Points	1 Point	0 Points

**Explanation:**

Montana law does not specify a deadline for the filing of complaints with regard to either degree-granting or non-degree-granting private postsecondary educational institutions.

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**E. DOES THE STATE REQUIRE INSTITUTIONS TO DISCLOSE INFORMATION ABOUT FILING A COMPLAINT WITH THE STATE OVERSIGHT BODY?**

**3.75/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

***Type 1: Degree-granting private postsecondary educational institutions***

Medium	Yes	Discretionary	No
Catalog	10 Points	5 Points	0 Points
Website	5 Points	2.5 Points	0 Points
Enrollment contract	5 Points	2.5 Points	0 Points

**Explanation:**

Montana requires schools to make complaint procedures available to students, but there is no specification as to where this disclosure is to be made. Because two of the most common places for institutions to make these disclosures are in the institutional catalog and on the institutional website,

Montana's explanation about the complaint process for various types of private postsecondary educational institutions is located online at <http://mus.edu/mus-statement-of-complaint-process.asp>.)

***Type 2: Non-degree-granting private postsecondary educational institutions.***

Medium	Yes	Discretionary	No
Catalog	10 Points	5 Points	0 Points
Website	5 Points	2.5 Points	0 Points
Enrollment contract	5 Points	2.5 Points	0 Points

**Explanation:**

There is no indication that Montana has any general requirements related to complaint processes for non-degree-granting postsecondary educational institutions.

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**F. IS THE COMPLAINT PROCESS READILY ACCESSIBLE AND AVAILABLE ON THE STATE OVERSIGHT BODY'S WEBSITE?**

**7/10 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, with address	Yes, with phone #	Yes, with email address	Yes, with electronic form	No
Type 1	2 Points	2 Points	3 Points	3 Points	0 Points
Type 2	2 Points	2 Points	3 Points	3 Points	0 Points

**Explanation:**

Montana directs students with complaints related to private postsecondary educational institutions that are outside of the Montana university system to the Montana Department of Justice Office of Consumer's complaints website. The website contains information on how to file a complaint and provides consumers with an option to print out and mail in a complaint form or to file a complaint online using an electronic form. The complaint portal is located at <https://dojmt.gov/consumer/consumer-complaints/>.)

## VII. ENFORCEMENT: 10/100 POINTS

### A. IS THERE LOSS OF STATE AID FOR SCHOOLS THAT REPEATEDLY PRODUCE SUBSTANDARD GRADUATION RATES, JOB PLACEMENT RATES, AND/OR COHORT DEFAULT RATES?

**0/30 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, required	Yes, required but limited	Yes, discretionary	Yes, discretionary but limited	No
Type 1	30 Points	20 Points	15 Points	5 Points	0 Points
Type 2	30 Points	20 Points	15 Points	5 Points	0 Points

#### **Explanation:**

There is no indication that degree-granting or non-degree-granting private postsecondary educational institutions lose state aid as a result of repeatedly producing substandard graduation rates, job placement rates, and/or cohort default rates.

### B. DOES STATE LAW EXPLICITLY AUTHORIZE A PRIVATE RIGHT OF ACTION FOR STUDENTS AGAINST INSTITUTIONS THAT HAVE VIOLATED THE LAWS AND REGULATIONS IN PLACE TO GOVERN THEM?

**0/30 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	Limited circumstances	No
Type 1	30 Points	15 Points	0 Points
Type 2	30 Points	15 Points	0 Points

#### **Explanation:**

While Montana laudably prohibits a college or university from requiring a student to sign any contract that would waive the student's right to privacy and due process of law, it does not create a private right of action for students against institutions who have violated the laws and regulations in place to govern them, whether the students impacted attend a degree-granting or a non-degree-granting postsecondary institution. (20-25-512, MCA.)

### C. DOES STATE LAW EXPLICITLY ALLOW ATTORNEY FEE AWARDS FOR STUDENTS WHO PREVAIL IN LITIGATION AGAINST PRIVATE FOR-PROFIT POSTSECONDARY INSTITUTIONS?

**0/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	Limited	No
Type 1	20 Points	15 Points	0 Points
Type 2	20 Points	15 Points	0 Points

**Explanation:**

Montana does not explicitly allow attorney fee awards for students who prevail in litigation against institutions who have violated the laws and regulations in place to govern them, whether the students impacted attend a degree-granting or a non-degree-granting postsecondary institution.

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**D. DOES STATE LAW EXPLICITLY AUTHORIZE  
ATTORNEY GENERAL INVOLVEMENT?**

**10/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	Limited circumstances	No
Type 1	20 Points	10 Points	0 Points
Type 2	20 Points	10 Points	0 Points

**Explanation:**

Attorney General involvement is explicitly authorized in limited circumstances, applicable to both degree-granting and non-degree-granting private postsecondary educational institutions. (20-25-102, MCA.)

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**BONUS POINTS**

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Montana does not receive any bonus points.



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**ILLUMINATING INFORMATION**

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**RECIPROCITY AGREEMENTS**

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Montana is a member of the State Authorization Reciprocity Agreements (SARA).

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**LITIGATION, INVESTIGATIONS, AND ACTIONS INVOLVING PRIVATE  
FOR-PROFIT EDUCATIONAL INSTITUTIONS IN MONTANA**

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For more information about pending and recent federal and state government investigations and actions regarding for-profit colleges see David Halperin's compilation at <http://www.republicreport.org/2014/law-enforcement-for-profit-colleges/#sthash.1vc4HmPw.dpuf>.

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# NEBRASKA

## FINAL GRADING ANALYSIS

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OVERALL SCORE: **271.5/700 POINTS (39%)**  
LETTER GRADE: **F**

### I. OVERSIGHT BODY: **56.25/100 POINTS**

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#### A. IS THERE A STATUTORILY CREATED OVERSIGHT BODY THAT IS PUBLICLY ACCOUNTABLE?

**40/60 POINTS**

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Element	Points Available	Type 1	Type 2	Points Awarded (Average)
1. Oversight body is a multi-member board, commission, or panel created by statute	10	10	5	7.5
2. Oversight body was statutorily created specifically to oversee private postsecondary institutions	10	0	0	0
3. Multi-member board, commission, or panel is the ultimate decision maker (as opposed to a single person, like the head of a department or director)	10	10	5	7.5
4. Oversight body can engage in rulemaking	10	10	10	10
5. Oversight body's meetings must be open to the public	5	5	2.5	3.75
6. Oversight body's meetings must allow public comment	5	5	2.5	3.75
7. Oversight body can initiate investigations	5	5	2.5	3.75
8. Oversight body can impose penalties for violations	5	5	2.5	3.75
Total Points	60	50	30	40

**Explanation:**

Nebraska has both degree-granting private postsecondary institutions (Type 1) and private postsecondary career schools (Type 2) which include organizations or business enterprises that do not offer bachelor's, graduate, or professional degrees, but may offer associate's degrees.

**Type 1: Degree-granting private postsecondary institutions.** The Coordinating Commission for Postsecondary Education oversees degree-granting private postsecondary institutions in Nebraska (R.R.S. Neb. § 85-2403), as well as out-of-state public postsecondary institutions and Nebraska public postsecondary institutions exempt from the Private Postsecondary Career School Act. The Commission has the authority to promulgate rules and to investigate potential violations of the statute or rules by

postsecondary educational institutions. (R.R.S. Neb. § 85-2405.) The Commission has the authority to suspend or revoke authorization to operate, and has the right of injunction. (R.R.S. Neb. § 85-2414; R.R.S. Neb. § 85-2421.) The Commission is subject to Nebraska's Open Meetings Act, which provides that every meeting of a public body shall be open to the public in order that citizens may exercise their democratic privilege of attending and speaking at such meetings. (R.R.S. Neb. § 84-1408.)

**Type 2: Private postsecondary career schools.** Nebraska has charged the state Department of Education with regulation and oversight of private postsecondary career schools. (R.R.S. Neb. § 85-1605.) The Board of Education is charged with establishing minimum standards, investigating and acting on applications for authorization, and promulgating rules and regulations to govern private postsecondary career schools. (R.R.S. Neb. § 85-1606.) Because there is a division of responsibilities between the Department and the Board, Nebraska receives partial credit for several of the above elements. A department differs from a public board in that the head of the department is the final decision maker, rather than a group of publicly-accountable representatives. Further, a department is not as transparent as a board subject to the state's Open Meetings Act.

## B. STATUTE-SPECIFIED MEMBERSHIP:

### 1. TO WHAT EXTENT ARE LIMITATIONS PLACED ON FOR-PROFIT MEMBERSHIP ON THE OVERSIGHT BODY?

**12.5/25 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Explicit prohibition on for-profit majority, plus no possibility of a majority of the quorum	Explicit prohibition on for-profit majority	Discouraged	No prohibition specified, but not discouraged	For-profit majority mandated
<b>Type 1</b>	<b>25 Points</b>	20 Points	10 Points	0 Points	–5 points
<b>Type 2</b>	25 Points	20 Points	10 Points	<b>0 Points</b>	–5 Points

#### **Explanation:**

**Type 1: Degree-granting private postsecondary institutions.** Nebraska prohibits the Commission from including members where an individual or any member of his/her immediate family is employed by or is a member of a governing board or of a governing body of an independent or private university or college. (R.R.S. Neb. § 85-1405.)

**Type 2: Private postsecondary career schools.** Nebraska law is silent on for-profit membership on the Board of Education. However, Nebraska mandates that the Board appoint an advisory council of six representatives of private postsecondary career schools. The advisory council advises the Department of Education in its administration of the Private Postsecondary Career School Act and it reviews the rules and regulations adopted or proposed for adoption by the Department and make recommendation with respect thereto. (R.R.S. Neb. § 85-1607.) This council is advisory in nature, but has the potential to strongly impact the policies and procedures put in place to govern private postsecondary career schools. No points are deducted for this element because not all private postsecondary career schools in Nebraska are for-profit. However, it is important for the state to recognize the potential conflict appointments on this advisory board may have and take proper precautions to avoid them.



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2. IS THE OVERSIGHT BODY MANDATED TO INCLUDE  
AT LEAST ONE CONSUMER ADVOCATE?

**0/10 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	No
Type 1	10 Points	0 Points
Type 2	10 Points	0 Points

**Explanation:**

**Type 1: Degree-granting private postsecondary institutions.** Nebraska does not require the Commission to include a consumer advocate.

**Type 2: Private postsecondary career schools.** Nebraska law does not require the Board to include a consumer advocate. Although Nebraska law mandates that the Board's advisory council include a member who is a representative of a Better Business Bureau (R.R.S. Neb. § 85-1607), this element requires the inclusion of an independent, experienced consumer advocate.

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3. ARE THE MEMBERS APPOINTED BY A PUBLICLY ACCOUNTABLE  
OFFICIAL OR ELECTED IN A GENERAL ELECTION?

**3.75/5 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	All	Majority	Half	Minority	None
Type 1	5 Points	3 Points	2.5 Points	1 Point	0 Points
Type 2	5 Points	3 Points	2.5 Points	1 Point	0 Points

**Explanation:**

**Type 1: Degree-granting private postsecondary institutions.** The Commission consists of eleven members appointed by the Governor with the approval of a majority of the Legislature. (R.R.S. Neb. § 85-1405.)

**Type 2: Private postsecondary career schools.** The Department of Education is a state agency with no elected or appointed members. The Board of Education is a constitutional body with eight elected members. (Ne. Const. Art. VII, § 3.) Because both the Department and the Board are charged with oversight of private career schools, Nebraska receives only partial credit for the publicly-elected Board.

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**II. STATE OVERSIGHT—EFFICACY:**

**39.5/100 POINTS**

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A. DOES THE STATE REQUIRE ONSITE REVIEW OF  
PRIVATE POSTSECONDARY INSTITUTIONS?

**4/10 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Mandatory onsite reviews			Discretionary	None
	Every 2 years or less	Every 3-5 years	Over 5 years	Discretion to conduct onsite reviews	No review specified
<b>Type 1</b>	10 Points	8 Points	5 Points	3 Points	<b>0 Points</b>
<b>Type 2</b>	10 Points	<b>8 Points</b>	5 Points	3 Points	0 Points

**Explanation:**

**Type 1: Degree-granting private postsecondary institutions.** Nebraska does not explicitly require onsite reviews of degree-granting private postsecondary institutions.

**Type 2: Private postsecondary career schools.** Nebraska requires an accreditation site visit every five years. (R.R.S. Neb. § 85-1615; 92 Neb. Admin. Code § 41-009.07; 92 Neb. Admin. Code § 41-009.05.)

**B. DOES THE STATE REQUIRE UNANNOUNCED INSPECTIONS FOR ONSITE REVIEWS?**

**0/5 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Required unannounced visits	Discretion to do unannounced visits	No indication
<b>Type 1</b>	5 Points	3 Points	<b>0 Points</b>
<b>Type 2</b>	5 Points	3 Points	<b>0 Points</b>

**Explanation:**

**Type 1: Degree-granting private postsecondary institutions.** Nebraska does not explicitly require unannounced onsite visits.

**Type 2: Private postsecondary career schools.** Nebraska does not explicitly require unannounced onsite visits.

**C. DOES THE STATE REQUIRE REGULAR REVIEWS OF PRIVATE POSTSECONDARY APPROVAL TO OPERATE?**

**17.5/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Mandatory			Discretionary	None
	Every 2 years or less	Every 3-5 years	Over 5 years	Discretion to conduct reviews	No review specified
<b>Type 1</b>	20 Points	<b>15 Points</b>	10 Points	5 Points	0 Points
<b>Type 2</b>	<b>20 Points</b>	15 Points	10 Points	5 Points	0 Points

**Explanation:**

**Type 1: Degree-granting private postsecondary institutions.** Initially, the Commission grants an institution recurrent authorization to operate, which must be renewed every five years. The Commission

has discretion to grant an institution that has been in operation for 20 years under the same ownership, continuously offering one or more graduate or four-year undergraduate programs with a physical presence in Nebraska in compliance with state and federal law authorization to operate on a continuing basis. (R.R.S. Neb. § 85-2412.)

**Type 2: Private postsecondary career schools.** Nebraska requires annual renewal of authorization. Review of the institutions is part of the renewal of authorization process. (R.R.S. Neb. § 85-1615; 92 Neb. Admin. Code § 41-009.02; 92 Neb. Admin. Code § 41-009.07.)

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**D. DO THE CRITERIA FOR RENEWAL OF AUTHORIZATION MANDATE A REVIEW OF FACTORS ESSENTIAL TO ACADEMIC AND ETHICAL INTEGRITY?**

**13/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	8 of 8	7 of 8	6 of 8	5 of 8	4 of 8	3 of 8	2 of 8	1 of 8	0 of 8
<b>Type 1</b>	20 Points	17.5 Points	15 Points	12.5 Points	<del>10</del> <b>11 Points</b>	7.5 Points	5 Points	2.5 Points	0 Points
<b>Type 2</b>	20 Points	17.5 Points	<b>15 Points</b>	12.5 Points	10 Points	7.5 Points	5 Points	2.5 Points	0 Points

Element	Type 1	Type 2
Admission requirements	M	M
Graduation requirements	D	M
Placement rate		
Completion rate (graduation rate)	M	
Advertising practices		M
Cohort default rate		M
Accreditation status	M	M
Financial aid policies	M	M

*M=Mandatory; D=Discretionary*

**Explanation:**

**Type 1: Degree-granting private postsecondary institutions.** The minimum requirements for recurrent authorization are enumerated in R.R.S. Neb. § 85-2406. The requirements include elements that encompass admission requirements, graduation requirements (“policies and procedures relating to students” – admission requirements are specified, and these policies and procedures can reasonably be assumed to encompass graduation requirements as well), completion / graduation rates, accreditation status, and financial aid.

**Type 2: Private postsecondary career schools.** The minimum requirements for authorization and renewal of authorization include elements that encompass admission and graduation requirements, advertising practices and financial aid practices. (92 Nebraska Admin. Code § 41-004.) Private postsecondary career schools are prohibited from having a default rate which triggers state liability pursuant to section 428(n) of the federal Higher Education Act of 1965, as amended. (R.R.S. Neb. § 85-1610.) No authorization to any private postsecondary career school will be renewed unless it has been accredited. (R.R.S. Neb. § 85-1615.)

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E. DOES THE STATE'S OVERSIGHT DISTINGUISH BETWEEN FOR-PROFIT AND NONPROFIT EDUCATIONAL INSTITUTIONS?

**2.5/15 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, strongly distinguished	Yes, moderately distinguished	Yes, slightly distinguished	Not distinguished
Type 1	15 Points	10 Points	5 Points	0 Points
Type 2	15 Points	10 Points	5 Points	0 Points

**Explanation:**

**Type 1: Degree-granting private postsecondary institutions.** The Commission does not distinguish between private nonprofit and private for-profit postsecondary educational institutions in terms of oversight and regulation.

**Type 2: Private postsecondary career schools.** Nebraska exempts specified charitable organizations (nonprofits) which do not advertise programs as leading to occupational objectives from oversight. (R.R.S. Neb. § 85-1604.)

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F. DOES THE STATE REQUIRE INCREASED OVERSIGHT/SCRUTINY OF PRIVATE POSTSECONDARY INSTITUTIONS BASED ON POOR PERFORMANCE?

**2.5/10 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, mandatory	Yes, mandatory but limited	Yes, discretionary	Yes, discretionary but limited	No
Type 1	10 Points	7.5 Points	5 Points	2.5 Points	0 Points
Type 2	10 Points	7.5 Points	5 Points	2.5 Points	0 Points

**Explanation:**

**Type 1: Degree-granting private postsecondary institutions.** Nebraska does not require increased oversight/scrutiny of private postsecondary educational institutions based on poor performance (low graduation / completion rates, high cohort default rates, low placement rates, low exam passage rates, etc.).

**Type 2: Private postsecondary career schools.** Private postsecondary career schools are prohibited from having a default rate which triggers state liability pursuant to section 428(n) of the federal Higher Education Act of 1965, as amended. (R.R.S. Neb. § 85-1610.) There is no indication as to whether a default rate that is approaching the afore-mentioned trigger will result in increased oversight, but the state receives credit for implementing a policy that results in a penalty for schools with high default rates. Further, accreditation standards require a school to be in continuous operation for at least two years and must have graduated students from its programs to enable assessment of the effectiveness of its educational program. (92 Neb. Admin. Code § 41-009.01.) This requirement provides another measure of discretionary oversight.

G. DOES STATE LAW INCLUDE ANY SPECIAL PROTECTIONS FOR VETERANS WHO ATTEND PRIVATE POSTSECONDARY INSTITUTIONS?

0/20 POINTS\*

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	No
Type 1	20 Points	0 Points
Type 2	20 Points	0 Points

**Explanation:**

**Type 1: Degree-granting private postsecondary institutions.** Nebraska does not explicitly provide special protections for veterans who attend private postsecondary educational institutions.

**Type 2: Private postsecondary career schools.** Nebraska does not explicitly provide special protections for veterans who attend private postsecondary career schools.

III. STATE OVERSIGHT—SCOPE AND INCLUSION:

62.5/100 POINTS

A. ARE EXEMPTIONS TO STATE OVERSIGHT COVERAGE LIMITED?

62.5/100 POINTS\*

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	No exemptions	Few exemptions	Moderate exemptions	Broad exemptions
Type 1	100 Points	75 Points	50 Points	0 Points
Type 2	100 Points	75 Points	50 Points	0 Points

**Explanation:**

**Type 1: Degree-granting private postsecondary institutions.** Nebraska law provides very few narrowly tailored exemptions for degree-granting private for-profit institutions: any institution or organization that offers education or instruction and which is licensed and regulated solely by an agency of the federal government with respect to curriculum and qualifications of instructional staff; and any private postsecondary career school as defined in the Private Postsecondary Career School Act (Type 2). (R.R.S. Neb. § 85-2407.) In addition, the Commission has discretion to grant an institution that has been in operation for 20 years under the same ownership, continuously offering one or more graduate or four-year undergraduate programs with a physical presence in Nebraska in compliance with state and federal law authorization to operate on a continuing basis. (R.R.S. Neb. § 85-2412.)

**Type 2: Private postsecondary career schools.** The Board of Education may accept accreditation by a national or regional accrediting agency as evidence compliance with minimum standards, the school is not completely exempt from oversight, but this is a substantial exemption. (R.R.S. Neb. § 85-1609.)

#### IV. DISCLOSURE REQUIREMENTS: 7.5/100 POINTS

##### A. ARE INSTITUTIONS REQUIRED TO DISCLOSE INSTITUTIONAL PERFORMANCE MEASURES TO POTENTIAL STUDENTS?

0/20 POINTS\*

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, mandatory	Yes, discretionary	None
	Fact sheet or equivalent required to be given to students	Fact sheet or equivalent given to students upon request	No fact sheet required
Type 1	20 Points	10 Points	0 Points
Type 2	20 Points	10 Points	0 Points

##### Explanation:

**Type 1: Degree-granting private postsecondary institutions.** Nebraska law does not require degree-granting private postsecondary educational institutions to disclose performance measures such as graduation rate and cohort default rates to potential students.

**Type 2: Private postsecondary career schools.** Nebraska law does not require private postsecondary career schools to disclose performance measures such as graduation rate and cohort default rates to potential students.

##### B. WHICH INSTITUTIONAL PERFORMANCE DISCLOSURES ARE REQUIRED TO BE GIVEN TO STUDENTS PRIOR TO ENROLLMENT?

0/60 POINTS\*

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

##### **Type 1: Degree-granting private postsecondary institutions**

Disclosures	Mandatory	Discretionary	Not specified
Cohort default rate (CDR)	10 Points	5 Points	0 Points
Graduation / completion rates	10 Points	5 Points	0 Points
Placement rates	10 Points	5 Points	0 Points
Wage information	10 Points	5 Points	0 Points
License exam passage rates	10 Points	5 Points	0 Points
Methods & sources used to calculate	10 Points	5 Points	0 Points

##### Explanation:

Nebraska law does not require degree-granting private postsecondary educational institutions to make any performance disclosures to potential students prior to enrollment.

*Type 2: Private postsecondary career schools*

Disclosures	Mandatory	Discretionary	Not specified
Cohort default rate (CDR)	10 Points	5 Points	0 Points
Graduation / completion rates	10 Points	5 Points	0 Points
Placement rates	10 Points	5 Points	0 Points
Wage information	10 Points	5 Points	0 Points
License exam passage rates	10 Points	5 Points	0 Points
Methods & sources used to calculate	10 Points	5 Points	0 Points

**Explanation:**

Nebraska law does not require private postsecondary career schools to make any performance disclosures to potential students prior to enrollment.

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C. DOES THE STATE REQUIRE SCHOOLS TO DISCLOSE ELEMENTS  
ESSENTIAL TO STUDENT PROTECTION PRIOR TO ENROLLMENT OR  
IN THE ENROLLMENT CONTRACT?

**7.5/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

*Type 1: Degree-granting private postsecondary institutions*

Element description	Mandatory	Discretionary	Not specified
Total cost of program	5 Points	2.5 Points	0 Points
Refund information	5 Points	2.5 Points	0 Points
Transferability of credits	5 Points	2.5 Points	0 Points
Length of program	5 Points	2.5 Points	0 Points

**Explanation:**

There is no indication that Nebraska law requires schools to disclose the total cost of programs, refund information, transferability of credits and/or amount of time required to complete the program to students prior to enrollment.

*Type 2: Private postsecondary career schools*

Element description	Mandatory	Discretionary	Not specified
Total cost of program	5 Points	2.5 Points	0 Points
Refund information	5 Points	2.5 Points	0 Points
Transferability of credits	5 Points	2.5 Points	0 Points
Length of program	5 Points	2.5 Points	0 Points

**Explanation:**

Nebraska law requires schools to provide prospective students with information about the cost of the programs, refund information, and the requirements for completion (including the length of programs). (92 Neb. Admin. Code § 41-004.09.) While Nebraska law requires schools to include their policies concerning credit granted for previous education training or experience to be in the catalog, there are no

required disclosures relating to the transferability of the school's credit to other colleges, universities and postsecondary institutions. (92 Neb. Admin. Code § 41-004.090.)

## V. REGULATION OF RECRUITING PRACTICES:

**25/100 POINTS**

### A. HAS THE STATE PUT INTO LAW A LIST OF PROHIBITED ACTS REGARDING ADVERTISING AND RECRUITING?

**25/100\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, strong regulation	Yes, moderate regulation	Yes, weak regulation	No list of prohibited acts
Type 1	100 Points	75 Points	50 Points	0 Points
Type 2	100 Points	75 Points	50 Points	0 Points

### PROHIBITED ACTS

Included in list of prohibited acts	Type 1	Type 2
Misleading representations using the word "college" or "university"		
Misleading institution affiliations (e.g., military, public institution, businesses)		
Promise of employment		X
Compensation for enrollment		
Compensation or "bounty" to recruiters		
Deception (broad prohibition)		X
Misrepresentation (broad prohibition)		X
Misleading representations re: accreditation		

*1-3=Weak; 3.5-6=Moderate; 6.5-8=Strong*

#### Explanation:

**Type 1: Degree-granting private postsecondary institutions.** Nebraska law does not expressly prohibit any of the above listed acts in relation to degree-granting private postsecondary educational institutions.

**Type 2: Private postsecondary career schools.** Nebraska law prohibits private postsecondary career schools from promising employment (92 Neb. Admin. Code § 41-004.13C), and from deceptive or misleading advertising. (92 Neb. Admin. Code § 41-004.13A, 004.13E.)

## VI. COMPLAINT PROCESS AND RELIEF FOR STUDENTS:

**50.75/100 POINTS**

### A. DOES THE STATE REQUIRE A BOND OR FUND AS A CONDITION OF AUTHORIZATION?

**10/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*



	Yes	No
<b>Type 1</b>	20 Points	<b>0 Points</b>
<b>Type 2</b>	<b>20 Points</b>	0 Points

**Explanation:**

**Type 1: Degree-granting private postsecondary institutions.** Nebraska law does not explicitly require degree-granting private postsecondary educational institutions to post a bond as a condition of authorization.

**Type 2: Private postsecondary career schools.** Nebraska law requires private postsecondary career schools to post a bond “or other security agreement.” (92 Neb. Admin. Code § 41-005.09B.) In addition to the requirement that postsecondary career schools post a bond or other security agreement, there is a tuition recovery cash fund. These two instruments together provide protection for students. (92 Neb. Admin. Code § 44-001.)

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**B. DOES THE STATE REQUIRE A REFUND OF TUITION IF A STUDENT ENROLLS AS THE RESULT OF MISREPRESENTATION?**

**10/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, full refund	Yes, partial refund	No refund required
<b>Type 1</b>	20 Points	10 Points	<b>0 Points</b>
<b>Type 2</b>	<b>20 Points</b>	10 Points	0 Points

**Explanation:**

**Type 1: Degree-granting private postsecondary institutions.** Nebraska law does not explicitly require degree-granting private postsecondary educational institutions to provide a refund of tuition if a student enrolls as the result of misrepresentation.

**Type 2: Private postsecondary career schools.** Nebraska law requires that private postsecondary career schools provide a full refund to students whose contracted educational services are denied as a result of intentional deception, or misrepresentation of facts, or the use of advertising which is known to be false, inaccurate, or misleading. (92 Neb. Admin. Code § 41-004.14D.)

---

**C. DOES THE STATE REQUIRE INSTITUTIONS TO REFUND TUITION IN THE EVENT OF INSOLVENCY?**

**7.5/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, full refund	Yes, partial refund	Yes, refund in limited circumstances	No refund required
<b>Type 1</b>	20 Points	15 Points	10 Points	<b>0 Points</b>
<b>Type 2</b>	20 Points	<b>15 Points</b>	10 Points	0 Points

**Explanation:**

**Type 1: Degree-granting private postsecondary institutions.** Nebraska law does not explicitly require degree-granting private postsecondary educational institution to refund tuition in the event of closure.

**Type 2: Private postsecondary career schools.** Nebraska law does not expressly mandate a full refund when an institution closes and/or becomes insolvent. Nebraska law does, however, require private postsecondary career schools to adhere to a published refund policy when classes are cancelled. This policy would likely apply upon closure of a school. (92 Neb. Admin. Code § 41-004.14.)

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**D. DOES THE STATE ALLOW STUDENTS AMPLE TIME TO MAKE A COMPLAINT?**  
**10/10 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	2 years or more (or no deadline)	1-2 years	Under 1 year	Not applicable
<b>Type 1</b>	<b>10 Points</b>	5 Points	1 Point	0 Points
<b>Type 2</b>	<b>10 Points</b>	5 Points	1 Point	0 Points

**Explanation:**

**Type 1: Degree-granting private postsecondary institutions.** Nebraska law does not specify a deadline by which a student must file a complaint against a degree-granting private postsecondary educational institution. (R.R.S. Neb. § 85-2418; 281 Neb. Admin. Code § 2-012.)

**Type 2: Private postsecondary career schools.** Nebraska law does not specify a deadline by which a student must file a complaint against a degree-granting private postsecondary educational institution. (92 Neb. Admin. Code § 43-003.)

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**E. DOES THE STATE REQUIRE INSTITUTIONS TO DISCLOSE INFORMATION ABOUT FILING A COMPLAINT WITH THE STATE OVERSIGHT BODY?**  
**6.25/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

**Type 1: Degree-granting private postsecondary institutions**

Medium	Mandatory	Discretionary	Not specified
<b>Catalog</b>	10 Points	5 Points	<b>0 Points</b>
<b>Website</b>	5 Points	2.5 Points	<b>0 Points</b>
<b>Enrollment contract</b>	5 Points	2.5 Points	<b>0 Points</b>

**Explanation:**

Nebraska does not explicitly require degree-granting private postsecondary educational institutions to disclose information about filing a complaint with the state oversight body.

**Type 2: Private postsecondary career schools**

Medium	Mandatory	Discretionary	Not specified
<b>Catalog</b>	<b>10 Points</b>	5 Points	0 Points
<b>Website</b>	5 Points	<b>2.5 Points</b>	0 Points
<b>Enrollment contract</b>	5 Points	2.5 Points	<b>0 Points</b>

**Explanation:**

Nebraska law requires private postsecondary career schools to disclose information about filing a complaint with the Nebraska Department of Education in its catalog. (92 Neb. Admin. Code § 41-004.09Q.) Because it is common practice for schools to include catalogs or information similar to that in their catalog on their websites, the state receives partial credit for giving schools discretion to provide this information on their websites.

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**F. IS THE COMPLAINT PROCESS READILY ACCESSIBLE AND  
AVAILABLE ON THE STATE OVERSIGHT BODY’S WEBSITE?**

**7/10 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, with address	Yes, with phone #	Yes, with email address	Yes, with electronic form	No
<b>Type 1</b>	<b>2 Points</b>	<b>2 Points</b>	<b>3 Points</b>	<b>3 Points</b>	0 Points
<b>Type 2</b>	2 Points	<b>2 Points</b>	3 Points	<b>3 2 Points</b>	0 Points

**Explanation:**

**Type 1: Degree-granting private postsecondary institutions.** Nebraska law has a student complaint website with extensive information about Nebraska’s complaint process, links to different agencies and department with which specific complaints can be filed, an electronic form the student may complete to file a complaint, and address, phone number and email contact information.

**Type 2: Private postsecondary career schools.** Nebraska law provides a student complaint form that can be accessed through a “forms” link on the Nebraska Department of Education: Private Postsecondary Career Schools page. The form can be completed and printed out. The form does not provide an address or an email address. The form does provide a phone number. The state loses one point for the form because it cannot be easily submitted online, it has to be printed out and mailed in, and there is no mailing or email address readily provided.

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**VII. ENFORCEMENT: 30/100 POINTS**

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**A. IS THERE LOSS OF STATE AID FOR SCHOOLS THAT REPEATEDLY  
PRODUCE SUBSTANDARD GRADUATION RATES, JOB PLACEMENT  
RATES, AND/OR COHORT DEFAULT RATES?**

**10/30 POINTS\***

---

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, required	Yes, required but limited	Yes, discretionary	Yes, discretionary but limited	No
<b>Type 1</b>	30 Points	20 Points	15 Points	5 Points	<b>0 Points</b>
<b>Type 2</b>	30 Points	<b>20 Points</b>	15 Points	5 Points	0 Points

**Explanation:**

**Type 1: Degree-granting private postsecondary institutions.** Nebraska law does not mandate loss of state

aid to degree-granting private postsecondary educational institutions that repeatedly produce substandard graduation rates, job placement rates, and / or cohort default rates.

**Type 2: Private postsecondary career schools.** Nebraska law prohibits private postsecondary career schools from having a cohort default rate which triggers state liability pursuant to section 428(n) of the federal Higher Education Act of 1965. (R.R.S. Neb. § 85-1610.) Thus, a school would lose its authorization to operate as well as any state and/or federal aid that requires authorization as a result of having a high cohort default rate.

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**B. DOES STATE LAW EXPLICITLY AUTHORIZE A PRIVATE RIGHT OF ACTION FOR STUDENTS AGAINST INSTITUTIONS THAT HAVE VIOLATED THE LAWS AND REGULATIONS IN PLACE TO GOVERN THEM?**

**0/30 POINTS\***

---

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	Limited circumstances	No
Type 1	30 Points	15 Points	0 Points
Type 2	30 Points	15 Points	0 Points

**Explanation:**

**Type 1: Degree-granting private postsecondary institutions.** Nebraska law does not authorize a private right of action for students against institutions that have violated the laws and regulations in place to govern them.

**Type 2: Private postsecondary career schools.** Nebraska law does not authorize a private right of action for students against institutions that have violated the laws and regulations in place to govern them.

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**C. DOES STATE LAW EXPLICITLY ALLOW ATTORNEY FEE AWARDS FOR STUDENTS WHO PREVAIL IN LITIGATION AGAINST PRIVATE FOR-PROFIT POSTSECONDARY INSTITUTIONS?**

**0/20 POINTS\***

---

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	Limited	No
Type 1	20 Points	15 Points	0 Points
Type 2	20 Points	15 Points	0 Points

**Explanation:**

**Type 1: Degree-granting private postsecondary institutions.** Nebraska law does not allow attorney fee awards for students who prevail in litigation against institutions that have violated the laws and regulations in place to govern them.

**Type 2: Private postsecondary career schools.** Nebraska law does not allow attorney fee awards for students who prevail in litigation against institutions that have violated the laws and regulations in place to govern them.

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D. DOES STATE LAW EXPLICITLY AUTHORIZE  
ATTORNEY GENERAL INVOLVEMENT?

**20/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	Limited circumstances	No
Type 1	20 Points	10 Points	0 Points
Type 2	20 Points	10 Points	0 Points

**Explanation:**

**Type 1: Degree-granting private postsecondary institutions.** Nebraska law authorizes the Attorney General to bring any appropriate action or proceeding in any court of competent jurisdiction to enforce the Postsecondary Institution Act. (R.R.S. Neb. § 85-2420.)

**Type 2: Private postsecondary career schools.** Nebraska law authorizes the Attorney General to bring any appropriate action or proceeding in any court of competent jurisdiction for the enforcement of the Private Postsecondary Career School Act. (R.R.S. Neb. § 85-1652.)

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## BONUS POINTS

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Nebraska does not receive any bonus points.



## ILLUMINATING INFORMATION

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## RECIPROCITY AGREEMENTS

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Nebraska is a member of the State Authorization Reciprocity Agreements (SARA).

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## LITIGATION, INVESTIGATIONS, AND ACTIONS INVOLVING PRIVATE FOR-PROFIT EDUCATIONAL INSTITUTIONS IN NEBRASKA

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For information about pending and recent federal and state government investigations and actions regarding for-profit colleges see David Halperin's compilation at <http://www.republicreport.org/2014/law-enforcement-for-profit-colleges/#sthash.1vc4HmPw.dpuf>.

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# NEVADA

## FINAL GRADING ANALYSIS

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OVERALL SCORE: **341.5/700 POINTS (49%)**  
LETTER GRADE: **F**

### I. OVERSIGHT BODY: **62.5/100 POINTS**

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#### A. IS THERE A STATUTORILY CREATED OVERSIGHT BODY THAT IS PUBLICLY ACCOUNTABLE?

**47.5/60 POINTS**

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Element	Points Available	Points Awarded
1. Oversight body is a multi-member board, commission, or panel created by statute	10	10
2. Oversight body was statutorily created specifically to oversee private postsecondary institutions	10	0
3. Multi-member board, commission, or panel is the ultimate decision maker (as opposed to a single person, like the head of a department or director)	10	10
4. Oversight body can engage in rulemaking	10	10
5. Oversight body's meetings must be open to the public	5	5
6. Oversight body's meetings must allow public comment	5	2.5
7. Oversight body can initiate investigations	5	5
8. Oversight body can impose penalties for violations	5	5
Total Points	60	47.5

**Explanation:**

The seven-member Commission on Postsecondary Education licenses all postsecondary institutions (public, private, for-profit, not-for-profit, career and degree). (Nev. Rev. Stat. Ann. § 394.383, §394.415, §394.421.) The Commission is charged with oversight of postsecondary institutions, which are defined as “an academic, vocational, technical, home study, business, professional or other school, college or university that is privately owned, or any person offering postsecondary education if he or she is not licensed as a postsecondary educational institution in this state by a federal or another state agency; charges tuition, requires or requests donations or receives any consideration from a student for any portion of the instruction, including written or audiovisual material; educates or trains persons who are not his or her employees; and educates or trains, or claims or offers to educate or train, students in a program leading toward employment at a beginning or advanced level, educational credentials, credits that are intended to be applied toward an educational credential awarded in another state which does not

require the person to obtain a majority of the credits required in that state, or preparation for examinations for initial licensing in a profession or vocation. (Nev. Rev. Stat. Ann. § 394.099.)

The Commission has authority to engage in rulemaking. (Nev. Rev. Stat. Ann. § 394.411.) The Administrator is the executive secretary of the Commission and is charged with conducting investigations. (Nev. Rev. Stat. Ann. § 394.430.) The Commission has the authority to impose penalties, including revocation of licenses and imposition of fines where appropriate. (Nev. Rev. Stat. Ann. § 394.510.) Commission meetings are subject to Nevada's open meetings law, and must allow public comment under specified circumstances. (Nev. Rev. Stat. Ann. § 241.020.) The state receives partial credit because Nevada law gives the Commission some discretion, outside of circumstances specified in statute, to allow public comment.

## **B. STATUTE-SPECIFIED MEMBERSHIP:**

### **1. TO WHAT EXTENT ARE LIMITATIONS PLACED ON FOR-PROFIT MEMBERSHIP ON THE OVERSIGHT BODY?**

**10/25 POINTS**

Explicit prohibition on for-profit majority and no possibility of a majority of the quorum	Explicit prohibition on for-profit majority	Discouraged	No prohibition specified, but not discouraged	For-profit majority mandated
25 Points	20 Points	10 Points	0 Points	-5 points

#### **Explanation:**

Nevada requires the governor to appoint Commission members. Membership must include one member who is a representative of the State Board of Education; two members who are knowledgeable in the field of education, but not persons representing postsecondary educational institutions, or colleges established or maintained under the laws of Nevada; two members who are representatives of private postsecondary educational institutions; and two members who are representatives of the general public and are not associated with the field of education. (Nev. Rev. Stat. Ann. § 394.385.)

Though Nevada law requires that two members of the Commission be representatives of private postsecondary institutions, the statutorily required make-up discourages a majority of members with for-profit affiliation because, while there is not language explicitly prohibiting a for-profit affiliated majority, it would not be possible for more than three members of the seven-member commission to represent for-profit interests (if the representative of the State Board of Education was affiliated in some way with a for-profit). Thus, it is possible for members with for-profit affiliation to make up a majority of the quorum in some narrow circumstances.

### **2. IS THE OVERSIGHT BODY MANDATED TO INCLUDE AT LEAST ONE CONSUMER ADVOCATE?**

**0/10 POINTS**

Yes	No
10 Points	0 Points



**Explanation:**

Nevada law does not require the inclusion of a consumer advocate member on the Commission.

3. ARE THE MEMBERS APPOINTED BY A PUBLICLY ACCOUNTABLE  
OFFICIAL OR ELECTED IN A GENERAL ELECTION?

**5/5 POINTS**

All	Majority	Half	Minority	None
5 Points	3 Points	2.5 Points	1 Point	0 Points

**Explanation:**

The governor appoints all seven members of the commission. (Nev. Rev. Stat. Ann. § 394.383.)

## II. STATE OVERSIGHT—EFFICACY: 45.5/100 POINTS

A. DOES THE STATE REQUIRE ONSITE REVIEW OF  
PRIVATE POSTSECONDARY INSTITUTIONS?

**1/10 POINTS**

Mandatory onsite reviews			Discretionary	None
Every 2 years or less	Every 3-5 years	Over 5 years	Discretion to conduct onsite reviews	No review specified
10 Points	8 Points	5 Points	3 Points	0 1 Point

**Explanation:**

Nevada receives one point here because the state requires inspection of an institution only where a provisional license has been issued, and there is no requirement that these inspections occur at regular intervals. Additionally, Nevada requires that the Administrator “investigate an applicant if necessary”; this may include an onsite inspection, but there is nothing in Nevada law that mandates regular onsite inspections. (Nev. Rev. Stat. Ann. § 394.460.)

B. DOES THE STATE REQUIRE UNANNOUNCED  
INSPECTIONS FOR ONSITE REVIEWS?

**0/5 POINTS**

Required unannounced visits	Discretion to do unannounced visits	No indication or prohibition on unannounced visits
5 Points	3 Points	0 Points

**Explanation:**

Nevada law does not require or authorize unannounced inspections for onsite reviews.

C. DOES THE STATE REQUIRE REGULAR REVIEWS OF PRIVATE POSTSECONDARY APPROVAL TO OPERATE?

**20/20 POINTS**

Mandatory			Discretionary	None
Every 2 years or less	Every 3-5 years	Over 5 years	Discretion to conduct onsite reviews	Over 6 years or none
20 Points	15 Points	10 Points	5 Points	0 Points

**Explanation:**

The term of a postsecondary school license cannot exceed 2 years. The Administrator of the Commission reviews and investigates, where appropriate, renewal applications. (Nev. Rev. Stat. Ann. § 394.460.)

D. DO THE CRITERIA FOR RENEWAL OF AUTHORIZATION MANDATE A REVIEW OF FACTORS ESSENTIAL TO ACADEMIC AND ETHICAL INTEGRITY?

**4.5/20 POINTS**

8 of 8	7 of 8	6 of 8	5 of 8	4 of 8	3 of 8	2 of 8	1 of 8	0 of 8
20 Points	17.5 Points	15 Points	12.5 Points	10 Points	7.5 Points	5 Points	<del>2.5</del> 4.5 Points	0 Points

Element	
Admission requirements	D
Graduation requirements	M
Placement rate	
Completion rate (or graduation rate)	
Advertising practices	
Cohort default rate	
Accreditation status	D
Financial aid policies	

*M=Mandatory; D=Discretionary*

**Explanation:**

While initial licensure of an institution requires a more comprehensive review, Nevada law requires institutions to submit the following for license renewal: a statement which verifies each program of instruction offered by the licensee and which includes, without limitation, the title of the program, the length of the program in hours of instruction or credit hours, the total tuition and fees for the completion of the program, and the name of the academic instructor responsible for the program; a copy of the licensee's current catalog or brochure; a description of each program of instruction for which there has been a substantial change since the immediately preceding grant or renewal of the license; verification of the financial stability of the applicant; and an affidavit or power of attorney to the Commission or its staff to substantiate the specific information contained in the verification of the financial stability.

Nevada law receives partial (discretionary review) credit for items required in the school catalog because schools are required to submit a catalog for review with their application for license renewal.

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E. DOES THE STATE'S OVERSIGHT DISTINGUISH BETWEEN FOR-PROFIT AND NONPROFIT POSTSECONDARY INSTITUTIONS?

**0/15 POINTS**

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Yes, strongly distinguished	Yes, moderately distinguished	Yes, slightly distinguished	Not distinguished
15 Points	10 Points	5 Points	0 Points

**Explanation:**

Nevada law does not distinguish between private for-profit and nonprofit postsecondary institutions.

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F. DOES THE STATE REQUIRE INCREASED OVERSIGHT/SCRUTINY OF PRIVATE POSTSECONDARY INSTITUTIONS BASED ON POOR PERFORMANCE?

**0/10 POINTS**

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Yes, mandatory	Yes, mandatory but limited	Yes, discretionary	Yes, discretionary but limited	No
10 Points	7.5 Points	5 Points	2.5 Points	0 Points

**Explanation:**

Nevada law does not explicitly require increased oversight/scrutiny of private postsecondary institutions based on poor performance.

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G. DOES STATE LAW INCLUDE ANY SPECIAL PROTECTIONS FOR VETERANS WHO ATTEND PRIVATE POSTSECONDARY INSTITUTIONS?

**20/20 POINTS**

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Yes	No
20 Points	0 Points

**Explanation:**

Nevada law specifies that “[a]ny institution licensed by or under the jurisdiction of an agency of government which seeks approval to offer training to veterans or which has been approved for the training of veterans is subject to the regulations of the Commission, if the agency of government has no criteria, or where the criteria are less stringent than that of the Commission. The regulations of the Commission apply to contested cases concerning approval of programs for the training of veterans.” (Nev. Admin. Code 394.375.) In addition, Nevada’s Commission on Postsecondary Education maintains a special page on its website to provide information and assistance to veterans (<http://www.cpe.state.nv.us/CPE%20Vet%20Info.htm>).

### III. STATE OVERSIGHT—SCOPE AND INCLUSION:

**50/100 POINTS**

#### A. ARE EXEMPTIONS TO STATE OVERSIGHT COVERAGE LIMITED?

**50/100 POINTS**

No exemptions	Few exemptions	Moderate exemptions	Broad exemptions
100 Points	75 Points	50 Points	0 Points

**Explanation:**

Nevada law allows moderate exemptions to oversight requirements. First, it excludes institutions licensed by a federal or other state agency in its definition of postsecondary educational institution. (Nev. Rev. Stat. Ann. § 394.099.) Second, and importantly, accreditation may be accepted as evidence of compliance with the minimum standards established by the Commission, or the Administrator may require further evidence and make further investigation as in the judgment of the Administrator or the judgment of the Commission are necessary. (Nev. Rev. Stat. Ann. § 394.447.) Nevada loses credit because it allows accreditation to be accepted as evidence of compliance with minimum standards. This amounts to a moderate exemption rather than a broad exemption because Nevada leaves to the Commission's discretion the final determination as to whether or not to accept accreditation as evidence of compliance with minimum requirements and because evidence of accreditation does not exempt a private postsecondary institution from oversight entirely.

### IV. DISCLOSURE REQUIREMENTS: **27.5/100 POINTS**

#### A. ARE INSTITUTIONS REQUIRED TO DISCLOSE INSTITUTIONAL PERFORMANCE MEASURES TO POTENTIAL STUDENTS?

**5/20 POINTS**

Yes, mandatory	Yes, discretionary	None
Fact sheet or equivalent required to be given to students	Fact sheet or equivalent given to students upon request:	No fact sheet required
20 Points	10 5 Points	0 Points

**Explanation:**

Nevada law requires non-degree-granting institutions to maintain information on completion rates, employment rates, and, where a program is offered to prepare students for a licensing exam, exam passage rates. Nevada requires non-degree-granting institutions to select, from the information collected the information relating to any 6-month period within the 18-month period preceding its next date for enrollment. The information for the period selected must be set forth in written form and posted conspicuously at the institution.

Nevada receives only five points for requiring these limited disclosures because disclosure to potential students is discretionary; it is not provided on a fact sheet that is provided to students, rather, it is posted; the state gives institutions enough discretion in choosing which information to provide that the

institutions could manipulate the information in a way that may be misleading to students; and only non-degree-granting institutions are required to provide these disclosures.

**B. WHICH INSTITUTIONAL PERFORMANCE DISCLOSURES ARE REQUIRED TO BE GIVEN TO STUDENTS PRIOR TO ENROLLMENT?**

**7.5/60 POINTS**

Disclosures	Mandatory	Discretionary	Not specified
Cohort default rate (CDR)	10 Points	5 Points	0 Points
Graduation / completion rates	10 Points	5 2.5 Points	0 Points
Placement rates	10 Points	5 2.5 Points	0 Points
Wage information	10 Points	5 Points	0 Points
License exam passage rates	10 Points	5 2.5 Points	0 Points
Methods & sources used to calculate	10 Points	5 Points	0 Points

**Explanation:**

Nevada law receives partial credit for requiring performance disclosures because the state requires only non-degree-granting postsecondary schools to provide performance disclosures; gives the schools discretion as to which timeframe to use for performance disclosures; and requires only that the schools post these disclosures in a “conspicuous location.” Students may or may not see the disclosures prior to enrollment.

The state receives credit for providing placement disclosure because non-degree-granting postsecondary schools are required to provide disclosures related to employment.

**C. DOES THE STATE REQUIRE SCHOOLS TO DISCLOSE ELEMENTS ESSENTIAL TO STUDENT PROTECTION PRIOR TO ENROLLMENT OR IN THE ENROLLMENT CONTRACT?**

**15/20 POINTS**

Element description	Mandatory	Discretionary	Not specified
Total cost of program	5 Points	2.5 Points	0 Points
Refund information	5 Points	2.5 Points	0 Points
Transferability of credits	5 Points	2.5 Points	0 Points
Length of program	5 Points	2.5 Points	0 Points

**Explanation:**

Nevada law requires postsecondary schools to provide students and other interested persons with a catalog or brochure containing information describing the programs offered, objectives of the program, length of the program, schedule of tuition, fees and all other charges and expenses necessary for completion of the course of study, policies concerning cancellations and refunds, an explanation of the Account for Student Indemnification and other material facts concerning the institution and the program or course of instruction that are likely to affect the decision of the student to enroll therein prior to enrollment. (Nev. Rev. Stat. Ann. § 394.441.)

## V. REGULATION OF RECRUITING PRACTICES:

**75/100 POINTS**

### A. HAS THE STATE PUT INTO LAW A LIST OF PROHIBITED ACTS REGARDING ADVERTISING AND RECRUITING?

**75/100**

Yes, strong regulation	Yes, moderate regulation	Yes, weak regulation	No list of prohibited acts
100 Points	<b>75 Points</b>	50 Points	0 Points

#### PROHIBITED ACTS

Included in list of prohibited acts	
Misleading representations using the word “college” or “university”	<b>X</b>
Misleading institution affiliations (e.g., military, public institution, businesses)	<b>X</b>
Promise of employment	<b>X</b>
Compensation for enrollment	
Compensation or “bounty” to recruiters	
Deception (broad prohibition)	<b>X</b>
Misrepresentation (broad prohibition)	<b>X</b>
Misleading representations re: accreditation	<b>X</b>

*1-3=Weak; 3.5-6=Moderate; 6.5-8=Strong*

#### Explanation:

Nevada law includes a long list of prohibitions related to promotional materials used by postsecondary institutions. The prohibitions include all of the above elements with the exceptions of “compensation or ‘bounty’ to recruiters” and “compensation for enrollment.” (Nev. Admin. Code 394.590.)

## VI. COMPLAINT PROCESS AND RELIEF FOR STUDENTS:

**61/100 POINTS**

### A. DOES THE STATE REQUIRE A BOND OR FUND AS A CONDITION OF AUTHORIZATION?

**15/20 POINTS**

Yes	No
<b>20 15 points</b>	0 Points

#### Explanation:

Nevada law requires specified institutions to post a bond: a postsecondary educational institution initially licensed on or after July 1, 1995; a postsecondary educational institution or other entity authorized to employ one or more agents in the state; a postsecondary educational institution that poses a financial risk to the students who are enrolled in the institution, as determined by the Commission; a postsecondary educational institution that files for a change of ownership shall file with the Administrator; and a

postsecondary educational institution may be required by the Commission to file a new or supplementary bond in an amount and for a period determined appropriate by the Commission if the Commission determines that the current bond filed by the institution is insufficient to cover all claims, accrued or contingent, against the institution. (Nev. Rev. Stat. Ann. § 394.480.) Nevada loses five points because while the bond requirement applies to most institutions, it does not apply to all of them.

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**B. DOES THE STATE REQUIRE A REFUND OF TUITION IF A STUDENT ENROLLS AS THE RESULT OF MISREPRESENTATION?**

**10/20 POINTS**

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Yes, full refund	Yes, partial refund	No refund required
20 Points	10 Points	0 Points

**Explanation:**

While Nevada law does not explicitly guarantee a full refund when a student enrolls as a result of misrepresentation, partial credit is awarded here because the state leaves open the possibility of a refund by implication of the following: “If the Commission revokes a license, the institution shall cease its operations and granting degrees and shall refund to each enrolled student the cost of the student’s current course or program.” (Nev. Rev. Stat. Ann. § 394.510.) The state may revoke a license if an institution violates the laws in place to govern it (Nev. Rev. Stat. Ann. § 394.510) which include prohibitions related to promotional materials and practices. (Nev. Admin. Code 394.590.)

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**C. DOES THE STATE REQUIRE INSTITUTIONS TO REFUND TUITION IN THE EVENT OF INSOLVENCY?**

**15/20 POINTS**

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Yes, full refund	Yes, partial refund	Yes, refund in limited circumstances	No refund required
20 Points	15 Points	10 Points	0 Points

**Explanation:**

Nevada law requires institutions, upon closure, to provide a refund to the person or entity who paid the tuition and other fees to the licensed institution, as documented by receipts or other documents available. (Nev. Rev. Stat. Ann. § 394.652.)

If any student is entitled to a refund from an institution pursuant to any provision of Nev. Rev. Stat. Ann. 394.383 to 394.560, inclusive, the surety bond shall provide indemnification. Thus, students may be entitled to a refund from this account in the event of a closure. (Nev. Rev. Stat. Ann. § 394.480.)

In addition, Nevada has created an Account for Student Indemnification, which may be used to indemnify any student or enrollee who has suffered damage as a result of: the discontinuance of operation of a postsecondary educational institution licensed in the state; or the violation by such an institution of any provision of laws in place to govern postsecondary institutions. (Nev. Admin. Code 394.652.)

There is, however, no indication that students are entitled to a full refund in the event of a school closure and/or insolvency. Therefore, the state receives only partial credit because the refund is limited by this omission.

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D. DOES THE STATE ALLOW STUDENTS AMPLE TIME TO MAKE A COMPLAINT?  
**5/10 POINTS**

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2 years or more (or no deadline)	1-2 years	Under 1 year	Not applicable
10 Points	5 Points	1 Point	0 Points

**Explanation:**

Nevada law requires complaints to be filed within one year from the last date of attendance or the date on which the damage occurred, whichever is later, for a person claiming damage as a result of any act by a postsecondary educational institution or its agent, or both, that is a violation of Nev. Rev. Stat. Ann. § 394.383 to 394.560, inclusive, or regulations adopted pursuant thereto. A verified complaint against an institution, its agent, or both may be filed with the Administrator. (Nev. Rev. Stat. Ann. § 394.520.)

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E. DOES THE STATE REQUIRE INSTITUTIONS TO DISCLOSE INFORMATION  
ABOUT FILING A COMPLAINT WITH THE STATE OVERSIGHT BODY?  
**7.5/20 POINTS**

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Medium	Mandatory	Discretionary	Not specified
Catalog	10 Points	5 Points	0 Points
Website	5 Points	2.5 Points	0 Points
Enrollment contract	5 Points	2.5 Points	0 Points

**Explanation:**

Nevada law requires institutions to post in a conspicuous place a notice supplied by the Administrator stating that grievances may be submitted to the Administrator for resolution. (Nev. Rev. Stat. Ann. § 394.443.) The state receives partial credit for requiring institutions to post complaint information on the institutional website and in the institutional catalog because both could reasonably be considered “conspicuous places” where an institution would post information on the complaint process. However, there is no requirement that institutions post in these locations, determining in which “conspicuous places” to post the relevant information is ultimately left to the discretion of the institutions.

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F. IS THE COMPLAINT PROCESS READILY ACCESSIBLE AND  
AVAILABLE ON THE STATE OVERSIGHT BODY’S WEBSITE?  
**8.5/10 POINTS**

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Yes, with address	Yes, with phone #	Yes, with email address	Yes, with electronic form	No
2 Points	2 Points	3 Points	<del>3 Points</del> 1.5 Points	0 Points

**Explanation:**

The Commission maintains a website on which students can find a form which contains an address, fax number, mailing address, and email address. The webpage also includes a phone number. Nevada loses 1.5 points for the electronic form because while the form may be completed and mailed or emailed to the Commission, it is not an electronic form in the sense that it can be completed and submitted directly from the website.



## VII. ENFORCEMENT: 20/100 POINTS

- A. IS THERE LOSS OF STATE AID FOR SCHOOLS THAT REPEATEDLY PRODUCE SUBSTANDARD GRADUATION RATES, JOB PLACEMENT RATES, AND/OR COHORT DEFAULT RATES?

0/30 POINTS

Yes, required	Yes, required but limited	Yes, discretionary	Yes, discretionary but limited	No
30 Points	20 Points	15 Points	5 Points	0 Points

**Explanation:**

There is no explicit provision in Nevada law that would require the loss of state aid for schools that repeatedly produce substandard graduation rates, job placement rates, and/or cohort default rates.

- B. DOES STATE LAW EXPLICITLY AUTHORIZE A PRIVATE RIGHT OF ACTION FOR STUDENTS AGAINST INSTITUTIONS THAT HAVE VIOLATED THE LAWS AND REGULATIONS IN PLACE TO GOVERN THEM?

0/30 POINTS

Yes	Limited circumstances	No
30 Points	15 Points	0 Points

**Explanation:**

Nevada law does not explicitly authorize a private right of action for students against institutions that have violated the laws and regulations in place to govern them.

- C. DOES STATE LAW EXPLICITLY ALLOW ATTORNEY FEE AWARDS FOR STUDENTS WHO PREVAIL IN LITIGATION AGAINST PRIVATE FOR-PROFIT POSTSECONDARY INSTITUTIONS?

0/20 POINTS

Yes	Limited	No
20 Points	15 Points	0 Points

**Explanation:**

Nevada law does not explicitly allow attorney fee awards for students who prevail in litigation against institutions that have violated the laws and regulations in place to govern them.

- D. DOES THE STATE EXPLICITLY AUTHORIZE ATTORNEY GENERAL INVOLVEMENT?

20/20 POINTS

Yes	Limited circumstances	No
20 Points	10 Points	0 Points

**Explanation:**

Nevada law authorizes the Attorney General to file a complaint against an institution. (Nev. Rev. Stat. Ann. § 394.520.)

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## BONUS POINTS

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Nevada receives no bonus points.



## ILLUMINATING INFORMATION

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## RECIPROCITY AGREEMENTS

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Nevada is a member of the State Authorization Reciprocity Agreements (SARA).

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## LITIGATION, INVESTIGATIONS, AND ACTIONS INVOLVING PRIVATE FOR-PROFIT EDUCATIONAL INSTITUTIONS IN NEVADA

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For information about pending and recent federal and state government investigations and actions regarding for-profit colleges see David Halperin's compilation at <http://www.republicreport.org/2014/law-enforcement-for-profit-colleges/#sthash.1vc4HmPw.dpuf>.

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# NEW HAMPSHIRE

## FINAL GRADING ANALYSIS

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OVERALL SCORE: **329.5/700 POINTS (47.1%)**  
LETTER GRADE: **F**

### I. OVERSIGHT BODY: **50.5/100 POINTS**

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#### A. IS THERE A STATUTORILY CREATED OVERSIGHT BODY THAT IS PUBLICLY ACCOUNTABLE?

**47.5/60 POINTS**

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Element	Points Available	Type 1	Type 2	Points Awarded (Average)
1. Oversight body is a multi-member board, commission, or panel created by statute	10	10	10	10
2. Oversight body was statutorily created specifically to oversee private postsecondary institutions	10	5	0	2.5
3. Multi-member board, commission, or panel is the ultimate decision maker (as opposed to a single person, like the head of a department or director)	10	10	10	10
4. Oversight body can engage in rulemaking	10	10	10	10
5. Oversight body's meetings must be open to the public	5	5	5	5
6. Oversight body's meetings must allow public comment	5	0	0	0
7. Oversight body can initiate investigations	5	5	5	5
8. Oversight body can impose penalties for violations	5	5	5	5
Total Points	60	50	45	47.5

*\*for purposes of this element, the term board refers to the state's multi-member Higher Education Commission*

#### **Explanation:**

Private postsecondary career schools (Type 1) and private degree-granting postsecondary educational institutions (Type 2) are governed under two separate statutory and regulatory code sections in New Hampshire. The Higher Education Commission licenses private postsecondary career schools and approves degree-granting private postsecondary educational institutions. (N.H. Rev. Stat. Ann. § 188-G:2; N.H. Rev. Stat. Ann. § 292:8-e.) For both types of school, the Commission is the final decision maker. It is responsible for rulemaking, it can initiate investigations, and it can impose penalties. (N.H. Rev. Stat. Ann. § 21-N:8-a.)

New Hampshire requires all meetings of a quorum of the membership of a public body, whether held in person, by means of telephone or electronic communication, or in any other manner, to be open to the public. **N.H. Rev. Stat. Ann. § 91-A:2** Thus, the Commission must hold public meetings, though there is no indication that New Hampshire requires these meetings to allow a period for public comment.

**Type 1: Private postsecondary career schools.** The Commission’s Office of Career School Licensing regulates and licenses private, postsecondary career schools. (N.H. Admin. Rules, Hedc 300.) New Hampshire receives partial credit for recognizing the need for a specialized oversight body to specifically oversee private postsecondary career schools and creating the Office of Career School Licensing for that purpose.

**Type 2: Private degree-granting postsecondary educational institutions.** The Higher Education Commission oversees private degree-granting institutions. The state has not statutorily created a special office or board within the Commission to oversee these institutions.

## B. STATUTE-SPECIFIED MEMBERSHIP:

### 1. TO WHAT EXTENT ARE LIMITATIONS PLACED ON FOR-PROFIT MEMBERSHIP ON THE OVERSIGHT BODY?

**0/25 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Explicit prohibition on for-profit majority, plus no possibility of a majority of the quorum	Explicit prohibition on for-profit majority	Discouraged	No prohibition specified, but not discouraged	For-profit majority mandated
<b>Type 1</b>	25 Points	20 Points	10 Points	<b>0 Points</b>	–5 points
<b>Type 2</b>	25 Points	20 Points	10 Points	<b>0 Points</b>	–5 Points

#### **Explanation:**

New Hampshire requires that the Commission’s 22-members include one member who is a representative from a for-profit college or university, as well as six members from private four-year colleges in New Hampshire. While there is no requirement that the six members from the four-year colleges be representatives of for-profit institutions, there is no prohibition on them being so associated. (N.H. Rev. Stat. Ann. § 21-N:8-a.) Also, the two Commission members from the New Hampshire Council for Professional Education could be representatives from for-profit career schools.



**Notable fact.** According to a June 2017 correspondence from New Hampshire officials, no for-profit colleges or universities with a physical presence are currently operating in the state.

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2. IS THE OVERSIGHT BODY MANDATED TO INCLUDE  
AT LEAST ONE CONSUMER ADVOCATE?

**0/10 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	No
Type 1	10 Points	0 Points
Type 2	10 Points	0 Points

**Explanation:**

New Hampshire law does not require the Commission to include a consumer advocates in its membership. (N.H. Rev. Stat. Ann. § 21-N:8-a.)

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3. ARE THE MEMBERS APPOINTED BY A PUBLICLY ACCOUNTABLE  
OFFICIAL OR ELECTED IN A GENERAL ELECTION?

**3/5 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	All	Majority	Half	Minority	None
Type 1	5 Points	3 Points	2.5 Points	1 Point	0 Points
Type 2	5 Points	3 Points	2.5 Points	1 Point	0 Points

**Explanation:**

The majority of Commission members are appointed either by the governor or by another publicly accountable official or board.

The Commission membership consists of the following: The president of the University of New Hampshire, the president of Keene State College, the president of Plymouth State University, and the president of Granite State College; two presidents from institutions within the Community College System of New Hampshire, to be chosen by the board of trustees of the Community College System; the chancellor of the University System of New Hampshire; the chancellor of the Community College System of New Hampshire; the commissioner of the Department of Education; six representatives of the private 4-year colleges in New Hampshire appointed by the governor and council on recommendation by the New Hampshire College and University Council, with no more than one representative from any one college; one member to be appointed by the governor and council as a representative from a for-profit college or university not a member of the New Hampshire College and University Council; four members to be appointed by the governor and council who shall be residents of the state and of the lay public, having no official connection with any college, university, or private postsecondary career school as an employee, trustee, or member on a board of directors; two members to be appointed by the governor and council, on recommendation by the New Hampshire Council for Professional Education, who shall be residents of the state and shall represent private postsecondary career schools. (N.H. Rev. Stat. Ann. § 21-N:8-a.)

## II. STATE OVERSIGHT—EFFICACY: 51.5/100 POINTS

### A. DOES THE STATE REQUIRE ONSITE REVIEW OF PRIVATE POSTSECONDARY INSTITUTIONS?

2.5/10 POINTS\*

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Mandatory onsite reviews			Discretionary	None
	Every 2 years or less	Every 3-5 years	Over 5 years	Discretion to conduct onsite reviews	No review specified
Type 1	10 Points	8 Points	5 Points	3 4 Points	0 Points
Type 2	10 Points	8 Points	5 Points	3 Points	0 1 Point

#### **Explanation:**

**Type 1: Private postsecondary career schools.** New Hampshire law requires an onsite inspection as part of an institution's initial application. Although state law does not require onsite inspections to occur at regular intervals after that, it gives the Commission discretion to inspect the premises of private postsecondary career colleges at any time in order to determine compliance with applicable laws and rules. (N.H. Rev. Stat. Ann. § 188-G:5.) One additional point is awarded for the initial onsite inspection.

**Type 2: Private degree-granting postsecondary educational institutions.** New Hampshire law requires institutions to submit annual and/or other reports as specified in its commission approval. The director is required to review and report compliance to the Commission.

Onsite reviews may take place in specific circumstances. New Hampshire law allows for three types of reviews: a comprehensive review, an expedited review, and an administrative review. If an institution is undergoing a comprehensive review, it will undergo an onsite visit. (N.H. Admin. Rules, Heds 404.03.) New Hampshire receives one point for requiring onsite reviews in these limited circumstances.

### B. DOES THE STATE REQUIRE UNANNOUNCED INSPECTIONS FOR ONSITE REVIEWS?

1.5/5 POINTS\*

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Required unannounced visits	Discretion to do unannounced visits	No indication
Type 1	5 Points	3 Points	0 Points
Type 2	5 Points	3 Points	0 Points

#### **Explanation:**

**Type 1: Private postsecondary career schools.** New Hampshire law gives the Commission discretion to conduct unannounced site visits. (N.H. Rev. Stat. Ann. § 188-G:5.)

**Type 2: Private degree-granting postsecondary educational institutions.** New Hampshire law neither requires nor gives the Commission discretion to conduct unannounced onsite reviews.

C. DOES THE STATE REQUIRE REGULAR REVIEWS OF PRIVATE POSTSECONDARY APPROVAL TO OPERATE?

**15/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Mandatory			Discretionary	None
	2 years or less	Every 3-5 years	Over 5 years	Discretion to conduct reviews	No review specified
<b>Type 1</b>	20 Points	15 Points	<b>10 Points</b>	5 Points	0 Points
<b>Type 2</b>	<b>20 Points</b>	15 Points	10 Points	5 Points	0 Points

**Explanation:**

**Type 1: Private postsecondary career schools.** New Hampshire law requires private postsecondary career schools to renew licenses, which requires review of specified information. (N.H. Admin. Rules, Hedc 303.02.) New Hampshire law requires a review within 90 days of the license expiring for any institution.

**Type 2: Private degree-granting postsecondary educational institutions.** New Hampshire law requires degree-granting private postsecondary educational institutions to submit annual reports and requires the director to review the reports and report compliance to the Commission. (N.H. Admin. Rules, Hedc 406.01.)

D. DO THE CRITERIA FOR RENEWAL OF AUTHORIZATION MANDATE A REVIEW OF FACTORS ESSENTIAL TO ACADEMIC AND ETHICAL INTEGRITY?

**10/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	8 of 8	7 of 8	6 of 8	5 of 8	4 of 8	3 of 8	2 of 8	1 of 8	0 of 8
<b>Type 1</b>	20 Points	17.5 Points	15 Points	<b>12.5 13.5 Points</b>	10 Points	7.5 Points	5 Points	2.5 Points	0 Points
<b>Type 2</b>	20 Points	17.5 Points	15 Points	12.5 Points	10 Points	7.5 Points	5 Points	<b>2.5 6.5 Points</b>	0 Points

Element	Type 1	Type 2
Admission requirements	M	D
Graduation requirements	M	D
Placement rate	M	D
Completion rate (or graduation rate)	M	D
Advertising practices	M	
Cohort default rate		
Accreditation status	D	M
Financial aid policies		

*M=Mandatory; D=Discretionary*

**Explanation:**

**Type 1: Private postsecondary career schools.** New Hampshire law requires an initial application for licensure to include information related to admission requirements, program or course outcomes (placement and completion rates). (N.H. Admin. Rules, Hedc 304.04; N.H. Admin. Rules, Hedc 304.06.) Additionally, the Commission may review sales (advertising) practices by virtue of the discretion the law provides the Commission to conduct review of sales literatures at any time. (N.H. Admin. Rules, Hedc 303.01.) Finally, it can be reasonably assumed that the Commission may review a school's accreditation given that N.H. Admin. Rules, Hedc 304.08 requires that learning resources must meet the requirements of the school's accreditation association, if applicable, and N.H. Admin. Rules, Hedc 304.03 requires schools to measure instructional activity unless otherwise required by an accrediting agency accreditation or federal regulations. Upon renewal, schools must provide any updates to information provided on their initial application. (N.H. Admin. Rules, Hedc 303.02.)

**Type 2: Private degree-granting postsecondary educational institutions.** New Hampshire law requires institutions to file annual and/or other reports as specified in its Commission approval. The director is required to review and report compliance to the Commission. (N.H. Admin. Rules, Hedc 406.02.) The continuing reviews must consider accreditation, but there is no indication that the Commission is required to review any of the other elements noted above. Many of the above elements are, however, included in the standards for evaluation laid out in New Hampshire's code and therefore would be subject to review given that the standards must be met as a condition of approval. The state is awarded partial credit here because while the standards are likely subject to review, there is no explicit requirement that the Commission review the elements/standards annually. The standards for evaluation require degree-granting private postsecondary educational institutions to submit for evaluation a catalog and supporting materials that include, among other relevant information, admission requirements; rates of student success, including rates of retention, graduation, and other measures of success appropriate to its institutional mission (which may include placement rate, and the state receives partial credit for including placement rate); schedule of tuition, fees, availability of financial aid, expected amount of student debt upon graduation, and all other charges and expenses necessary for the completion of the course of study. (N.H. Admin. Rules, Hedc 405.11.) The institution is further required to define graduation requirements in its written plan. (N.H. Admin. Rules, Hedc 405.04.)

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**E. DOES THE STATE'S OVERSIGHT DISTINGUISH BETWEEN  
FOR-PROFIT AND NONPROFIT EDUCATIONAL INSTITUTIONS?**

**0/15 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	<b>Yes, strongly distinguished</b>	<b>Yes, moderately distinguished</b>	<b>Yes, slightly distinguished</b>	<b>Not distinguished</b>
<b>Type 1</b>	15 Points	10 Points	5 Points	<b>0 Points</b>
<b>Type 2</b>	15 Points	10 Points	5 Points	<b>0 Points</b>

**Explanation:**

**Type 1: Private postsecondary career schools.** New Hampshire law does not distinguish between private for-profit and private nonprofit postsecondary career schools. (N.H. Rev. Stat. Ann. § 188-G:1.)

**Type 2: Private degree-granting postsecondary educational institutions.** New Hampshire law does not distinguish between private for-profit and private nonprofit degree-granting private postsecondary educational institutions.



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F. DOES THE STATE REQUIRE INCREASED OVERSIGHT/SCRUTINY OF PRIVATE POSTSECONDARY INSTITUTIONS BASED ON POOR PERFORMANCE?

**2.5/10 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, mandatory	Yes, mandatory but limited	Yes, discretionary	Yes, discretionary but limited	No
Type 1	10 Points	7.5 Points	5 Points	2.5 Points	0 Points
Type 2	10 Points	7.5 Points	5 Points	2.5 Points	0 Points

**Explanation:**

**Type 1: Private postsecondary career schools.** New Hampshire law requires private postsecondary career schools to maintain a system which defines and measures the knowledge, skills and competencies students have acquired, and disclose information about percentage of graduates who successfully obtained such licensure, number and percentage of students who complete or graduate from each program or course, or both, and the number and percentage of students who are working in jobs related to their training 60–90 days following completion or graduation. (N.H. Admin. Rules, Hec 304.06.) According to the state, poor performance under N.H. Admin. Rules, Hec 304.12 triggers an investigation under N.H. Admin. Rules, Hec 309, which in turn triggers revocation for the school's license under N.H. Admin. Rules, Hec 311.01 if the school does not show increased performance. However, it is not clear from the text of the statutes whether this is guaranteed to occur, as the statutes do not specify any specific standards.

**Type 2: Private degree-granting postsecondary educational institutions.** New Hampshire law does not require increased oversight/scrutiny for institutions based on performance (low graduation rates, high default rates, low placement rates, and/or low exam passage rates).

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G. DOES STATE LAW INCLUDE ANY SPECIAL PROTECTIONS FOR VETERANS WHO ATTEND PRIVATE POSTSECONDARY INSTITUTIONS?

**20/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	No
Type 1	20 Points	0 Points
Type 2	20 Points	0 Points

**Explanation:**

**Type 1: Private postsecondary career schools.** New Hampshire law has some special provisions in place that provide special protections for veterans. The Veterans Education Services may approve for veterans' education and services any institution licensed as a private postsecondary career school. The Department of Education may adopt rules relative to the procedures for approval of institutions for veterans' education and benefits. (N.H. Rev. Stat. Ann. § 188-G:8.) In addition, the Department of Education has a webpage dedicated to veterans' education.

**Type 2: Degree-granting private postsecondary educational institutions.** New Hampshire law has some special provisions in place that may provide special protections for veterans. The Department of Education may adopt rules relative to the procedures for approval of institutions for veterans' education

and benefits. (N.H. Rev. Stat. Ann. § 188-G:8.) In addition, the Department of Education has a webpage dedicated to veterans' education.

### III. STATE OVERSIGHT—SCOPE AND INCLUSION:

**50/100 POINTS**

#### A. ARE EXEMPTIONS TO STATE OVERSIGHT COVERAGE LIMITED?

**50/100 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	No exemptions	Few exemptions	Moderate exemptions	Broad exemptions
Type 1	100 Points	75 Points	50 Points	0 Points
Type 2	100 Points	75 Points	50 Points	0 Points

#### Explanation:

**Type 1: Private postsecondary career schools.** New Hampshire law provides no significant exemptions to Commission oversight and regulation. The exceptions that are allowed include avocational training, courses offered by an employer for employees (at no cost to the employee), schools specifically licensed as an education or training school by a state agency other than the Commission, noncredit courses or programs sponsored by recognized trade, business, or professional organizations solely for the instruction of their members that do not prepare or qualify individuals for employment in any occupation or trade, and the like. (N.H. Rev. Stat. Ann. § 188-G:1.)

**Type 2: Degree-granting private postsecondary educational institutions.** New Hampshire law allows the Commission to accept accreditation or program approval by a recognized accrediting body in place of its own independent evaluation, thereby creating a broad exemption to the oversight of degree-granting private postsecondary educational institutions. (N.H. Rev. Stat. Ann. § 292:8-e.)

### IV. DISCLOSURE REQUIREMENTS: **48.75/100 POINTS**

#### A. ARE INSTITUTIONS REQUIRED TO DISCLOSE INSTITUTIONAL PERFORMANCE MEASURES TO POTENTIAL STUDENTS?

**10/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, mandatory	Yes, discretionary	None
	Fact sheet or equivalent required to be given to students	Fact sheet or equivalent given to students upon request	No fact sheet required
Type 1	20 Points	10 Points	0 Points
Type 2	20 Points	10 Points	0 Points

#### Explanation:

**Type 1: Private postsecondary career schools.** New Hampshire law requires private postsecondary career schools to make information available to the public in hard copy and electronically, although there is nothing that requires schools disclose this information to potential students. This information must include several disclosures, rates of student success, including rates of retention, graduation and other measures of success applicable to its institutional mission. (N.H. Admin. Rules, Hedc 304.12.)

**Type 2: Degree-granting private postsecondary educational institutions.** New Hampshire law requires institutions to provide disclosures to the public in their catalog and supporting materials that are accessible electronically. (N.H. Admin. Rules, Hedc 405.11.) Institutions are not required to provide the disclosures to the students prior to enrollment, but because the institutions are required to make these disclosures available to the public, the state receives partial credit for this element.

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**B. WHICH INSTITUTIONAL PERFORMANCE DISCLOSURES ARE  
REQUIRED TO BE GIVEN TO STUDENTS PRIOR TO ENROLLMENT?  
25/60 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

**Type 1: Private postsecondary career schools**

Disclosures	Mandatory	Discretionary	Not specified
Cohort default rate (CDR)	10 Points	5 Points	<b>0 Points</b>
Graduation / completion rates	<b>10 Points</b>	5 Points	0 Points
Placement rates	10 Points	<b>5 Points</b>	0 Points
Wage information	10 Points	<b>5 Points</b>	0 Points
License exam passage rates	10 Points	<b>5 Points</b>	0 Points
Methods & sources used to calculate	10 Points	<b>5 Points</b>	0 Points

**Explanation:**

New Hampshire law specifically requires private postsecondary career schools to disclose to the public information related to student success, including rates of retention, graduation and other measures of success applicable to its institutional mission. (N.H. Admin. Rules, Hedc 304.12(k).) Though they are not specifically enumerated, it is reasonable to assume that placement rates, wage information, and license exam passage rates and methods and sources used to calculate these rates are “other measures of success applicable to institutional mission,” in light of the fact that New Hampshire law requires schools to maintain records related to program or course outcomes including a system which defines and measures the knowledge, skills and competencies students have acquired, and information related to graduation, exam passage and employment rates. (N.H. Admin. Rules, Hedc 304.06.) New Hampshire law does not require private postsecondary career schools to disclose cohort default rates.

**Type 2: Degree-granting private postsecondary educational institutions**

Disclosures	Mandatory	Discretionary	Not specified
Cohort default rate (CDR)	10 Points	5 Points	<b>0 Points</b>
Graduation / completion rates	10 Points	<b>5 Points</b>	0 Points
Placement rates	10 Points	<b>5 Points</b>	0 Points
Wage information	10 Points	<b>5 Points</b>	0 Points
License exam passage rates	10 Points	<b>5 Points</b>	0 Points
Methods & sources used to calculate	10 Points	5 Points	<b>0 Points</b>

**Explanation:**

New Hampshire law requires institutions to provide disclosures to the public in their catalog and supporting materials that are accessible electronically. (N.H. Admin. Rules, Hedc 405.11.) Rates of student success including rates of retention, graduation, and other measures of success appropriate to its instructional mission. (N.H. Admin. Rules, Hedc 405.11(g).) “Other measures of success appropriate to its instructional mission” may reasonably include information related to placement, wage, and license passage rates. Institutions are not required to provide the disclosures to the students prior to enrollment, but because institutions are required to make these disclosures available to the public, the state receives partial credit for this element.

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**C. DOES THE STATE REQUIRE SCHOOLS TO DISCLOSE ELEMENTS  
ESSENTIAL TO STUDENT PROTECTION PRIOR TO ENROLLMENT OR  
IN THE ENROLLMENT CONTRACT?**

**13.75/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

***Type 1: Private postsecondary career schools***

Element description	Mandatory	Discretionary	Not specified
<b>Total cost of program</b>	<b>5 Points</b>	2.5 Points	0 Points
<b>Refund information</b>	<b>5 Points</b>	2.5 Points	0 Points
<b>Transferability of credits</b>	5 Points	<b>2.5 Points</b>	0 Points
<b>Length of program</b>	<b>5 Points</b>	2.5 Points	0 Points

**Explanation:**

New Hampshire requires public disclosure of information related to the cost of programs, refunds, transferability of credits, and requirements for completing a program. (N.H. Admin. Rules, Hedc 304.12.) The state receives partial credit because there is no requirement that these disclosures are made to potential student prior to enrollment or in the enrollment contract.

***Type 2: Degree-granting private postsecondary educational institutions***

Element Description	Mandatory	Discretionary	Not specified
<b>Total cost of program</b>	5 Points	<b>2.5 Points</b>	0 Points
<b>Refund information</b>	5 Points	<b>2.5 Points</b>	0 Points
<b>Transferability of credits</b>	5 Points	<b>2.5 Points</b>	0 Points
<b>Length of program</b>	5 Points	<b>2.5 Points</b>	0 Points

**Explanation:**

New Hampshire law requires institutions to provide disclosures to the public in their catalog and supporting materials that are accessible electronically. (N.H. Admin. Rules, Hedc 405.11.) The state requires public disclosures to include information related to total cost of programs, refund information, transferability of credits, and the length of programs. (N.H. Admin. Rules, Hedc 405.11.) Institutions are not required to provide the disclosures to the students prior to enrollment, or in the enrollment contract, but because institutions are required to make the disclosures available to the public, the state receives partial credit for this element.

## V. REGULATION OF RECRUITING PRACTICES:

**62.5/100 POINTS**

### A. HAS THE STATE PUT INTO LAW A LIST OF PROHIBITED ACTS REGARDING ADVERTISING AND RECRUITING?

**62.5/100 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, strong regulation	Yes, moderate regulation	Yes, weak regulation	No list of prohibited acts
Type 1	100 Points	75 Points	50 Points	0 Points
Type 2	100 Points	75 Points	50 Points	0 Points

#### PROHIBITED ACTS

Included in list of Prohibited Acts	Type 1	Type 2
Misleading representations using the word “college” or “university”		X
Misleading institution affiliations (e.g., military, public institutions, businesses)	X	X
Promise of employment	X	
Compensation for enrollment		
Compensation or “bounty” to recruiters		
Deception (broad prohibition)	X	
Misrepresentation (broad prohibition)	X	
Misleading representations re: accreditation		

*1-3=Weak; 3.5-6=Moderate; 6.5-8=Strong*

#### Explanation:

**Type 1: Private postsecondary career schools.** New Hampshire law prohibits private postsecondary career schools from falsely misleading the public as to its name, nature of business, facilities and equipment and from engaging in fraudulent or deceitful marketing practices. Schools are further prohibited from making unsubstantiated claims or guarantees regarding employment to prospective students. (N.H. Admin. Rules, Hedc 304.13.)

**Type 2: Degree-granting private postsecondary educational institutions.** New Hampshire law prohibits degree-granting private postsecondary educational institutions from using the terms “college,” “university,” or “junior college” in connection with the institution absent authorization under New Hampshire law. N.H. Rev. Stat. Ann. § 292:8-g

## VI. COMPLAINT PROCESS & RELIEF FOR STUDENTS:

**56.25/100 POINTS**

### A. DOES THE STATE REQUIRE A BOND OR FUND AS A CONDITION OF AUTHORIZATION?

**10/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	No
Type 1	20 Points	0 Points
Type 2	20 Points	0 Points

**Explanation:**

**Type 1: Private postsecondary career schools.** New Hampshire law requires private postsecondary career schools to post a surety bond, an irrevocable letter of credit or a term deposit of at least \$10,000 as a condition of licensure. (N.H. Admin. Rules, Hedc 304.11.)

**Type 2: Degree-granting private postsecondary educational institutions.** New Hampshire law does not require degree-granting private postsecondary educational institutions to post a bond or any similar instrument as a condition of approval to operate in the state.

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**B. DOES THE STATE REQUIRE A REFUND OF TUITION IF A STUDENT ENROLLS AS THE RESULT OF MISREPRESENTATION?**

**10/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, full refund	Yes, partial refund	No refund required
Type 1	20 Points	10 Points	0 Points
Type 2	20 Points	10 Points	0 Points

**Explanation:**

**Type 1: Private postsecondary career schools.** New Hampshire law requires private postsecondary career schools to students with a full refund, of all monies paid within 30 days if the school procured the student's enrollment as the result of any false representations in the written materials used by the school or in oral representations made by or on behalf of the school. (N.H. Admin. Rules, Hedc 307.02.)

**Type 2: Degree-granting private postsecondary educational institutions.** New Hampshire law does not require a refund of tuition if a student enrolls in a degree-granting private educational institution as the result of misrepresentation.

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**C. DOES THE STATE REQUIRE INSTITUTIONS TO REFUND TUITION IN THE EVENT OF CLOSURE?**

**5/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, full refund	Yes, limited refund	Yes, refund in limited circumstances	No refund required
Type 1	20 Points	15 Points	10 Points	0 Points
Type 2	20 Points	15 Points	10 Points	0 Points

**Explanation:**

**Type 1: Private postsecondary career schools.** New Hampshire law provides refunds to students in specified circumstances, some of which may apply if a school closes. (N.H. Admin. Rules, Hedc 307.01,

307.02, 307.03.) State law does not, however, expressly require refunds in the event that a school closes and/or becomes insolvent.

**Type 2: Degree-granting private postsecondary educational institutions.** New Hampshire law does not require degree-granting private postsecondary educational institutions to refund tuition in the event of closure.

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**D. DOES THE STATE ALLOW STUDENTS AMPLE TIME TO MAKE A COMPLAINT?**  
**10/10 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	2 years or more (or no deadline)	1-2 years	Under 1 year	Not applicable
<b>Type 1</b>	<b>10 Points</b>	5 Points	1 Point	0 Points
<b>Type 2</b>	<b>10 Points</b>	5 Points	1 Point	0 Points

**Explanation:**

**Type 1: Private postsecondary career schools.** New Hampshire law does not specify a deadline by which a student must file a complaint against a private postsecondary career school.

**Type 2: Degree-granting private postsecondary educational institutions.** New Hampshire law does not specify a deadline by which a student must file a complaint against a degree-granting private educational institution.

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**E. DOES THE STATE REQUIRE INSTITUTIONS TO DISCLOSE INFORMATION ABOUT FILING A COMPLAINT WITH THE STATE OVERSIGHT BODY?**  
**11.25/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

**Type 1: Private postsecondary career schools**

Medium	Mandatory	Discretionary	Not specified
<b>Catalog</b>	10 Points	<b>5 Points</b>	0 Points
<b>Website</b>	5 Points	<b>2.5 Points</b>	0 Points
<b>Enrollment contract</b>	5 Points	2.5 Points	<b>0 Points</b>

**Explanation:**

New Hampshire requires that institutions make available information about where to file student complaints and where to seek redress. (N.H. Admin. Rules, Hedc 304.12(o).) The law requires this information to be made available in hard copy and electronically, but does not explicitly require it to be in a catalog or on a website. However, the state receives partial credit because the institutional catalog and website are common places for colleges to disclose this type of information.



**Type 2: Degree-granting private postsecondary educational institutions.**

Medium	Mandatory	Discretionary	Not specified
Catalog	10 Points	5 Points	0 Points
Website	5 Points	2.5 Points	0 Points
Enrollment contract	5 Points	2.5 Points	0 Points

**Explanation:**

New Hampshire requires institutions to disclose information about where to file student complaints and where to seek redress in a catalog and other supportive materials available electronically. (N.H. Admin. Rules, Hedc 405.11.)

**F. IS THE COMPLAINT PROCESS READILY ACCESSIBLE AND AVAILABLE ON THE STATE OVERSIGHT BODY'S WEBSITE?**

**10/10 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, with address	Yes, with phone #	Yes, with email address	Yes, with electronic form	No
Type 1	2 Points	2 Points	3 Points	3 Points	0 Points
Type 2	2 Points	2 Points	3 Points	3 Points	0 Points

**Explanation:**

**Type 1: Private postsecondary career schools.** New Hampshire's Department of Education's website has a page relating to career schools; on that page, there is a contact email and phone number listed webpage, as well as a link to an electronic complaint form with name, address, phone number and email address (<http://education.nh.gov/highered/>).

**Type 2: Degree-granting private postsecondary educational institutions.** New Hampshire's Department of Education has a website that describes the general procedure for filing complaints. The page includes an electronic form and a name, address, phone number and email address (<http://education.nh.gov/highered/compliance-allegation.htm>).

**VII. ENFORCEMENT: 10/100 POINTS**

**A. IS THERE LOSS OF STATE AID FOR SCHOOLS THAT REPEATEDLY PRODUCE SUBSTANDARD GRADUATION RATES, JOB PLACEMENT RATES, AND/OR COHORT DEFAULT RATES?**

**0/30 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, required	Yes, required but limited	Yes, discretionary	Yes, discretionary but limited	No
Type 1	30 Points	20 Points	15 Points	5 Points	0 Points
Type 2	30 Points	20 Points	15 Points	5 Points	0 Points



**Explanation:**

**Type 1: Private postsecondary career schools.** New Hampshire law requires private postsecondary schools to disclose information related to student performance, but there is no indication that the schools will lose state aid as a direct result of repeatedly producing substandard graduation rates, job placement rates, and/or cohort default rates.

**Type 2: Degree-granting private postsecondary educational institutions.** New Hampshire law does not require that degree-granting private postsecondary institutions lose state aid as a direct result of repeatedly producing substandard graduation rates, job placement rates, and /or cohort default rates.

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**B. DOES STATE LAW EXPLICITLY AUTHORIZE A PRIVATE RIGHT OF ACTION FOR STUDENTS AGAINST INSTITUTIONS THAT HAVE VIOLATED THE LAWS AND REGULATIONS IN PLACE TO GOVERN THEM?**

**0/30 POINTS\***

---

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	Limited circumstances	No
Type 1	30 Points	15 Points	0 Points
Type 2	30 Points	15 Points	0 Points

**Explanation:**

**Type 1: Private postsecondary career schools.** New Hampshire law does not explicitly authorize a private right of action for students against institutions that have violated the laws and regulations in place to govern them.

**Type 2: Degree-granting private postsecondary educational institutions.** New Hampshire law does not explicitly authorize a private right of action for students against institutions that have violated the laws and regulations in place to govern them.

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**C. DOES STATE LAW EXPLICITLY ALLOW ATTORNEY FEE AWARDS FOR STUDENTS WHO PREVAIL IN LITIGATION AGAINST PRIVATE FOR-PROFIT POSTSECONDARY INSTITUTIONS?**

**0/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	Limited	No
Type 1	20 Points	15 Points	0 Points
Type 2	20 Points	15 Points	0 Points

**Explanation:**

**Type 1: Private postsecondary career schools.** New Hampshire law does not explicitly allow attorney fee awards for students who prevail in litigation against institutions that have violated the laws and regulations in place to govern them.

**Type 2: Degree-granting private postsecondary educational institutions.** New Hampshire law does not explicitly allow attorney fee awards for students who prevail in litigation against institutions that have violated the laws and regulations in place to govern them.

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**D. DOES THE STATE EXPLICITLY AUTHORIZE  
ATTORNEY GENERAL INVOLVEMENT?**

**10/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	Limited circumstances	No
Type 1	20 Points	10 Points	0 Points
Type 2	20 Points	10 Points	0 Points

**Explanation:**

**Type 1: Private postsecondary career schools.** New Hampshire law explicitly authorizes Attorney General involvement in matters related to private postsecondary career schools. (N.H. Admin. Rules, Hedc 310.01; N.H. Rev. Stat. Ann. § 188-G:10.)

**Type 2: Degree-granting private postsecondary educational institutions.** New Hampshire law does not explicitly authorize Attorney General involvement in matters related to degree-granting private postsecondary institutions.

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**BONUS POINTS:**

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New Hampshire does not receive any bonus points.



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**ILLUMINATING INFORMATION**

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**RECIPROCITY AGREEMENTS**

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New Hampshire is a member of the State Authorization Reciprocity Agreements (SARA).

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**LITIGATION, INVESTIGATIONS, AND ACTIONS INVOLVING PRIVATE  
FOR-PROFIT EDUCATIONAL INSTITUTIONS IN NEW HAMPSHIRE**

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For information about pending and recent federal and state government investigations and actions regarding for-profit colleges see David Halperin's compilation at <http://www.republicreport.org/2014/law-enforcement-for-profit-colleges/#sthash.1vc4HmPw.dpuf>.

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# NEW JERSEY

## FINAL GRADING ANALYSIS

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OVERALL SCORE: **303.75/700 POINTS (43.3%)**  
LETTER GRADE: **F**

### I. OVERSIGHT BODY: **39/100 POINTS**

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A. IS THERE A STATUTORILY CREATED OVERSIGHT BODY  
THAT IS PUBLICLY ACCOUNTABLE?  
**22.5/60 POINTS**

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Element	Points Available	Type 1	Type 2	Points Awarded (Average)
1. Oversight body is a multi-member board, commission, or panel created by statute	10	0	0	0
2. Oversight body was statutorily created specifically to oversee private postsecondary institutions	10	0	0	0
3. Multi-member board, commission, or panel is the ultimate decision maker (as opposed to a single person, like the head of a department or director)	10	0	0	0
4. Oversight body can engage in rulemaking	10	10	10	10
5. Oversight body's meetings must be open to the public	5	0	5	2.5
6. Oversight body's meetings must allow public comment	5	0	0	0
7. Oversight body can initiate investigations	5	5	5	5
8. Oversight body can impose penalties for violations	5	5	5	5
Total Points	60	20	25	22.5

**Explanation:**

New Jersey differentiates between institutions based on whether they grant degrees. Private postsecondary institutions that offer college credit-bearing courses and academic degree programs (Type 1) are under the authority of Secretary of Higher Education. Postsecondary career/vocational programs that do not grant degrees (Type 2) are regulated by both the Department of Education and the Department of Labor and Workforce Development.

*Type 1: Private postsecondary institutions that offer college credit-bearing courses and academic degree programs.* New Jersey statutory and regulatory provisions specify that the Commission of Higher

Education has responsibility for licensure. However, pursuant to Reorganization Plan No. 005-2011, issued by Governor Chris Christie on June 29, 2011, all functions, powers, duties, and personnel of the Commission were transferred to the Secretary of Higher Education, pursuant to the State Agency Transfer Act, P.L. 1971, c. 375 (N.J.S.A. 52:14D-1 et seq.). (N.J.A.C. 9A:1-1.1.) Therefore, there is no multi-member publicly accountable body is charged with oversight of these proprietary institutions in New Jersey.

**Type 2: Postsecondary career/vocational programs.** Neither the Department of Education (DOE) nor the Department of Labor (DOL) are multi-member publicly accountable bodies. Neither department was created expressly to oversee proprietary schools. The commissioner of the DOL and the DOE together have the power to establish rules and regulations. (N.J.S.A. 34:15C-10.1(j).) The DoE has the power to initiate investigations and impose penalties. Meetings of the DOE and the DOL are subject to New Jersey’s Open Meetings Act. (N.J.S.A. 10:4-12.)

## B. STATUTE-SPECIFIED MEMBERSHIP:

### 1. TO WHAT EXTENT ARE LIMITATIONS PLACED ON FOR-PROFIT MEMBERSHIP ON THE OVERSIGHT BODY?

**12.5/25 POINTS**

	Explicit prohibition on for-profit majority, plus no possibility of a majority of the quorum	Explicit prohibition on for-profit majority	Discouraged	No prohibition specified, but not discouraged	For-profit majority mandated
<b>Type 1</b>	25 Points	20 Points	10 Points	<b>0 Points</b>	–5 Points
<b>Type 2</b>	<b>25 Points</b>	20 Points	10 Points	0 Points	–5 Points

**Explanation:**

**Type 1: Private postsecondary institutions that offer college credit-bearing courses and academic degree programs.** With all oversight vested in the Secretary of Higher Education, no public body has oversight over private postsecondary educational institutions.

**Type 2: Postsecondary career/vocational programs.** New Jersey law requires that public officials must “avoid conduct” that causes the appearance of impropriety. (N.J.S.A 52:13D-12.) Going further, the New Jersey Board of Education Code of Ethics states that special officers cannot engage in “business or transaction or professional activity, which is in substantial conflict with the proper discharge of his duties in the public interest.” The rules also state that special state officers from having any employment that could reasonably be expected to impair the objectivity of the officer.

### 2. IS THE OVERSIGHT BODY MANDATED TO INCLUDE AT LEAST ONE CONSUMER ADVOCATE?

**0/10 POINTS**

	Yes	No
<b>Type 1</b>	10 Points	<b>0 Points</b>
<b>Type 2</b>	10 Points	<b>0 Points</b>

**Explanation:**

**Type 1: Private postsecondary institutions that offer college credit-bearing courses and academic degree programs.** There is no publicly accountable oversight body in New Jersey for private postsecondary educational institutions. There is no indication that the state requires the input of a consumer advocate in oversight and regulation of private postsecondary educational institutions.

**Type 2: Postsecondary career/vocational programs.** New Jersey does not require members of DOE's Board of Education to include a consumer advocate.

### 3. ARE THE MEMBERS APPOINTED BY A PUBLICLY ACCOUNTABLE OFFICIAL OR ELECTED IN A GENERAL ELECTION?

**4/5 POINTS**

	All	Majority	Half	Minority	None
<b>Type 1</b>	5 Points	<b>3 Points</b>	2.5 Points	1 Point	0 Points
<b>Type 2</b>	<b>5 Points</b>	3 Points	2.5 Points	1 Point	0 Points

#### Explanation:

**Type 1: Private postsecondary institutions that offer college credit-bearing courses and academic degree programs.** Although oversight is vested in the Secretary of Higher Education and not a multi-member body, the state receives partial credit here because the governor of New Jersey appoints the Secretary of Higher Education, so there is some public accountability.

**Type 2: Postsecondary career/vocational programs.** Members of DOE's Board of Education are appointed by the governor with the advice and consent of the Senate. The Commissioner of the Department of Labor is also appointed by governor with the advice and consent of the Senate.

## II. STATE OVERSIGHT—EFFICACY: **49.25/100 POINTS**

### A. DOES THE STATE REQUIRE ONSITE REVIEW OF PRIVATE POSTSECONDARY INSTITUTIONS?

**6.5/10 POINTS**

	Mandatory onsite reviews			Discretionary	None
	Every 2 years or less	Every 3-5 years	Over 5 years	Discretion to conduct onsite reviews	No review specified
<b>Type 1</b>	10 Points	8 Points	5 Points	<b>3 Points</b>	0 Points
<b>Type 2</b>	<b>10 Points</b>	8 Points	5 Points	3 Points	0 Points

#### Explanation:

**Type 1: Private postsecondary institutions that offer college credit-bearing courses and academic degree programs.** The New Jersey Office of the Secretary of Higher Education (OSHE) staff reviews petitions submitted by in-state institutions. As part of the review of the petition, OSHE staff may also conduct a site visit at the campus of the institution. With respect to both initial and continuing licensure, OSHE staff shall provide the institution's petition and the findings of a licensure evaluation to the Presidents' Council for review and recommendation to the Secretary.

OSHE accepts the granting or reaffirmation of accreditation as sufficient for continued licensure, so in these cases, it is likely the OSHE will not conduct a site evaluation as a part of the institutional review process. OSHE grants unaccredited New Jersey institutions a license for no more than three years in the first instance and then not to exceed five years thereafter. (N.J.A.C. § 9A:1-1.3; N.J.A.C. § 9A:1-4.3.) New Jersey receives partial credit for discretionary onsite visits.

**Type 2: Postsecondary career/vocational programs.** New Jersey law requires that each approved private career school shall be “monitored” by DOE a minimum of once every two years, or according to a schedule established by the commissioner. Monitoring reports are reviewed when determining “continuation” or “suspension” of the institution’s certificate. (N.J.A.C. § 6A:19-7.6.)

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**B. DOES THE STATE REQUIRE UNANNOUNCED INSPECTIONS FOR ONSITE REVIEWS?**

**0/5 POINTS**

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	Required unannounced visits	Discretion to do unannounced visits	No indication
<b>Type 1</b>	5 Points	3 Points	<b>0 Points</b>
<b>Type 2</b>	5 Points	3 Points	<b>0 Points</b>

**Explanation:**

**Type 1: Private postsecondary institutions that offer college credit-bearing courses and academic degree programs.** New Jersey law does not require or expressly authorize unannounced inspections for onsite reviews of private postsecondary educational institutions.

**Type 2: Postsecondary career/vocational programs.** New Jersey law does not require or expressly authorize unannounced inspections for onsite reviews of postsecondary career/vocational programs.

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**C. DOES THE STATE REQUIRE REGULAR REVIEWS OF PRIVATE POSTSECONDARY APPROVAL TO OPERATE?**

**17.5/20 POINTS**

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	Mandatory			Discretionary	None
	Every 2 years or less	Every 3-5 years	Over 5 years	Discretion to conduct reviews	No review specified
<b>Type 1</b>	20 Points	<b>15 Points</b>	10 Points	5 Points	0 Points
<b>Type 2</b>	<b>20 Points</b>	15 Points	10 Points	5 Points	0 Points

**Explanation:**

**Type 1: Private postsecondary institutions that offer college credit-bearing courses and academic degree programs.** OSHE regulations require postsecondary educational institutions to renew their licenses after a specific period, not to exceed five years, unless a New Jersey institution is currently licensed and accredited as a discrete entity by an institutional accrediting body that is recognized by the U.S. Secretary of Education to accredit the kinds of academic programs for which licensure was previously granted to the institution. (N.J.A.C. § 9A:1-4.3(a).) Institutions are required to apply for relicensure and the OSHE must review the institution at that point. (N.J.A.C. § 9A:1-4.3(b); N.J.A.C. § 9A:1-1.3(d).) While an unaccredited institution that has received initial licensure is required to seek accreditation within the first three years of licensure, and an unaccredited institution could be relicensed

for up to five years, the progress that an institution has made in the initial three years in obtaining accreditation would be a factor in any relicensure determination.

**Type 2: Postsecondary career/vocational programs.** Non-degree granting institutions are required to renew their licenses annually with Department of Education. (N.J.A.C. § 6A:19-7.3.) They are also required to renew their license with the Department of Labor and Workforce Development biannually.

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**D. DO THE CRITERIA FOR RENEWAL OF AUTHORIZATION MANDATE A REVIEW OF FACTORS ESSENTIAL TO ACADEMIC AND ETHICAL INTEGRITY?**

**10.25/20 POINTS**

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	8 of 8	7 of 8	6 of 8	5 of 8	4 of 8	3 of 8	2 of 8	1 of 8	0 of 8
<b>Type 1</b>	20 Points	17.5 Points	15 Points	12.5 Points	10 Points	7.5 Points	5 Points	<del>2.5</del> <b>5.5 Points</b>	0 Points
<b>Type 2</b>	20 Points	17.5 Points	<b>15 Points</b>	12.5 Points	10 Points	7.5 Points	5 Points	2.5 Points	0 Points

Element	Type 1	Type 2
Admission requirements	<b>D</b>	
Graduation requirements	<b>D</b>	<b>M</b>
Placement rate		<b>M</b>
Completion rate (or graduation rate)		<b>M</b>
Advertising practices		<b>M</b>
Cohort default rate		<b>M</b>
Accreditation status	<b>M</b>	<b>M</b>
Financial aid policies	<b>D</b>	

*M=Mandatory; D=Discretionary*

**Explanation:**

**Type 1: Private postsecondary institutions that offer college credit-bearing courses and academic degree programs.** Private postsecondary institutions that offer college credit-bearing courses and academic degree programs must include information on accreditation as a condition of licensure. Further, the institutions are required to include a catalog with their petition for licensure. (N.J.A.C. § 9A:1-1.3(b)(7).) While they are not specifically require a review of admission and graduation requirements as a condition of licensure and/or license renewal, the catalog must contain the requirements for admission, transfer, and graduation and financial aid policies. (N.J.A.C. § 9A:1-1.12(c)(5), (8).) The information is, therefore, available to the OSHE for review. New Jersey receives full credit for required review of information about an institution's accreditation and partial credit for discretionary review of three additional elements.

**Type 2: Postsecondary career/vocational programs.** Private postsecondary non-degree-granting institutions must include information on curriculum, including graduate rates and requirements. (N.J.A.C. 6A:19-7.3.) The state also requires information on accreditation status. (N.J.A.C. 6A:19-7.3.) In addition, the annual renewal application must include assurances of both the default rate, as well as the placement rate. (N.J.A.C. 6A:19-7.5.) Also, the application for the Department of Labor and Workforce Development must include a copy of the school's advertising materials. (N.J.A.C. § 12:41-2.4(e)(10).)



E. DOES THE STATE'S OVERSIGHT DISTINGUISH BETWEEN FOR-PROFIT AND NONPROFIT EDUCATIONAL INSTITUTIONS?

10/15 POINTS

	Yes, strongly distinguished	Yes, moderately distinguished	Yes, slightly distinguished	Not distinguished
Type 1	15 Points	10 Points	5 Points	0 Points
Type 2	15 Points	10 Points	5 Points	0 Points

**Explanation:**

For both Type 1 and Type 2 institutions, New Jersey has a separate subchapter of rules that apply only to proprietary (for-profit) schools; thus, the state's oversight scheme moderately distinguishes between some for-profit schools and nonprofit schools. (NJAC 9A:1-4.)

F. DOES THE STATE REQUIRE INCREASED OVERSIGHT/SCRUTINY OF PRIVATE POSTSECONDARY INSTITUTIONS BASED ON POOR PERFORMANCE?

5/10 POINTS

	Yes, mandatory	Yes, mandatory but limited	Yes, discretionary	Yes, discretionary but limited	No
Type 1	10 Points	7.5 Points	5 Points	2.5 Points	0 Points
Type 2	10 Points	7.5 Points	5 Points	2.5 Points	0 Points

**Explanation:**

**Type 1: Private postsecondary institutions that offer college credit-bearing courses and academic degree programs.** There is no requirement for increased oversight or scrutiny of private postsecondary educational institutions based on poor performance (such as repeatedly producing low graduation rates, low placement rates, low exam passage rates, and/or high cohort default rates).

**Type 2: Postsecondary career/vocational programs.** Postsecondary career/vocational programs are required to maintain graduation rates, job placement rates, and default rates that are within the requirements of federal law in order to maintain licensure. The Department of Education will revoke the license or deny renewal to a school that fails to meet the standards under federal law.

G. DOES STATE LAW INCLUDE ANY SPECIAL PROTECTIONS FOR VETERANS WHO ATTEND PRIVATE POSTSECONDARY INSTITUTIONS?

0/20 POINTS

Yes	No
20 Points	0 Points

**Explanation:**

New Jersey does not have any special protections in place specifically for veterans who attend private postsecondary educational institutions, for either Type 1 or Type 2 institutions. The state has enacted the "Troops to College Act," but it is not specific to consumer protections at private postsecondary institutions. Information about the Act and services to veterans is available to the public online at <http://www.state.nj.us/highereducation/TroopsToCollege/index.shtml>.



### III. STATE OVERSIGHT—SCOPE AND INCLUSION:

**75/100 POINTS**

#### A. ARE EXEMPTIONS TO STATE OVERSIGHT COVERAGE LIMITED?

**75/100 POINTS**

	No exemptions	Few exemptions	Moderate exemptions	Broad exemptions
Type 1	100 Points	75 Points	50 Points	0 Points
Type 2	100 Points	75 Points	50 Points	0 Points

**Explanation:**

**Type 1: Private postsecondary institutions that offer college credit-bearing courses and academic degree programs.** Educational institutions accredited by an institutional accrediting body recognized by the U.S. Secretary of Education are not required to periodically seek relicensure so long as their accreditation is current. Otherwise, the institutions are expected to remain in compliance with the licensure rules. (N.J.A.C. § 9A:1-1.3.)

**Type 2: Postsecondary career/vocational programs.** There are no significant exemptions to the registration for private non-degree-granting institutions.

### IV. DISCLOSURE REQUIREMENTS: **21.25/100 POINTS**

#### A. ARE INSTITUTIONS REQUIRED TO DISCLOSE INSTITUTIONAL PERFORMANCE MEASURES TO POTENTIAL STUDENTS?

**10/20 POINTS**

	Yes, mandatory	Yes, discretionary	None
	Fact sheet or equivalent required to be given to students	Fact sheet or equivalent given to students upon request	No fact sheet required
Type 1	20 Points	10 Points	0 Points
Type 2	20 Points	10 Points	0 Points

**Explanation:**

**Type 1: Private postsecondary institutions that offer college credit-bearing courses and academic degree programs.** While there is some information on the OSHE website related to institutional performance (<http://www.state.nj.us/highereducation/>), New Jersey does not require institutions to disclose institutional performance measures, such as graduation rates and cohort default rates, to potential students.

**Type 2: Postsecondary career/vocational programs.** Non-degree-granting institutions are required to include institutional performance measure in both their catalogue and enrollment contract, which must be read by potential students prior to signing.

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**B. WHICH INSTITUTIONAL PERFORMANCE DISCLOSURES ARE REQUIRED TO BE GIVEN TO STUDENTS PRIOR TO ENROLLMENT?**

**0/60 POINTS**

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*Type 1: Private postsecondary institutions that offer college credit-bearing courses and academic degree programs*

Disclosures	Mandatory	Discretionary	Not specified
Cohort default rate (CDR)	10 Points	5 Points	0 Points
Graduation / completion rates	10 Points	5 Points	0 Points
Placement rates	10 Points	5 Points	0 Points
Wage information	10 Points	5 Points	0 Points
License exam passage rates	10 Points	5 Points	0 Points
Methods & sources used to calculate	10 Points	5 Points	0 Points

**Explanation:**

While there is some information on the OSHE website related to institutional performance; There is no indication that New Jersey requires institutions to disclose institutional performance measures, such as graduation rates and cohort default rates, to potential students.

*Type 2: Postsecondary career/vocational programs:*

Disclosures	Mandatory	Discretionary	Not specified
Cohort default rate (CDR)	10 Points	5 Points	0 Points
Graduation / completion rates	10 Points	5 Points	0 Points
Placement rates	10 Points	5 Points	0 Points
Wage information	10 Points	5 Points	0 Points
License exam passage rates	10 Points	5 Points	0 Points
Methods & sources used to calculate	10 Points	5 Points	0 Points

**Explanation:**

New Jersey law does not require postsecondary career/vocational programs to disclose institutional performance measures, such as graduation rates and cohort default rates, to potential students.

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**C. DOES THE STATE REQUIRE SCHOOLS TO DISCLOSE ELEMENTS ESSENTIAL TO STUDENT PROTECTION PRIOR TO ENROLLMENT OR IN THE ENROLLMENT CONTRACT?**

**11.25/20 POINTS\***

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*Type 1: Private postsecondary institutions that offer college credit-bearing courses and academic degree programs*

Element description	Mandatory	Discretionary	Not specified
Total cost of program	5 Points	2.5 Points	0 Points
Refund information	5 Points	2.5 Points	0 Points
Transferability of credits	5 Points	2.5 Points	0 Points
Length of program	5 Points	2.5 Points	0 Points

**Explanation:**

New Jersey law contains no explicit requirement that private postsecondary institutions that offer college credit-bearing courses and academic degree programs include the above information. However, these institutions are required to either include the specified information in their official catalogs or provide a current web address in its official catalogs for where the information is located. Thus, information about the total cost of the program, refund information, and time required to complete the program (which can be ascertained from the provided complete curricular information and graduation requirements) is available to students who seek it out. (N.J.A.C. § 9A:1-1.12(c).)

**Type 2: Postsecondary career/vocational programs**

Element Description	Mandatory	Discretionary	Not specified
Total cost of program	5 Points	2.5 Points	0 Points
Refund information	5 Points	2.5 Points	0 Points
Transferability of credits	5 Points	2.5 Points	0 Points
Length of program	5 Points	2.5 Points	0 Points

**Explanation:**

According to the Private Career School Application, New Jersey requires the enrollment contract for non-degree-granting institutions to include the school's refund policy, the start and end times for the program, the cost of the program, and the right to cancel. (N.J.A.C. § 12:1-1.41.)

## V. REGULATION OF RECRUITING PRACTICES:

**50/100 POINTS**

### A. HAS THE STATE PUT INTO LAW A LIST OF PROHIBITED ACTS REGARDING ADVERTISING AND RECRUITING?

**50/100**

	Yes, strong regulation	Yes, moderate regulation	Yes, weak regulation	No list of prohibited acts
Type 1	100 Points	75 Points	50 Points	0 Points
Type 2	100 Points	75 Points	50 Points	0 Points

#### PROHIBITED ACTS

Included in list of prohibited acts	Type 1	Type 2
Misleading representations using the word "college" or "university"	X	X
Misleading institution affiliations (e.g., military, public institutions, businesses)		
Promise of employment		
Compensation for enrollment		
Compensation or "bounty" to recruiters		
Deception (broad prohibition)	/	/
Misrepresentation (broad prohibition)	/	/
Misleading representations re: accreditation		X

*1-3=Weak; 3.5-6=Moderate; 6.5-8=Strong*

**Explanation:**

**Type 1: Private postsecondary institutions that offer college credit-bearing courses and academic degree programs.** New Jersey law provides that no institution which proposes to offer courses of study above high school grade, which courses satisfy in whole or in part the requirements for a college or university degree, shall adopt or use any title or name commonly accepted as descriptive of collegiate or university institutions without the approval of the Commission on Higher Education made under rules relating to names and titles of institutions adopted by the commission. (N.J. Stat. § 18A:67-2.)

Although New Jersey law does not explicitly prohibit deception or misrepresentation, it does provide that all information released by an institution be true and accurate; thus, partial credit is awarded for some of the elements above.

**Type 2: Postsecondary career/vocational programs.** New Jersey law provides that no institution which proposes to offer courses of study above high school grade, which courses satisfy in whole or in part the requirements for a college or university degree, shall adopt or use any title or name commonly accepted as descriptive of collegiate or university institutions without the approval of the Commission on Higher Education made under rules relating to names and titles of institutions adopted by the Commission. (N.J. Stat. § 18A:67-2.) In addition, New Jersey law requires that the school catalogue and the school enrollment contract both clearly state the institution's accreditation status, rendering an effective ban on misleading representations of accreditation.

Although New Jersey law does not explicitly prohibit deception or misrepresentation, it does provide that all information released by an institution be true and accurate; thus, partial credit is awarded for some of the elements above.

## **VI. COMPLAINT PROCESS & RELIEF FOR STUDENTS:**

**34.25/100 POINTS**

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**A. DOES THE STATE REQUIRE A BOND OR FUND AS A  
CONDITION OF AUTHORIZATION?**

**10/20 POINTS**

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	<b>Yes</b>	<b>No</b>
<b>Type 1</b>	20 Points	<b>0 Points</b>
<b>Type 2</b>	<b>20 Points</b>	0 Points

**Explanation:**

**Type 1: Private postsecondary institutions that offer college credit-bearing courses and academic degree programs.** New Jersey law does not require that private postsecondary Institutions that offer College Credit-Bearing Courses and Academic Degree Programs post a bond as a condition of licensure. New Jersey requires institutions to carry insurance or provide for self-insurance to maintain the solvency of the institution in case of loss by fire or other causes, to protect the institution in instances of personal and public liability, and to ensure the continuity of the institution. (N.J.A.C. § 9A:1-1.7(d).)

**Type 2: Postsecondary career/vocational programs.** In order to receive a license, non-degree-granting institutions are required to post a tuition performance bond in the amount of \$10,000. (N.J.A.C. § 12:41-2.4(f)(2).)

B. DOES THE STATE REQUIRE A REFUND OF TUITION IF A STUDENT ENROLLS AS THE RESULT OF MISREPRESENTATION?

0/20 POINTS

	Yes, full refund	Yes, partial refund	No refund required
Type 1	20 Points	10 Points	0 Points
Type 2	20 Points	10 Points	0 Points

**Explanation:**

New Jersey law provides no explicit requirement that private postsecondary institutions refund tuition if a student enrolls as the result of misrepresentation, for either Type 1 or Type 2 institutions.

C. DOES THE STATE REQUIRE INSTITUTIONS TO REFUND TUITION IN THE EVENT OF CLOSURE?

0/20 POINTS

	Yes, full refund	Yes, partial refund	Yes, refund in limited circumstances	No refund required
Type 1	20 Points	15 Points	10 Points	0 Points
Type 2	20 Points	15 Points	10 Points	0 Points

**Explanation:**

New Jersey law provides no requirement that private postsecondary educational institutions refund tuition in the event of closure, for either Type 1 or Type 2 institutions.

D. DOES THE STATE ALLOW STUDENTS AMPLE TIME TO MAKE A COMPLAINT?

10/10 POINTS

	2 years or more (or no deadline)	1-2 years	Under 1 year	Not applicable
Type 1	10 Points	5 Points	1 Point	0 Points
Type 2	10 Points	5 Points	1 Point	0 Points

**Explanation:**

New Jersey law sets no deadline by which students must file a complaint against a private postsecondary educational institution, for either Type 1 or Type 2 institutions.

E. DOES THE STATE REQUIRE INSTITUTIONS TO DISCLOSE INFORMATION ABOUT FILING A COMPLAINT WITH THE STATE OVERSIGHT BODY?

8.75/20 POINTS

*Type 1: Private postsecondary institutions that offer college credit-bearing courses and academic degree programs*

Medium	Mandatory	Discretionary	Not specified
Catalog	10 Points	5 Points	0 Points
Website	5 Points	2.5 Points	0 Points
Enrollment contract	5 Points	2.5 Points	0 Points

**Explanation:**

New Jersey law provides no requirement that private postsecondary institutions that offer college credit-bearing courses and academic degree programs degree-granting proprietary postsecondary institutions to disclose information about filing a complaint with the state oversight body.

***Type 2: Postsecondary career/vocational programs***

Medium	Mandatory	Discretionary	Not specified
Catalog	10 Points	5 Points	0 Points
Website	5 Points	2.5 Points	0 Points
Enrollment contract	5 Points	2.5 Points	0 Points

**Explanation:**

New Jersey law requires postsecondary career/vocational programs to put state grievance procedures on both the school's catalog and the school's enrollment agreement. As catalogs are often found on school's websites, New Jersey receives partial credit for having the complaint information on the website.

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**F. IS THE COMPLAINT PROCESS READILY ACCESSIBLE AND  
AVAILABLE ON THE STATE OVERSIGHT BODY'S WEBSITE?**

**5.5/10 POINTS**

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	Yes, with address	Yes, with phone #	Yes, with email address	Yes, with electronic form	No
Type 1	2 Points	2 Points	3 Points	3 1.5 Points	0 Points
Type 2	2 points	2 Points	3 Points	3 1.5 Points	0 Points

**Explanation:**

**Type 1: Private postsecondary institutions that offer college credit-bearing courses and academic degree programs.** The New Jersey Secretary of Higher Education, who is charged with licensure and oversight of private postsecondary educational institutions, maintains a webpage on which students can find information on how and where to file complaints. The website contains phone numbers, addresses, and a web form for students to use should they wish to file a complaint with OSHE. The complaints webpage does not contain a phone number for the OSHE, however, it does contain a "contact us" link, which leads to a phone number to OSHE. The state receives partial credit for including an electronic form because the form cannot be submitted online; it must be printed out and mailed in.

**Type 2: Postsecondary career/vocational programs.** The New Jersey Department of Labor and Workforce Development and the Department of Education oversee private postsecondary career/vocational programs. There is a form accessible through the Department of Education website. (<http://www.state.nj.us/education/cte/ppcs/resources/>) The website with a link to the complaint form has a phone number, fax number, and address for the Assistant Division Director at the Office for Career Readiness, but there is no phone number designated for complaints or on the complaint form itself. Students are required to complete the complaint form provided online at [http://lwd.dol.state.nj.us/labor/forms\\_pdfs/coei/SAU/Conflict%20Resolution%20Questionnaire.pdf](http://lwd.dol.state.nj.us/labor/forms_pdfs/coei/SAU/Conflict%20Resolution%20Questionnaire.pdf) and mail it to the address on the form. Because the form cannot be submitted online, the state receives only partial credit for having an electronic form.

## VII. ENFORCEMENT: 35/100 POINTS

### A. IS THERE LOSS OF STATE AID FOR SCHOOLS THAT REPEATEDLY PRODUCE SUBSTANDARD GRADUATION RATES, JOB PLACEMENT RATES, AND/OR COHORT DEFAULT RATES?

15/30 POINTS

	Yes, required	Yes, required but limited	Yes, discretionary	Yes, discretionary but limited	No
Type 1	30 Points	20 Points	15 Points	5 Points	0 Points
Type 2	30 Points	20 Points	15 Points	5 Points	0 Points

#### Explanation:

**Type 1: Private postsecondary institutions that offer college credit-bearing courses and academic degree programs.** There is no loss of state aid in New Jersey for private postsecondary educational institutions that repeatedly produce substandard graduation rates, job placement rates and / or cohort default rates.

**Type 2: Postsecondary career/vocational programs.** New Jersey requires schools to maintain graduation rates, job placement rates, and default rates that are within the requirements of federal law in order to maintain licensure.

### B. DOES STATE LAW EXPLICITLY AUTHORIZE A PRIVATE RIGHT OF ACTION FOR STUDENTS AGAINST INSTITUTIONS THAT HAVE VIOLATED THE LAWS AND REGULATIONS IN PLACE TO GOVERN THEM?

0/30 POINTS

	Yes	Limited circumstances	No
Type 1	30 Points	15 Points	0 Points
Type 2	30 Points	15 Points	0 Points

#### Explanation:

New Jersey law does not explicitly authorize a private right of action for students against private postsecondary educational institutions (either Type 1 or Type 2) that have violated the laws and regulations in place to govern them.

### C. DOES STATE LAW EXPLICITLY ALLOW ATTORNEY FEE AWARDS FOR STUDENTS WHO PREVAIL IN LITIGATION AGAINST PRIVATE FOR-PROFIT POSTSECONDARY INSTITUTIONS?

0/20 POINTS

	Yes	Limited	No
Type 1	20 Points	15 Points	0 Points
Type 2	20 Points	15 Points	0 Points

**Explanation:**

New Jersey law does not allow attorney fee awards for students who prevail in litigation against institutions who have violated the laws and regulations in place to govern them.

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**D. DOES STATE LAW EXPLICITLY AUTHORIZE  
ATTORNEY GENERAL INVOLVEMENT?**

**20/20 POINTS**

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	<b>Yes</b>	<b>Limited circumstances</b>	<b>No</b>
<b>Type 1</b>	<b>20 Points</b>	10 Points	0 Points
<b>Type 2</b>	<b>20 Points</b>	10 Points	0 Points

**Explanation:**

New Jersey authorizes attorney general involvement for both Type 1 institutions and Type 2 institutions. (N.J. Stat. § 18A:68-5.)

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**BONUS POINTS:**

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New Jersey does not receive any bonus points.



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**ILLUMINATING INFORMATION**

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**RECIPROCITY AGREEMENTS**

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New Jersey is a member of the State Authorization Reciprocity Agreements (SARA).

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**LITIGATION, INVESTIGATIONS, AND ACTIONS INVOLVING PRIVATE  
FOR-PROFIT EDUCATIONAL INSTITUTIONS IN NEW JERSEY**

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For information about pending and recent federal and state government investigations and actions regarding for-profit colleges see David Halperin's compilation at <http://www.republicreport.org/2014/law-enforcement-for-profit-colleges/#sthash.1vc4HmPw.dpuf>.



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# NEW MEXICO

## FINAL GRADING ANALYSIS

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OVERALL SCORE: **391.5/700 POINTS (55.9%)**  
LETTER GRADE: **F**

### I. OVERSIGHT BODY: **29.5/100 POINTS**

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#### A. IS THERE A STATUTORILY CREATED OVERSIGHT BODY THAT IS PUBLICLY ACCOUNTABLE?

**27.5/60 POINTS**

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Element	Points	Points Awarded
1. Oversight body is a multi-member board, commission, or panel created by statute	10	0
2. Oversight body was statutorily created specifically to oversee private postsecondary institutions	10	5
3. Multi-member board, commission, or panel is the ultimate decision maker (as opposed to a single person, like the head of a department or director)	10	0
4. Oversight body can engage in rulemaking	10	10
5. Oversight body's meetings must be open to the public	5	2.5
6. Oversight body's meetings must allow public comment	5	0
7. Oversight body can initiate investigations	5	5
8. Oversight body can impose penalties for violations	5	5
<b>Total Points</b>	60	<b>27.5</b>

#### Explanation:

The New Mexico Higher Education Department (NMHED) is a cabinet agency and is charged with licensing and oversight of all postsecondary educational institutions in New Mexico. (N.M. Stat. Ann. § 21-23-5; 5.100.2.1 NMAC.) Because it is not a public board, Department meetings are not subject to New Mexico's Open Meetings Act. (1978 NMSA §10-15-1 *et seq.*) Further, decisions related to investigations, imposition of penalties, and other decisions are not discussed in a public forum. However, any hearings held on student complaints are open and all rules must be adopted at public hearings, so the state receives partial credit for this element. New Mexico law gives the NMHED authority to create an advisory board specifically to provide guidance on issues related to private postsecondary educational institutions. Therefore, New Mexico receives partial credit for creating a body specifically related to overseeing private postsecondary institutions, even though the advisory committee is not a public board and is advisory only in nature. (5.100.4.1 NMAC *et seq.*) NMHED has regulatory oversight over all career schools and degree-granting schools, both public and private.

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## B. STATUTE-SPECIFIED MEMBERSHIP

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### 1. TO WHAT EXTENT ARE LIMITATIONS PLACED ON FOR-PROFIT MEMBERSHIP ON THE OVERSIGHT BODY?

**0/25 POINTS**

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Explicit prohibition on for-profit majority, plus no possibility of a majority of the quorum	Explicit prohibition on for-profit majority	Discouraged	No prohibition specified, but not discouraged	For-profit majority mandated
25 Points	20 Points	10 Points	<b>0 Points</b>	-5 points

**Explanation:**

There is no public board or commission in New Mexico and the state does not put in place any statutory or regulatory provisions that would limit for-profit influence at NMHED. The advisory committee appointed by the NMHED to act in an advisory capacity is entirely comprised, by mandate, of representatives of private, postsecondary institutions. (5.100.4.8 NMAC.) New Mexico law neither requires nor discourages a majority of those members from representing for-profit interests.

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### 2. IS THE OVERSIGHT BODY MANDATED TO INCLUDE AT LEAST ONE CONSUMER ADVOCATE?

**2/10 POINTS**

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Yes	No
10 Points	<b>0 2 Points</b>

**Explanation:**

Although the advisory committee is not the ultimate decision maker, partial credit is awarded because New Mexico law requires that at least two members of it “shall represent public interests.” (5.100.4.8 NMAC.)

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### 3. ARE THE MEMBERS APPOINTED BY A PUBLICLY ACCOUNTABLE OFFICIAL OR ELECTED IN A GENERAL ELECTION?

**0/5 POINTS**

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All	Majority	Half	Minority	None
5 Points	3 Points	2.5 Points	1 Point	<b>0 Points</b>

**Explanation:**

The NMHED does not have a publicly appointed membership and members of the advisory committee are appointed by the NMHED. (5.100.4.8 NMAC.)

## II. STATE OVERSIGHT—EFFICACY: 68/100 POINTS

### A. DOES THE STATE REQUIRE ONSITE REVIEW OF PRIVATE POSTSECONDARY INSTITUTIONS?

3/10 POINTS

Mandatory onsite reviews			Discretionary	None
Every 2 years or less	Every 3-5 years	Over 5 years	Discretion to conduct onsite reviews	No onsite review specified
10 Points	8 Points	5 Points	3 Points	0 Points

#### Explanation:

The Department is statutorily charged with evaluating each individual institution in order to determine the school's compliance with the standards New Mexico has set forth. The evaluation may take the form of a physical visit to the school or school offices or may be a desk audit if a physical visit is not feasible. (5.100.2.10(D) NMAC.) There are four types of onsite visits: the initial visit, the regular visit, the triggered visit, and the required special site visit. Regular visits must occur on an appropriate schedule (typically on a bi-annual basis) determined by the Department.

### B. DOES THE STATE REQUIRE UNANNOUNCED INSPECTIONS FOR ONSITE REVIEWS?

0/5 POINTS

Required unannounced visits	Discretion to do unannounced visits	No indication
5 Points	3 Points	0 Points

#### Explanation:

New Mexico does not mandate any of the four types of site visits to be unannounced.

### C. DOES THE STATE REQUIRE REGULAR REVIEWS OF PRIVATE POSTSECONDARY APPROVAL TO OPERATE?

20/20 POINTS

Mandatory			Discretionary	None
Every 2 years or less	Every 3-5 years	Over 5 years	Discretion to conduct reviews	No review specified
20 Points	15 Points	10 Points	5 Points	0 Points

#### Explanation:

New Mexico law requires institutions to apply for licensure, registration, or exemption annually. New Mexico reviews private postsecondary educational institutions upon application for licensure or registration. (N.M. Stat. Ann. § 21-23-6.2.)

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D. DO THE CRITERIA FOR RENEWAL OF AUTHORIZATION MANDATE A  
REVIEW OF FACTORS ESSENTIAL TO ACADEMIC AND ETHICAL INTEGRITY?

**15/20 POINTS**

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8 of 8	7 of 8	6 of 8	5 of 8	4 of 8	3 of 8	2 of 8	1 of 8	0 of 8
20 Points	17.5 Points	15 Points	12.5 Points	10 Points	7.5 Points	5 Points	2.5 Points	0 Points

Element	
Admission requirements	M
Graduation requirements	
Placement rate	M
Completion rate (or graduation rate)	M
Advertising practices	M
Cohort default rate	
Accreditation status	M
Financial aid policies	M

*M=Mandatory D=Discretionary*

**Explanation:**

New Mexico law requires private postsecondary educational institutions to include a copy of the institutional catalog and any additional documents that define specified policies for purposes of state review. The state requires institutional catalogs and documents submitted to define student policies in effect at the institution and relevant to the department regulations for licensure; policies that must be included in this submission include admission policies, policies for award of financial aid, policies for payment of tuition and fees and for refunds of tuition and fees when a student withdraws, and complaint policies for students and other citizens with grievances against the institution. New Mexico requires private postsecondary educational institutions to submit a copy of data the school prepared to meet federal integrated postsecondary education data system reporting requirements, which includes data related to tuition and fees, number and types of degrees and certificates conferred, number of students enrolled, number of employees, financial statistics, graduation rates, and student financial aid. (5.100.2.9 NMAC; 5.100.2.10 NMAC.)



**Notable Provision:** New Mexico requires private postsecondary institutions to maintain a program of periodically assessing the satisfaction of its graduates and to make available to the Department all reports of these assessments prepared during the past five years. The state allows institutions to submit to the Department additional measures of institutional success such as the results of surveys of employers of recent graduates. (5.100.2.26 NMAC.)

Also, New Mexico has in place additional requirements for degree-granting private postsecondary educational institutions. One such requirement is that all baccalaureate and graduate degree programs at an institution licensed by the Department must be reviewed and approved periodically by teaching faculty of the institution. (5.100.2.27(15) NMAC.)

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E. DOES THE STATE'S OVERSIGHT DISTINGUISH BETWEEN  
FOR-PROFIT AND NONPROFIT EDUCATIONAL INSTITUTIONS?

**5/15 POINTS**

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Yes, strongly distinguished	Yes, moderately distinguished	Yes, slightly distinguished	Not distinguished
15 Points	10 Points	5 Points	0 Points

**Explanation:**

New Mexico law exempts nonprofit institutions whose sole purpose is to train students in religious disciplines to prepare them to assume a vocational objective relating primarily to religion. (5.100.2.8 NMAC; N.M. Stat. Ann. § 21-23-4.) In all other instances, nonprofits and for-profit institutions are held to the same standards.

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F. DOES THE STATE REQUIRE INCREASED OVERSIGHT/SCRUTINY OF PRIVATE  
POSTSECONDARY INSTITUTIONS BASED ON POOR PERFORMANCE?

**5/10 POINTS**

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Yes, mandatory	Yes, mandatory but limited	Yes, discretionary	Yes, discretionary but limited	No
10 Points	7.5 Points	5 Points	2.5 Points	0 Points

**Explanation:**

New Mexico requires NMHED to review an institution's effectiveness, as reflected in student outcomes such as program completion rates, withdrawal rates, and indices of satisfaction from students, employers, and other knowledgeable sources as a condition of licensure. (5.100.2.28(D)(8) NMAC.) Where NMHED finds deficiencies in an institution's compliance with required standards, New Mexico provides the department with discretion to institute a probationary period of continued licensure for the institution during which time the institution must demonstrate its resolution of deficiencies to the satisfaction of the department. (5.100.2.30(C) NMAC.) Given these two provisions, it is possible for NMHED to increase oversight of an institution by instituting a probationary period of continued licensure if the institution produces poor student outcomes. Finally, NMHED also has the power to revoke licenses.

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G. DOES STATE LAW INCLUDE ANY SPECIAL PROTECTIONS FOR VETERANS  
WHO ATTEND PRIVATE POSTSECONDARY INSTITUTIONS?

**20/20 POINTS**

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Yes	No
20 Points	0 Points

**Explanation:**

The New Mexico Postsecondary Educational Institution Act does not include any special protections for veterans who attend private postsecondary educational institutions. However, the State Authorizing Agency of the Department of Veterans Services has the power to refuse to allow veteran's financial aid benefits to schools.

### III. STATE OVERSIGHT—SCOPE AND INCLUSION:

**75/100 POINTS**

#### A. ARE EXEMPTIONS TO STATE OVERSIGHT COVERAGE LIMITED?

**75/100 POINTS**

No exemptions	Few exemptions	Moderate exemptions	Broad exemptions
100 Points	75 Points	50 Points	0 Points

**Explanation:**

New Mexico law allows exemptions if an institution meets specific criteria such as offering a course of instruction provided by an employer of its own employees for training purposes, institutions that exclusively offer education that is solely avocational or recreational in nature, a course of instruction or study sponsored by a recognized fraternal, trade, business or professional organization or labor union for the instruction of its members, chartered, nonprofit religious institutions whose sole purpose is to train students in religious disciplines to prepare them to assume a vocational objective relating primarily to religion, an institution funded in full or in part by an Indian tribe or pueblo in New Mexico or an occupational trade or professional school operating pursuant to any New Mexico occupational licensing law. (N.M. Stat. Ann. § 21-23-4; N.M. Code R. § 5.100.2.8.)

### IV. DISCLOSURE REQUIREMENTS: 15/100 POINTS

#### A. ARE INSTITUTIONS REQUIRED TO DISCLOSE INSTITUTIONAL PERFORMANCE MEASURES TO POTENTIAL STUDENTS?

**0/20 POINTS**

Yes, mandatory	Yes, discretionary	None
Fact sheet or equivalent required to be given to students	Fact sheet or equivalent given to students upon request	No fact sheet required
20 Points	10 Points	0 Points

**Explanation:**

New Mexico law does not, however, require institutions to disclose performance information to potential students prior to their signing an enrollment agreement. New Mexico law does require schools to provide potential students with information about admission policies and requirements of the institution; programs offered, the program completion requirements of each, and descriptions of all courses offered; requirements for those occupations that require licensure and for which the institution is offering preparation; tuition and tuition refund policies, consistent with requirements stated elsewhere in these regulations; types of financial aid available to students and the procedure for applying for such aid; the institution's policy regarding program or course cancellations; rules and regulations pertaining to academic progress and to student conduct; the procedure to be followed in the instance that a student decides to withdraw from the institution prior to completing a program; and the institution's policy regarding student complaints and the resources available to students for resolving differences with the institution. This information must be provided to students prior to signing an enrollment agreement. (5.100.2.21 NMAC.)

B. WHICH INSTITUTIONAL PERFORMANCE DISCLOSURES ARE REQUIRED TO BE GIVEN TO STUDENTS PRIOR TO ENROLLMENT?

**0/60 POINTS**

Disclosures	Mandatory	Discretionary	Not specified
Cohort default rate (CDR)	10 Points	5 Points	0 Points
Graduation / completion rates	10 Points	5 Points	0 Points
Placement rates	10 Points	5 Points	0 Points
Wage information	10 Points	5 Points	0 Points
License exam passage rates	10 Points	5 Points	0 Points
Methods & sources used to calculate	10 Points	5 Points	0 Points

**Explanation:**

New Mexico law does not require institutions to disclose performance information to potential students prior to their signing an enrollment agreement.

C. DOES THE STATE REQUIRE SCHOOLS TO INCLUDE ELEMENTS ESSENTIAL TO STUDENT PROTECTION PRIOR TO ENROLLMENT OR IN THE ENROLLMENT CONTRACT?

**15/20 POINTS**

Element Description	Mandatory	Discretionary	Not specified
Total cost of program	5 Points	2.5 Points	0 Points
Refund information	5 Points	2.5 Points	0 Points
Transferability of credits	5 Points	2.5 Points	0 Points
Length of program	5 Points	2.5 Points	0 Points

V. REGULATION OF RECRUITING PRACTICES:

**100/100 POINTS**

A. HAS THE STATE PUT INTO LAW A LIST OF PROHIBITED ACTS REGARDING ADVERTISING AND RECRUITING?

**100/100**

Yes, strong regulation	Yes, moderate regulation	Yes, weak regulation	No list of prohibited acts
100 Points	75 Points	50 Points	0 Points

PROHIBITED ACTS

Included in list of prohibited acts	
Misleading representations using the word “college” or “university”	X
Misleading institution affiliations (re: military, public institution, businesses)	X
Promise of employment	X

Compensation for enrollment	X
Compensation or “bounty” to recruiters	
Deception	X
Misrepresentation	X
Misleading representations re: accreditation	X

*1–3=Weak; 3.5–6=Moderate; 6.5–8=Strong*

**Explanation:**

New Mexico law prohibits private postsecondary institutions from using the words college or university unless the institution meets the traditional standards for using those terms, *i.e.*, offering associate’s degrees and being geared towards earning such degree for college, and both bachelor’s degrees and graduate degrees for universities. (5.100.2.11 NMAC.) New Mexico law prohibits private postsecondary institutions from using advertisements or promotional materials that are false, deceptive, inaccurate, or misleading. (5.100.2.18(A) NMAC.) This prohibition would encompass misrepresentations as well. State law also prohibits institutions from making misleading representations with regard to accreditation. (5.100.2.18(F) NMAC.) There are several provisions in place to prevent institutions from misrepresenting facilities, affiliations or endorsements. (5.100.2.18(D),(E),(G),(I) NMAC.) Finally, New Mexico law prohibits the provision of a fee to an individual to solicit enrollment at an institution where the individual is not employed by and under supervision of the institution (5.100.2.18(H) NMAC), providing that an institution shall not permit the payment of cash or other nonmonetary incentives, such as but not limited to travel or gift certificates, to any prospective student as an inducement to enroll or visit the institution. (F.A.C. R. 6E-2.004.)



**Notable Provision:** New Mexico prohibits representatives of private postsecondary educational institutions from soliciting prospective students on the sites of any government agency such as motor vehicle registration offices, unemployment offices, or public assistance offices. (5.100.2.18(I) NMAC.) This is a commendable prohibition and is not included on the above list. However, leaflets or other promotional material may be made available at such sites. (5.100.2.18(I) NMAC.)

## VI. COMPLAINT PROCESS AND RELIEF FOR STUDENTS:

**69/100 POINTS**

### A. DOES THE STATE REQUIRE A BOND OR FUND AS A CONDITION OF AUTHORIZATION?

**15/20 POINTS**

Yes	No
<del>20</del> 15 Points	0 Points

**Explanation:**

Although New Mexico law requires schools to post a surety bond, it also allows institutions, as an alternative, to establish and maintain a cash deposit escrow account, irrevocable letter of credit or alternative payable to the department in an amount set by the Department and subject to rules promulgated by the Department. (N.M. Stat. Ann. § 21-23-7.1.) For that reason, the state loses 5 points. Institutions must furnish proof of satisfactory insurance, and update that information each year.



**B. DOES THE STATE REQUIRE A REFUND OF TUITION IF A STUDENT ENROLLS AS THE RESULT OF MISREPRESENTATION?**

**10/20 POINTS**

Yes, full refund	Yes, partial refund	No refund required
20 Points	10 Points	0 Points

**Explanation:**

New Mexico law provides some relief to students damaged as the result of fraud or misrepresentation. The state requires schools to post a surety bond, in part to indemnify any student damaged as a result of fraud or misrepresentation by a licensed institution. (N.M. Stat. Ann. § 21-23- 7.1(A); 5.100.2.32(B) NMAC.) However, the law does not specify that students who enroll as the result of misrepresentation are entitled to a full refund.

**C. DOES THE STATE REQUIRE INSTITUTIONS TO REFUND TUITION IN THE EVENT OF INSOLVENCY?**

**15/20 POINTS**

Yes, full refund	Yes, partial refund	Yes, refund in limited circumstances	No refund required
20 Points	15 Points	10 Points	0 Points

**Explanation:**

New Mexico law provides some relief to students damaged as the result of as a result of the institution ceasing operation prior to its students having completed the programs for which they have contracted. The state requires schools to post a surety bond, in part to indemnify any student damaged as a result of as a result of a licensed institution ceasing operation prior to its students having completed the programs for which they have contracted. (N.M. Stat. Ann. § 21-23-7.1(A); 5.100.2.32(B) NMAC.) However, the law does not specify that students who enroll as the result of misrepresentation are entitled to a full refund.

**D. DOES THE STATE ALLOW STUDENTS AMPLE TIME TO MAKE A COMPLAINT?**

**10/10 POINTS**

2 years or more (or no deadline)	Up to 1 year	Less than 1 year	Not applicable
10 Points	5 Points	1 Points	0 Points

**Explanation:**

A student must file a complaint with the Department within three years of his/her last date of enrollment. (5.100.2.25 (C) NMAC.)

**E. DOES THE STATE REQUIRE INSTITUTIONS TO DISCLOSE INFORMATION ABOUT FILING A COMPLAINT WITH THE STATE OVERSIGHT BODY?**

**12.5/20 POINTS**

Medium	Yes	Discretionary	No
Catalog	10 Points	5 Points	0 Points

<b>Website</b>	5 Points	<b>2.5 Points</b>	0 Points
<b>Enrollment contract</b>	5 Points	2.5 Points	<b>0 Points</b>

**Explanation:**

New Mexico law requires institutions to disclose information about complaint procedures, including how to file a complaint with the state oversight body, in the institutional catalog. (5.100.2.21(A)(9) NMAC.) New Mexico receives points for providing schools discretion to provide this information on their websites because it is common for institutions to provide access to catalogs or information similar to that provided in the catalog on the institution's website.

**F. IS THE COMPLAINT PROCESS READILY ACCESSIBLE AND AVAILABLE ON THE STATE OVERSIGHT BODY'S WEBSITE?**

**6.5/10 POINTS**

<b>Yes, with address</b>	<b>Yes, with phone #</b>	<b>Yes, with email address</b>	<b>Yes, with electronic form</b>	<b>No</b>
<b>2 Points</b>	2 Points	<b>3 Points</b>	<b>3 1.5 Points</b>	0 Points

**Explanation:**

NMHED maintains a page on its website that contains information about filing complaints, along with a link to an electronic form. However, because the form cannot be submitted online (it must be printed and faxed or mailed to the NMHED), the state loses 1.5 points.

**VII. ENFORCEMENT: 35/100 POINTS**

**A. IS THERE LOSS OF STATE AID FOR SCHOOLS THAT REPEATEDLY PRODUCE SUBSTANDARD GRADUATION RATES, JOB PLACEMENT RATES, AND/OR COHORT DEFAULT RATES?**

**15/30 POINTS**

<b>Yes, required</b>	<b>Yes, required but limited</b>	<b>Yes, discretionary</b>	<b>Yes, discretionary but limited</b>	<b>No</b>
30 Points	20 Points	<b>15 Points</b>	5 Points	0 Points

**Explanation:**

There is a possibility that a private postsecondary educational institution in New Mexico could lose state aid for repeatedly producing substandard graduation rates, or job placement rates. New Mexico law requires NMHED to review an institution's effectiveness, as reflected in student outcomes such as program completion rates, withdrawal rates, and indices of satisfaction from students, employers, and other knowledgeable sources as a condition of licensure. (5.100.2.28(D)(8) NMAC.) For example, NMHED may revoke an institution's license to operate or approval to offer a specific degree program at any time, upon finding that the institution has failed to comply with one or more standards of licensure established by the Department or with applicable law. (5.100.2.30(A)(5) NMAC.) Where NMHED finds deficiencies in an institution's compliance with required standards, New Mexico law provides the Department with discretion to institute a probationary period of continued licensure for the institution during which time the institution must demonstrate its resolution of deficiencies to the satisfaction of the Department. (5.100.2.30(C) NMAC.) If an institution fails to sufficiently demonstrate that its licensure

should not be revoked, NMHED shall commence proceedings to revoke the institution's license, which would result in the loss of state aid.

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**B. DOES STATE LAW EXPLICITLY AUTHORIZE A PRIVATE RIGHT OF ACTION FOR STUDENTS AGAINST INSTITUTIONS WHO HAVE VIOLATED THE LAWS AND REGULATIONS IN PLACE TO GOVERN THEM?**

**0/30 POINTS**

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Yes	Limited circumstances	No
30 Points	15 Points	0 Points

**Explanation:**

New Mexico law does not explicitly authorize a private right of action for students against institutions who have violated the laws and regulations in place to govern them.

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**C. DOES STATE LAW EXPLICITLY ALLOW ATTORNEY FEE AWARDS FOR STUDENTS WHO PREVAIL IN LITIGATION AGAINST PRIVATE FORPROFIT POSTSECONDARY INSTITUTIONS?**

**0/20 POINTS**

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Yes	Limited	No
20 Points	15 Points	0 Points

**Explanation:**

New Mexico does not explicitly allow attorney fee awards for students who prevail in litigation against institutions who have violated the laws and regulations in place to govern them.

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**D. DOES STATE LAW EXPLICITLY AUTHORIZE ATTORNEY GENERAL INVOLVEMENT?**

**20/20 POINTS**

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Yes	Limited circumstances	No
20 Points	10 Points	0 Points

**Explanation:**

New Mexico law explicitly provides for Attorney General involvement. (5.100.2.13(R)(3) NMAC.) The AG's office represents NMHED in court against institutions.

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## BONUS POINTS

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New Mexico does not receive any bonus points.



## ILLUMINATING INFORMATION

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### RECIPROCITY AGREEMENTS

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New Mexico is a member of the State Authorization Reciprocity Agreements (SARA).

### LITIGATION, INVESTIGATIONS, AND ACTIONS INVOLVING PRIVATE FOR-PROFIT EDUCATIONAL INSTITUTIONS IN NEW MEXICO

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For information about pending and recent federal and state government investigations and actions regarding for-profit colleges see David Halperin's compilation at <http://www.republicreport.org/2014/law-enforcement-for-profit-colleges/#sthash.1vc4HmPw.dpuf>.

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# NEW YORK

## FINAL GRADING ANALYSIS

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OVERALL SCORE: **394.75/700 POINTS (56.4%)**  
LETTER GRADE: **F**

### I. OVERSIGHT BODY: **53.75/100 POINTS**

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#### A. IS THERE A STATUTORILY CREATED OVERSIGHT THAT IS PUBLICLY ACCOUNTABLE?

**37.5/60 POINTS**

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Element	Points	Type 1	Type 2	Average
1. Oversight body is a multi-member board, commission, or panel created by statute	10	10	0	5
2. Oversight body was statutorily created specifically to oversee private postsecondary institutions	10	0	5	2.5
3. Multi-member board, commission, or panel is the ultimate decision maker (as opposed to a single person, like the head of a department or director)	10	10	0	5
4. Oversight body can engage in rulemaking	10	10	10	10
5. Oversight body's meetings must be open to the public	5	5	2.5	3.75
6. Oversight body's meetings must allow public comment	5	0	2.5	1.25
7. Oversight body can initiate investigations	5	5	5	5
8. Oversight body can impose penalties for violations	5	5	5	5
Total Points	60	45	30	37.5

**Explanation:**

New York divides private for-profit postsecondary educational institutions into two categories for purposes of oversight and regulation: degree-granting proprietary schools (Type 1) and licensed private career schools (Type 2).

***Type 1: Degree-granting proprietary schools.*** The Board of Regents has overall responsibility for education in New York and can grant for-profit career schools the power to grant degrees. (NY CLS Educ §§ 224, 207.) In addition to obtaining permission to grant degrees from the Board Regents, proprietary colleges (and other degree-granting institutions) must register their curriculum with the Commissioner of Education (8 NYCRR § 52.1 et seq.), who carries out regulations for the conferring of degrees and makes recommendations to the Board of Regents. (N.Y. Comp. Codes R. & Regs. tit. 8, §§ 3.46, 3.47.) The Board of Regents was not created specifically to oversee private postsecondary schools; it was created to

oversee all universities included in the University of the State of New York (NY CLS Educ § 214), which includes, among other things, more than 7,000 public and private elementary and secondary schools; 248 public and private colleges and universities; and 251 proprietary (for-profit) schools.

The Regents may take testimony or hear proofs relating to their official duties, or in any matter which they may lawfully investigate; any decision or determination in such proceedings shall be made by the Regents. (NY CLS Educ § 206.) The Regents establish rules for carrying into effect the laws and policies of New York, relating to education, and the functions, powers, duties and trusts conferred or charged upon the university and the education department. (NY CLS Educ § 207.)

The Regents are subject to New York's Open Meetings Law, which gives the public the right to "observe the performance of public officials and attend and listen to the deliberations and decisions that go into the making of public policy." (NY CLS Pub O § 100.) The law requires that every meeting of a public body is open to the general public and provides very narrow exceptions to the rule in cases of specified executive sessions to transact business. (NY CLS Pub O § 103.) New York receives no credit for allowing public comment because the law is silent as to whether meetings must allow time for public comment. According to the Committee on Open Government, allowance of public comment is left to the discretion of the public body, here the Regents. If the public body does allow public participation in a meeting, it must do so based on reasonable rules that treat members of the public equally. (See, e.g., State of New York, Dep't of State, Committee on Open Government. OML-AO-5296. June 12, 2012.)

**Type 2: Licensed private career schools.** The Bureau of Proprietary School Supervision (BPSS) oversees licensed private schools and registered business schools. (NY Educ. Code §§ 5001 to 5010.) BPSS is part of the Department of Education; thus, the ultimate oversight body and decision maker is the Commissioner of Education, not a multi-member body. The Commissioner may initiate investigations with or without a complaint (NY Educ. Code §§ 5003), engage in rulemaking, and impose penalties for violations. (NY Educ. Code §§ 5003.) It is not clear whether BPSS is required to have public meetings and/or allow public comment at any such meetings.

However, New York has created a multi-member Advisory Council for Licensed Private Career Schools, for the purpose of advising the Board of Regents and the Commissioner of Education on matters relating to licensed private career schools. Because of the Council's existence, and even though its role is advisory only, partial credit is awarded for #2 above. Because the Council's meetings are open to the public, and provide an opportunity for public comment, partial credit is awarded for #5 and #6 above.

## B. STATUTE-SPECIFIED MEMBERSHIP:

### 1. TO WHAT EXTENT ARE LIMITATIONS PLACED ON FOR-PROFIT MEMBERSHIP ON THE OVERSIGHT BODY?

**12.5/25 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Explicit prohibition on for-profit majority, plus no possibility of a majority of the quorum	Explicit prohibition on for-profit majority	Discouraged	No prohibition specified, but not discouraged	For-profit majority mandated
<b>Type 1</b>	<b>25 Points</b>	20 Points	10 Points	0 Points	-5 points
<b>Type 2</b>	25 Points	20 Points	10 Points	<b>0 Points</b>	-5 Points

**Explanation:**

**Type 1: Degree-granting proprietary schools.** The Board of Regents is an unpaid lay multi-member body elected by New York's Legislature to serve five-year terms. Currently, there are 17 members, although the Board's makeup is determined to be four more than total judicial districts in the state, and not lower than 15. (NY CLS Educ § 202.) New York law prohibits Regents from being a trustee, president, principal or any other officer of an institution governed by the Board of Regents. (NY CLS Educ § 202(4).) New York monitors this by requiring each of the regents to disclose annually any financial interests of the regent, the regent's spouse, and the regent's unemancipated children; every office and directorship held by the regent; and any other interest or relationship which the regent determines in his or her discretion might reasonably be expected to be in the public interest and should be disclosed. (NY CLS Educ § 202(5).)

**Type 2: Licensed private career schools.** There are no explicit provisions in place with regard to for-profit interests at BPSS. Membership on the Advisory Council is specified in statute but there is no explicit limitation on for-profit membership. (NY CLS Educ. § 5010.)

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**2. IS THE OVERSIGHT BODY MANDATED TO INCLUDE  
AT LEAST ONE CONSUMER ADVOCATE?**

**0/10 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	No
<b>Type 1</b>	10 Points	<b>0 Points</b>
<b>Type 2</b>	10 Points	<b>0 Points</b>

**Explanation:**

**Type 1: Degree-granting proprietary schools.** New York law does not require a member of the Board of Regents to be a consumer advocate. (NY CLS Educ § 202.)

**Type 2: Licensed private career schools.** New York law does not require anybody within BPSS or on the Advisory Council to be a consumer advocate. (NY CLS Educ. § 5010.)

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**3. ARE THE MEMBERS APPOINTED BY A PUBLICLY ACCOUNTABLE  
OFFICIAL OR ELECTED IN A GENERAL ELECTION?**

**3.75/5 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	All	Majority	Half	Minority	None
<b>Type 1</b>	<b>5 Points</b>	3 Points	2.5 Points	1 Point	0 Points
<b>Type 2</b>	5 Points	3 Points	<b>2.5 Points</b>	1 Point	0 Points

**Explanation:**

**Type 1: Degree-granting proprietary schools.** The New York legislature elects each member of the Board of Regents. (NY CLS Educ § 202.)

**Type 2: Licensed private career schools.** There is no indication that any personnel within BPSS are appointed by publicly accountable officials. Members of the Advisory Council are appointed by the governor; therefore, New York receives partial credit here.

## II. STATE OVERSIGHT—EFFICACY: 47.75/100 POINTS

### A. DOES THE STATE REQUIRE ONSITE REVIEW OF PRIVATE POSTSECONDARY INSTITUTIONS?

5/10 POINTS\*

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Mandatory onsite reviews			Discretionary	None
	Every 2 years or less	Every 3-5 years	Over 5 years	Discretion to conduct onsite reviews	No review specified
Type 1	10 Points	8 Points	5 Points	3 Points	0 Points
Type 2	10 Points	8 9 Points	5 Points	3 Points	0 Points

#### Explanation:

**Type 1: Degree-granting proprietary schools.** New York's Rules of the Regents include provisions that provide discretion to the Department of Education to require for-profit institutions to undergo site visits in support of their applications for provisional degree-conferring authority. (8 NYCRR § 3.58.) There is no indication that these inspections must occur with any regularity. However, New York receives partial credit here because the law would allow, at the discretion of the Department, for these inspection to occur regularly, at least once every five years, until a for-profit institution is granted permanent authority to grant degrees. Inspections for re-registration are required only following a written statement specifying failures to comply with governing law and regulations. There is no specific timeframe for re-registration, as the Commissioner determines the length of the term of registration. (8 NYCRR § 52.1.)

**Type 2: Licensed private career schools.** New York requires the Commissioner to conduct periodic unscheduled inspections of licensed private career schools to monitor compliance. The state requires these inspections at least once every licensure period. (NY CLS Educ § 5001(2).) The initial licensure period is 2 years, with relicensure required 4 years thereafter. Therefore, New York receives 8 points for this element (mandatory onsite reviews every 3-5 years) and an additional point for the initial review, which must be done within two years.

### B. DOES THE STATE REQUIRE UNANNOUNCED INSPECTIONS FOR ONSITE REVIEWS?

2.5/5 POINTS\*

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Required unannounced visits	Discretion to do unannounced visits	No indication
Type 1	5 Points	3 Points	0 Points
Type 2	5 Points	3 Points	0 Points

#### Explanation:

**Type 1: Degree-granting proprietary schools.** New York's Rules of the Regents provide discretion to the Department of Education to require for-profit institutions to undergo site visits in support of its application for provisional degree-conferring authority. (8 NYCRR § 3.58.) However, there is no indication that these visits are unannounced.



**Type 2: Licensed private career schools.** New York law requires the Commissioner to conduct “periodic unscheduled inspections” of licensed private career schools to monitor compliance. (NY CLS Educ § 5002(2)(c).) Such inspections are to be conducted at least once every licensure period.

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**C. DOES THE STATE REQUIRE REGULAR REVIEWS OF PRIVATE POSTSECONDARY APPROVAL TO OPERATE?**

**18/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	<b>Mandatory</b>			<b>Discretionary</b>	<b>None</b>
	Every 2 years or less	Every 3-5 years	Over 5 years	Discretion to conduct reviews	No review specified
<b>Type 1</b>	<b>20 Points</b>	15 Points	10 Points	5 Points	0 Points
<b>Type 2</b>	20 Points	<del>15</del> <b>16 Points</b>	10 Points	5 Points	0 Points

**Explanation:**

**Type 1: Degree-granting proprietary schools.** New York requires degree-granting institutions to submit an annual report to the Board of Regents. (8 NYCRR § 3.51.)

The Board of Regents grants for-profit institutions degree-granting authority. The Regents initially give institutions provisional authority to grant degrees for a period of up to five years, and then may provide the institution permanent authority to grant degrees. (8 NYCRR § 3.58(c).) Before the Board of Regents will grant a for-profit college provisional or permanent authority, the Department of Education must conduct in-depth and comprehensive academic, fiscal, and planning reviews. The reviews determine whether the institution and its proposed programs meet the standards of quality for colleges set forth in Education Law, the Rules of the Board of Regents, and Commissioner’s regulations. The Regents also consider whether adequate demand and need exists for the proposed college and programs.

At least 12 months prior to the end of the provisional authority period, a for-profit institution must apply to the Department for permanent authority to confer degrees. The Board of Regents then determines whether to grant permanent authority, or extend the provisional authority to confer degrees for an additional period of up to five years, or deny continuing degree-conferring authority past the term of the previously granted provisional authority. (8 NYCRR § 3.58(c).)

The Regents give institutions authority to grant degrees after the Department reviews the institutions. The Department also registers programs. After an institution receives permanent authority to grant degrees, the Regents or the Commissioner, or their representatives may visit, examine, and inspect any school.

**Type 2: Licensed private career schools.** New York law requires private career schools to be licensed. An initial license is valid for a period of two years. A renewal of license is valid for a period of four years. Thus, New York receives 15 points for this element because review is mandated every four years, plus one point because the first review is mandated after two years. (NY CLS Educ § 5001(4)(b).)

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**D. DO THE CRITERIA FOR RENEWAL OF AUTHORIZATION MANDATE A REVIEW OF FACTORS ESSENTIAL TO ACADEMIC AND ETHICAL INTEGRITY?**

**6/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	8 of 8	7 of 8	6 of 8	5 of 8	4 of 8	3 of 8	2 of 8	1 of 8	0 of 8
<b>Type 1</b>	20 Points	17.5 Points	15 Points	12.5 Points	10 Points	7.5 Points	<b>5.7 Points</b>	2.5 Points	0 Points
<b>Type 2</b>	20 Points	17.5 Points	15 Points	12.5 Points	10 Points	7.5 Points	<b>5 Points</b>	2.5 Points	0 Points

Element	Type 1	Type 2
<b>Admission requirements</b>	<b>M</b>	
<b>Graduation requirements</b>	<b>M</b>	
<b>Placement rate</b>		<b>M</b>
<b>Completion rate (or graduation rate)</b>		<b>M</b>
<b>Advertising practices</b>	<b>D</b>	
<b>Cohort default rate</b>		
<b>Accreditation status</b>	<b>D</b>	
<b>Financial aid policies</b>		

*M=Mandatory; D=Discretionary*

#### **Explanation:**

**Type 1: Degree-granting proprietary schools.** New York law requires for-profit degree-granting institutions to have authorization to grant degrees from the Regents. In addition, New York law requires these institutions to register their curricula with the Regents and to reregister the curricula. (8 NYCRR § 3.51.) It is unclear if the annual report that New York requires the institutions to file includes each of the elements that are required when an institution reregisters its curricula. The Commissioner of Education determines reregistration timelines, thus, these timelines may exceed the annual reports. Therefore, the state receives partial credit for each element specified, even though the elements are mandatory. (8 NYCRR § 52.2.)

**Type 2: Licensed private career schools.** New York law requires licensed private career schools to provide statistical reports for review. These statistical reports must include, at a minimum, enrollment, completion and placement data. (NY CLS Educ § 5001(4)(e).)

#### **E. DOES THE STATE'S OVERSIGHT DISTINGUISH BETWEEN FOR-PROFIT AND NONPROFIT POSTSECONDARY INSTITUTIONS?**

**12.5/15 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	<b>Yes, strongly distinguished</b>	<b>Yes, moderately distinguished</b>	<b>Yes, slightly distinguished</b>	<b>Not distinguished</b>
<b>Type 1</b>	15 Points	<b>10 Points</b>	5 Points	0 Points
<b>Type 2</b>	<b>15 Points</b>	10 Points	5 Points	0 Points

#### **Explanation:**

**Type 1: Degree-granting proprietary schools.** The Rules of the Regents distinguish for-profit degree-granting colleges (proprietary colleges) from nonprofit and public colleges by requiring for-profit degree-granting colleges to undergo a different process to obtain degree-conferring authority. Proprietary

colleges must first obtain provisional authority to confer degrees for a specified time period before the college is able to obtain permanent degree-conferring authority. (8 NYCRR § 3.58.) For-profit degree-granting colleges fall under the authority of the Regents, as do nonprofit and public colleges.

**Type 2: Licensed private career schools.** New York law distinguishes private for-profit schools, or licensed private career schools, from nonprofit non-degree-granting proprietary schools and public schools by imposing additional requirements on licensed private career schools with regard to licensing and registration. Additionally, there is a separate body tasked with licensed private career school oversight. (8 NYCRR § 126.1, NY CLS Educ § 5001.)

**F. DOES THE STATE REQUIRE INCREASED OVERSIGHT/SCRUTINY OF PRIVATE POSTSECONDARY INSTITUTIONS BASED ON POOR PERFORMANCE?**

**3.75/10 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, mandatory	Yes, mandatory but limited	Yes, discretionary	Yes, discretionary but limited	No
<b>Type 1</b>	10 Points	7.5 Points	5 Points	2.5 Points	0 Points
<b>Type 2</b>	10 Points	7.5 Points	5 Points	2.5 Points	0 Points

**Explanation:**

**Type 1: Degree-granting proprietary schools.** While New York law does not expressly require increased oversight based on poor performance, the Rules of the Regents require additional scrutiny and oversight with regard to proprietary colleges prior to initially conferring degree-granting authority. Proprietary colleges must obtain a provisional authority to confer degrees, and then they may obtain permanent authority to confer degrees. Proprietary colleges must obtain provisional authority to grant degrees for a period of up to five years. At least 12 months prior to the end of the provisional authority period, such institution must apply to the Department for permanent authority to confer degrees. The Board of Regents shall determine whether to grant such permanent authority, or extend the provisional authority to confer degrees for an additional period of up to five years, or deny continuing degree-conferring authority past the term of the previously granted provisional authority. (8 NYCRR § 3.58(b).)

**Type 2: Licensed private career schools.** New York law does not appear to require licensed private career schools that perform poorly to comply with additional measures or undergo additional review as a result.



A note about candidacy status: A school that has applied for a private career school license may request candidacy status for one time only. Candidacy status allows eligible schools to operate unlicensed for an initial period of twelve months during the licensure application process, which may be extended to a maximum, non-renewable period of eighteen months. Candidacy status, however, is at the option of the school, not the Regents or the Commission. It is not imposed by the oversight body for the purpose of ensuring that the school is performing adequately. No points are awarded for candidacy status.

**G. DOES STATE LAW INCLUDE ANY SPECIAL PROTECTIONS FOR VETERANS WHO ATTEND PRIVATE POSTSECONDARY INSTITUTIONS?**

**0/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	No
Type 1	20 Points	0 Points
Type 2	20 Points	0 Points

**Explanation:**

**Type 1: Degree-granting proprietary schools.** New York law does not have any special protections in place for veterans who attend licensed proprietary colleges.

**Type 2: Licensed private career schools.** New York law does not have any special protections in place for veterans who attend licensed private career schools.

### III. STATE OVERSIGHT—SCOPE AND INCLUSION:

**87.5/100 POINTS**

#### A. ARE EXEMPTIONS TO STATE OVERSIGHT COVERAGE LIMITED?

**87.5/100 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	No exemptions	Few exemptions	Moderate exemptions	Broad exemptions
Type 1	100 Points	75 Points	50 Points	0 Points
Type 2	100 Points	75 Points	50 Points	0 Points

**Explanation:**

**Type 1: Degree-granting proprietary schools.** There are no significant exemptions to oversight by the Regents. The only for-profit postsecondary institutions exempt from the provisions governing proprietary colleges are licensed private career schools, which are governed by NY CLS Educ § 5001 *et seq.* (discussed below).

**Type 2: Licensed private career schools.** Several schools are exempted from the provisions governing licensed private career schools, but all of the exemptions are common sense exemptions, such as exemptions for entities that provide employer trainings for employees, courses for professional continuing education, and courses which are licensed, registered or approved under any other section of the law. (NY CLS Educ § 5001.) Aside from degree-granting proprietary schools, which are governed by the Regents and covered in this report, there are no significant exemptions from licensed private career school oversight.

### IV. DISCLOSURE REQUIREMENTS: 55/100 POINTS

#### A. ARE INSTITUTIONS REQUIRED TO DISCLOSE INSTITUTIONAL PERFORMANCE MEASURES TO POTENTIAL STUDENTS?

**15/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, mandatory	Yes, discretionary	None
	Fact sheet or equivalent required to be given to students	Fact sheet or equivalent given to students upon request	No fact sheet required
<b>Type 1</b>	20 Points	<b>10 Points</b>	0 Points
<b>Type 2</b>	<b>20 Points</b>	10 Points	0 Points

**Explanation:**

**Type 1: Degree-granting proprietary schools.** New York law requires private degree-granting postsecondary institutions to include institutional performance information their catalogs or bulletins. The information must be clearly and precisely described, and statistical data must be easy to read and understand. (8 NYCRR § 53.4.) New York law requires these schools to provide or make this information available to students enrolled at the institution and prospective students. Prospective students are defined as persons who have contacted an institution requesting information for the purpose of enrolling at that institution. (8 NYCRR § 53.2.) New York receives partial credit for this element because state law does not require every student to receive this information and acknowledge receipt of the information prior to enrolling in the institution. The information is available to prospective students “upon request.”

**Type 2: Licensed private career schools.** New York law requires licensed private career schools to disseminate to all prospective and enrolled students through an enrollment contract or agreement or other appropriate publications or documents specified institutional performance standards and other specified information. (NY CLS Educ § 5005.) New York requires the licensed private career schools to include with the enrollment agreement a separately signed acknowledgment by the student that he or she has received the disclosure material, as required in NY CLS Educ §5005. (8 NYCRR § 126.7(b).)

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**B. WHICH INSTITUTIONAL PERFORMANCE DISCLOSURES ARE REQUIRED TO BE GIVEN TO STUDENTS PRIOR TO ENROLLMENT?**

**30/60 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

**Type 1: Degree-granting proprietary schools**

Disclosures	Mandatory	Discretionary	Not specified
<b>Cohort default rate (CDR)</b>	10 Points	5 Points	<b>0 Points</b>
<b>Graduation / completion rates</b>	<b>10 Points</b>	5 Points	0 Points
<b>Placement rates</b>	<b>10 Points</b>	5 Points	0 Points
<b>Wage information</b>	10 Points	5 Points	<b>0 Points</b>
<b>License exam passage rates</b>	10 Points	5 Points	<b>0 Points</b>
<b>Methods &amp; sources used to calculate</b>	<b>10 Points</b>	5 Points	0 Points

**Explanation:**

New York requires degree-granting proprietary colleges to disclose graduation rates and placement rates to students, in addition to other required disclosures. While New York does not require proprietary colleges to disclose methods and sources, the state receives credit here because the law explicitly lays out the methods and sources from which colleges must draw this data. (8 NYCRR § 53.3.)

*Type 2: Licensed private career schools*

Disclosures	Mandatory	Discretionary	Not specified
Cohort default rate (CDR)	10 Points	5 Points	0 Points
Graduation / completion rates	10 Points	5 Points	0 Points
Placement rates	10 Points	5 Points	0 Points
Wage information	10 Points	5 Points	0 Points
License exam passage rates	10 Points	5 Points	0 Points
Methods & sources used to calculate	10 Points	5 Points	0 Points

**Explanation:**

New York requires licensed private career schools to disseminate to all prospective and enrolled students through an enrollment contract or agreement or other appropriate publications or documents, and in appropriate languages as required by the commissioner in regulation information including the most recent available data on employment and graduation statistics for students who have attended the school, if the school advertises job placement rates as means of attracting students to enroll in the school. The state also requires licensed private career schools to disclose the pass rate of graduates of the program for the most recent calendar year on any licensure or certification examination required by the state for employment in the particular vocational, trade, or career field. (NY CLS Educ § 5005.) Finally, New York law prohibits schools from enrolling students by including in advertising or promotional material representations with respect to potential earnings in entry level employment or employment with experience, unless such representations can be documented for the graduates of the school. (8 NYCRR § 126.2(c).) Thus, the state receives credit for providing discretion here; disclosure is required only where a school includes potential earnings in advertising.

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**C. DOES THE STATE REQUIRE SCHOOLS TO DISCLOSE ELEMENTS  
ESSENTIAL TO STUDENT PROTECTION PRIOR TO ENROLLMENT OR  
IN THE ENROLLMENT CONTRACT?**

**10/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

*Type 1: Degree-granting proprietary schools*

Element description	Mandatory	Discretionary	Not specified
Total cost of program	5 Points	2.5 Points	0 Points
Refund information	5 Points	2.5 Points	0 Points
Transferability of credits	5 Points	2.5 Points	0 Points
Length of program	5 Points	2.5 Points	0 Points

**Explanation:**

New York requires proprietary colleges and other degree-granting postsecondary institutions to provide to students extensive information on the total cost of the program in which the student is enrolling and refund information. (8 NYCRR § 53.3.) The institutions must provide this information to students currently enrolled in the institution and to any prospective students, defined as persons who have contacted an institution requesting information for the purpose of enrolling at that institution. (8 NYCRR § 53.2.) New York receives partial credit for this element because New York law does not specify how this information is to be provided to students and prospective students; however, the information is available and may be included as part of the enrollment contract at the discretion of the institution.

*Type 2: Licensed private career schools*

Element description	Mandatory	Discretionary	Not specified
Total cost of program	5 Points	2.5 Points	0 Points
Refund information	5 Points	2.5 Points	0 Points
Transferability of credits	5 Points	2.5 Points	0 Points
Length of program	5 Points	2.5 Points	0 Points

**Explanation:**

New York law requires licensed private career schools to disseminate to all prospective and enrolled students through an enrollment contract or agreement or other appropriate publications or documents, and in appropriate languages as required by the Commissioner in regulation information including the process for obtaining a tuition refund from the tuition reimbursement fund and the availability of loan forgiveness in the event the school closes while the student is in attendance; program objectives and the length of the program; a schedule of tuition payments, fees and all other charges and expenses necessary for completion of the course or program; the tuition refund and contract cancellation policies; and a sample enrollment contract, a sample cancellation form developed by the Department in consultation with the Advisory Council and a tuition reimbursement fund claim form. (NY CLS Educ § 5005; 8 NYCRR § 126.7.)

## V. REGULATION OF RECRUITING PRACTICES:

**62.5/100 POINTS**

### A. HAS THE STATE PUT INTO LAW A LIST OF PROHIBITED ACTS REGARDING ADVERTISING AND RECRUITING?

**62.5/100 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, strong regulation	Yes, moderate regulation	Yes, weak regulation	No list of prohibited acts
Type 1	100 Points	75 Points	50 Points	0 Points
Type 2	100 Points	75 Points	50 Points	0 Points

#### PROHIBITED ACTS

Included in list of prohibited acts	Type 1	Type 2
Misleading representations using the word “college” or “university”	X	X
Misleading institution affiliation (e.g., military, public institution, businesses)		X
Promise of employment		X
Compensation for enrollment		
Compensation or “bounty” to recruiters		
Deception (broad prohibition)		X
Misrepresentation (broad Prohibition)		X
Misleading representations re: accreditation		

*1-3=Weak; 3.5-6=Moderate; 6.5-8=Strong*



**Explanation:**

**Type 1: Degree-granting proprietary schools.** No individual, association, partnership or corporation not holding university, college or other degree conferring powers by special charter from the legislature of this state or from the regents, shall confer any degree or use, advertise or transact business under the name university or college, or any name, title or descriptive material indicating or tending to imply that said individual, association, partnership or corporation conducts, carries on, or is a school of law, medicine, dentistry, pharmacy, veterinary medicine, nursing, optometry, podiatry, architecture or engineering, unless the right to do so shall have been granted by the regents in writing under their seal. (NY CLS Educ §224(1)(a).)

**Type 2: Licensed private career schools.** New York law prohibits licensed career schools from recruiting students by means of misrepresenting the cost of instruction or of the education, experience or abilities required for successful completion of the course and the utilization thereof; or by use of such phrases as "university," "college," or "professional school," or other terminology which connotes an institution which confers the associate or higher degrees, except where the school has been authorized by the Regents to confer such degrees and has been authorized to use the word "college" in its corporate name. (8 NYCRR § 126.2(c).) The state further prohibits schools from false, misleading, deceptive or fraudulent advertising and requires that statements and representations in all forms of advertising and promotion are fairly and clearly presented, accurate, and restricted to facts which can be substantiated. (8 NYCRR § 126.3(a), (b).) New York law requires endorsements, commendations or recommendations from any person or persons, firm, corporation or other organization shall be used only with the identification and qualifications of such person, persons, firm, corporation or other organizations (e.g., graduate, employer) and with their written consent. Such consent shall be on file with the school and shall be available for examination. (8 NYCRR § 126.3(c).) This requirement can reasonably be expected to have the effect of prohibiting "misleading institution affiliation." Therefore, New York receives credit for prohibiting "misleading institution affiliation."

## VI. COMPLAINT PROCESS AND RELIEF FOR STUDENTS:

**50.75/100 POINTS**

A. DOES THE STATE REQUIRE A BOND OR FUND AS A  
CONDITION OF AUTHORIZATION?

**5/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	No
Type 1	20 Points	0 Points
Type 2	20 10 Points	0 Points

**Explanation:**

**Type 1: Degree-granting proprietary schools.** New York law prohibits postsecondary institutions from conferring degrees unless the institution possesses financial resources which, in the judgment of the regents, are adequate to insure satisfactory conduct of its degree programs and achievement of its stated educational goals. However, the state does not require that the institution post a bond. (NY CLS Educ § 218.)

**Type 2: Licensed private career schools.** New York law does not require licensed private career schools to post a bond as a condition of authorization, but the state receives partial credit because it requires



schools to contribute annually to a statewide tuition reimbursement account. (NY CLS Educ § 5007.) Additionally, if the Commissioner determines that a school has demonstrated a pattern or practice of failing to make tuition refunds in a timely manner and/or the school's financial condition may result in the interruption or cessation of instruction or jeopardize student tuition funds, New York mandates that the commissioner require a school to establish a trust account in a form or manner which the Commissioner determines to be appropriate. The assets or funds contained in the trust account are maintained for the sole and exclusive benefit of the students. (NY CLS Educ § 5008.)

**B. DOES THE STATE REQUIRE A REFUND OF TUITION IF A STUDENT ENROLLS AS THE RESULT OF MISREPRESENTATION?**

**10/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, full refund	Yes, partial refund	No refund required
<b>Type 1</b>	20	10	<b>0</b>
<b>Type 2</b>	<b>20</b>	10	0

**Explanation:**

**Type 1: Degree-granting proprietary colleges.** There is no indication in New York law that students who enroll in proprietary colleges as the result of misrepresentation are entitled to a refund.

**Type 2: Licensed private career schools.** New York law provides that a student who enrolls as the result of fraudulent or improper claims by a licensed agent or school representative is entitled to a full refund. (8 NYCRR § 126.17.)

**C. DOES THE STATE REQUIRE INSTITUTIONS TO REFUND TUITION IN THE EVENT OF INSOLVENCY?**

**10/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, full refund	Yes, partial refund	Yes, refund in limited circumstances	No refund required
<b>Type 1</b>	20 Points	15 Points	10 Points	<b>0 Points</b>
<b>Type 2</b>	<b>20 Points</b>	15 Points	10 Points	0 Points

**Explanation:**

**Type 1: Degree-granting proprietary schools.** New York law does not clearly state that a student at a proprietary college is entitled to a full refund in the event of insolvency/school closure.

**Type 2: Licensed private career schools.** New York law allows a student who is offered a teachout plan for the curriculum in which the student was enrolled at the time a school closed or ceased operation to elect to continue instruction pursuant to the teachout plan or decline to continue instruction and may instead apply for a full refund. (NY CLS Educ § 5007(4).)

**D. DOES THE STATE ALLOW STUDENTS AMPLE TIME TO MAKE A COMPLAINT?**

**9.5/10 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	2 years or more (or no deadline)	1-2 years	Under 1 year	Not applicable
<b>Type 1</b>	<b>10 Points</b>	5 Points	1 Point	0 Points
<b>Type 2</b>	<b>40 9 Points</b>	5 Points	1 Point	0 Points

**Explanation:**

**Type 1: Degree-granting proprietary schools.** The New York State Education Department maintains a website which contains information on filing a complaint regarding the various different types of postsecondary institutions in New York (<http://www.highered.nysed.gov/ocue/spr/COMPLAINTFORMINFO.html>). The only time limit noted on the website is five years (“[t]he Office does not handle complaints concerning actions that occurred more than five years ago”).

**Type 2: Licensed private career schools.** New York law specifies that any person who believes he or she has been aggrieved by a violation of the law governing licensed career schools, except a person aggrieved by the actions or omissions of a candidate school, has the right to file a written complaint within two years of the alleged violation; or one year of receiving notification from the higher education services corporation or any other guarantee agency that the student has defaulted on a student loan payment; provided, however, that no complaint may be filed after three years from the date of the alleged violation. (NY CLS Educ § 5003(c)(1).) New York loses one point here because students have only one year after receiving notification that the student has defaulted on a student loan payment, otherwise, students have two years, and never more than three years to file a complaint.

**E. DOES THE STATE REQUIRE INSTITUTIONS TO DISCLOSE INFORMATION ABOUT FILING A COMPLAINT WITH THE STATE OVERSIGHT BODY?**

**6.25/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

**Type 1: Degree-granting proprietary schools**

Medium	Mandatory	Discretionary	Not specified
<b>Catalog</b>	10 Points	5 Points	<b>0 Points</b>
<b>Website</b>	5 Points	2.5 Points	<b>0 Points</b>
<b>Enrollment contract</b>	5 Points	2.5 Points	<b>0 Points</b>

**Explanation:**

New York law does not explicitly require proprietary colleges to disclose information about filing a complaint with the state oversight body.

*Note: If there is no explicit requirement for these policies to be on an institution’s website, credit for discretionary allowance given for “website” if disclosures are required in the catalog because quite often catalogs are on an institution’s website.*

**Type 2: Licensed private career schools**

Medium	Mandatory	Discretionary	Not specified
<b>Catalog</b>	10 Points	<b>5 Points</b>	0 Points
<b>Website</b>	5 Points	<b>2.5 Points</b>	0 Points
<b>Enrollment contract</b>	<b>5 Points</b>	2.5 Points	0 Points

**Explanation:**

New York requires schools to “disseminate to all prospective and enrolled students through an enrollment contract or agreement or other appropriate publications or documents” a description of the complaint process. (NY CLS Educ § 5005; 8 NYCRR § 126.9.) New York receives full credit for requiring this information in enrollment contracts and partial credit for catalog and website inclusion because these two media reasonably could be considered “other appropriate publications or documents.”

**F. IS THE COMPLAINT PROCESS READILY ACCESSIBLE AND  
AVAILABLE ON THE STATE OVERSIGHT BODY’S WEBSITE?**

**10/10 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, with address	Yes, with phone #	Yes, with email address	Yes, with electronic form	No
<b>Type 1</b>	<b>2 Points</b>	<b>2 Points</b>	<b>3 Points</b>	<b>3 Points</b>	0 Points
<b>Type 2</b>	<b>2 Points</b>	<b>2 Points</b>	<b>3 Points</b>	<b>3 Points</b>	0 Points

**Explanation:**

**Type 1: Degree-granting proprietary schools.** The New York Department of Education maintains a website which includes information detailing how a student can file different types of complaint with the appropriate authority. The information includes addresses, phone numbers, fax numbers, email addresses, and electronic forms (<http://www.highered.nysed.gov/ocue/spr/COMPLAINTFORMINFO.html>).

**Type 2: Licensed private career schools.** The New York Department of Education maintains a website which includes information detailing how a student can file different types of complaint with the appropriate authority. The information includes addresses, phone numbers, fax numbers, email addresses, and electronic forms (<http://www.highered.nysed.gov/ocue/spr/COMPLAINTFORMINFO.html>).

**VII. ENFORCEMENT: 37.5/100 POINTS**

**A. IS THERE LOSS OF STATE AID FOR SCHOOLS THAT REPEATEDLY  
PRODUCE SUBSTANDARD GRADUATION RATES, JOB PLACEMENT  
RATES, AND/OR COHORT DEFAULT RATES?**

**0/30 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, required	Yes, required but limited	Yes, discretionary	Yes, discretionary but limited	No
<b>Type 1</b>	30 Points	20 Points	15 Points	5 Points	<b>0 Points</b>
<b>Type 2</b>	30 Points	20 Points	15 Points	5 Points	<b>0 Points</b>

**Explanation:**

**Type 1: Degree-granting proprietary schools.** There is no indication that proprietary colleges will lose state aid for repeatedly producing substandard graduation, placement, and cohort default rates. There are procedures in place for school districts that consistently perform poorly, but not for proprietary colleges. (NY CLS Educ § 211-b.)

**Type 2: Licensed private career schools.** There is no indication that licensed private career schools will lose state aid for repeatedly producing substandard graduation, placement, and cohort default rates.

**B. DOES STATE LAW EXPLICITLY AUTHORIZE A PRIVATE RIGHT OF ACTION FOR STUDENTS AGAINST INSTITUTIONS THAT HAVE VIOLATED THE LAWS AND REGULATIONS IN PLACE TO GOVERN THEM?**

**15/30 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	Limited circumstances	No
Type 1	30 Points	15 Points	0 Points
Type 2	30 Points	15 Points	0 Points

**Explanation:**

**Type 1: Degree-granting proprietary schools.** New York law does not explicitly allow a private right of action against proprietary colleges that have violated the laws and regulations in place to govern them.

**NOTABLE PROVISION:**



**Type 2: Licensed private career schools.** “Private right of action. A student injured by a violation of this article may bring an action against the owner or operator of a licensed private career school for actual damages or one hundred dollars, whichever is greater. A court may, in its discretion, award reasonable attorney’s fees to a prevailing plaintiff.” (NY CLS Educ § 5003.)

**C. DOES STATE LAW EXPLICITLY ALLOW ATTORNEY FEE AWARDS FOR STUDENTS WHO PREVAIL IN LITIGATION AGAINST PRIVATE FOR-PROFIT POSTSECONDARY INSTITUTIONS?**

**7.5/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	Limited	No
Type 1	20 Points	15 Points	0 Points
Type 2	20 Points	15 Points	0 Points

**Explanation:**

**Type 1: Degree-granting proprietary schools.** New York law does not contain any provisions which allow for attorney fee awards for students who prevail in litigation against institutions who have violated the laws and regulations in place to govern them.

**Type 2: Licensed private career schools.** “Private right of action. A student injured by a violation of this article may bring an action against the owner or operator of a licensed private career school for actual damages or one hundred dollars, whichever is greater. A court may, in its discretion, award reasonable attorney’s fees to a prevailing plaintiff.” (NY CLS Educ § 5003.) New York receives partial credit here because attorney fee awards are discretionary.

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D. DOES STATE LAW EXPLICITLY AUTHORIZE  
ATTORNEY GENERAL INVOLVEMENT?

**15/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	Limited circumstances	No
Type 1	20 Points	10 Points	0 Points
Type 2	20 Points	10 Points	0 Points

**Explanation:**

**Type 1: Degree-granting proprietary schools.** New York law does not explicitly authorize Attorney General involvement related to proprietary colleges. However, complaints of consumer fraud on the part of the institution are directed to the Office of the New York State Attorney General. New York receives partial credit for this element.

**Type 2: Licensed private career schools.** The Attorney General is authorized to bring any action in his capacity to enforce the code or collect fines from a career school. (N.Y. Educ. Law § 5003.)

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**BONUS POINTS**

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New York does not receive any bonus points.



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**ILLUMINATING INFORMATION**

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**RECIPROCITY AGREEMENTS**

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New York is a member of the State Authorization Reciprocity Agreements (SARA).

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**LITIGATION, INVESTIGATIONS, AND ACTIONS INVOLVING PRIVATE  
FOR-PROFIT EDUCATIONAL INSTITUTIONS IN NEW YORK**

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For information about pending and recent federal and state government investigations and actions regarding for-profit colleges see David Halperin's compilation at <http://www.republicreport.org/2014/law-enforcement-for-profit-colleges/#sthash.1vc4HmPw.dpuf>.

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# NORTH CAROLINA

## FINAL GRADING ANALYSIS

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OVERALL SCORE: **303/700 POINTS (43.3%)**  
LETTER GRADE: **F**

### I. OVERSIGHT BODY: **55/100 POINTS**

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#### A. IS THERE A STATUTORILY CREATED OVERSIGHT BODY THAT IS PUBLICLY ACCOUNTABLE?

**50/60 POINTS**

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Element	Points	Type 1	Type 2	Average
1. Oversight body is a multi-member board, commission, or panel created by statute	10	10	10	10
2. Oversight body was statutorily created specifically to oversee private postsecondary institutions	10	10	0	5
3. Multi-member board, commission, or panel is the ultimate decision maker (as opposed to a single person, like the head of a department or director)	10	10	10	10
4. Oversight body can engage in rulemaking	10	10	10	10
5. Oversight body's meetings must be open to the public	5	5	5	5
6. Oversight body's meetings must allow public comment	5	0	0	0
7. Oversight body can initiate investigations	5	5	5	5
8. Oversight body can impose penalties for violations	5	5	5	5
Total Points	60	55	45	50

#### **Explanation:**

North Carolina has two types of private postsecondary educational institutions: proprietary schools (Type 1) and degree-granting private postsecondary educational institutions (Type 2).

**Type 1: Proprietary schools.** A proprietary school is an educational institution having a physical presence within North Carolina that is privately owned by a sole proprietorship, partnership, limited liability company, or corporation; is established as a business entity or as a nonprofit charitable organization; offers instruction to individuals who have completed their elementary and secondary education or are beyond the age of compulsory secondary school attendance and have demonstrated an ability to benefit from that instruction for the attainment of educational objectives, vocational objectives, or both; charges tuition or receives any consideration from a student for any portion of the instruction in any form, including written or audiovisual material; and educates, trains, or claims or offers to educate or train students in a program leading toward examinations for licensing in a profession or vocation, employment

at a beginning or advanced level, or a postsecondary educational credential below the associate degree level.

The State Board of Community Colleges (SBCC), acting by and through the State Board of Proprietary Schools (SBPS), shall have authority to administer and enforce North Carolina's laws and regulations governing proprietary schools. The state created SBPS specifically to oversee proprietary schools in the state. The SBPS does not make final decisions; instead, it makes recommendations to SBCC, which either approves or denies SBPS' recommendations.

Meetings of both SBCC and SBPS are required to be open to the public under North Carolina's law relating to meetings of public bodies. (N.C. Gen. Stat. § 143-318.10.) State law does not require these meetings to allow opportunity for the public to comment.

**Type 2: Degree-granting private postsecondary educational institutions.** North Carolina tasks the North Carolina Board of Governors (BOG) with the regulation, licensing and oversight of degree programs at nonpublic postsecondary educational institutions in the state which conduct postsecondary degree activity and are not governed by the laws and regulations applicable to proprietary schools. (N.C. Gen. Stat. § 116-15.)

The BOG was not created specifically to oversee degree-granting private postsecondary educational institutions; it also oversees the 17 constituent institutions that make up the University of North Carolina system. (N.C. Gen. Stat. § 116-11.) The Board can engage in rulemaking, initiate investigations, and perform revocation of licensure. (N.C. Gen. Stat. § 116-11.) Although the Board cannot impose penalties for non-compliance with the licensure law, it refers such matters to the Attorney General who may take such action as deemed appropriate. (N.C. Gen. Stat. § 116-15.)

Meetings of the BOG are required to be open to the public under North Carolina's law relating to meetings of public bodies. (N.C. Gen. Stat. § 143-318.10.) State law does not require these meetings to allow opportunity for the public to comment.

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## B. STATUTE-SPECIFIED MEMBERSHIP:

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### 1. TO WHAT EXTENT ARE LIMITATIONS PLACED ON FOR-PROFIT MEMBERSHIP ON THE OVERSIGHT BODY?

**0/25 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Explicit prohibition on for-profit majority, plus no possibility of a majority of the quorum	Explicit prohibition on for-profit majority	Discouraged	No prohibition specified, but not discouraged	For-profit majority mandated
<b>Type 1</b>	25 Points	20 Points	10 Points	<b>0 Points</b>	-5 Points
<b>Type 2</b>	25 Points	20 Points	10 Points	<b>0 Points</b>	-5 Points

#### **Explanation:**

**Type 1: Proprietary schools.** North Carolina law requires that four of the seven members of the State Board of Proprietary Schools be owners or directors of proprietary schools. (N.C. Gen. Stat. § 115D-89.1(b).) This does not necessarily mean that a for-profit majority is mandated, because it is possible that one or more of the designated owner/director members will be affiliated with a non-profit proprietary



school. (N.C. Gen. Stat. § 115D-87(2).) However, a for-profit majority on SBPS is possible, and not discouraged, under North Carolina law.

**Type 2: Degree-granting private postsecondary educational institutions.** North Carolina law neither mandates nor prohibits individuals affiliated with private for-profit educational institutions from election to the Board of Governors.

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**2. IS THE OVERSIGHT BODY MANDATED TO INCLUDE  
AT LEAST ONE CONSUMER ADVOCATE?**

**0/10 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	No
<b>Type 1</b>	10 Points	<b>0 Points</b>
<b>Type 2</b>	10 Points	<b>0 Points</b>

**Explanation:**

**Type 1: Proprietary schools.** North Carolina law does not require the appointment of a consumer advocate (an individual with expertise and experience in the area consumer advocacy) to the State Board of Proprietary Schools. (N.C. Gen. Stat. § 115D-89.1(b).)

**Type 2: Degree-granting private postsecondary educational institutions.** North Carolina law requires the person serving as president of the University of North Carolina Association of Student Governments or a designee to serve ex officio as a member of the Board of Governors (the student member does not have a vote). (N.C. Gen. Stat. § 116-6.1.) However, North Carolina law does not require the appointment of an individual with expertise and experience in the area of consumer advocacy to the Board of Governors.

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**3. ARE THE MEMBERS APPOINTED BY A PUBLICLY ACCOUNTABLE  
OFFICIAL OR ELECTED IN A GENERAL ELECTION?**

**5/5 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	All	Majority	Half	Minority	None
<b>Type 1</b>	<b>5 Points</b>	3 Points	2.5 Points	1 Point	0 Points
<b>Type 2</b>	<b>5 Points</b>	3 Points	2.5 Points	1 Point	0 Points

**Type 1: Proprietary Schools.** North Carolina law requires the seven members of State Board of Proprietary Schools to be appointed as follows: the President of the North Carolina Community College System or the President's designee; two members appointed by the Governor; two members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate; and two members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives.

**Type 2: Degree-granting private postsecondary educational institutions.** The North Carolina Senate and House of Representatives elect the members of the Board of Governors. The Senate and the House of Representatives each elect one-half of the persons necessary to fill the vacancies on the Board of Governors. (N.C. Gen. Stat. § 116-6(a).)

## II. STATE OVERSIGHT—EFFICACY: 37/100 POINTS

### A. DOES THE STATE REQUIRE ONSITE REVIEW OF PRIVATE POSTSECONDARY INSTITUTIONS?

3/10 POINTS\*

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Mandatory onsite reviews			Discretionary	None
	Every 2 years or less	Every 3-5 years	Over 5 years	Discretion to conduct onsite reviews	No review specified
Type 1	10 5 Points	8 Points	5 Points	3 Points	0 Points
Type 2	10 Points	8 Points	5 Points	3 Points	0 1 Point

#### Explanation:

**Type 1: Proprietary schools.** North Carolina law requires site visits for remote sites at each annual audit. (2A SBCCC 300.1.) There are other instances in which North Carolina requires site visits, but there is no explicit requirement that all schools/sites are subject to regular onsite reviews. Therefore, the state receives partial credit for requiring annual onsite reviews for some of the sites it licenses.

**Type 2: Degree-granting private postsecondary educational institutions.** North Carolina law requires a site review as a part of the initial licensing process, but the state does not mandate regular onsite review after initial licensure. (Rules and Standards for Licensing Nonpublic Institutions to Conduct Post-Secondary Degree Activity in North Carolina, <http://www.northcarolina.edu/licensure>, at VIII.(B) and (C).) The state receives one point for requiring an onsite visit for initial licensure.

### B. DOES THE STATE REQUIRE UNANNOUNCED INSPECTIONS FOR ONSITE REVIEWS?

0/5 POINTS\*

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Required unannounced visits	Discretion to do unannounced visits	No indication
Type 1	5 Points	3 Points	0 Points
Type 2	5 Points	3 Points	0 Points

#### Explanation:

**Type 1: Proprietary schools.** North Carolina law does not require or authorize unannounced onsite reviews for any of the institutions it licenses.

**Type 2: Degree-granting private postsecondary educational institutions.** North Carolina law does not require or authorize unannounced onsite reviews for these educational institutions.

### C. DOES THE STATE REQUIRE REGULAR REVIEWS OF PRIVATE POSTSECONDARY APPROVAL TO OPERATE?

20/20 POINTS\*

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Mandatory			Discretionary	None
	Every 2 years or less	Every 3-5 years	Over 5 years	Discretion to conduct reviews	No review specified
<b>Type 1</b>	<b>20 Points</b>	15 Points	10 Points	5 Points	0 Points
<b>Type 2</b>	<b>20 Points</b>	15 Points	10 Points	5 Points	0 Points

**Explanation:**

**Type 1: Proprietary schools.** North Carolina law requires proprietary schools to renew licenses annually. (2A SBCCC 300.6.)

**Type 2: Degree-granting private postsecondary educational institutions.** The BOG requires degree-granting private postsecondary educational institutions to submit annual reports for review. (Rules and Standards for Licensing Nonpublic Institutions to Conduct Post-Secondary Degree Activity in North Carolina, <http://www.northcarolina.edu/licensure>, at VIII.(L).)

**D. DO THE CRITERIA FOR RENEWAL OF AUTHORIZATION MANDATE A REVIEW OF FACTORS ESSENTIAL TO ACADEMIC AND ETHICAL INTEGRITY?**

**11.5/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	8 of 8	7 of 8	6 of 8	5 of 8	4 of 8	3 of 8	2 of 8	1 of 8	0 of 8
<b>Type 1</b>	20 Points	17.5 Points	15 Points	12.5 Points	<b>10 12 Points</b>	7.5 Points	5 Points	2.5 Points	0 Points
<b>Type 2</b>	20 Points	17.5 Points	15 Points	12.5 Points	<b>10 11 Points</b>	7.5 Points	5 Points	2.5 Points	0 Points

Element	Type 1	Type 2
Admission requirements	M	M
Graduation requirements	D	
Placement rate	M	D
Completion rate (or graduation rate)	D	M
Advertising practices	M	M
Cohort default rate		
Accreditation status	M	
Financial aid policies		M

*M=Mandatory; D=Discretionary*

**Explanation:**

**Type 1: Proprietary schools.** North Carolina law requires proprietary schools to submit a copy of the current school catalog. (2A SBCCC 300.2.) The catalog must include information relating to admission requirements and graduation (program completion) requirements. (N.C. Gen. Stat. § 115D-90(b)(7).) The state receives partial credit here because while the state requires the information related to admission and graduation requirements to be provided in the school catalog and the information is, therefore, available for review, there is no explicit requirement that the SBPS review graduation and admission requirements, only that it ensure that those requirements are listed in the school catalog.

**Type 2: Degree-granting private postsecondary educational institutions.** North Carolina law requires institutions to be in compliance with fifteen minimum standards; institutions must submit an annual report to the BOG. These standards include a review of admission requirements (standard 8B, student services), review of advertising practices (standard 11, Business Practice, Availability of Promotional Materials); financial aid (standard 8B, student services); and graduation rate (Standard 3, Program of Study). Additionally, the state receives partial credit because if an institution represents to the public, in any manner, that an educational curriculum leads to employment, there must be annual written employer data, graduation rates, and employment rates, available upon request. Additionally, the institution should report job placement statistics yearly. The state would receive full credit if it reviewed this data for all institutions. (Standards come from BOG Rules and Standards, at <http://www.northcarolina.edu/licensure>.)

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**E. DOES THE STATE'S OVERSIGHT DISTINGUISH BETWEEN  
FOR-PROFIT AND NONPROFIT EDUCATIONAL INSTITUTIONS?**

**2.5/15 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	<b>Yes, strongly distinguished</b>	<b>Yes, moderately distinguished</b>	<b>Yes, slightly distinguished</b>	<b>Not distinguished</b>
<b>Type 1</b>	15 Points	10 Points	<b>5 Points</b>	0 Points
<b>Type 2</b>	15 Points	10 Points	5 Points	<b>0 Points</b>

**Explanation:**

**Type 1: Proprietary schools.** North Carolina law exempts nonprofit schools conducted by charities that are exempt from taxation under section 501(c)(3) of the Internal Revenue Code where no fee or tuition is charged to the student, or conducted by religious institutions. (N.C. Gen. Stat. § 115D-88.)

**Type 2: Degree-granting private postsecondary educational institutions.** North Carolina law does not distinguish for-profit and nonprofit institutions.

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**F. DOES THE STATE REQUIRE INCREASED OVERSIGHT/SCRUTINY OF PRIVATE  
POSTSECONDARY INSTITUTIONS BASED ON POOR PERFORMANCE?**

**0/10 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	<b>Yes, mandatory</b>	<b>Yes, mandatory but limited</b>	<b>Yes, discretionary</b>	<b>Yes, discretionary but limited</b>	<b>No</b>
<b>Type 1</b>	10 Points	7.5 Points	5 Points	2.5 Points	<b>0 Points</b>
<b>Type 2</b>	10 Points	7.5 Points	5 Points	2.5 Points	<b>0 Points</b>

**Explanation:**

**Type 1: Proprietary schools.** North Carolina law does not require any increased oversight/scrutiny of private postsecondary institutions based on poor performance (as reflected by graduation rates, cohort default rates, placement rates, and/or exam passage rates of students).

**Type 2: Degree-granting private postsecondary educational institutions.** North Carolina law requires degree-granting private postsecondary educational institutions to report graduation rates, placement rates, and, in some cases, employment rates. (Standard 8B, Student Services.) However, there is no indication that an institution will be subject to additional oversight and/or scrutiny due to poor performance.

**G. DOES STATE LAW INCLUDE ANY SPECIAL PROTECTIONS FOR VETERANS WHO ATTEND PRIVATE POSTSECONDARY INSTITUTIONS?**

**0/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	No
Type 1	20 Points	0 Points
Type 2	20 Points	0 Points

**Explanation:**

**Type 1: Proprietary schools.** North Carolina law does not explicitly include any protections specific to veterans who attend proprietary schools.

**Type 2: Degree-granting private postsecondary educational institutions.** North Carolina law does not explicitly include any special protections for veterans who attend degree-granting private postsecondary educational institutions.

**III. STATE OVERSIGHT—SCOPE AND INCLUSION:**

**62.5/100 POINTS**

**A. ARE EXEMPTIONS TO STATE OVERSIGHT COVERAGE LIMITED?**

**62.5/100 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	No exemptions	Few exemptions	Moderate exemptions	Broad exemptions
Type 1	100 Points	75 Points	50 Points	0 Points
Type 2	100 Points	75 Points	50 Points	0 Points

**Explanation:**

**Type 1: Proprietary schools.** North Carolina law has very few exemptions to licensure for proprietary schools. The state exempts specified nonprofit proprietary institutions; schools maintained or classes conducted by employers for their own employees where no fee or tuition is charged to the student; courses of instruction given by any fraternal society, civic club, or benevolent order, which courses are not operated for profit; classes or schools that are equipment-specific to purchasers, users, classes, or schools offering training or instruction to acquaint purchasers or users with equipment capabilities; classes or schools that the State Board, acting by and through the State Board of Proprietary Schools determines are avocational, recreational, self-improvement, or continuing education for already trained and occupationally qualified individuals; schools for which there are other legally existing licensing boards or agencies.

**Type 2: Degree-granting private postsecondary educational institutions.** North Carolina law has moderate exemptions to licensure requirements for degree-granting private postsecondary educational institutions. Institutions exempt from Board of Governors licensure include any institution that has been continuously conducting post-secondary degree activity in the state under the same publicly registered name or series of publicly registered names since July 1, 1972; programs of study, equivalent experience, or achievement testing the institutionally planned objective of which is the attainment of a degree in theology, divinity, or religious education or in any other program of study, equivalent experience, or achievement testing that is designed by the institution primarily for career preparation in a religious vocation; and institutions that undertake post-secondary degree activity on the premises of military posts or reservations located in the state for military personnel stationed on active duty there, or their dependents, or employees of the military.

#### IV. DISCLOSURE REQUIREMENTS: 16.25/100 POINTS

##### A. ARE INSTITUTIONS REQUIRED TO DISCLOSE INSTITUTIONAL PERFORMANCE MEASURES TO POTENTIAL STUDENTS?

0/20 POINTS\*

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, mandatory	Yes, discretionary	None
	Fact sheet or equivalent required to be given to students	Fact sheet or equivalent given to students upon request	No fact sheet required
Type 1	20 Points	10 Points	0 Points
Type 2	20 Points	10 Points	0 Points

##### **Explanation:**

**Type 1: Proprietary schools.** North Carolina law does not require proprietary schools to disclose institutional performance measures (such as graduation/completion rates, cohort default rates, placement rates and/or exam passage rates) to potential students.

**Type 2: Degree-granting private postsecondary educational institutions.** North Carolina law requires degree-granting private postsecondary educational institutions to disclose performance information to the Board of Governors in annual reports, but does not require disclosure of this performance information to potential students.

##### B. WHICH INSTITUTIONAL PERFORMANCE DISCLOSURES ARE REQUIRED TO BE GIVEN TO STUDENTS PRIOR TO ENROLLMENT?

0/60 POINTS\*

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

##### **Type 1: Proprietary schools**

Disclosures	Mandatory	Discretionary	Not specified
Cohort default rate (CDR)	10 Points	5 Points	0 Points
Graduation / completion rates	10 Points	5 Points	0 Points
Placement rates	10 Points	5 Points	0 Points

<b>Wage information</b>	10 Points	5 Points	<b>0 Points</b>
<b>License exam passage rates</b>	10 Points	5 Points	<b>0 Points</b>
<b>Methods &amp; sources used to calculate</b>	10 Points	5 Points	<b>0 Points</b>

**Explanation:**

North Carolina law does not require proprietary schools to disclose institutional performance outcomes to students prior to enrollment.

*Type 2: Degree-granting private postsecondary educational institutions*

<b>Disclosures</b>	<b>Mandatory</b>	<b>Discretionary</b>	<b>Not specified</b>
<b>Cohort default rate (CDR)</b>	10 Points	5 Points	<b>0 Points</b>
<b>Graduation / completion rates</b>	10 Points	5 Points	<b>0 Points</b>
<b>Placement rates</b>	10 Points	5 Points	<b>0 Points</b>
<b>Wage information</b>	10 Points	5 Points	<b>0 Points</b>
<b>License exam passage rates</b>	10 Points	5 Points	<b>0 Points</b>
<b>Methods &amp; sources used to calculate</b>	10 Points	5 Points	<b>0 Points</b>

**Explanation:**

North Carolina law does not require degree-granting private postsecondary educational institutions to disclose institutional performance outcomes to students prior to enrollment.

**C. DOES THE STATE REQUIRE SCHOOLS TO DISCLOSE ELEMENTS  
ESSENTIAL TO STUDENT PROTECTION PRIOR TO ENROLLMENT OR  
IN THE ENROLLMENT CONTRACT?**

**16.25/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

*Type 1: Proprietary schools*

<b>Element description</b>	<b>Mandatory</b>	<b>Discretionary</b>	<b>Not specified</b>
<b>Total cost of program</b>	<b>5 Points</b>	2.5 Points	0 Points
<b>Refund information</b>	<b>5 Points</b>	2.5 Points	0 Points
<b>Transferability of credits</b>	5 Points	2.5 Points	<b>0 Points</b>
<b>Length of program</b>	5 Points	<b>2.5 Points</b>	0 Points

**Explanation:**

North Carolina law requires proprietary schools to include the following information in the enrollment agreement: the program of study, program tuition and fees, date programs are to begin, time period covered by the tuition payment, and statement of or reference to the school's tuition refund policy. (2A SBCCC 400.11.) The state receives partial credit for including information about the typical time required to complete the program of study because it is reasonable that the required “program of study” information may include this—even though it is not expressly required.

*Type 2: Degree-granting private postsecondary educational institutions*

<b>Element description</b>	<b>Mandatory</b>	<b>Discretionary</b>	<b>Not specified</b>
<b>Total cost of program</b>	<b>5 Points</b>	2.5 Points	0 Points
<b>Refund information</b>	<b>5 Points</b>	2.5 Points	0 Points



Transferability of credits	5 Points	2.5 Points	0 Points
Length of program	5 Points	2.5 Points	0 Points

**Explanation:**

North Carolina law requires degree-granting private postsecondary educational institutions to provide to prospective students, prior to enrollment, information regarding the total cost of the program, refund information, transferability of credits, and the duration of study (N.C. Gen. Stat. § 116-15(f)(6); Board of Governors Rules and Standards, <http://www.northcarolina.edu/licensure>, at Standard 6.)

## V. REGULATION OF RECRUITING PRACTICES:

**75/100 POINTS**

### A. HAS THE STATE PUT INTO LAW A LIST OF PROHIBITED ACTS REGARDING ADVERTISING AND RECRUITING?

**75/100 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, strong regulation	Yes, moderate regulation	Yes, weak regulation	No list of prohibited acts
Type 1	100 Points	75 Points	50 Points	0 Points
Type 2	100 Points	75 Points	50 Points	0 Points

#### PROHIBITED ACTS

Included in list of Prohibited Acts	Type 1	Type 2
Misleading representations using the word “college” or “university”	/	
Misleading institution affiliation (e.g., military, public institution, businesses)	X	
Promise of employment	X	
Compensation for enrollment	X	
Compensation or “bounty” to recruiters	/	
Deception (broad prohibition)	X	X
Misrepresentation (broad Prohibition)	X	X
Misleading representations re: accreditation	X	

*1-3=Weak; 3.5-6=Moderate; 6.5-8= Strong*

**Explanation:**

**Type 1: Proprietary schools.** North Carolina has strong regulations in place to prevent proprietary schools from using false or misleading advertising. There are regulations to prohibit institutions from misleading potential students as to the status or affiliations of the school. While there is no explicit prohibition or guidance on the use of the term “college” or “university,” this can be inferred from other regulations that clearly prohibit advertisements that would mislead potential students as to the status, affiliations, or designation of the institution. The state also prohibits institutions from making representations promising employment, deception, misrepresentation, and has provisions in place to prevent misleading statements or representations related to accreditation. Proprietary schools are prohibited from offering promotions or special inducements to prospective students or enrollees. Finally, while the state does not necessarily explicitly prohibit “bounties” for recruiters, it does prohibit endorsements for financial compensation. (2A SBCCC 400.3; N.C. Gen. Stat. § 115D-90(c)(11).)





**Notable Provision.** In addition to the prohibitions listed above, North Carolina has commendable provisions in place to prohibit proprietary schools from using misleading advertising related to salary claims. For example, North Carolina regulations specify that advertisements shall not use salary-related terms or phrasing such as, “up to,” “top,” or “high salary.” Any salary claims shall show comparisons between local and national employment data and shall be for entry-level positions; and any salary claims shall be documented and on file at the institution for public viewing. (2A SBCCC 400.3.)

**Type 2: Degree-granting private postsecondary educational institutions.** North Carolina has weaker prohibitions in place for degree-granting postsecondary educational institutions. The state prohibits degree-granting private postsecondary educational institutions from engaging in promotion, sales, collection, credit, or other practices of any type which are false, deceptive, misleading, or unfair. (N.C. Gen. Stat. § 116-15(f)(11); see also Board of Governors Rules and Standards at [www.northcarolina.edu/licensure](http://www.northcarolina.edu/licensure), Standard 11, Business Practices.) These broad prohibitions have an impact substantially similar to broad prohibitions on misrepresentation and deception. The state does not have in place specific prohibitions related to misleading promotional material related to accreditation, institutional affiliations, or usage of the terms “college” or “university.” The state has no prohibitions in place for degree-granting private postsecondary educational institutions that address promises of employment, compensation, or “bounty” for enrollment.

## VI. COMPLAINT PROCESS AND RELIEF FOR STUDENTS:

**47.25/100 POINTS**

### A. DOES THE STATE REQUIRE A BOND OR FUND AS A CONDITION OF AUTHORIZATION?

**17.5/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	No
Type 1	20 15 Points	0 Points
Type 2	20 Points	0 Points

#### **Explanation:**

**Type 1: Proprietary schools.** North Carolina requires proprietary schools to submit a guaranty bond as a condition of licensure. The state loses five points because it makes exceptions to this requirement in specified circumstances and allows some proprietary schools to provide as an alternative to a guaranty bond an assignment of a savings account in an amount equal to the bond required or a certificate of deposit.

**Type 2: Degree-granting private postsecondary educational institutions.** North Carolina requires a guaranty bond for each institution that is licensed. (N.C. Gen. Stat. § 116-15(f1).)

### B. DOES THE STATE REQUIRE A REFUND OF TUITION IF A STUDENT ENROLLS AS THE RESULT OF MISREPRESENTATION?

**0/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, full refund	Yes, partial refund	No refund required
<b>Type 1</b>	20 Points	10 Points	<b>0 Points</b>
<b>Type 2</b>	20 Points	10 Points	<b>0 Points</b>

**Explanation:**

**Type 1: Proprietary schools.** North Carolina law does not explicitly require a refund of tuition if a student enrolls in a proprietary school as the result of misrepresentation.

**Type 2: Degree-granting private postsecondary educational institutions.** North Carolina law requires that each institution have a “fair and equitable...refund policy” (N.C. Gen. Stat. § 116-15(f)) but does not explicitly require a refund of tuition if a student enrolls in a degree-granting private postsecondary educational institution as the result of misrepresentation.

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**C. DOES THE STATE REQUIRE INSTITUTIONS TO REFUND TUITION IN THE EVENT OF CLOSURE?**

**7.5/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, full refund	Yes, partial refund	Yes, refund in limited circumstances	No refund required
<b>Type 1</b>	20 Points	<b>15 Points</b>	10 Points	0 Points
<b>Type 2</b>	20 Points	15 Points	10 Points	<b>0 Points</b>

**Explanation:**

**Type 1: Proprietary schools.** The purpose of the student protection fund is to compensate students enrolled in a proprietary school who have suffered a loss of tuition, fees, or any other instructional-related expenses paid to the school by reason of the failure of the school to offer or complete student instruction, academic services, or other goods and services related to course enrollment if the school ceases to operate for any reason, including the suspension, revocation, or nonrenewal of a school’s license, bankruptcy, or foreclosure. (N.C. Gen. Stat. § 115D-95.1(b); 23 N.C.A.C. 3A.0116.) The State Board of Community Colleges must draw from the bond first, then the student protection fund. If the amount of the catastrophic assessment will be insufficient to cover qualified claims, the State Board of Community Colleges must allocate funds among claims proportional to the amount of student loss and the amount in the Student Protection Fund. (23 N.C.A.C. 3A.0116(c).) There is no requirement that students receive a full refund.

**Type 2: Degree-granting private postsecondary educational institutions.** North Carolina law requires that each institution have a “fair and equitable...refund policy” (N.C. Gen. Stat. § 116-15(f)) but does not explicitly require a refund of tuition in the event of insolvency.

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**D. DOES THE STATE ALLOW STUDENTS AMPLE TIME TO MAKE A COMPLAINT?**

**10/10 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	2 years or more (or no deadline)	1-2 years	Under 1 year	Not applicable

<b>Type 1</b>	<b>10</b>	5	1	0
<b>Type 2</b>	<b>10</b>	5	1	0

**Explanation:**

**Type 1: Proprietary schools.** North Carolina law does not specify a deadline by which students of proprietary schools must file complaints.

**Type 2: Degree-granting private postsecondary educational institutions.** North Carolina law does not specify a deadline by which students of degree-granting private postsecondary educational institutions must file complaints.

**E. DOES THE STATE REQUIRE INSTITUTIONS TO DISCLOSE INFORMATION ABOUT FILING A COMPLAINT WITH THE STATE OVERSIGHT BODY?**

**3.75/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

***Type 1: Proprietary schools***

<b>Medium</b>	<b>Mandatory</b>	<b>Discretionary</b>	<b>Not specified</b>
<b>Catalog</b>	10 Points	5 Points	<b>0 Points</b>
<b>Website</b>	5 Points	2.5 Points	<b>0 Points</b>
<b>Enrollment contract</b>	5 Points	2.5 Points	<b>0 Points</b>

**Explanation:**

North Carolina law does not explicitly require proprietary schools to disclose information about filing a complaint with the state oversight body in the school catalog, on the website, or in the school's enrollment contract.

***Type 2: Degree-granting private postsecondary educational institutions***

<b>Medium</b>	<b>Mandatory</b>	<b>Discretionary</b>	<b>Not specified</b>
<b>Catalog</b>	10 Points	<b>5 Points</b>	0 Points
<b>Website</b>	5 Points	<b>2.5 Points</b>	0 Points
<b>Enrollment contract</b>	5 Points	2.5 Points	<b>0 Points</b>

**Explanation:**

North Carolina law requires degree-granting private postsecondary educational institutions to provide the following information related to complaints in institutional catalogs: name, title, and office location of officer responsible for receiving students who wish to file complaints and to seek redress. It does not require institutions to include information about how to file a complaint with the Board of Governors, but the state receives partial credit because students could ascertain information about how to file a complaint with the Board of Governors by contacting the officer responsible for receiving student complaints. The state receives partial credit for including information on its website because information is required in the catalog, and institutions often include on their websites information similar to that in their catalogs.

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F. IS THE COMPLAINT PROCESS READILY ACCESSIBLE AND AVAILABLE ON THE STATE OVERSIGHT BODY'S WEBSITE?

**8.5/10 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, with address	Yes, with phone #	Yes, with email address	Yes, with electronic form	No
Type 1	2 Points	2 Points	3 Points	3 <b>1.5</b> Points	0 Points
Type 2	2 Points	2 Points	3 Points	3 <b>1.5</b> Points	0 Points

**Explanation:**

**Type 1: Proprietary schools.** North Carolina maintains a web page with links to an explanation of the complaint process and an electronic student complaint form. Because the form cannot be submitted online (it must be completed and either emailed or faxed to the department), the state loses 1.5 points.

**Type 2: Degree-granting private postsecondary educational institutions.** North Carolina maintains a web page with links to an explanation of the complaint process and an electronic student complaint form. Because the form cannot be submitted online (it must be completed and either emailed or faxed to the department), the state loses 1.5 points.

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**VII. ENFORCEMENT: 10/100 POINTS**

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A. IS THERE LOSS OF STATE AID FOR SCHOOLS THAT REPEATEDLY PRODUCE SUBSTANDARD GRADUATION RATES, JOB PLACEMENT RATES, AND/OR COHORT DEFAULT RATES?

**0/30 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, required	Yes, required but limited	Yes, discretionary	Yes, discretionary but limited	No
Type 1	30 Points	20 Points	15 Points	5 Points	<b>0 Points</b>
Type 2	30 Points	20 Points	15 Points	5 Points	<b>0 Points</b>

**Explanation:**

**Type 1: Proprietary schools.** North Carolina law does not mandate the loss of state aid to proprietary schools in North Carolina that repeatedly produce substandard graduation/completion rates, job placement rates, and/or cohort default rates.

**Type 2: Degree-granting private postsecondary educational institutions.** North Carolina law does not mandate the loss of state aid to degree-granting private postsecondary educational institutions in North Carolina that repeatedly produce substandard graduation/completion rates, job placement rates, and/or cohort default rates.

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**B. DOES STATE LAW EXPLICITLY AUTHORIZE A PRIVATE RIGHT OF ACTION FOR STUDENTS AGAINST INSTITUTIONS THAT HAVE VIOLATED THE LAWS AND REGULATIONS IN PLACE TO GOVERN THEM?**

**0/30 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	Limited circumstances	No
Type 1	30 Points	15 Points	0 Points
Type 2	30 Points	15 Points	0 Points

**Explanation:**

**Type 1: Proprietary schools.** North Carolina law does not explicitly authorize a private right of action for students against proprietary schools that have violated the laws and regulations in place to govern them.

**Type 2: Degree-granting private postsecondary educational institutions.** North Carolina law does not explicitly authorize a private right of action for students against degree-granting private postsecondary educational institutions that have violated the laws and regulations in place to govern them.

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**C. DOES STATE LAW EXPLICITLY ALLOW ATTORNEY FEE AWARDS FOR STUDENTS WHO PREVAIL IN LITIGATION AGAINST PRIVATE FOR-PROFIT POSTSECONDARY INSTITUTIONS?**

**0/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	Limited	No
Type 1	20	15	0
Type 2	20	15	0

**Explanation:**

**Type 1: Proprietary schools.** North Carolina law does not explicitly allow attorney fee awards for students who prevail in litigation against proprietary schools that have violated the laws and regulations in place to govern them.

**Type 2: Degree-granting private postsecondary educational institutions.** North Carolina law does not explicitly allow attorney fee awards for students who prevail in litigation against degree-granting private postsecondary educational institutions that have violated the laws and regulations in place to govern them.

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**D. DOES STATE LAW EXPLICITLY AUTHORIZE ATTORNEY GENERAL INVOLVEMENT?**

**10/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	Limited circumstances	No
Type 1	20 Points	10 Points	0 Points
Type 2	20 Points	10 Points	0 Points

**Explanation:**

***Type 1: Proprietary schools.*** North Carolina does not explicitly authorize attorney general involvement.

***Type 2: Degree-granting private postsecondary educational institutions.*** North Carolina law authorizes attorney general involvement in enforcement of the laws and regulations in place to govern degree-granting private postsecondary educational institutions in the state. (N.C. Gen. Stat. § 116-15(j).)



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## ILLUMINATING INFORMATION

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### RECIPROCITY AGREEMENTS

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North Carolina is a member of the State Authorization Reciprocity Agreements (SARA).

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### LITIGATION, INVESTIGATIONS, AND ACTIONS INVOLVING PRIVATE FOR-PROFIT EDUCATIONAL INSTITUTIONS IN NORTH CAROLINA

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For information about pending and recent federal and state government investigations and actions regarding for-profit colleges see David Halperin's compilation at <http://www.republicreport.org/2014/law-enforcement-for-profit-colleges/#sthash.1vc4HmPw.dpuf>.

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# NORTH DAKOTA

## FINAL GRADING ANALYSIS

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OVERALL SCORE: **302.5/700 POINTS (43%)**  
LETTER GRADE: **F**

### I. OVERSIGHT BODY: **72.5/100 POINTS**

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#### A. IS THERE A STATUTORILY CREATED OVERSIGHT BODY THAT IS PUBLICLY ACCOUNTABLE? **50/60 POINTS**

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Element	Points	Type 1	Type 2	Average
1. Oversight body is a multi-member board, commission, or panel created by statute	10	10	10	10
2. Oversight body was statutorily created specifically to oversee private postsecondary institutions	10	10	0	0
3. Multi-member board, commission, or panel is the ultimate decision maker (as opposed to a single person, like the head of a department or director)	10	10	10	10
4. Oversight body can engage in rulemaking	10	10	10	10
5. Oversight body's meetings must be open to the public	5	5	5	5
6. Oversight body's meetings must allow public comment	5	0	0	0
7. Oversight body can initiate investigations	5	5	5	5
8. Oversight body can impose penalties for violations	5	5	5	5
Total Points	60	55	45	50

#### **Explanation:**

North Dakota splits regulation of private postsecondary educational institutions between the State Board for Career and Technical Education (SBCTE), which oversees private career schools granting certificates, diplomas, and degrees up to the Associates of Applied Science degree (Type 1). Associate of Applied Science Degrees are career programs which prepare students for employment.

North Dakota University System's State Board of Higher Education (SBHE), which regulates schools conferring degrees beginning at the Associate of Arts degree and higher (Type 2). Associates of Arts degrees are designed to prepare a student for a 4-year institution to pursue their bachelor's degree.

**Type 1: Private career and technical schools.** North Dakota created the SBCTE in part to oversee private career schools granting certificates, diplomas, and degrees up to the AAS. SBCTE is charged with the

powers and duties related to the authorization of career schools. (North Dakota State Board for Career and Technical Education Policies Authorization to Operate Postsecondary Career Schools, Section 100 (available at [http://www.nd.gov/cte/private-post-inst/docs/Authorization\\_to\\_Operate.pdf](http://www.nd.gov/cte/private-post-inst/docs/Authorization_to_Operate.pdf)); N.D. Cent. Code, § 15-20.4-03; N.D. Cent. Code, § 15-20.4.)

The North Dakota Constitutions requires: “Unless otherwise provided by law, all meetings of public or governmental bodies, boards, bureaus, commissions, or agencies of the state or any political subdivision of the state, or organizations or agencies supported in whole or in part by public funds, or expending public funds, shall be open to the public.” (N.D. Const. Art. XI, § 5; N.D. Cent. Code, § 44-04-19.) Although SBCTE is subject to North Dakota’s Open Meetings law, that access does not give members of the public the right to participate or speak at public meetings. (N.D.A.G. 2003-O-07; N.D.A.G. 99-O-07; N.D.A.G. 98-F-11. *But see* N.D.A.G. 2007-O-11.)

**Type 2: Degree-granting private postsecondary educational institutions.** The SBHE is charged with authorization and oversight of degree-granting private postsecondary educational institutions. (N.D. Cent. Code, § 15-18.1-04.) While it was not created specifically to oversee private postsecondary educational institutions in the state, SBHE has authority to engage in rulemaking, initiate investigations, and impose penalties on institutions that do not comply with the law and regulations governing them. (N.D. Cent. Code, § 15-18.1-04.)

The North Dakota Constitutions requires: “Unless otherwise provided by law, all meetings of public or governmental bodies, boards, bureaus, commissions, or agencies of the state or any political subdivision of the state, or organizations or agencies supported in whole or in part by public funds, or expending public funds, shall be open to the public.” (N.D. Const. Art. XI, § 5; N.D. Cent. Code, § 44-04-19.) Although SBHE is subject to North Dakota’s Open Meetings law, that access does not give members of the public the right to participate or speak at public meetings. (N.D.A.G. 2003-O-07; N.D.A.G. 99-O-07; N.D.A.G. 98-F-11. *But see* N.D.A.G. 2007-O-11.)

## B. STATUTE-SPECIFIED MEMBERSHIP:

### 1. TO WHAT EXTENT ARE LIMITATIONS PLACED ON FOR-PROFIT MEMBERSHIP ON THE OVERSIGHT BODY?

**17.5/25 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Explicit prohibition on for-profit majority, plus no possibility of a majority of the quorum	Explicit prohibition on for-profit majority	Discouraged	No prohibition specified, but not discouraged	For-profit majority mandated
<b>Type 1</b>	25 Points	20 Points	<b>10 Points</b>	0 Points	–5 points
<b>Type 2</b>	<b>25 Points</b>	20 Points	10 Points	0 Points	–5 Points

#### **Explanation:**

**Type 1: Private career and technical schools.** While there is no explicit prohibition on a for-profit majority, the mandated composition of the SBCTE makes it unlikely that individuals affiliated with private for-profit educational institutions will comprise a majority of the Board or a majority of a quorum. (N.D. Cent. Code, § 15-20.1-02.)



**Type 2: Degree-granting private postsecondary educational institutions.**



**Notable Provision:** While North Dakota law does not contain an explicit prohibition on a for-profit majority on the SBHE, it does include a very strong prohibition on Board membership of persons employed by any institution under the control of the Board. The North Dakota constitution prohibits persons employed by any institution under the authority of the Board from serving as a member of the Board, and further restricts any employee of any such institution from eligibility for membership on the SBHE for a period of two years following the termination of employment. (N.D. Const. Art. VIII, § 6; N.D. Cent. Code, § 15-10-02.) Because this provision has the same effect as an explicit prohibition on a for-profit majority and no possibility of a majority of the quorum, the state receives full credit.

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**2. IS THE OVERSIGHT BODY MANDATED TO INCLUDE  
AT LEAST ONE CONSUMER ADVOCATE?**

**0/10 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	No
Type 1	10 Points	0 Points
Type 2	10 Points	0 Points

**Explanation:**

**Type 1: Private career and technical schools.** North Dakota law does not require the SBCTE to include a consumer advocate (an individual with expertise and experience in the area of consumer advocacy). (N.D. Cent. Code, § 15-20.1-02.)

**Type 2: Degree-granting private postsecondary educational institutions.** While North Dakota law laudably requires one student member on the SBHE, it does not require that the membership include a consumer advocate (an individual with expertise and experience in the area of consumer advocacy). (N.D. Const. Art. VIII, § 6; N.D. Cent. Code, § 15-10-02.)

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**3. ARE THE MEMBERS APPOINTED BY A PUBLICLY ACCOUNTABLE  
OFFICIAL OR ELECTED IN A GENERAL ELECTION?**

**5/5 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	All	Majority	Half	Minority	None
Type 1	5 Points	3 Points	2.5 Points	1 Point	0 Points
Type 2	5 Points	3 Points	2.5 Points	1 Point	0 Points

**Type 1: Private career and technical schools.** The SBCTE membership consists of the members of the State Board of Public School Education, the executive director of Job Service North Dakota, and the commissioner of higher education or the commissioner's designee. (N.D. Cent. Code, § 15-20.1-02.) The governor appoints members of the Board of Public School Education as well as the executive director of Job Service North Dakota. The State Board of Higher Education appoints the commissioner of higher education. (N.D. Cent. Code, § 15.1-01-01(3); North Dakota SBHE Policies § 100.6.)

**Type 2: Degree-granting private postsecondary educational institutions.** All eight members of the SBHE are appointed by the governor. Seven of the members are subject to confirmation by the senate. The eighth member, the student member, must be a full-time resident student in good academic standing at an institution under the jurisdiction of the Board. The student member is not subject to confirmation by the senate. (N.D. Const. Art. VIII, § 6.)

## II. STATE OVERSIGHT—EFFICACY:

**38/100 POINTS**

### A. DOES THE STATE REQUIRE ONSITE REVIEW OF PRIVATE POSTSECONDARY INSTITUTIONS?

**0/10 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Mandatory onsite reviews			Discretionary	None
	Every 2 years or less	Every 3-5 years	Over 5 years	Discretion to conduct onsite reviews	No review specified
<b>Type 1</b>	10 Points	8 Points	5 Points	3 Points	0 Points
<b>Type 2</b>	10 Points	8 Points	5 Points	3 Points	0 Points

#### Explanation:

**Type 1: Private career and technical schools.** North Dakota law does not explicitly require regular onsite reviews of these schools as a condition of acquiring and maintaining authorization.

**Type 2: Degree-granting private postsecondary educational institutions.** North Dakota law does not explicitly require regular onsite reviews of degree-granting private postsecondary educational institutions in the state as a condition of acquiring and maintaining authorization.

### B. DOES THE STATE REQUIRE UNANNOUNCED INSPECTIONS FOR ONSITE REVIEWS?

**0/5 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Required unannounced visits	Discretion to do unannounced visits	No indication
<b>Type 1</b>	5 Points	3 Points	0 Points
<b>Type 2</b>	5 Points	3 Points	0 Points

#### Explanation:

**Type 1: Private career and technical schools.** North Dakota law does not explicitly require unannounced onsite reviews of career and technical schools in the state as a condition of acquiring and maintaining authorization.

**Type 2: Degree-granting private postsecondary educational institutions.** North Dakota law does not explicitly require unannounced onsite reviews of degree-granting private postsecondary institutions in the state as a condition of acquiring and maintaining authorization.

C. DOES THE STATE REQUIRE REGULAR REVIEWS OF PRIVATE POSTSECONDARY APPROVAL TO OPERATE?

**20/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Mandatory			Discretionary	None
	Every 2 years or less	Every 3-5 years	Over 5 years	Discretion to conduct reviews	No review specified
<b>Type 1</b>	<b>20 Points</b>	15 Points	10 Points	5 Points	0 Points
<b>Type 2</b>	<b>20 Points</b>	15 Points	10 Points	5 Points	0 Points

**Explanation:**

**Type 1: Private career and technical schools.** North Dakota law provides for an annual review of these schools, which includes a review of program curriculum. (North Dakota State Board for Career and Technical Education Policies Authorization to Operate Postsecondary Career Schools, § 200.8.)

**Type 2: Degree-granting private postsecondary educational institutions.** North Dakota law requires annual reviews of degree-granting private postsecondary educational institutions. (N.D. Cent. Code, § 15-18.1-05; see also NDHE board policies, section 400.)

D. DO THE CRITERIA FOR RENEWAL OF AUTHORIZATION MANDATE A REVIEW OF FACTORS ESSENTIAL TO ACADEMIC AND ETHICAL INTEGRITY?

**6.75/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	8 of 8	7 of 8	6 of 8	5 of 8	4 of 8	3 of 8	2 of 8	1 of 8	0 of 8
<b>Type 1</b>	20 Points	17.5 Points	15 Points	12.5 Points	<b>10 11 Points</b>	7.5 Points	5 Points	2.5 Points	0 Points
<b>Type 2</b>	20 Points	17.5 Points	15 Points	12.5 Points	10 Points	7.5 Points	5 Points	<b>2.5 Points</b>	0 Points

Element	Type 1	Type 2
Admission requirements	<b>D</b>	
Graduation requirements	<b>M</b>	
Placement rate	<b>M</b>	
Completion rate (or graduation rate)		
Advertising practices	<b>M</b>	
Cohort default rate		
Accreditation status	<b>M</b>	<b>M</b>
Financial aid policies		

*M=Mandatory; D=Discretionary*

**Explanation:**

**Type 1: Private career and technical schools.** North Dakota law requires private career and technical schools to provide a copy of the institutional catalog, which must include entrance requirements. (North

Dakota State Board for Career and Technical Education Policies Authorization to Operate Postsecondary Career Schools, § 200.4.) Therefore, the information is available to reviewers, but the review is conducted for the purpose of ensuring that the specified requirements are in the catalog, not to review the requirements themselves. The state requires information about program curricula, including length of program, to be submitted annually for review. (North Dakota State Board for Career and Technical Education Policies Authorization to Operate Postsecondary Career Schools, § 400.3.) Renewal applicants must provide placement data indicating whether program completers have obtained employment in the field for which they have trained, an unrelated field, or are unemployed. (State Board for Career and Technical Education Policies Authorization to Operate Postsecondary Career Schools, § 200.4(e).) The SBCTE reviews promotional (advertising) materials as a part of authorization and annual renewal. (State Board for Career and Technical Education Policies Authorization to Operate Postsecondary Career Schools, § 200.4(k).)

**Type 2: Degree-granting private postsecondary educational institutions.** North Dakota law requires review of accreditation status. There is no clear indication that any of the other above-listed elements are reviewed annually. (N.D. Cent. Code, § 15-18.1-05.)

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**E. DOES THE STATE'S OVERSIGHT DISTINGUISH BETWEEN  
FOR-PROFIT AND NONPROFIT EDUCATIONAL INSTITUTIONS?**

**5/15 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	<b>Yes, strongly distinguished</b>	<b>Yes, moderately distinguished</b>	<b>Yes, slightly distinguished</b>	<b>Not distinguished</b>
<b>Type 1</b>	15 Points	10 Points	<b>5 Points</b>	0 Points
<b>Type 2</b>	15 Points	10 Points	<b>5 Points</b>	0 Points

**Explanation:**

**Type 1: Private career and technical schools.** North Dakota law provides a narrow exemption for education offered by charitable schools or institutions, organizations, or agencies so recognized by the SBCTE, provided the education is not advertised or promoted as leading toward educational credentials. (N.D. Cent. Code, § 15-20.4-02(5).)

**Type 2: Degree-granting private postsecondary educational institutions.** North Dakota law contains a narrow exemption for education offered by charitable institutions, organizations, or agencies so recognized by the SBHE, provided the education is not advertised or promoted as leading toward educational credentials. (N.D. Cent. Code, § 15-18.1-02(2).)

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**F. DOES THE STATE REQUIRE INCREASED OVERSIGHT/SCRUTINY OF PRIVATE  
POSTSECONDARY INSTITUTIONS BASED ON POOR PERFORMANCE?**

**1.25/10 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	<b>Yes, mandatory</b>	<b>Yes, mandatory but limited</b>	<b>Yes, discretionary</b>	<b>Yes, discretionary but limited</b>	<b>No</b>
<b>Type 1</b>	10 Points	7.5 Points	5 Points	<b>2.5 Points</b>	0 Points
<b>Type 2</b>	10 Points	7.5 Points	5 Points	2.5 Points	<b>0 Points</b>

**Explanation:**

**Type 1: Private career and technical schools.** North Dakota law receives partial credit for this element because it requires review of placement rates for some career and technical schools. (State Board for Career and Technical Education Policies Authorization to Operate Postsecondary Career Schools, §200.4(e).) It is not clearly stated which, if any, penalties or increased oversight apply when a school produces poor placement rates. The state has a procedure for provisional authorization in place, but the review of provisionally authorized institutions pivots on accreditation, not performance standards (such as graduation rate, default rate, placement rate, etc.). (N.D. Cent. Code, § 15-20.4-04.)

**Type 2: Degree-granting private postsecondary educational institutions.** North Dakota law does not have any provision in place related to degree-granting private postsecondary educational institutions which would require increased oversight/scrutiny of private postsecondary institutions based on poor performance.

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**G. DOES STATE LAW INCLUDE ANY SPECIAL PROTECTIONS FOR VETERANS WHO ATTEND PRIVATE POSTSECONDARY INSTITUTIONS?**

**5/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	No
Type 1	20 Points	0 Points
Type 2	<del>20</del> 10 Points	0 Points

**Explanation:**

**Type 1: Private career and technical schools.** North Dakota law does not have any special protections in place specifically for veterans who attend private career and technical schools.

**Type 2: Degree-granting private postsecondary educational institutions.** North Dakota law has provisions in place to protect students called to active military service, but there are no special consumer protection provisions in place specifically tailored to veterans. The state receives partial credit for this element. (See NDSBHE Policies, Section 510.)

**III. STATE OVERSIGHT—SCOPE AND INCLUSION:**

**50/100 POINTS**

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**A. ARE EXEMPTIONS TO STATE OVERSIGHT COVERAGE LIMITED?**

**50/100 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	No exemptions	Few exemptions	Moderate exemptions	Broad exemptions
Type 1	100 Points	75 Points	50 Points	0 Points
Type 2	100 Points	75 Points	50 Points	0 Points

**Explanation:**

**Type 1: Private career and technical schools.** North Dakota law provides moderate exemptions, typically for schools that do not provide instruction leading to an educational credential, are provided for no fee, or are provided by trade organizations for members or avocational courses. Other exemptions include postsecondary institutions governed by other boards and those which are overseen by the North Dakota University system. Postsecondary career schools not operating in the state are also exempted. (N.D. Cent. Code, § 15-20.4-02.)

**Type 2: Degree-granting private postsecondary educational institutions.** North Dakota law provides moderate exemptions for degree-granting private postsecondary educational institutions as well. The exemptions are similar to those provided for private career and technical schools. Private four-year institutions chartered or incorporated and operating in the state prior to July 1, 1977, so long as the institutions retain accreditation by national or regional accrediting agencies recognized by the U.S. Department of Education are exempt. Schools not operating in the state are also exempt. Other exemptions include postsecondary institutions governed by other boards, Native American colleges, and postsecondary educational institutions established, operated, and governed by this or any other state or its political subdivisions. (N.D. Cent. Code, § 15-18.1-02.)

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## **IV. DISCLOSURE REQUIREMENTS: 3.75/100 POINTS**

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### **A. ARE INSTITUTIONS REQUIRED TO DISCLOSE INSTITUTIONAL PERFORMANCE MEASURES TO POTENTIAL STUDENTS?**

**0/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	<b>Yes, mandatory</b>	<b>Yes, discretionary</b>	<b>None</b>
	Fact sheet or equivalent required to be given to students	Fact sheet or equivalent given to students upon request	No fact sheet required
<b>Type 1</b>	20 Points	10 Points	<b>0 Points</b>
<b>Type 2</b>	20 Points	10 Points	<b>0 Points</b>

**Explanation:**

**Type 1: Private career and technical schools.** North Dakota law does not require private career and technical schools to disclose any institutional performance measures to students prior to their enrollment in the institution.

**Type 2: Degree-granting private postsecondary educational institutions.** North Dakota law does not require degree-granting private postsecondary educational institutions to disclose any institutional performance measures to students prior to their enrollment in the institution

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### **B. WHICH INSTITUTIONAL PERFORMANCE DISCLOSURES ARE REQUIRED TO BE GIVEN TO STUDENTS PRIOR TO ENROLLMENT?**

**0/60 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

*Type 1: Private career and technical schools*

Disclosures	Mandatory	Discretionary	Not specified
Cohort default rate (CDR)	10 Points	5 Points	0 Points
Graduation / completion rates	10 Points	5 Points	0 Points
Placement rates	10 Points	5 Points	0 Points
Wage information	10 Points	5 Points	0 Points
License exam passage rates	10 Points	5 Points	0 Points
Methods & sources used to calculate	10 Points	5 Points	0 Points

**Explanation:**

North Dakota law does not require private career and technical schools to disclose any institutional performance measures to students prior to their enrollment in the institution. The state requires disclosure of placement rates to the SBCTE as a part of the annual review, but institutions are not required to disclose this information to potential students prior to their enrollment.

*Type 2: Degree-granting private postsecondary educational institutions*

Disclosures	Mandatory	Discretionary	Not specified
Cohort default rate (CDR)	10 Points	5 Points	0 Points
Graduation / completion rates	10 Points	5 Points	0 Points
Placement rates	10 Points	5 Points	0 Points
Wage information	10 Points	5 Points	0 Points
License exam passage rates	10 Points	5 Points	0 Points
Methods & sources used to calculate	10 Points	5 Points	0 Points

**Explanation:**

North Dakota law requires the state university system, in collaboration with the SBCTE, to provide information via internet websites to protect students, businesses, and others from persons that issue, manufacture, or use false academic degrees. However, the state does not explicitly require degree-granting private postsecondary educational institutions to disclose any of the above listed institutional performance measures to students prior to their enrollment in the institution.

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**C. DOES THE STATE REQUIRE SCHOOLS TO DISCLOSE ELEMENTS  
ESSENTIAL TO STUDENT PROTECTION PRIOR TO ENROLLMENT OR  
IN THE ENROLLMENT CONTRACT?**

**3.75/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

*Type 1: Private career and technical schools*

Element description	Mandatory	Discretionary	Not specified
Total cost of program	5 Points	2.5 Points	0 Points
Refund information	5 Points	2.5 Points	0 Points
Transferability of credits	5 Points	2.5 Points	0 Points
Length of program	5 Points	2.5 Points	0 Points



**Explanation:**

North Dakota law requires private career and technical schools to include in their catalogs information about the cost of the program, the institutional refund policy, and an outline of each program or course of instruction including course objectives and subjects or units in each course. (State Board for Career and Technical Education Policies Authorization to Operate Postsecondary Career Schools, §200.4(d).) The state receives partial credit because while there is no indication that provision of this information to potential students is mandatory, students may receive this information prior to enrollment,

**Type 2: Degree-Granting Private Postsecondary Educational Institutions**

Element description	Mandatory	Discretionary	Not specified
Total cost of program	5 Points	2.5 Points	0 Points
Refund information	5 Points	2.5 Points	0 Points
Transferability of credits	5 Points	2.5 Points	0 Points
Length of program	5 Points	2.5 Points	0 Points

**Explanation:**

North Dakota law does not require disclosure of any of the above elements to students prior to enrollment in degree-granting private postsecondary educational institutions.

**V. REGULATION OF RECRUITING PRACTICES:****62.5/100 POINTS****A. HAS THE STATE PUT INTO LAW A LIST OF PROHIBITED ACTS REGARDING ADVERTISING AND RECRUITING?****62.5/100 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, strong regulation	Yes, moderate regulation	Yes, weak regulation	No list of prohibited acts
Type 1	100 Points	75 Points	50 Points	0 Points
Type 2	100 Points	75 Points	50 Points	0 Points

**PROHIBITED ACTS**

Included in list of prohibited acts	Type 1	Type 2
Misleading representations using the word “college” or “university”	X	X
Misleading institution affiliations (e.g., military, public institution, businesses)	/	
Promise of employment	X	
Compensation for enrollment		
Compensation or “bounty” to recruiters		
Deception (broad prohibition)	X	
Misrepresentation (broad prohibition)	X	
Misleading representations re: accreditation	/	

*1-3=Weak; 3.5-6=Moderate; 6.5-8=Strong*



**Explanation:**

**Type 1: Private career and technical schools.** North Dakota law prohibits private career and technical schools from use of the term “university,” “institute,” or “college” without authorization to do so from the board. (N.D. Cent. Code, § 15-20.4-05.) The state prohibits fraudulent statements, misrepresentations, or misleading statements of fact with respect to institutional tuition, personnel, courses and services, or the occupational opportunities for graduates. Further, state also prohibits guarantees of employment and prohibits institutions from advertising or implying that they are “supervised,” “recommended,” “endorsed,” or “accredited” by the SBCTE, or that it is in any way endorsed by the state. (State Board for Career and Technical Education Policies Authorization to Operate Postsecondary Career Schools, § 700.) Prohibitions on misleading affiliations and on misleading representations related to accreditation should go beyond those associated specifically with the oversight board, so the state receives partial credit here.

**Type 2: Degree-granting private postsecondary educational institutions.** North Dakota law prohibits degree-granting private postsecondary educational institutions from using the term “university,” “institute,” or “college” without authorization to do so from the board. (N.D. Cent. Code, § 15-18.1-06(1)(c).) There are several provisions in place in North Dakota law to prohibit false degrees, but the state has only one of the above prohibitions in place related to advertising and promotional materials used by degree-granting private postsecondary institutions.

## VI. COMPLAINT PROCESS AND RELIEF FOR STUDENTS:

**55.75/100 POINTS**

A. DOES THE STATE REQUIRE A BOND OR FUND  
AS A CONDITION OF AUTHORIZATION?

**10/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	No
Type 1	20 Points	0 Points
Type 2	20 Points	0 Points

**Explanation:**

**Type 1: Private career and technical schools.** North Dakota requires a private career and technical schools to post a surety bond as a condition of authorization. (State Board for Career and Technical Education Policies Authorization to Operate Postsecondary Career Schools, §200.4(n).)

**Type 2: Degree-granting private postsecondary educational institutions.** The SBHE has authority to require postsecondary schools that fall under its jurisdiction to provide a bond, but it does not appear that the Board currently requires degree-granting private postsecondary educational institutions to provide a bond as a condition of authorization.

B. DOES THE STATE REQUIRE A REFUND OF TUITION IF A STUDENT  
ENROLLS AS THE RESULT OF MISREPRESENTATION?

**20/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, full refund	Yes, partial refund	No refund required
Type 1	20 Points	10 Points	0 Points
Type 2	20 Points	10 Points	0 Points

**Explanation:**

*Type 1: Private career and technical schools.*



**Notable Provision:**

North Dakota law allows the recovery of treble damages to “any person defrauded by any advertisement or circular issued by a postsecondary career school, or by any person who sells textbooks to the school or to the pupils thereof...” (N.D. Cent. Code, § 15-20.4-09.)

*Type 2: Degree-granting private postsecondary educational institutions.*



**Notable Provision:**

North Dakota law states that “A person defrauded by an advertisement or circular issued by a postsecondary educational institution, or by a person who sells textbooks to the institution or to the pupils thereof, may recover from the institution or person three times the amount paid.” (N.D. Cent. Code, § 15-18.1-09.)

**C. DOES THE STATE REQUIRE INSTITUTIONS TO REFUND TUITION IN THE EVENT OF INSOLVENCY?**

**5/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, full refund	Yes, partial refund	Yes, refund in limited circumstances	No refund required
Type 1	20 Points	15 Points	10 Points	0 Points
Type 2	20 Points	15 Points	10 Points	0 Points

**Explanation:**

*Type 1: Private career and technical schools.* North Dakota law does not require schools to refund tuition in cases where a private career or technical school closes. The state requires schools to post a surety bond, as noted above. The purpose of the bond is to protect the contractual rights of students. Thus, there may be some relief available from the bond for students attending private career and technical schools that close. Additionally, there are required refund policies in place that may result in students receiving a refund in the event of a school closure, so the state receives partial credit, but there are no policies in place specific to instances in which a school closes or becomes insolvent.

*Type 2: Degree-granting private postsecondary educational institutions.* North Dakota law does not require private postsecondary educational institutions to refund student tuition when a school closes or becomes insolvent.

**D. DOES THE STATE ALLOW STUDENTS AMPLE TIME TO MAKE A COMPLAINT?**

**10/10 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	2 years or more (or no deadline)	1-2 years	Under 1 year	Not applicable
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<b>Type 1</b>	<b>10 Points</b>	5 Points	1 Point	0 Points
<b>Type 2</b>	<b>10 Points</b>	5 Points	1 Point	0 Points

**Explanation:**

**Type 1: Private career and technical schools.** North Dakota law does not specify a deadline or set a timeframe by which student complaints must be received.

**Type 2: Degree-granting private postsecondary educational institutions.** North Dakota law does not specify a deadline or set a timeframe by which student complaints must be received.

**E. DOES THE STATE REQUIRE INSTITUTIONS TO DISCLOSE INFORMATION ABOUT FILING A COMPLAINT WITH THE STATE OVERSIGHT BODY?**

**6.25/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

**Type 1: Private career and technical schools**

<b>Medium</b>	<b>Mandatory</b>	<b>Discretionary</b>	<b>Not specified</b>
<b>Catalog</b>	<b>10 Points</b>	5 Points	0 Points
<b>Website</b>	5 Points	<b>2.5 Points</b>	0 Points
<b>Enrollment contract</b>	5 Points	2.5 Points	<b>0 Points</b>

**Explanation:**

North Dakota law mandates that career and schools provide complaint procedures in the school catalog, student handbook, or other format accessible to the student. The way the regulation reads, the information is mandated on one of several possible formats accessible to the student, because of this mandate, the state receives full credit for mandating this inclusion in the catalog. It receives partial credit for providing discretion to post information on the school website because (1) it is common for schools to their catalogs or information similar to that available in the school catalog online and (2) a website can be considered another “format accessible to the student.” (State Board for Career and Technical Education Policies Authorization to Operate Postsecondary Career Schools, §200.4(m).)

**Type 2: Degree-granting private postsecondary educational institutions**

<b>Medium</b>	<b>Mandatory</b>	<b>Discretionary</b>	<b>Not specified</b>
<b>Catalog</b>	10 Points	5 Points	<b>0 Points</b>
<b>Website</b>	5 Points	2.5 Points	<b>0 Points</b>
<b>Enrollment contract</b>	5 Points	2.5 Points	<b>0 Points</b>

**Explanation:**

North Dakota law does not explicitly require private postsecondary educational institutions to publish information about where to file complaints in any of the above-listed media.

**F. IS THE COMPLAINT PROCESS READILY ACCESSIBLE AND AVAILABLE ON THE STATE OVERSIGHT BODY’S WEBSITE?**

**4.5/10 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, with address	Yes, with phone #	Yes, with email address	Yes, with electronic form	No
<b>Type 1</b>	<b>2 Points</b>	<b>2 Points</b>	3 Points	3 Points	0 Points
<b>Type 2</b>	2 Points	<b>2 Points</b>	<b>3 Points</b>	3 Points	0 Points

**Explanation:**

**Type 1: Private career and technical schools.** The SBCTE maintains a webpage from which students can link to find information about the complaint process. The information includes a phone number and physical address that students must use to file a complaint.

**Type 2: Degree-granting private postsecondary educational institutions.** The SBHE maintains a webpage with contact information related to complaints related to degree-granting private postsecondary educational institutions. The website provides a name, phone number, and email address to which complaints may be directed.

## VII. ENFORCEMENT: **20/100 POINTS**

### A. IS THERE LOSS OF STATE AID FOR SCHOOLS THAT REPEATEDLY PRODUCE SUBSTANDARD GRADUATION RATES, JOB PLACEMENT RATES AND/OR COHORT DEFAULT RATES?

**0/30 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, required	Yes, required but limited	Yes, discretionary	Yes, discretionary but limited	No
<b>Type 1</b>	30 Points	20 Points	15 Points	5 Points	<b>0 Points</b>
<b>Type 2</b>	30 Points	20 Points	15 Points	5 Points	<b>0 Points</b>

**Explanation:**

**Type 1: Private career and technical schools.** Under North Dakota law, there is no loss of aid for private career and technical schools that repeatedly produce substandard graduation rates, job placement rates, and/or cohort default rates.

**Type 2: Degree-granting private postsecondary educational institutions.** Under North Dakota law, there is no loss of aid for degree-granting private postsecondary educational institutions that repeatedly produce substandard graduation rates, job placement rates, and/or cohort default rates.

### B. DOES STATE LAW EXPLICITLY AUTHORIZE A PRIVATE RIGHT OF ACTION FOR STUDENTS AGAINST INSTITUTIONS THAT HAVE VIOLATED THE LAWS AND REGULATIONS IN PLACE TO GOVERN THEM?

**0/30 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	Limited circumstances	No
<b>Type 1</b>	30 Points	15 Points	<b>0 Points</b>
<b>Type 2</b>	30 Points	15 Points	<b>0 Points</b>

**Explanation:**

**Type 1: Private career and technical schools.** North Dakota law does not authorize a private right of action for students against private career and technical schools that have violated the laws and regulations in place to govern them.

**Type 2: Degree-granting private postsecondary educational institutions.** North Dakota law does not authorize a private right of action for students against degree-granting private postsecondary educational institutions that have violated the laws and regulations in place to govern them.

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**C. DOES STATE LAW EXPLICITLY ALLOW ATTORNEY FEE AWARDS FOR STUDENTS WHO PREVAIL IN LITIGATION AGAINST PRIVATE FOR-PROFIT POSTSECONDARY INSTITUTIONS?**

**0/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	Limited	No
Type 1	20 Points	15 Points	0 Points
Type 2	20 Points	15 Points	0 Points

**Explanation:**

**Type 1: Private career and technical schools.** North Dakota law does not explicitly allow attorney fee awards for students who prevail in litigation against private career and technical colleges that have violated the laws/regulations in place to govern them.

**Type 2: Degree-granting private postsecondary educational institutions.** North Dakota law does not explicitly allow attorney fee awards for students who prevail in litigation against degree-granting private postsecondary institutions that have violated the laws and regulations in place to govern them.

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**D. DOES STATE LAW EXPLICITLY AUTHORIZE ATTORNEY GENERAL INVOLVEMENT?**

**20/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	Limited circumstances	No
Type 1	20 Points	10 Points	0 Points
Type 2	20 Points	10 Points	0 Points

**Explanation:**

**Type 1: Private career and technical schools.** North Dakota law authorizes attorney general involvement in enforcing laws and regulations in place to govern private career and technical schools. (N.D. Cent. Code, § 15-20.4.)

**Type 2: Degree-granting private postsecondary educational institutions.** North Dakota law authorizes attorney general involvement in enforcing laws and regulations in place to govern degree-granting private postsecondary educational institutions. (N.D. Cent. Code, § 15-18.1-12.)

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## BONUS POINTS:

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North Dakota does not receive any bonus points.



## ILLUMINATING INFORMATION

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## RECIPROCITY AGREEMENTS

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North Dakota is a member of the State Authorization Reciprocity Agreements (SARA).

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## LITIGATION, INVESTIGATIONS, AND ACTIONS INVOLVING PRIVATE FOR-PROFIT EDUCATIONAL INSTITUTIONS IN NORTH DAKOTA

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For information about pending and recent federal and state government investigations and actions regarding for-profit colleges see David Halperin's compilation at <http://www.republicreport.org/2014/law-enforcement-for-profit-colleges/#sthash.1vc4HmPw.dpuf>.

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# OHIO

## FINAL GRADING ANALYSIS

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OVERALL SCORE: **453.5/700 POINTS (65%)**  
LETTER GRADE: **D**

### I. OVERSIGHT BODY: **60/100 POINTS**

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#### A. IS THERE A STATUTORILY CREATED OVERSIGHT BODY THAT IS PUBLICLY ACCOUNTABLE?

**55/60 POINTS**

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Element	Points	Points Awarded
1. Oversight body is a multi-member board, commission, or panel created by statute	10	10
2. Oversight body was statutorily created specifically to oversee private postsecondary institutions	10	10
3. Multi-member board, commission, or panel is the ultimate decision maker (as opposed to a single person, like the head of a department or director)	10	10
4. Oversight body can engage in rulemaking	10	10
5. Oversight body's meetings must be open to the public	5	5
6. Oversight body's meetings must allow public comment	5	0
7. Oversight body can initiate investigations	5	5
8. Oversight body can impose penalties for violations	5	5
Total Points	60	55

**Explanation:**

The Ohio State Board of Career Colleges and Schools oversees both degree-granting and non-degree-granting private postsecondary schools in Ohio. (ORC Ann. 3332.031.) In addition to the Board acceptance and review of applications for program authorization for baccalaureate, masters and doctoral degree programs, the applications considered valid must go to the Board of Regents for approval. (ORC Ann. 3332.05.)

In 2015, HR 64 was signed into law. Among other changes, HR 64 created the Board of Higher Education. The board of regents is an advisory board to the chancellor of higher education (on the Board of Higher Education). Among other duties, the board of regents provides an additional layer of scrutiny for career colleges wishing to grant degrees. The process proceeds as follows (this process remains unchanged by HR 64):

After reviewing an application submitted by a career school wishing to grant degrees, the board of career colleges and schools must refer any application it finds valid to the Ohio board of regents for approval. The board of regents reviews, and approves or disapproves such degree programs and if so approved, issue certificates of authorization to such schools to offer degree programs. The board of regents then notifies the state board of career colleges and schools of each school registered with the state board that receives a certificate of authorization and the approval to offer any degree program. Upon receipt of such notification, the state board must review, and may issue program authorization to offer, a degree program. (ORC Ann. 3332.05(C)(2).) Ultimately, the Board of Career Colleges and Schools is responsible for the oversight of Ohio's private career colleges and schools, whether or not they grant degrees. (ORC Ann. 3332.031.)

The Board has authority to engage in rulemaking (ORC Ann. 3332.031; OAC 3332-1-01(B)), initiate investigations (OAC Ann. 3332-1-18(A)), and impose civil penalties of not less than one thousand nor more than three thousand five hundred dollars for each violation of section 3332.09 of the Revised Code. (ORC Ann. § 3332.091.) The Board may suspend, revoke, or refuse to issue or renew a certificate of registration or program authorization or may impose a penalty pursuant to ORC Ann. 3332.091. (ORC Ann. § 3332.091; OAC 3332-1-04; OAC 3332-1-20.)

Ohio law requires that Board meetings are open to the public, but does not specifically require meetings to provide opportunity for public comment. (OAC 3332-1-01(C); ORC Ann. 121.22.)

## B. STATUTE-SPECIFIED MEMBERSHIP:

### 1. TO WHAT EXTENT ARE LIMITATIONS PLACED ON FOR-PROFIT MEMBERSHIP ON THE OVERSIGHT BODY?

**0/25 POINTS**

Explicit prohibition on for-profit majority, plus no possibility of a majority of the quorum	Explicit prohibition on for-profit majority	Discouraged	No prohibition specified, but not discouraged	For-profit majority mandated
25 Points	20 Points	10 Points	<b>0 Points</b>	-5 points

#### **Explanation:**

Ohio requires the Board of Career Colleges and Schools' membership to consist of eight members as follows: the state superintendent of public instruction or an assistant superintendent designated by the superintendent, the chancellor of the Ohio board of regents or a vice chancellor designated by the chancellor, and six members appointed by the governor. (ORC Ann. 3332.03.)

Ohio law neither prohibits nor discourages for-profit membership on the Board. In fact, the Board is mandated to include for-profit membership. Three of the six members appointed by the governor shall have been engaged for a period of not less than five years immediately preceding appointment in an executive or managerial position in a private, trade, technical, or other school subject to oversight by the Board. (ORC Ann. 3332.03.)



*This provision is concerning in that it allows for a potential for-profit majority of the quorum at any meeting of the Board.*



2. IS THE OVERSIGHT BODY MANDATED TO INCLUDE  
AT LEAST ONE CONSUMER ADVOCATE?

**0/10 POINTS**

Yes	No
10 Points	0 Points

**Explanation:**

Ohio does not require the Board to include a consumer advocate on its oversight body.

3. ARE THE MEMBERS APPOINTED BY A PUBLICLY ACCOUNTABLE  
OFFICIAL OR ELECTED IN A GENERAL ELECTION?

**5/5 POINTS**

All	Majority	Half	Minority	None
5 Points	3 Points	2.5 Points	1 Point	0 Points

**Explanation:**

Six of the eight members are appointed by the governor with the advice and consent of the senate. One member is the state superintendent of public instruction or assistant superintendent appointed by the superintendent; the superintendent is appointed by the state board of education (members are elected or appointed by the governor). The final member of the Board is the chancellor of the Ohio board of regents. The chancellor of the Ohio board of regents is appointed by the governor. (ORC Ann. 3332.03.)

**II. STATE OVERSIGHT—EFFICACY:**

**57.5/100 POINTS**

A. DOES THE STATE REQUIRE ONSITE REVIEW OF  
PRIVATE POSTSECONDARY INSTITUTIONS?

**10/10 POINTS**

Mandatory onsite reviews			Discretionary	None
Every 2 years or less	Every 3-5 years	Over 5 years	Discretion to conduct onsite reviews	No review specified
10 Points	8 Points	5 Points	3 Points	0 Points

**Explanation:**

Any time while a school is in session, the Board or its designee may conduct onsite inspections and reviews of a school and its courses of instruction. (ORC Ann. 3332.091.)

B. DOES THE STATE REQUIRE UNANNOUNCED  
INSPECTIONS FOR ONSITE REVIEWS?

**5/5 POINTS**

Required unannounced visits	Discretion to do unannounced visits	No indication
5 Points	3 Points	0 Points

**Explanation:**

Any time while a school is in session, the Board or its designee may conduct onsite inspections and reviews of a school and its courses of instruction. The Board shall conduct such visits and reviews, including visits without prior notice to the schools, as necessary to ensure compliance. (ORC Ann. 3332.091.)

**C. DOES THE STATE REQUIRE REGULAR REVIEWS OF PRIVATE POSTSECONDARY APPROVAL TO OPERATE?**

**20/20 POINTS**

Mandatory			Discretionary	None
Every 2 years or less	Every 3-5 years	Over 5 years	Discretion to conduct reviews	No review specified
20 Points	15 Points	10 Points	5 Points	0 Points

**Explanation:**

A certificate of registration is valid for a maximum of two years. (OAC Ann. 3332-1-04(A)(5).)

**D. DO THE CRITERIA FOR RENEWAL OF AUTHORIZATION MANDATE A REVIEW OF FACTORS ESSENTIAL TO ACADEMIC AND ETHICAL INTEGRITY?**

**12.5/20 POINTS**

8 of 8	7 of 8	6 of 8	5 of 8	4 of 8	3 of 8	2 of 8	1 of 8	0 of 8
20 Points	17.5 Points	15 Points	12.5 Points	10 Points	7.5 Points	5 Points	2.5 Points	0 Points

Element	
Admission requirements	M
Graduation requirements	M
Placement rate	M
Completion rate (or graduation rate)	M
Advertising practices	M
Cohort default rate	
Accreditation status	
Financial aid policies	

*M= Mandatory; D=Discretionary*

**Explanation:**

Criteria includes advertising practices (OAC Ann. 3332-1-04.5). Program standards include disclosures to students about content of curriculum/employment outcomes/graduation requirements, and educational/facility requirements. (OAC Ann. 3332-1-26.) A school with graduation or placement rates that are one or more standard deviations below the average may be required to submit an explanation for the deviation and a plan for improvement. The Board may accept the school's explanation or the Board may take other disciplinary action. (OAC Ann. 3332-1-24.)

**Notable Provision:**

Ohio requires all registered schools to administer student surveys which are used to solicit comments from students enrolled at the school. The survey must be designed to determine student satisfaction with the quality of instruction, facilities, school personnel, and business operations, including recruitment and recruitment agents. (OAC Ann. 3332-1-14.)

**E. DOES THE STATE'S OVERSIGHT DISTINGUISH BETWEEN FOR-PROFIT AND NONPROFIT EDUCATIONAL INSTITUTIONS?**

**5/15 POINTS**

Yes, strongly distinguished	Yes, moderately distinguished	Yes, slightly distinguished	Not distinguished
15 Points	10 Points	<b>5 Points</b>	0 Points

**Explanation:**

Ohio law provides an exemption for nonprofit institutions that have certificates of authorization issued pursuant to section 1713.02 of the Revised Code ("bible college" or "bible institute") or that are nonprofit institutions exempted from the requirement to obtain a certificate by division. (ORC Ann. § 3332.02; OAC Ann. 1713.02.)

**F. DOES THE STATE REQUIRE INCREASED OVERSIGHT/SCRUTINY OF PRIVATE POSTSECONDARY INSTITUTIONS BASED ON POOR PERFORMANCE?**

**5/10 POINTS**

Yes, mandatory	Yes, mandatory but limited	Yes, discretionary	Yes, discretionary but limited	No
10 Points	7.5 Points	<b>5 Points</b>	2.5 Points	0 Points

**Explanation:**

All schools registered with the Board shall assist students with job placement after graduation; placement assistance must include elements which exceed steps that the student could initiate on his/her own. (OAC Ann. 3332-1-24.) A school with graduation or placement rates that are one or more standard deviations below the average may be required to submit an explanation for the deviation and a plan for improvement. The Board may accept the school's explanation or it may take other disciplinary action. (OAC Ann. 3332-1-24.)

**G. DOES STATE LAW INCLUDE ANY SPECIAL PROTECTIONS FOR VETERANS WHO ATTEND PRIVATE POSTSECONDARY INSTITUTIONS?**

**0/20 POINTS**

Yes	No
20 Points	<b>0 Points</b>

**Explanation:**

While Ohio law does contain a laudable provision for military leave (ORC Ann. 3332.20), it does not provide any substantial protections with regard to consumer protection related to abuses by for-profit colleges.

### III. STATE OVERSIGHT—SCOPE AND INCLUSION:

**50/100 POINTS**

#### A. ARE EXEMPTIONS TO STATE OVERSIGHT COVERAGE LIMITED?

**50/100 POINTS**

No exemptions	Few exemptions	Moderate exemptions	Broad exemptions
100 Points	75 Points	50 Points	0 Points

**Explanation:**

Any institution authorized on February 20, 2002, to grant baccalaureate or master's degrees, for which certificates of authorization have been issued under Chapter 1713 of the Revised Code; that is accredited by the appropriate regional and, when appropriate, professional accrediting associations within whose jurisdiction it falls; and that is operated by a for-profit corporation shall cease to be subject to any regulation under Chapter 3332 of the Revised Code but shall continue to be subject to the provisions for approval of degree programs set forth in Chapter 1713 of the Revised Code, including approval of any additional associate, baccalaureate, or master's degree programs offered by the institution. (ORC Ann. 3332.02 and OAC 3332-1-03; ORC Ann. 3333.046.)

### IV. DISCLOSURE REQUIREMENTS: 80/100 POINTS

#### A. ARE INSTITUTIONS REQUIRED TO DISCLOSE INSTITUTIONAL PERFORMANCE MEASURES TO POTENTIAL STUDENTS?

**20/20 POINTS**

Yes, mandatory	Yes, discretionary	None
Fact sheet or equivalent required to be given to students	Fact sheet or equivalent given to students upon request	No fact sheet required
20 Points	10 Points	0 Points

**Explanation:**

Prior to a student's enrollment, a school shall determine, with reasonable certainty, that a prospective student is fully informed as to several performance measures (see below) related to the school. (OAC Ann. 3332-1-09(B).) Prior to completing an enrollment agreement, all potential students enrolled in an Ohio school must review and complete the Board's student disclosure form as required by the Board. (OAC Ann. 3332-1-09(C).)

#### B. WHICH INSTITUTIONAL PERFORMANCE DISCLOSURES ARE REQUIRED TO BE GIVEN TO STUDENTS PRIOR TO ENROLLMENT?

**40/60 POINTS**

Disclosures	Mandatory	Discretionary	Not specified
Cohort default rate (CDR)	10 Points	5 Points	0 Points
Graduation / completion rates	10 Points	5 Points	0 Points
Placement rates	10 Points	5 Points	0 Points

<b>Wage information</b>	10 Points	<b>5 Points</b>	0 Points
<b>License exam passage rates</b>	<b>10 Points</b>	5 Points	0 Points
<b>Methods &amp; sources used to calculate</b>	10 Points	<b>5 Points</b>	0 Points

**Explanation:**

Prior to a student's enrollment, a school shall determine, with reasonable certainty, that a prospective student is fully informed as to the graduation requirements and expected outcomes of the program they desire to take; the financial obligations they are entering into; their responsibilities and rights under any contracts or agreements that they are given to sign; the placement and graduation rates for the program they are entering into (no applicant will be allowed to sign an enrollment agreement until the school has provided the applicant with placement and graduation rates, for any program the student is considering, for each of the preceding three years); and the school's most recently available passage rates on any state licensure exams related to any program that the student is considering. (OAC 3332-1-09.)

Ohio does not require career schools to disclose information regarding the prevailing wage of the school's graduates. However, OAC Ann. 3332-1-12 indicates that no school shall guarantee any certain wage, or imply earnings greater than the prevailing wage earned by the school's graduates as documented by the school's placement records. For new programs that have no current graduates, information provided to students about potential wages should be corroborated by verifiable documentation concerning entry level wages in the field of study. Thus, schools are not required to disclose wage information, but can, at their discretion provide the information to students if the information is consistent with that which is documented in the school's placement records. Therefore, Ohio receives partial credit for this element.

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**C. DOES THE STATE REQUIRE SCHOOLS TO DISCLOSE ELEMENTS  
ESSENTIAL TO STUDENT PROTECTION PRIOR TO ENROLLMENT OR  
IN THE ENROLLMENT CONTRACT?**

**20/20 POINTS**

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<b>Element description</b>	<b>Mandatory</b>	<b>Discretionary</b>	<b>Not specified</b>
<b>Total cost of program</b>	<b>5 Points</b>	2.5 Points	0 Points
<b>Refund information</b>	<b>5 Points</b>	2.5 Points	0 Points
<b>Transferability of credits</b>	<b>5 Points</b>	2.5 Points	0 Points
<b>Length of program</b>	<b>5 Points</b>	2.5 Points	0 Points

**Explanation:**

Ohio law explicitly requires disclosures related to tuition and refund policy in the enrollment contract. In addition, Ohio requires schools to determine, with reasonable certainty, that the student has been fully informed as to a number of issues (see below), including graduation requirements and expected outcomes, which would presumably include information as to the number of classes required to graduate, and may also include information on the amount of time it would take a student to complete the program. Ohio receives partial credit here as a result. (See explanation for IV.B above, related to performance disclosures.)

Ohio law requires that the enrollment contract includes tuition disclosures, refund policy and information regarding number of clock hours, weeks, or months required to complete the program. (OAC Ann. 3332-1-09.)

Prior to completing an enrollment agreement, all potential students enrolled in an Ohio school must review and complete the Board's student disclosure form as required by the Board. This form requires each student to initial statements indicating that the student has read and received a copy of the enrollment contract; been informed as to the school's placement and graduation rates for each of the preceding three years as well as the most recent Ohio state licensure test results, if applicable, for the program; understands that the schools will provide placement services but cannot guarantee employment; understands the transferability of credits to another institution is determined exclusively by the receiving institution; and understands the grievance procedure. (OAC Ann. 3332-1-09.)

## V. REGULATION OF RECRUITING PRACTICES:

**100/100 POINTS**

### A. HAS THE STATE PUT INTO LAW A LIST OF PROHIBITED ACTS REGARDING ADVERTISING AND RECRUITING?

**100/100 POINTS**

Yes, strong regulation	Yes, moderate regulation	Yes, weak regulation	No list of prohibited acts
100 Points	75 Points	50 Points	0 Points

#### PROHIBITED ACTS

Included in list of Prohibited Acts	
Misleading representations using the word "college" or "university"	X
Misleading institution affiliations (e.g., military, public institution, businesses)	X
Promise of employment	X
Compensation for enrollment	X
Compensation or "bounty" to recruiters	/
Deception (broad prohibition)	X
Misrepresentation (broad Prohibition)	X
Misleading representations re: accreditation	X

*1-3=weak; 3.5-6=moderate; 6.5-8=strong*

#### Explanation:

Ohio receives full credit for this element, as career schools in Ohio are prohibited from the above-listed acts. Although Ohio does not prohibit "bounty" to all recruiters, it does prohibit the practice of awarding monetary or other valuable considerations to students in exchange for procuring the enrollment of others, and therefore receives partial credit for including the element. (OAC Ann. 3332-1-04.5(M).)



**Notable provision.** Ohio prohibits schools from soliciting prospective students through contact with members of the public on public streets, sidewalks, and parking lots, on public modes of transportation, in and around other schools, door-to-door, and in buildings open to the public such as welfare offices unless the activity has been requested or approved by that agency or the entity controlling the premises. Where approved, schools must utilize booths, tables, or offices which clearly identify the name of the school and the training programs offered. (OAC Ann. 3332-1-12.)

The state has in place a list of prohibited practices that provides strong protections to potential students:

- Revocation of authorization if presenting to prospective students, either at the time of solicitation or enrollment, or through advertising, mail circulars, or phone solicitation, misleading, deceptive, false, or fraudulent information relating to any program, employment opportunity, or opportunities for enrollment in accredited institutions of higher education after entering or completing programs offered by the holder of a certificate of registration. (ORC Ann. § 3332.09; OAC Ann. 3332-1-04.5(F).)
- School names should avoid leaving any false or misleading impressions about the school and the programs a school offers. Schools cannot use “college” or “university” without meeting specified requirements. (OAC Ann. 3332-1-04.2(B), (C).)
- No school or its agents shall advertise or imply that the school is “recommended” or “endorsed” by the board; Any advertisement or piece of promotional literature written or used by a school holding a certificate of registration with the board must be completely truthful and must be prepared and presented in such a manner as to avoid leaving any false, misleading or exaggerated impressions with respect to the school, its personnel, its courses and services, or the occupational opportunities for its graduates; Schools or representatives shall not use a picture, photograph, cut, engraving, or illustration in bulletins, sales literature, web pages or other promotional material, in such a manner as to convey a false impression; A guarantee of placement for graduates must not be promised or implied by any school, agent, or representative thereof. No guarantees of employment; No school shall guarantee any certain wage, or imply earnings greater than the prevailing wage earned by the school's graduates as documented by the school's placement records. For new programs that have no current graduates, information provided to students about potential wages should be corroborated by verifiable documentation concerning entry level wages in the field of study; No fraudulent statement, misrepresentation, or misleading statement of fact; Schools using classifieds or employment related publications must use only such classifications that are headed by “education,” “schools,” “instruction.” “Help wanted,” “employment,” or “job opportunities,” classifications may be used only to procure employees for the school; No school may advertise that it is endorsed by business establishments, manufacturers, organizations or individuals until written evidence of this fact is presented to the board and approved by it. (OAC Ann. 3332-1-12.)

## VI. COMPLAINT PROCESS AND RELIEF FOR STUDENTS:

**66/100 POINTS**

### A. DOES THE STATE REQUIRE A BOND OR FUND AS A CONDITION OF AUTHORIZATION?

**20/20 POINTS**

Yes	No
20 Points	0 Points

#### **Explanation:**

The application for a certificate of registration for a school located within Ohio shall be accompanied by a surety bond. However, the Board may permit a school to cancel its bond if the school has been approved to participate in any federal student financial assistance program authorized under Title IV of the Higher Education Act, or if the school meets standards of financial responsibility otherwise established by the board. The bond shall provide for the indemnification of any person suffering prepaid tuition loss as the result of a school closure. (ORC Ann. § 3332.08.) The bond shall provide for indemnification of any person suffering prepaid tuition loss as the result of a school closure, program termination or other acts or



omissions resulting in the cancellation, revocation, or expiration of a certificate of registration or program authorization. (OAC 3332-1-13.)

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**B. DOES THE STATE REQUIRE A REFUND OF TUITION IF A STUDENT ENROLLS AS THE RESULT OF MISREPRESENTATION?**

**0/20 POINTS**

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Yes, full refund	Yes, partial refund	No refund required
20 Points	10 Points	0 Points

**Explanation:**

Ohio law does not specifically mandate a refund of tuition if a student enrolls as the result of misrepresentation.

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**C. DOES THE STATE REQUIRE INSTITUTIONS TO REFUND TUITION IN THE EVENT OF CLOSURE?**

**15/20 POINTS**

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Yes, full refund	Yes, partial refund	Yes, refund in limited circumstances	No refund required
20 Points	15 Points	10 Points	0 Points

**Explanation:**

In case of school closure, surety bond and student tuition recovery fund shall reimburse student for prepaid tuition loss or advance against a possible prepaid tuition. Tuition loss does not include moneys held by a school in escrow accounts for tuition or fees for future terms, as uncommitted grants, loans, or Pell grant money. If the fund is not of sufficient size to pay the students the full amount of their prepaid fee, the student tuition recovery authority shall determine the percentage of the amount that will be paid. (ORC Ann. § 3332.082.) Thus, while Ohio does require institutions to provide refunds in the event of insolvency, the refund may be limited depending upon the size of the fund, the number of students to be reimbursed, and the amount of the reimbursements. However, further action may be available to students. ORC Ann. §3332.13 specifies that the fact that a bond is in force does not limit nor impair any right of recovery otherwise available pursuant to law, nor is the amount of such bond relevant in determining the amount of damages or other relief to which any plaintiff may be entitled.

**Notable Provision:**



“The student tuition recovery authority is created as a body corporate and politic of this state. The purpose of the authority is to protect students of any school registered by the state board of career colleges and schools from prepaid tuition loss for the academic term due to a school closure....” (ORC Ann. 3332.081.)

Ohio’s creation of the student tuition recovery authority is notable, particularly in light of recent issues related to the closure of Corinthian College and ITT Tech campuses nationwide, and the problems these closures have been creating.

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**D. DOES THE STATE ALLOW STUDENTS AMPLE TIME TO MAKE A COMPLAINT?**

**1/10 POINTS**



<b>2 years or more (or no deadline)</b>	<b>1-2 years</b>	<b>Under 1 year</b>	<b>Not applicable</b>
10 Points	5 Points	<b>1 Point</b>	0 Points

**Explanation:**

Ohio law allows only six months for students to file a complaint. Any person adversely affected by the actions of a certificate holder may file a complaint with the Board. (ORC Ann. § 3332.091.) Complaints must be submitted within six months after the violations allegedly were committed. (OAC 3332-1-18.)

**E. DOES THE STATE REQUIRE INSTITUTIONS TO DISCLOSE INFORMATION ABOUT FILING A COMPLAINT WITH THE STATE OVERSIGHT BODY?**

**20/20 POINTS**

<b>Medium</b>	<b>Yes</b>	<b>Discretionary</b>	<b>No</b>
<b>Catalog</b>	<b>10 Points</b>	5 Points	0 Points
<b>Website</b>	<b>5 Points</b>	2.5 Points	0 Points
<b>Enrollment contract</b>	<b>5 Points</b>	2.5 Points	0 Points

**Explanation:**

Ohio law requires career schools to include in their catalogs initial in-school student grievance procedure and subsequent avenues for student complaints to be brought to the attention of the Board. The statement must include the telephone number and address at the Board where student complaints are to be directed. (OAC 3332-1-08(14).) Ohio receives credit for requiring schools to disclose information about filing a complaint to the state oversight body in their catalogs. In addition, Ohio requires schools that maintain a website to make information contained in the school catalog (including information related to filing a complaint) publicly available on the website. (OAC Ann. 3332-1-08(F).) Finally, Ohio requires schools to include in the enrollment contract a notice to students concerning their ability to file a complaint with the state board of career colleges and schools including Board's correct name, address and toll-free telephone number. (OAC Ann. 3332-1-09(E)(8).)

**F. IS THE COMPLAINT PROCESS READILY ACCESSIBLE AND AVAILABLE ON THE STATE OVERSIGHT BODY'S WEBSITE?**

**10/10 POINTS**

<b>Yes, with address</b>	<b>Yes, with phone #</b>	<b>Yes, with email address</b>	<b>Yes, with electronic form</b>	<b>No</b>
<b>2 Points</b>	<b>2 Points</b>	<b>3 Points</b>	<b>3 Points</b>	0 Points

**Explanation:**

The Board maintains a website containing information instructing students how to file a complaint with the Board. The website contains, in addition to an explanation of the complaint process, the address, phone number, and email of the Board, and an electronic form.

## VII. ENFORCEMENT: 40/100 POINTS

- A. IS THERE LOSS OF STATE AID FOR SCHOOLS THAT REPEATEDLY PRODUCE SUBSTANDARD GRADUATION RATES, JOB PLACEMENT RATES, AND/OR COHORT DEFAULT RATES?

5/30 POINTS

Yes, required	Yes, required but limited	Yes, discretionary	Yes, discretionary but limited	No
30 Points	20 Points	15 Points	5 Points	0 Points

**Explanation:**

Ohio receives partial credit for this element because, as noted above, Ohio law allows the Board to require a school with graduation or placement rates that are one or more standard deviations below the average to submit an explanation for the deviation and a plan for improvement. The law allows the Board to accept the school's explanation or to take other disciplinary action. (OAC 3332-1-24.) This puts in place a mechanism which, potentially, may lead to the loss of aid depending upon the plan for improvement and/or the disciplinary action the Board elects to take.

- B. DOES STATE LAW EXPLICITLY AUTHORIZE A PRIVATE RIGHT OF ACTION FOR STUDENTS AGAINST INSTITUTIONS THAT HAVE VIOLATED THE LAWS AND REGULATIONS IN PLACE TO GOVERN THEM?

15/30 POINTS

Yes	Limited circumstances	No
30 Points	15 Points	0 Points

**Explanation:**

Ohio law explicitly authorizes a private right of action for students in limited circumstances, specifically, with regard to students who are on active duty with the military. (ORC Ann. § 3332.20(D).) Additionally, while not a specific private right of action, ORC ann. §3332.13 specifies that the existence of a bond does not impair any right of recovery otherwise available pursuant to law. This can be read to anticipate a private right of action, thus while a private right of action is not explicitly stated, a private right of action is likely available.

- C. DOES STATE LAW EXPLICITLY ALLOW ATTORNEY FEE AWARDS FOR STUDENTS WHO PREVAIL IN LITIGATION AGAINST PRIVATE FOR-PROFIT POSTSECONDARY INSTITUTIONS?

0/20 POINTS

Yes	Limited	No
20 Points	15 Points	0 Points

**Explanation:**

Ohio law does not explicitly allow attorney fee awards for students who prevail in litigation against

private for-profit postsecondary institutions that have violated the laws and regulations in place to govern them.

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**D. DOES STATE LAW EXPLICITLY AUTHORIZE  
ATTORNEY GENERAL INVOLVEMENT?**

**20/20 POINTS**

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Yes	Limited circumstances	No
20 Points	10 Points	0 Points

**Explanation:**

The Board may pursue any lawful means of assuring that students of any school registered by it do not suffer prepaid tuition loss as a result of the closure of a school. This may include lawsuits against a school or any individual who may reasonably have liability as a result of the default, in which the attorney general shall advise and represent the board. (ORC Ann. § 3332.082; 1349.04(B).)

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**BONUS POINTS:**

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Ohio does not receive any bonus points.



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**ILLUMINATING INFORMATION**

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**RECIPROCITY AGREEMENTS / OUT-OF-STATE SCHOOLS**

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Ohio is part of the State Authorization Reciprocity Agreements (SARA). However, the state requires out-of-state schools to obtain a certificate of approval prior to soliciting students in the state. Further, any out-of-state school that solicits students in Ohio must receive program authorization from the Board for each individual program of study. The program authorization shall be for solicitation purposes only. Certificate, diploma, and degree programs are approved for a two year period. (OAC Ann. 3332-1-05.)

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**LITIGATION, INVESTIGATIONS, AND ACTIONS INVOLVING PRIVATE  
FOR-PROFIT EDUCATIONAL INSTITUTIONS IN OHIO**

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For information about pending and recent federal and state government investigations and actions regarding for-profit colleges see David Halperin's compilation at <http://www.republicreport.org/2014/law-enforcement-for-profit-colleges/#sthash.1vc4HmPw.dpuf>.

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# OKLAHOMA

## FINAL GRADING ANALYSIS

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OVERALL SCORE: **259.75/700 POINTS (37%)**  
LETTER GRADE: **F**

### I. OVERSIGHT BODY: **65.25/100 POINTS**

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#### A. IS THERE A STATUTORILY CREATED OVERSIGHT BODY THAT IS PUBLICLY ACCOUNTABLE?

**50/60 POINTS**

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Element	Points Available	Type 1	Type 2	Average
1. Oversight body is a multi-member board, commission, or panel created by statute	10	10	10	10
2. Oversight body was statutorily created specifically to oversee private postsecondary institutions	10	10	0	5
3. Multi-member board, commission, or panel is the ultimate decision maker (as opposed to a single person, like the head of a department or director)	10	10	10	10
4. Oversight body can engage in rulemaking	10	10	10	10
5. Oversight body's meetings must be open to the public	5	5	5	5
6. Oversight body's meetings must allow public comment	5	0	0	0
7. Oversight body can initiate investigations	5	5	5	5
8. Oversight body can impose penalties for violations	5	5	5	5
Total Points	60	55	45	50

**Explanation:**

Oklahoma splits regulation of private schools between two bodies. The Oklahoma Board of Private Vocational Schools (OBPVS) is responsible for regulation and oversight of private postsecondary vocational schools in Oklahoma (Type 1). (70 Okl. St. § 21-103.) The Oklahoma State Regents for Higher Education (OSRHE) oversees degree-granting private postsecondary institutions (Type 2) ("[p]rivate, denominational, and other institutions of higher learning may become coordinated with the State System of Higher Education under regulations set forth by The Oklahoma State Regents for Higher Education" (Oklahoma Constitution, Article XIII A, Section 4)).

***Type 1: Private postsecondary vocational schools.*** Oklahoma established the OBPVS, a public board, specifically to oversee private postsecondary institutions. The public board is the decision maker and has

the authority to engage in rulemaking, impose penalties, and carry out such other duties as necessary to provide state authorization for private vocational schools, seminars, and workshops and such other schools that make offerings of courses or programs as permitted by the governing act, which would necessarily include initiating investigations. (70 Okl. St. § 21-102.1.) OBPVS meetings are subject to the Oklahoma Open Meetings Act (25 Okl. St. § 303) and must be open to the public. The OBPVS may allow for public comment at meetings, but is not required to do so. (Okl. A.G. Opin. 02-26.)

**Type 2: Degree-granting private postsecondary institutions.** The state requires degree-granting private postsecondary institutions to be accredited by a national or regional accrediting agency which is recognized by the Secretary of the U.S. Department of Education as a reliable authority. (70 Okl. St. § 4103.) Further, Oklahoma requires these institutions to grant only those degrees authorized by OSRHE unless approved otherwise by a national or regional accrediting agency which is recognized by the Secretary of the U.S. Department of Education as a reliable authority as to the quality of education or training offered by institutions of higher education. (70 Okl. St. § 4104.)

OSRHE's meetings are open to the public pursuant to Oklahoma's Open Meetings Act. (O.A.C. § 610:1-7-10; 25 Okl. St. § 301 *et seq.*) The Regents may allow for public comment at meetings, but is not required to do so. (Okl. A.G. Opin. 02-26.)

## B. STATUTE-SPECIFIED MEMBERSHIP:

### 1. TO WHAT EXTENT ARE LIMITATIONS PLACED ON FOR-PROFIT MEMBERSHIP ON THE OVERSIGHT BODY?

**11.25/25 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Explicit prohibition on for-profit majority, plus no possibility of a majority of the quorum	Explicit prohibition on for-profit majority	Discouraged	No prohibition specified, but not discouraged	For-profit majority mandated
Type 1	25 Points	20 Points	10 Points	0 Points	<del>-5</del> -2.5 points
Type 2	<b>25 Points</b>	20 Points	10 Points	0 Points	-5 Points

**Explanation:**

**Type 1: Private postsecondary vocational schools.** While Oklahoma does not mandate that for-profit interests make up the majority of OBPVS, the mandated composition of the Board creates a substantial possibility that individuals affiliated with private for-profit educational institutions will make up a majority of the quorum, and thereby have a strong influence on the regulation and oversight of the industry of which they are a part. (70 Okl. St. § 21-102.) Because of this potential, the state loses 2.5 points.

**Type 2: Degree-granting private postsecondary institutions.** Oklahoma prohibits “employees or members of the staff or governing board of any constituent member of the State System” from membership on OSRHE. (70 Okl. St. § 3202(b).) It appears this prohibition has the effect of barring members of the industry that is regulated from membership on the regulatory body.

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2. IS THE OVERSIGHT BODY MANDATED TO INCLUDE  
AT LEAST ONE CONSUMER ADVOCATE?

**0/10 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	No
Type 1	10 Points	0 Points
Type 2	10 Points	0 Points

**Explanation:**

**Type 1: Private postsecondary vocational schools.** Oklahoma law does not require the membership of the OBPVS to include an individual with expertise and experience in the area of consumer advocacy. (70 Okl. St. § 21-102.)

**Type 2: Degree-granting private postsecondary institutions.** Oklahoma law does not require the membership of OSRHE to include an individual with expertise and experience in the area of consumer advocacy. (70 Okl. St. § 3202.)

**Notable Provision:**



While Oklahoma law does not require the Board of Regents to include a consumer advocate member, the state has created a Student Advisory Board, which consists of seven members, each of whom is enrolled in at least twelve semester credit hours and is attending the type of institution which the member is elected to represent. The members are not necessarily individuals with expertise and experience in the area of consumer advocacy, but the Advisory Board does serve to give voice to the students impacted by the Regents' policies and governance. The membership includes two members elected at large to represent the comprehensive universities within the Oklahoma State System of Higher Education; two members elected at large to represent the regional and senior universities within the Oklahoma State System of Higher Education; two members elected at large to represent the junior colleges within the Oklahoma State System of Higher Education; and one member elected at large to represent the accredited independent colleges and universities. (Okla. Stat. tit. 70, § 3205.5.)

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3. ARE THE MEMBERS APPOINTED BY A PUBLICLY ACCOUNTABLE  
OFFICIAL OR ELECTED IN A GENERAL ELECTION?

**4/5 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	All	Majority	Half	Minority	None
Type 1	5 Points	3 Points	2.5 Points	1 Point	0 Points
Type 2	5 Points	3 Points	2.5 Points	1 Point	0 Points

**Explanation:**

**Type 1: Private postsecondary vocational schools.** The governor of Oklahoma appoints six of the nine members of OBPVS with the advice and consent of the Senate. (Okl. Stat. tit. 70, § 21-102.) One member of OBPVS is the Director of the Oklahoma Department of Career and Technology Education (appointed by the Oklahoma State Board of Career and Technology Education), the Chancellor of the Oklahoma State Regents for Higher Education and the State Superintendent of Public Instruction (who is an elected official) or their designated representatives.

**Type 2: Degree-granting private postsecondary institutions.** The governor of Oklahoma appoints the nine members of the Board of Regents with the advice and consent of the Senate. (Okla. Stat. tit. 70, § 3202.)

## II. STATE OVERSIGHT—EFFICACY: 31/100 POINTS

### A. DOES THE STATE REQUIRE ONSITE REVIEW OF PRIVATE POSTSECONDARY INSTITUTIONS?

**4/10 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Mandatory onsite reviews			Discretionary	None
	Every 2 years or less	Every 3-5 years	Over 5 years	Discretion to conduct onsite reviews	No review specified
<b>Type 1</b>	10 Points	8 Points	5 Points	<b>3 Points</b>	0 Points
<b>Type 2</b>	10 Points	8 Points	<b>5 Points</b>	3 Points	0 Points

#### **Explanation:**

**Type 1: Private postsecondary vocational schools.** Oklahoma law gives OBPVS authority to conduct an onsite visit of the private postsecondary schools under its jurisdiction. (O.A.C. § 565:10-21-1.) There is no mandated regular timeframe for the onsite visits. However, because Oklahoma requires schools to renew licenses annually, it is reasonable to deduce that the Board’s discretion to conduct onsite visits would most likely arise in the course of the mandated annual reviews.

**Type 2: Degree-granting private postsecondary institutions.** OSRHE requires regular onsite reviews that meet requirements set forth by the OSRHE Policy and Procedures Manual and, by reference, the Higher Learning Commission (HLC) Handbook. There is no set timeframe for onsite visits; renewal evaluations are determined on a case-by-case basis and take into consideration factors such as the status of institutional accreditation (e.g., accreditation without qualification, initial candidacy, or probationary accreditation). (OSRHE Policy and Procedures Manual 3.1.4(F) (Unaccredited Private Institutions).) Because regular onsite visits are required, but no timeframe is specified, the state receives partial credit for this element.



**Note about the onsite visiting team:** Members of OSRHE do not conduct the onsite visits; rather, an effort is made to select individuals who understand the uniqueness and nature of the institution under review. An effort is also made to ensure that the team includes individuals who have had significant professional experience with institutions of the type under review. The institution has the opportunity to express in writing suggestions for the areas of expertise and types of institutional representation it prefers. A list of potential team members will be provided to the institution before final selection occurs. Every effort is made to alleviate institutional concerns about potential team members prior to selection of the team. However, the institution does not have the authority to veto a potential team member(s). (OSRHE Policy and Procedures Manual 3.1.4(H).) This is a concern because, while it is important to include individuals with expertise in the regulated industry (here, private postsecondary education), there is a potential for a conflict when members of the regulated industry are primarily responsible for oversight and approval of said industry.



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**B. DOES THE STATE REQUIRE UNANNOUNCED  
INSPECTIONS FOR ONSITE REVIEWS?**

**0/5 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Required unannounced visits	Discretion to do unannounced visits	No indication
Type 1	5 Points	3 Points	0 Points
Type 2	5 Points	3 Points	0 Points

**Explanation:**

**Type 1: Private postsecondary vocational schools.** It does not appear that Oklahoma law mandates or provides discretion for OBPVS to conduct unannounced onsite reviews of private postsecondary schools under its jurisdiction.

**Type 2: Degree-granting private postsecondary institutions.** OSRHE requires onsite visits as a part of the renewal process, however, the visits are scheduled and there is no indication that these visits are unannounced. (Oklahoma State Board of Regents for Higher Education Policy and Procedures Manual 3.1.4(H).)

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**C. DOES THE STATE REQUIRE REGULAR REVIEWS OF PRIVATE  
POSTSECONDARY APPROVAL TO OPERATE?**

**20/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Mandatory			Discretionary	None
	Every 2 years or less	Every 3-5 years	Over 5 years	Discretion to conduct reviews	No review specified
Type 1	20 Points	15 Points	10 Points	5 Points	0 Points
Type 2	20 Points	15 Points	10 Points	5 Points	0 Points

**Explanation:**

**Type 1: Private postsecondary vocational schools.** Oklahoma law requires private postsecondary schools to renew their authorization to operate annually, requiring submission of a renewal application for review. (70 Okl. St. § 21-106(A); O.A.C. § 565:10-1-4(b).)

**Type 2: Degree-granting private postsecondary institutions.** Institutions coordinated by OSRHE are required to report enrollment, student credit hours, and other information on an annual basis in order to maintain authorization. (Oklahoma State Board of Regents for Higher Education Policy and Procedures Manual 3.1.5.)

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**D. DO THE CRITERIA FOR RENEWAL OF AUTHORIZATION MANDATE A  
REVIEW OF FACTORS ESSENTIAL TO ACADEMIC AND ETHICAL INTEGRITY?**

**7/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	8 of 8	7 of 8	6 of 8	5 of 8	4 of 8	3 of 8	2 of 8	1 of 8	0 of 8
<b>Type 1</b>	20 Points	17.5 Points	15 Points	12.5 Points	10 Points	7.5 Points	5 Points	2.5 Points	<b>0 2 Points</b>
<b>Type 2</b>	20 Points	17.5 Points	15 Points	12.5 Points	<b>10 12 Points</b>	7.5 Points	5 Points	2.5 Points	0 Points

Element	Type 1	Type 2
Admission requirements	D	M
Graduation requirements		
Placement rate		D
Completion rate (or graduation rate)		D
Advertising practices		M
Cohort default rate		
Accreditation status	D	M
Financial aid policies		M

*M=Mandatory; D=Discretionary*

### **Explanation:**

**Type 1: Private postsecondary vocational schools.** Oklahoma law requires private postsecondary institutions to submit a catalog for review as part of the institutional review for licensure. The catalog must include information on admission requirements; therefore, it is available for review. However, although the review ensures that the information is available in the catalog, the information is does not necessarily reviewed as a part of the institutional review.

**Type 2: Degree-granting private postsecondary institutions.** OSRHE requires “periodic” review of institutional admission and retention policies, but does not specify a timeframe. (Oklahoma State Board of Regents for Higher Education Policy and Procedures Manual 3.9.) Further, as noted above, institutions must renew accreditation on a regular basis, but there is no mandated timeframe for this review to take place. OSRHE requires review of some advertising practices, specifically advertising related to accreditation, as a part of the evaluation process. Additionally, the HLC Handbook on which the state models its accreditation and to which the Policy and Procedures Manual makes several references, requires some review of advertising practices. (Higher Learning Commission, Policy Handbook, February 2016, (hereinafter HLC Handbook) FDCR.A.10.070.) The HLC Handbook also requires review of financial aid policies as an eligibility requirement. (HLC Handbook, CRRT.A.10.010(12).) Performance outcomes (graduation rates, placement rates, etc.) are discussed both in the Policy and Procedures Manual and in the HLC Handbook; these factors are generally reviewed, not for the data itself as applicable to the institution’s eligibility to maintain authorization to operate, but to ensure that the institution in keeping records and to review how the institution utilizes the data to evaluate the success of its own programs. Thus, while the data may be a factor in renewal or denial of accreditation, it is not necessarily reviewed specifically for purposes of accreditation, so the state receives partial credit for this element.

## **E. DOES THE STATE’S OVERSIGHT DISTINGUISH BETWEEN FOR-PROFIT AND NONPROFIT EDUCATIONAL INSTITUTIONS?**

**0/15 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, strongly distinguished	Yes, moderately distinguished	Yes, slightly distinguished	Not distinguished
Type 1	15	10	5	0
Type 2	15	10	5	0

**Explanation:**

**Type 1: Private postsecondary vocational schools.** Oklahoma law does not distinguish between for-profit and nonprofit private postsecondary vocational schools.

**Type 2: Degree-granting private postsecondary institutions.** Oklahoma law does not distinguish between for-profit and nonprofit degree-granting private postsecondary institutions.

**F. DOES THE STATE REQUIRE INCREASED OVERSIGHT/SCRUTINY OF PRIVATE POSTSECONDARY INSTITUTIONS BASED ON POOR PERFORMANCE?**

**0/10 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, mandatory	Yes, mandatory but limited	Yes, discretionary	Yes, discretionary but limited	No
Type 1	10 Points	7.5 Points	5 Points	2.5 Points	0 Points
Type 2	10 Points	7.5 Points	5 Points	2.5 Points	0 Points

**Explanation:**

**Type 1: Private postsecondary vocational schools.** Oklahoma law does not require any increased oversight or scrutiny of private postsecondary vocational schools based on poor performance (such as low graduation rates, low exam passage rates, high cohort default rates, etc.).

**Type 2: Degree-granting private postsecondary institutions.** Oklahoma law does not require any increased oversight or scrutiny of degree-granting private postsecondary vocational schools based on poor performance.

**G. DOES STATE LAW INCLUDE ANY SPECIAL PROTECTIONS FOR VETERANS WHO ATTEND PRIVATE POSTSECONDARY INSTITUTIONS?**

**0/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	No
Type 1	20 Points	0 Points
Type 2	20 Points	0 Points

**Explanation:**

**Type 1: Private postsecondary vocational schools.** Oklahoma law does not have any special protections in place specifically for veterans attending private postsecondary vocational institutions in the state.

**Type 2: Degree-granting private postsecondary institutions.** Oklahoma law does not include any special protections specifically for veterans who attend degree-granting private postsecondary institutions.

### III. STATE OVERSIGHT—SCOPE AND INCLUSION:

**37.5/100 POINTS**

#### A. ARE EXEMPTIONS TO STATE OVERSIGHT COVERAGE LIMITED?

**37.5/100 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	No exemptions	Few exemptions	Moderate exemptions	Broad exemptions
Type 1	100 Points	75 Points	50 Points	0 Points
Type 2	100 Points	75 Points	50 Points	0 Points

#### **Explanation:**

**Type 1: Private postsecondary vocational schools.** Oklahoma law has very few exemptions to licensure for private vocational postsecondary institutions, most of which are common or very narrowly tailored. For example, the state exempts schools that are exclusively regulated or licensed pursuant to the provisions of any school-licensing law of the state; flight instruction; and education provided and paid for by an employer for an employee. The state also exempts postgraduate certificates offered or provided by a school that has approval for that specific program issued by another state agency or an accrediting agency approved by the Board. If a private school combines training or education that is both licensed and not licensed by another state agency, licensing by OBPVS will be required for the entity's combined programs. However, OBPVS will defer to the other state agency on matters contained in the other agency's regulations and will refrain from establishing conflicting requirements. Matters to be governed by the other state agency may include but are not limited to curriculum, testing or certification completion. OBPVS may require a private school to document its approval by any other state agency or an accrediting organization.

**Type 2: Degree-granting private postsecondary institutions.** Oklahoma law exempts institutions from the requirements to receive accreditation and approval from the Regents where approved otherwise by a national or regional accrediting agency which is recognized by the Secretary of the U.S. Department of Education as a reliable authority as to the quality of education or training offered by institutions of higher education. (70 Okl. St. §§ 4103, 4104.)

### IV. DISCLOSURE REQUIREMENTS: **12.5/100 POINTS**

#### A. ARE INSTITUTIONS REQUIRED TO DISCLOSE INSTITUTIONAL PERFORMANCE MEASURES TO POTENTIAL STUDENTS?

**0/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, mandatory	Yes, discretionary	None
	Fact sheet or equivalent required to be given to students	Fact sheet or equivalent given to students upon request	No fact sheet required
Type 1	20 Points	10 Points	0 Points
Type 2	20 Points	10 Points	0 Points

**Explanation:**

**Type 1: Private postsecondary vocational schools.** Oklahoma law does not explicitly require private postsecondary vocational institutions to make performance disclosures directly to potential students prior to enrollment.

**Type 2: Degree-granting private postsecondary institutions.** Oklahoma law does not explicitly require degree-granting private postsecondary institutions to make performance disclosures directly to potential students prior to enrollment.

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**B. WHICH INSTITUTIONAL PERFORMANCE DISCLOSURES ARE REQUIRED TO BE GIVEN TO STUDENTS PRIOR TO ENROLLMENT?**

**0/60 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

***Type 1: Private postsecondary vocational schools***

Disclosures	Mandatory	Discretionary	Not specified
Cohort default rate (CDR)	10 Points	5 Points	0 Points
Graduation / completion rates	10 Points	5 Points	0 Points
Placement rates	10 Points	5 Points	0 Points
Wage information	10 Points	5 Points	0 Points
License exam passage rates	10 Points	5 Points	0 Points
Methods & sources used to calculate	10 Points	5 Points	0 Points

**Explanation:**

Oklahoma law does not require private postsecondary vocational institutions to disclose any institutional performance measures to potential students.

***Type 2: Degree-granting private postsecondary institutions.***

Disclosures	Mandatory	Discretionary	Not specified
Cohort default rate (CDR)	10 Points	5 Points	0 Points
Graduation / completion rates	10 Points	5 Points	0 Points
Placement rates	10 Points	5 Points	0 Points
Wage information	10 Points	5 Points	0 Points
License exam passage rates	10 Points	5 Points	0 Points
Methods & sources used to calculate	10 Points	5 Points	0 Points

**Explanation:**

Oklahoma law does not require degree-granting private postsecondary institutions to disclose any institutional performance measures to potential students.

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**C. DOES THE STATE REQUIRE SCHOOLS TO DISCLOSE ELEMENTS ESSENTIAL TO STUDENT PROTECTION PRIOR TO ENROLLMENT OR IN THE ENROLLMENT CONTRACT?**

**12.5/20 POINTS\***

---

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

*Type 1: Private postsecondary vocational schools*

Element Description	Mandatory	Discretionary	Not specified
Total cost of program	5 Points	2.5 Points	0 Points
Refund information	5 Points	2.5 Points	0 Points
Transferability of credits	5 Points	2.5 Points	0 Points
Length of program	5 Points	2.5 Points	0 Points

**Explanation:**

The state requires schools to provide the refund policy, payment schedule and total cost, and total instructional hours in the enrollment contract. (O.A.C. § 565:10-11-4(a)(1).)

*Type 2: Degree-granting private postsecondary institutions*

Element Description	Mandatory	Discretionary	Not specified
Total cost of program	5 Points	2.5 Points	0 Points
Refund information	5 Points	2.5 Points	0 Points
Transferability of credits	5 Points	2.5 Points	0 Points
Length of program	5 Points	2.5 Points	0 Points

**Explanation:**

The Oklahoma State Regents for Higher Education Policy and Procedures Manual (at 3.1.4(D)(6)) states that each institution should publish and make available to potential students a catalog describing courses and curriculum, tuition and refund policies, and other matters. An additional appropriate publication is the student handbook. Policies included in the student handbook should include student rights and responsibilities, including academic honesty, redress of grievances and complaints, and procedural rights. The student handbook should be well-publicized, readily available, and implemented in a fair and consistent manner.

The Manual further states (at 3.1.7) that all institutions operating in Oklahoma shall detail prominently in all appropriate publications and promotional materials its current and complete accreditation status. Institutions shall not make misleading, deceptive, and/or inaccurate statements in brochures, catalogs, web sites, or other publications. Disclosure of the institution's complete accreditation status shall be in boldface print and in a manner reasonably calculated to draw the attention of the reader. Such disclosure must also include information about the transferability of courses.

The language states that the institutions should make the specified publications and information available to potential students, but the language does not *require* institutions to disclose the information, so the state receives partial credit here.

## **V. REGULATION OF RECRUITING PRACTICES:**

**62.5/100 POINTS**

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**A. HAS THE STATE PUT INTO LAW A LIST OF PROHIBITED ACTS REGARDING ADVERTISING AND RECRUITING?**

**62.5/100 POINTS\***

---

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, strong regulation	Yes, moderate regulation	Yes, weak regulation	No list of prohibited acts
<b>Type 1</b>	100 Points	<b>75 Points</b>	50 Points	0 Points
<b>Type 2</b>	100 Points	75 Points	<b>50 Points</b>	0 Points

#### PROHIBITED ACTS

Included in list of prohibited acts	Type 1	Type 2
Misleading representations using the word “college” or “university”	/	
Misleading institution affiliations (e.g., military, public institution, businesses)	X	
Promise of employment	X	
Compensation for enrollment		
Compensation or “bounty” to recruiters		
Deception (broad prohibition)	X	X
Misrepresentation (broad prohibition)	X	X
Misleading representations re: accreditation		X

*1-3=Weak; 3.5-6=Moderate; 6.5-8=Strong*

#### Explanation:

**Type 1: Private postsecondary vocational schools.** The overall impact of Oklahoma’s advertising regulations found at O.A.C. § 565:10-11-6 is to prohibit private postsecondary schools from making misrepresentations, or false or deceptive claims. The state specifically prohibits promises of employment (O.A.C. § 565:10-11-5(a), O.A.C. § 565:10-11-6(i)) and misleading institutional affiliations. (O.A.C. § 565:10-11-6(d).) While the language does not specifically prohibit institutions from misleading representations using the word “college” or “university,” the prohibition on the use of any name, title, or other designation by way of advertising or otherwise, that is misleading or deceptive as to character of the institution would necessarily include the misuse of “college” or “university.” Thus, the state receives partial credit for the element.

**Type 2: Degree-granting private postsecondary institutions.** The Oklahoma State Regents for Higher Education Policy and Procedures Manual, Chapter 3 (at 3.1.7 Publications) prohibits institutions from making misleading, deceptive, or inaccurate statements in publications. The policy specifically prohibits misleading statements about accreditation.

## VI. COMPLAINT PROCESS AND RELIEF FOR STUDENTS:

**33.5/100 POINTS**

### A. DOES THE STATE REQUIRE A BOND OR FUND AS A CONDITION OF AUTHORIZATION?

**10/20 POINTS**

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	No
<b>Type 1</b>	<b>20 Points</b>	0 Points
<b>Type 2</b>	20 Points	<b>0 Points</b>



**Explanation:**

**Type 1: Private postsecondary vocational schools.** Oklahoma law requires private postsecondary institutions to file a corporate surety bond or a certificate of deposit as a condition of licensure. (70 Okl. St. § 21-106; O.A.C. § 565:10-3-1(3).)

**Type 2: Degree-granting private postsecondary institutions.** Oklahoma law does not require degree-granting private postsecondary institutions to post a bond as a condition of authorization or accreditation.

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**B. DOES THE STATE REQUIRE A REFUND OF TUITION IF A STUDENT ENROLLS AS THE RESULT OF MISREPRESENTATION?**

**0/20 POINTS\***

---

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, full refund	Yes, partial refund	No refund required
<b>Type 1</b>	20 Points	10 Points	<b>0 Points</b>
<b>Type 2</b>	20 Points	10 Points	<b>0 Points</b>

**Explanation:**

**Type 1: Private postsecondary vocational schools.** Oklahoma law does not explicitly require a refund of tuition if a student enrolls in a private postsecondary vocational school as the result of misrepresentation.

**Type 2: Degree-granting private postsecondary institutions.** Oklahoma law does not explicitly require a refund of tuition if a student enrolls in a private postsecondary vocational school as the result of misrepresentation.

---

**C. DOES THE STATE REQUIRE INSTITUTIONS TO REFUND TUITION IN THE EVENT OF CLOSURE?**

**5/20 POINTS\***

---

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, full refund	Yes, partial refund	Yes, refund in limited circumstances	No refund required
<b>Type 1</b>	20 Points	15 Points	<b>10 Points</b>	0 Points
<b>Type 2</b>	20 Points	15 Points	10 Points	<b>0 Points</b>

**Explanation:**

**Type 1: Private postsecondary vocational schools.** Oklahoma law does not explicitly require institutions to refund tuition in the event of closure. However, there are provisions in place that would likely allow students to obtain a refund in certain circumstances. The state requires schools all monies (student loan, grant, and etc.) paid on behalf of students enrolled in a class at the time it is discontinued to be refunded to the entity legally entitled to the refund if a class is discontinued by a school while students are still enrolled in that class, and the school is still offering training in other areas (which, as the regulation reads, would apply only if a program closed, not the entire school). (O.A.C. § 565:10-11-3(b)(9).)



**NOTE:** Oklahoma repealed its Tuition Recovery Fund and converted it into the Oklahoma Board of Private Vocational Schools Revolving Fund, which consists of all monies received by the Oklahoma Board of Private Vocational Schools from all fees and penalties collected by the Board.



Instead of using these funds toward tuition recovery, monies from this fund are used “exclusively for the purpose of operations and functions” of the Board. (70 Okl. St. Ann. § 21-116.)

**Type 2: Degree-granting private postsecondary institutions.** While degree-granting private postsecondary institutions are required to have a teach-out plan in the event of a school closure, there is no requirement that these institutions refund tuition to students.

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**D. DOES THE STATE ALLOW STUDENTS AMPLE TIME TO MAKE A COMPLAINT?**  
**10/10 POINTS\***

---

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	2 years or more (or no deadline)	1-2 years	Under 1 year	Not applicable
<b>Type 1</b>	<b>10 Points</b>	5 Points	1 Point	0 Points
<b>Type 2</b>	<b>10 Points</b>	5 Points	1 Point	0 Points

**Explanation:**

**Type 1: Private postsecondary vocational schools.** Oklahoma law does not specify a mandatory deadline or timeframe in which students at private postsecondary vocational institutions must file complaints.

**Type 2: Degree-granting private postsecondary institutions.** Oklahoma law does not specify a mandatory deadline or timeframe in which students at degree-granting private postsecondary institutions must file complaints.

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**E. DOES THE STATE REQUIRE INSTITUTIONS TO DISCLOSE INFORMATION ABOUT FILING A COMPLAINT WITH THE STATE OVERSIGHT BODY?**  
**3.5/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

**Type 1: Private postsecondary vocational schools**

Medium	Mandatory	Discretionary	Not specified
<b>Catalog</b>	10 Points	5 Points	<b>0 Points</b>
<b>Website</b>	5 Points	2.5 Points	<b>0 Points</b>
<b>Enrollment contract</b>	5 Points	2.5 Points	<b>0 Points</b>

**Explanation:**

Oklahoma law does not require private postsecondary vocational institutions to disclose information about filing a complaint with the OBPVS.

**Type 2: Degree-granting private postsecondary institutions**

Medium	Mandatory	Discretionary	Not specified
<b>Catalog</b>	10	<b>5</b>	<b>0</b>
<b>Website</b>	5	<b>2.5</b>	<b>0</b>
<b>Enrollment contract</b>	5	2.5	<b>0</b>

**Explanation:**

OSRHE does not require institutions to disclose information about filing a complaint with the state oversight body. The Oklahoma State Regents for Higher Education Policy and Procedures Manual, Chapter 3 (at 3.1.8 Student Complaint Process) requires institutions to include student complaint procedures and a complaint appeal process in the student handbook or other student information documents and to provide enrolled and prospective students living in Oklahoma with contact information, upon request, for filing complaints against the institution at the institutional level. Further, OSRHE requires institutions to provide enrolled and prospective students living in Oklahoma with contact information, upon request, for filing complaints with the appropriate state agency or with the institution's accrediting body. The state receives partial credit for requiring the information to be included in the student handbook or other student information documents, which may include the website.

F. IS THE COMPLAINT PROCESS READILY ACCESSIBLE AND  
AVAILABLE ON THE STATE OVERSIGHT BODY'S WEBSITE?

**5/10 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, with address	Yes, with phone #	Yes, with email address	Yes, with electronic form	No
Type 1	2 Points	2 Points	3 Points	3 Points	0 Points
Type 2	2 Points	2 Points	3 Points	3 Points	0 Points

**Explanation:**

**Type 1: Private postsecondary vocational schools.** The complaint process is not readily available or easily accessible on the OBPVS website. There is general contact information including a phone number, an address, and an email address, but there is no information clearly enumerating the complaint process or any specific information with regard to a contact for student complaints.

**Type 2: Degree-granting private postsecondary institutions.** OSRHE maintains a webpage with information for students wishing to file a complaint. The webpage contains instructions and a link to an electronic form, which can be completed and submitted online. The page also includes (at the bottom, in small print) an address, phone number and a "contact details" link which provides email addresses.

**VII. ENFORCEMENT: 17.5/100 POINTS**

A. IS THERE LOSS OF STATE AID FOR SCHOOLS THAT REPEATEDLY  
PRODUCE SUBSTANDARD GRADUATION RATES, JOB PLACEMENT  
RATES, AND/OR COHORT DEFAULT RATES?

**0/30 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, required	Yes, required but limited	Yes, discretionary	Yes, discretionary but limited	No
Type 1	30	20	15	5	0
Type 2	30	20	15	5	0

**Explanation:**

**Type 1: Private postsecondary vocational schools.** Oklahoma law does not explicitly require loss of state aid for private postsecondary vocational schools that repeatedly produce substandard graduation rates, job placement rates, and/or cohort default rates.

**Type 2: Degree-granting private postsecondary institutions.** Oklahoma law does not explicitly require the loss of state aid for degree-granting private postsecondary institutions that repeatedly produce substandard graduation rates, job placement rates, and/or cohort default rates.

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**B. DOES STATE LAW EXPLICITLY AUTHORIZE A PRIVATE RIGHT OF ACTION FOR STUDENTS AGAINST INSTITUTIONS THAT HAVE VIOLATED THE LAWS AND REGULATIONS IN PLACE TO GOVERN THEM?**

**0/30 POINTS\***

---

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	Limited circumstances	No
Type 1	30 Points	15 Points	0 Points
Type 2	30 Points	15 Points	0 Points

**Explanation:**

**Type 1: Private postsecondary vocational schools.** Oklahoma law does not explicitly authorize a private right of action for students against private postsecondary vocational schools that have violated the laws and regulations in place to govern them.

**Type 2: Degree-granting private postsecondary institutions.** Oklahoma law does not explicitly authorize a private right of action for students against degree-granting private postsecondary institutions that have violated the laws and regulations in place to govern them.

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**C. DOES STATE LAW EXPLICITLY ALLOW ATTORNEY FEE AWARDS FOR STUDENTS WHO PREVAIL IN LITIGATION AGAINST PRIVATE FOR-PROFIT POSTSECONDARY INSTITUTIONS?**

**0/20 POINTS\***

---

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score.*

	Yes	Limited	No
Type 1	20 Points	15 Points	0 Points
Type 2	20 Points	15 Points	0 Points

**Explanation:**

**Type 1: Private postsecondary vocational schools.** Oklahoma law does not explicitly allow attorney fee awards for students who prevail in litigation against private postsecondary vocational schools that have violated the laws and regulations in place to govern them.

**Type 2: Degree-granting private postsecondary institutions.** Oklahoma law does not explicitly allow attorney fee awards for students who prevail in litigation against degree-granting private postsecondary institutions that have violated the laws and regulations in place to govern them.

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D. DOES STATE LAW EXPLICITLY AUTHORIZE  
ATTORNEY GENERAL INVOLVEMENT?

**17.5/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	Limited circumstances	No
Type 1	20 Points	10 Points	0 Points
Type 2	20 15 Points	10 Points	0 Points

**Explanation:**

**Type 1: Private postsecondary vocational schools.** Oklahoma law explicitly authorizes attorney general involvement in enforcing the statutes and regulations governing private postsecondary vocational schools. (70 Okl. St. § 21-109.)

**Type 2: Degree-granting private postsecondary institutions.** The Policy and Procedures Manual outlines several instances in which the Attorney General is involved in enforcement. (Oklahoma State Board of Regents for Higher Education Policy and Procedures Manual, chapter 2.) However, because this provision is not set in statute, the state loses five points.

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**BONUS POINTS:**

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Oklahoma does not receive any bonus points.



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**ILLUMINATING INFORMATION**

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**RECIPROCITY AGREEMENTS**

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Oklahoma is a member of the State Authorization Reciprocity Agreements (SARA).

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**LITIGATION, INVESTIGATIONS, AND ACTIONS INVOLVING PRIVATE  
FOR-PROFIT EDUCATIONAL INSTITUTIONS IN OKLAHOMA**

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For information about pending and recent federal and state government investigations and actions regarding for-profit colleges see David Halperin's compilation at <http://www.republicreport.org/2014/law-enforcement-for-profit-colleges/#sthash.1vc4HmPw.dpuf>.

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# OREGON

## FINAL GRADING ANALYSIS

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OVERALL SCORE: **403.5/700 POINTS (57.6%)**  
LETTER GRADE: **F**

### I. OVERSIGHT BODY: **80/100 POINTS**

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#### A. IS THERE A STATUTORILY CREATED OVERSIGHT BODY THAT IS PUBLICLY ACCOUNTABLE?

**50/60 POINTS**

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Element	Points Available	Type 1	Type 2	Points Awarded (Average)
1. Oversight body is a multi-member board, commission, or panel created by statute	10	10	10	10
2. Oversight body was statutorily created specifically to oversee private postsecondary institutions	10	0	0	0
3. Multi-member board, commission, or panel is the ultimate decision maker (as opposed to a single person, like the head of a department or director)	10	10	10	10
4. Oversight body can engage in rulemaking	10	10	10	10
5. Oversight body's meetings must be open to the public	5	5	5	5
6. Oversight body's meetings must allow public comment	5	5	5	5
7. Oversight body can initiate investigations	5	5	5	5
8. Oversight body can impose penalties for violations	5	5	5	5
<b>Total Points</b>	60	50	50	50

**Explanation:**

Oregon has created the Higher Education Coordinating Commission, which is responsible for oversight and regulation of postsecondary educational institutions in Oregon, including both private career schools (Type 1) (O.R.S. § 345.045 *et seq.*) and private postsecondary degree-granting schools (Type 2) (O.R.S. § 348 *et seq.*)

The Commission is responsible for rulemaking and has authority to initiate investigations and impose penalties. (O.R.S. § 350.075 (both); O.R.S. § 345.120 (Type 1); O.R.S. §§ 348.603, 348.609 (Type 2).)

The Commission's meetings must be open to the public, and it has several processes for public comment. (O.R.S. § 192.630.)

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**B. STATUTE-SPECIFIED MEMBERSHIP:**

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**1. TO WHAT EXTENT ARE LIMITATIONS PLACED ON FOR-PROFIT  
MEMBERSHIP ON THE OVERSIGHT BODY?**

**25/25 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Explicit prohibition on for-profit majority, plus no possibility of a majority of the quorum	Explicit prohibition on for-profit majority	Discouraged	No prohibition specified, but not discouraged	For-profit majority mandated
Type 1	25 Points	20 Points	10 Points	0 Points	-5 Points
Type 2	25 Points	20 Points	10 Points	0 Points	-5 Points

**Explanation:**

**Type 1 and Type 2: Private career schools and degree-granting schools.** Members and employees of the Commission may not have financial interests in a career school and may not act as agents or employees of any career school. (O.R.S. § 345.020.)

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**2. IS THE OVERSIGHT BODY MANDATED TO INCLUDE  
AT LEAST ONE CONSUMER ADVOCATE?**

**0/10 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	No
Type 1	10 Points	0 Points
Type 2	10 Points	0 Points

**Explanation:**

**Type 1 and Type 2: Private career schools and degree-granting schools.** Oregon law does not require the Commission to include a consumer advocate. Although the law requires student membership (O.R.S. § 350.050), and a student is a consumer that may be acting as an advocate for other student consumers, a student is not a consumer advocate for the purposes of this element. A state must require at least one member of the oversight body to be an individual with expertise and experience in the area of consumer advocacy.

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**3. ARE THE MEMBERS APPOINTED BY A PUBLICLY ACCOUNTABLE  
OFFICIAL OR ELECTED IN A GENERAL ELECTION?**

**5/5 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	All	Majority	Half	Minority	None
Type 1	5 Points	3 Points	2.5 Points	1 Point	0 Points
Type 2	5 Points	3 Points	2.5 Points	1 Point	0 Points

**Explanation:**

**Type 1 and Type 2: Private career schools and degree-granting schools.** The Governor appoints all members of the Commission, and voting members must be confirmed by the Senate. (O.R.S. § 350.050.) Of the 14 Commission members, nine members have voting power. To fill the voting positions, the Governor appoints one member from each of the five congressional districts, and 4 members are appointed from the general public. The Governor also appoints five nonvoting members to the Commission. The five nonvoting positions consist of the following: one student at a public university listed in ORS 352.002; one faculty member at a public university listed in ORS 352.002; one student at a community college; one faculty member at a community college; and one non-faculty member of the staff from either a public university listed in ORS 352.002 or a community college. (O.R.S. § 350.050.)

## II. STATE OVERSIGHT—EFFICACY: **54.5/100 POINTS**

### A. DOES THE STATE REQUIRE ONSITE REVIEW OF PRIVATE POSTSECONDARY INSTITUTIONS?

**6.5/10 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Mandatory onsite reviews			Discretionary	None
	Every 2 years or less	Every 3-5 years	Over 5 years	Discretion to conduct onsite reviews	No onsite review specified
<b>Type 1</b>	10 Points	8 Points	5 Points	<b>3 4 Points</b>	0 Points
<b>Type 2</b>	<b>4 9 Points</b>	8 Points	5 Points	3 Points	0 Points

**Explanation:**

**Type 1: Private career schools.** After an institution's initial licensure, the Commission has discretion to perform annual onsite review; it not mandatory. (O.R.S. § 348.597; Or. Admin. R. 715-045-0006; Or. Admin. R. 715-045-0065; Or. Admin. R. 583-030-0035.) However, one additional point is awarded because the Commission must conduct an onsite inspection before an institution's initial licensure.

**Type 2: Private degree-granting schools.** In the course of evaluation, the Commission's staff will ordinarily inspect the facilities and records of a school and interview officials, employees, or students of the school as necessary to obtain sufficient information. The staff may also interview employers of school graduates and representatives of organizations that appear closely related to the school. (Or. Admin. R. 583-030-0032.) Authorization is given for a specific degree for a fixed period of not less than two or more than four calendar years. The executive director may vary the length of approval periods by up to one year subject to the four-year limit in order to consolidate applications or renewals for the convenience of the school or the Commission. (Or. Admin. R. 583-030-0020(5)(c).) Because the state gives authorizations for 2–4 years, it receives 9 points, rather than the full 10 points for this element.

### B. DOES THE STATE REQUIRE UNANNOUNCED INSPECTIONS FOR ONSITE REVIEWS?

**1.5/5 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Required unannounced visits	Discretion to do unannounced visits	No indication
<b>Type 1</b>	5 Points	3 Points	<b>0 Points</b>
<b>Type 2</b>	5 Points	<b>3 Points</b>	0 Points

**Explanation:**

**Type 1: Private career schools.** Oregon law does not require or authorize unannounced inspections for private career schools.

**Type 2: Private degree-granting schools.** Oregon law does not require unannounced inspections. However, institutions must remain open for inspection at all times. (Or. Admin. R. 583-030-0035.)

**C. DOES THE STATE REQUIRE REGULAR REVIEWS OF PRIVATE POSTSECONDARY APPROVAL TO OPERATE?**

**18.75/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Mandatory			Discretionary	None
	Every 2 years or less	Every 3-5 years	Over 5 years	Discretion to conduct review	No review specified
<b>Type 1</b>	<b>20 Points</b>	15 Points	10 Points	5 Points	0 Points
<b>Type 2</b>	<b>20 17.5 Points</b>	15 Points	10 Points	5 Points	0 Points

**Explanation:**

**Type 1: Private career schools.** Oregon law requires private schools to renew their license annually. (Or. Admin. R. 715-045-0062(1).) When an institution renews its license, it is required to provide the same information it provided during its initial licensing. (Or. Admin. R. 715-045-0062(1).)

**Type 2: Private degree-granting schools.** Authorization is given for a specific degree for a fixed period of not less than two or more than four calendar years. The executive director may vary the length of approval periods by up to one year subject to the four-year limit in order to consolidate applications or renewals for the convenience of the school or the Commission. (Or. Admin. R. 583-030-0020(5)(c).)

**D. DO THE CRITERIA FOR RENEWAL OF AUTHORIZATION MANDATE A REVIEW OF FACTORS ESSENTIAL TO ACADEMIC AND ETHICAL INTEGRITY?**

**15.25/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	8 of 8	7 of 8	6 of 8	5 of 8	4 of 8	3 of 8	2 of 8	1 of 8	0 of 8
<b>Type 1</b>	20 Points	17.5 Points	15 Points	<b>12.5 13.5 Points</b>	10 Points	7.5 Points	5 Points	2.5 Points	0 Points
<b>Type 2</b>	20 Points	17.5 Points	<b>15 17 Points</b>	12.5 Points	10 Points	7.5 Points	5 Points	2.5 Points	0 Points



Element	Type 1	Type 2
Admission requirements	M	M
Graduation requirements	M	M
Placement rate	M	M
Completion rate (or graduation rate)	M	D
Advertising practices	M	M
Cohort default rate		D
Accreditation status	D	M
Financial aid policies		M

*M=Mandatory; D=Discretionary*

**Explanation:**

**Type 1: Private career schools.** Institutions must disclose their students' placement rates, completion rates, and advertising practices during the review process. Institutions must submit the most recent version of their catalog for review; because the catalog includes detailed information about admission requirements and graduation requirements, Oregon receives credit for requiring both of those elements as well. (OR Admin. R. 715-045-0062.) The Commission may review other facts, such as accreditation status, and Oregon receives one additional point for this discretionary element. (O.R.S. § 345.030.) There is no indication that Oregon requires review of institutional cohort default rates or financial aid policies for authorization or renewal.

**Type 2: Private degree-granting schools.** In order to receive and hold authorization to offer in or from Oregon instruction or related services leading to one or more degrees, a school must remain open to inspection at all times and continuously satisfy standards articulated in Or. Admin. R. 583-030-0035. Review of an application to offer instruction or related services leading to a degree or certificate includes evaluation of the school and its proposed programs in relation to the state academic standards set forth in Or. Admin. R. 583-030-0035. The standards include each of the above listed elements as either mandatory or discretionary.

While there is no explicit language requiring the Commission is to review placement rates, schools are required to provide placement rates on a disclosure fact sheet provided to students and the Commission requires the fact sheet as a condition of authorization. (Or. Admin. R. 583-030-0035(12)(c).) Further, schools are required to conduct an evaluation of present curriculum and instruction, of attrition and reasons for student withdrawal, and of performance by students after their graduation. (Or. Admin. R. 583-030-0035(19).) Also, the Commission requires that where a degree or certificate implies preparation for a specific occupation, the school explain clearly the true relationship between its curriculum and subsequent student qualification for occupational practice. Including employment rates in the field and the graduates' success rates in passing licensing exams. (Or. Admin. R. 583-030-0035(8)(d).)

Similarly, there is no indication that the Commission is required to review graduation rates or cohort default rates; however, schools are required to provide this information on a disclosure fact sheet provided to students and the Commission requires the fact sheet as a condition of authorization. (Or. Admin. R. 583-030-0035 (12)(c).)

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E. DOES THE STATE'S OVERSIGHT DISTINGUISH BETWEEN FOR-PROFIT AND NONPROFIT POSTSECONDARY INSTITUTIONS?

**7.5/15 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, strongly distinguished	Yes, moderately distinguished	Yes, slightly distinguished	Not distinguished
Type 1	15 Points	10 Points	5 Points	0 Points
Type 2	15 Points	10 Points	5 Points	0 Points

**Explanation:**

**Type 1: Private career schools.** Oregon law does not distinguish between for-profit and nonprofit career schools.

**Type 2: Private degree-granting schools.** Oregon law distinguishes between for-profit and nonprofit degree granting schools. Nonprofit schools are exempt from evaluation so long as they continue to continue to meet the requirements set forth for exemption (remain a nonprofit school that is exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code). (O.R.S. § 348.597.) For-profit institutions are subject to more requirements for disclosing information related to financial interests and ownership composition. (Or. Admin. R. 583-030-0035.)

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F. DOES THE STATE REQUIRE INCREASED OVERSIGHT/SCRUTINY OF PRIVATE POSTSECONDARY INSTITUTIONS BASED ON POOR PERFORMANCE?

**5/10 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, mandatory	Yes, mandatory but limited	Yes, discretionary	Yes, discretionary but limited	No
Type 1	10 Points	7.5 Points	5 Points	2.5 Points	0 Points
Type 2	10 Points	7.5 Points	5 Points	2.5 Points	0 Points

**Explanation:**

**Type 1: Private career schools.** If a career institution performs poorly, the Commission may place it on probation, and/or it may withdraw approval based on consecutive poor performance reviews. (Or. Admin. R. 715-045-0064.)

**Type 2: Private degree-granting schools.** There is no indication that increased oversight is required if a degree-granting institutions performs poorly in terms of low graduation rates, high cohort default rates, low placement rates and other measures related to outcomes. However, in Oregon, a school is defined as “at risk” if it demonstrates one or more of the following conditions that the Commission determines may cause potential serious problems for the continued successful operation of the organization: failure to meet the standards of financial responsibility; misrepresentation; frequent substantiated complaints filed with the Commission; significant decrease in enrollment from the previous reporting year; or significant staff turnover from the previous reporting year. (Or. Admin R. 583-030-0015.) Schools deemed to be “at risk” are subject to increased oversight and scrutiny. (Or. Admin R. 583-030-0045.)

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G. DOES STATE LAW INCLUDE ANY SPECIAL PROTECTIONS FOR VETERANS WHO ATTEND PRIVATE POSTSECONDARY INSTITUTIONS?

**0/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	No
Type 1	20 Points	0 Points
Type 2	20 Points	0 Points

**Explanation:**

**Type 1 and Type 2: Private career schools and degree-granting schools.** Oregon law does not include special protections for veterans, but there is a state-run website for the Oregon State Approving Agency for Veterans Education that provides veterans with helpful information:

<http://www.oregon.gov/highered/institutions-programs/private/Pages/state-approving-agency-veterans.aspx>.

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### III. STATE OVERSIGHT—SCOPE AND INCLUSION:

**50/100 POINTS**

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A. ARE EXEMPTIONS TO STATE OVERSIGHT COVERAGE LIMITED?

**50/100 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	No exemptions	Few exemptions	Moderate exemptions	Broad exemptions
Type 1	100 Points	75 Points	50 Points	0 Points
Type 2	100 Points	75 Points	50 Points	0 Points

**Explanation:**

**Type 1: Private career schools.** Oregon law provides moderate exemptions from the Commission's oversight. Most exemptions apply to programs for professional or personal development courses where the enrollee will likely be a practicing or previously trained professional. The Commission also has discretion to exempt schools it determines are adequately regulated by other means that guarantee the school meets the standards specified in statute. (O.R.S. § 345.015.)

**Type 2: Private degree-granting schools.** As previously noted, 501(c)(3) non-profit, accredited institutions are exempt from the Commission's oversight. State-run universities and colleges are exempt from the commission's oversight. (O.R.S. § 348.597.) In addition, a regionally-accredited nonprofit school or separately regionally accredited campus of a nonprofit school that has operated at least one program approved by the Commission, or its predecessor agencies, in Oregon for at least five consecutive years is exempt unless otherwise noted. (Or. Admin. R. 583-030-0010; Or. Rev. Stat. Ann. § 348.597.) For purposes of this report, the substitution of regional accrediting association standards would generally be considered weak oversight. The element is graded as moderate exemptions here because the rules maintain some discretion for the Commission to retain control of the standards in Oregon.

#### IV. DISCLOSURE REQUIREMENTS: 58.75/100 POINTS

##### A. ARE INSTITUTIONS REQUIRED TO DISCLOSE INSTITUTIONAL PERFORMANCE MEASURES TO POTENTIAL STUDENTS?

**10/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, mandatory	Yes, discretionary	None
	Fact sheet or equivalent required to be given to students	Fact sheet or equivalent given to students upon request	No fact sheet required
Type 1	20 Points	10 Points	0 Points
Type 2	20 Points	10 Points	0 Points

##### Explanation:

**Type 1: Private career schools.** Career institutions are required to disclose their catalogs, which are likely to be on their website. In addition, Oregon law allows institutions to disclose other media that publish relevant academic information. However, Oregon law does not require performance measures to be disclosed—only information related to academic programs, costs, and fees (O.R.S. § 345.325), as well as any career-related services offered by the institution. (Or. Admin. R. 715-045-0019.)

**Type 2: Private degree-granting schools.** “A school authorized to offer instruction or related services leading to one or more degrees under the standards in OAR 583-030-0035 shall provide students, prior to enrollment, a copy of a basic program and school fact page for each program for which a certificate or degree is offered.” (Or. Admin. R. 583-030-0035(12)(c).)

##### B. WHICH INSTITUTIONAL PERFORMANCE DISCLOSURES ARE REQUIRED TO BE GIVEN TO STUDENTS PRIOR TO ENROLLMENT?

**30/60 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

##### **Type 1: Private career schools**

Disclosures	Mandatory	Discretionary	Not specified
Cohort default rate (CDR)	10 Points	5 Points	0 Points
Graduation / completion rates	10 Points	5 Points	0 Points
Placement rates	10 Points	5 Points	0 Points
Wage information	10 Points	5 Points	0 Points
License exam passage rates	10 Points	5 Points	0 Points
Methods & sources used to calculate	10 Points	5 Points	0 Points

##### Explanation:

Oregon law does not require any of the above information to be disclosed to students prior to their enrollment. (O.R.S. § 345.325; Or. Admin. R. 715-045-0019.) Institutions must submit accurate data identifying completion and placement rates to the Commission, but they are not required to disclose this data to potential students. (Or. Admin. R. 715-045-0064.)

*Type 2: Private degree-granting schools*

Disclosures	Mandatory	Discretionary	Not specified
Cohort default rate (CDR)	10 Points	5 Points	0 Points
Graduation / completion rates	10 Points	5 Points	0 Points
Placement rates	10 Points	5 Points	0 Points
Wage information	10 Points	5 Points	0 Points
License exam passage rates	10 Points	5 Points	0 Points
Methods & sources used to calculate	10 Points	5 Points	0 Points

**Explanation:**

All of the above disclosures are required. Although the applicable regulation does not explicitly require schools to disclose methods and sources, it defines precisely what the information is and the source from which the schools must obtain the data. Disclosure related to license exam passage rates is required where applicable pursuant to Or. Admin. R. 583-030-0035(8)(d).

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**C. DOES THE STATE REQUIRE SCHOOLS TO INCLUDE ELEMENTS ESSENTIAL TO STUDENT PROTECTION IN THE ENROLLMENT CONTRACT?**

**18.75/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

*Type 1: Private career schools*

Element description	Mandatory	Discretionary	Not specified
Total cost of program	5 Points	2.5 Points	0 Points
Refund information	5 Points	2.5 Points	0 Points
Transferability of credits	5 Points	2.5 Points	0 Points
Length of program	5 Points	2.5 Points	0 Points

**Explanation:**

Career institutions are required to disclose the total cost of the program, refund information, and the amount of time required to complete the program. Oregon law is unclear regarding transferability of credits. Institutions must disclose any articulation agreements with other institutions, but if an institution has no articulation agreement with any other institutions, then the institution would not have to disclose that its credits may not be transferrable to any institution whatsoever. This could surprise and mislead students into believing that the credits earned at the institution would be transferrable when they in fact are not. (Or. Admin. R. 715-045-0019.)

*Type 2: Private degree-granting schools*

Element Description	Mandatory	Discretionary	Not specified
Total cost of program	5 Points	2.5 Points	0 Points
Refund information	5 Points	2.5 Points	0 Points
Transferability of credits	5 Points	2.5 Points	0 Points
Length of program	5 Points	2.5 Points	0 Points

**Explanation:**

Degree-granting institutions are required to disclose all elements outlined above. (Or. Admin. R. 583-030-0035.)

## V. REGULATION OF RECRUITING PRACTICES:

**87.5/100 POINTS**

### A. HAS THE STATE PUT INTO LAW A LIST OF PROHIBITED ACTS REGARDING ADVERTISING AND RECRUITING?

**87.5/100 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, strong regulation	Yes, moderate regulation	Yes, weak regulation	No list of prohibited acts
Type 1	100 Points	75 Points	50 Points	0 Points
Type 2	100 Points	75 Points	50 Points	0 Points

#### PROHIBITED ACTS

Included in list of prohibited acts	Type 1	Type 2
Misleading representations using the word “college” or “university”	X	X
Misleading institution affiliations (e.g., military, public institution, business)	/	/
Promise of employment		X
Compensation for enrollment	X	X
Compensation or “bounty” to recruiters		X
Deception (broad prohibition)	X	X
Misrepresentation (broad prohibition)	X	X
Misleading representations re: accreditation	/	X

*1–3=Weak; 3.5–6=Moderate; 6.5–8=Strong*

#### Explanation:

**Type 1: Private career schools.** Oregon law lacks an explicit prohibition on employment promises, and compensation or bounties for recruiters are not prohibited. (O.R.S. § 345.325; Or. Admin. R. 715-045-0034, 715-045-0060, 583-030-0035.) Oregon receives partial credit for two of the elements that relate to deceptive or misleading representations regarding the affiliations and accreditation of the institution, because there is a blanket prohibition on deceptive or misleading advertisements.

**Type 2: Private degree-granting schools.** Oregon has in place strict guidance for recruiters and recruiting practices related to degree-granting schools. (Or. Admin. R. 583-030-0035.) Though the state does not explicitly prohibit misleading students as to institutional affiliations, there is a provision in place that requires schools to use a name that is consistent with its purpose and educational programs. The state receives partial credit for this element because the provision will have a substantially similar effect to prohibiting misleading students regarding institutional affiliations. (Or. Admin. R. 583-030-0035(1).)

## VI. COMPLAINT PROCESS & RELIEF FOR STUDENTS:

**52.75/100 POINTS**

### A. DOES THE STATE REQUIRE A BOND OR FUND AS A CONDITION OF AUTHORIZATION?

**15/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	No
Type 1	20 Points	<b>0 10 Points</b>
Type 2	<b>20 Points</b>	0 Points

#### Explanation:

**Type 1: Private career schools.** Oregon law does not require a bond or fund as a condition of authorization. However, Oregon receives partial credit here for requiring a “capitalization deposit” from career schools as a condition of authorization. (Or. Admin. R. 715-045-0029.)

**Type 2: Private degree-granting schools.** Degree-granting schools must provide a bond or a letter of credit as a condition of authorization. (Or. Rev. Stat. Ann. § 348.613.)

### B. DOES THE STATE REQUIRE A REFUND OF TUITION IF A STUDENT ENROLLS AS THE RESULT OF MISREPRESENTATION?

**0/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, full refund	Yes, partial refund	No refund required
Type 1	20 Points	10 Points	<b>0 Points</b>
Type 2	20 Points	10 Points	<b>0 Points</b>

#### Explanation:

**Type 1: Private career schools.** Oregon law does not specify that private career schools must refund tuition payments if the student enrolled because of a misrepresentation. Misrepresentations are prohibited by law and as such, institutions would likely be subject to penalties. There are no indications, however, that the institutions would be required to provide a refund. (O.R.S. § 345.325. Or. Admin. R. 715-045-0034.)

**Type 2: Private degree-granting schools.** Oregon law does not specify that degree-granting schools must refund tuition payments if the student enrolled because of a misrepresentation.

### C. DOES THE STATE REQUIRE INSTITUTIONS TO REFUND TUITION IN THE EVENT OF CLOSURE?

**15/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*



	Yes, full refund	Yes, partial refund	Yes, refund in limited circumstances	No refund required
<b>Type 1</b>	20 Points	<b>15 Points</b>	10 Points	0 Points
<b>Type 2</b>	20 Points	<b>15 Points</b>	10 Points	0 Points

**Explanation:**

**Type 1: Private career schools.** Oregon law instituted the Tuition Protection Fund to protect student from insolvent institutions. However, Oregon law does not specify that the Fund will always fully reimburse a student. (O.R.S. 345.110.) An institution's income also sets a ceiling on the student's recovery from the Fund, and other limitations on recovery also exist by law. (Or. Admin. R. 715-045-0029.)

**Type 2: Private degree-granting schools.** Oregon law requires schools to have financial resources sufficient to ensure successful continuing operation and to guarantee full refund of any unearned tuition. The law ensures continued compliance by requiring schools to submit an independently audited financial statements with opinion by a certified public accountant. A school that is unable to demonstrate financial strength may be required, at the discretion of the Commission's Executive Director, to increase the amount of its surety bond or letter of credit. (Or. Admin. R. 715-045-0035 (17).) In addition, Oregon requires that schools maintain fee and refund policies that are fair, uniformly administered, and clearly explained in the school catalog as well as in any contract made with students. (Or. Admin. R. 715-045-0035(18).) Therefore, refunds are available to students upon school closure, however, there is no language that would mandate a full refund, merely a refund of unearned tuition.

**D. DOES THE STATE ALLOW STUDENTS AMPLE TIME TO MAKE A COMPLAINT?**

**5.5/10 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	2 years or more (or no deadline)	1-2 years	0 – 1 Year	Not applicable
<b>Type 1</b>	10 Points	5 Points	<b>1 Point</b>	0 Points
<b>Type 2</b>	<b>10 Points</b>	5 Points	1 Point	0 Points

**Explanation:**

**Type 1: Private career schools.** Students must file a complaint within one year of their last date of attendance. Students who have discontinued their enrollment are more limited in their ability to make a complaint than an enrolled student. (Or. Admin. R. 715-045-0023.)

**Type 2: Private degree-granting schools.** There is no deadline specified for students to file a complaint against a private degree-granting school.

**E. DOES THE STATE REQUIRE INSTITUTIONS TO DISCLOSE INFORMATION ABOUT FILING A COMPLAINT WITH THE STATE OVERSIGHT BODY?**

**11.25/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

**Type 1: Private career schools**



Medium	Yes	Discretionary	Not specified
Catalog	10 Points	5 Points	0 Points
Website	5 Points	2.5 Points	0 Points
Enrollment contract	5 Points	2.5 Points	0 Points

**Explanation:**

Institutions must disclose the student's ability to file a complaint in the catalog and on the enrollment contract. Given that many institutions post their catalog or information therein on their website, this information is also likely to appear on the institution's website, though not required. (O.R.S. § 345.117; Or. Admin. R 715-045-0019.)

***Type 2: Private degree-granting schools***

Medium	Yes	Discretionary	Not specified
Catalog	10 Points	5 Points	0 Points
Website	5 Points	2.5 Points	0 Points
Enrollment contract	5 Points	2.5 Points	0 Points

**Explanation:**

Oregon law does not require schools to disclose complaint procedures in their catalog, on their website, or in their enrollment contract. However, Oregon law does require schools to disclose various policies in their catalogs and it is reasonable to assume that some of these policies may include the complaint process. (Or. Admin. R 583-030-0035 (12).)

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**F. IS THE COMPLAINT PROCESS READILY ACCESSIBLE AND  
AVAILABLE ON THE STATE OVERSIGHT BODY'S WEBSITE?**

**6/10 POINTS**

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Yes, with address	Yes, with phone #	Yes, with email address	Yes, with electronic form	No
2 Points	2 Points	3 Points	2 Points	0 Points

**Explanation:**

***Type 1 and Type 2: Private career schools and degree-granting schools.*** The complaint process is described in documents available on the Commission website. The documents offer electronic forms which must be completed and mailed to a specified address. Forms for complaints related to private career schools, private degree-granting schools, and SARA complaints (students enrolled in online programs from an Oregon-based school) are available at <http://www.oregon.gov/highered/institutions-programs/private/Pages/private-postsecondary-complaints.aspx>. Oregon loses one point because the forms cannot be submitted online; a student must print the form and mail it.

## VII. ENFORCEMENT: 20/100 POINTS

### A. IS THERE LOSS OF STATE AID FOR SCHOOLS THAT REPEATEDLY PRODUCE SUBSTANDARD GRADUATION RATES, JOB PLACEMENT RATES, AND/OR COHORT DEFAULT RATES?

**5/30 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, required	Yes, required but limited	Yes, discretionary	Yes, discretionary but limited	No
Type 1	30 Points	20 Points	15 Points	5 Points	0 Points
Type 2	30 Points	20 Points	15 Points	5 Points	0 Points

#### **Explanation:**

**Type 1: Private career schools.** Oregon law does not explicitly specify that institutions will lose state aid for repeated poor performance. However, institutions could lose aid by failing to maintain their license to operate; this could happen by consistently performing poorly. (See Or. Admin. R. 715-045-006; 715-045-0062.) The Commission may also place an institution on probation for poor performance. (Or. Admin. R. 715-045-0064.)

**Type 2: Private degree-granting schools.** Oregon law does not explicitly specify that institutions will lose state aid for repeated poor performance. Institutions could lose aid by failing to maintain their authorization. There is a process in place for Oregon to revoke or suspend the authorization of “at risk” schools. This could happen if a school is consistently performing poorly. Again, poor performance as defined by graduation rates, cohort default rates, and other outcome measures is not specifically considered, but other relevant factors are considered in the Commission’s process. (Or. Admin. R. 583-030-0045.)

### B. DOES STATE LAW EXPLICITLY AUTHORIZE A PRIVATE RIGHT OF ACTION FOR STUDENTS AGAINST INSTITUTIONS THAT HAVE VIOLATED THE LAWS AND REGULATIONS IN PLACE TO GOVERN THEM?

**0/30 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	Limited circumstances	No
Type 1	30 Points	15 Points	0 Points
Type 2	30 Points	15 Points	0 Points

#### **Explanation:**

**Type 1: Private career schools.** Oregon law does not authorize a private right of action against institutions that have violated the law. However, the Commission may assess \$500 in civil penalties against institutions for each violation of O.R.S. §§ 345.010-345.450. (Or. Admin. R. 715-045-0190.)

**Type 2: Private degree-granting schools.** Oregon law does not authorize a private right of action against institutions that have violated the law.

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**C. DOES STATE LAW EXPLICITLY ALLOW ATTORNEY FEE AWARDS  
FOR STUDENTS WHO PREVAIL IN LITIGATION AGAINST PRIVATE,  
FOR-PROFIT POSTSECONDARY INSTITUTIONS?**

**0/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	Limited	No
Type 1	20 Points	15 Points	0 Points
Type 2	20 Points	15 Points	0 Points

**Explanation:**

**Type 1: Private career schools.** Oregon law does not specify that attorney fees are available for students.

**Type 2: Private degree-granting schools.** Oregon law does not specify that attorney fees are available for students.

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**D. DOES STATE LAW EXPLICITLY AUTHORIZE  
ATTORNEY GENERAL INVOLVEMENT?**

**15/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	Limited circumstances	No
Type 1	20 Points	10 Points	0 Points
Type 2	20 Points	10 Points	0 Points

**Explanation:**

**Type 1: Private career schools.** Oregon law does not expressly specify whether the attorney general is involved when institutions violate the law. Violations of O.R.S. §§ 345.020, 345.030, 345.070, or 345.325 qualify as misdemeanors; these are general provisions relating to the duties of the Commission and the obligations of institutions under the Commission's authority. (O.R.S. § 345.990.) State or local prosecutors would likely be handling these cases as they arise.

**Type 2: Private degree-granting schools.** Or. Admin. R 583-030-0049 specifies that complaints may be brought to a prosecutor against any person acting individually or on behalf of an organization or group. It further states that complaints may be brought to the Oregon Department of Justice against any person acting individually or in concert with others. The Attorney General heads the Oregon Department of Justice.

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**BONUS POINTS:**

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Oregon receives no bonus points.



## ILLUMINATING INFORMATION

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### RECIPROCITY AGREEMENTS

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Oregon is a member of the State Authorization Reciprocity Agreements (SARA).

### LITIGATION, INVESTIGATIONS, AND ACTIONS INVOLVING PRIVATE FOR-PROFIT EDUCATIONAL INSTITUTIONS IN OREGON

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For more information about pending and recent federal and state government investigations and actions regarding for-profit colleges see David Halperin's compilation at <http://www.republicreport.org/2014/law-enforcement-for-profit-colleges/#sthash.1vc4HmPw.dpuf>.

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# PENNSYLVANIA

## FINAL GRADING ANALYSIS

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OVERALL SCORE: **323.75/700 POINTS (46%)**  
LETTER GRADE: **F**

### I. OVERSIGHT BODY: **61.25/100 POINTS**

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#### A. IS THERE A STATUTORILY CREATED OVERSIGHT BODY THAT IS PUBLICLY ACCOUNTABLE?

**55/60 POINTS**

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Element	Points Available	Type 1	Type 2	Total Points (Average)
1. Oversight body is a multi-member board, commission, or panel created by statute	10	10	10	10
2. Oversight body was statutorily created specifically to oversee private postsecondary institutions	10	10	0	5
3. Multi-member board, commission, or panel is the ultimate decision maker (as opposed to a single person, like the head of a department or director)	10	10	10	10
4. Oversight body can engage in rulemaking	10	10	10	10
5. Oversight body's meetings must be open to the public	5	5	5	5
6. Oversight body's meetings must allow public comment	5	5	5	5
7. Oversight body can initiate investigations	5	5	5	5
8. Oversight body can impose penalties for violations	5	5	5	5
Total Points	60	60	50	55

#### Explanation:

Pennsylvania divides oversight and regulation of private postsecondary educational institutions between two entities. The State Board of Private Licensed Schools is charged with oversight, licensure, and regulation of private licensed postsecondary institutions that offer career training (Type 1). (24 P.S. § 6504.) The Pennsylvania State Board of Education is charged with prescribing standards and qualifications, certification, and oversight of all institutions entitled to apply to themselves the designation of “college,” “university,” or “seminary” (Type 2). (24 Pa.C.S. § 6502 *et seq.*, 24 Pa.C.S. § 6502(a).)

**Type 1: Private licensed schools.** Private licensed schools include schools or classes operated for profit or tuition that provide resident instruction to prepare an individual to pursue an occupation in the skilled trades, industry or business, or systematic instruction by correspondence or by telecommunication in a field of study. Private licensed schools do not include private academic schools. (24 P.S. § 6502.) The Board of Private Licensed Schools (BPLS) has the authority to approve, disapprove initial and renewal licensure, suspend or revoke an institution’s license, establish rules and regulations, investigate complaints, and initiate enforcement actions. (24 P.S. § 6504.)

As a state agency (65 Pa.C.S. § 703), BPLS is subject to Pennsylvania’s Sunshine Act, which requires official action and deliberations by a quorum of the members of an agency to take place at a meeting open to the public. (65 Pa.C.S. § 701, *et seq.*) Pennsylvania requires agencies covered by the Sunshine Act to provide reasonable opportunity for comment at meetings. (65 Pa.C.S. § 710.1.)

**Type 2: Private colleges, universities and seminaries.** An institution must conform with specified standards and qualifications in Pennsylvania before it can use the term “college,” “university,” or “seminary.” The Pennsylvania State Board of Education (BOE) sets these standards and qualifications and oversees these institutions. (24 Pa.C.S. § 6501, *et seq.*)

BOE defines a college as an institution which, in accordance with its charter or articles of incorporation, offers 2-year, 4-year or 5-year postsecondary educational programs or their equivalent and which grants associate, baccalaureate or first professional degrees. BOE defines a university as a multiunit institution with a complex structure and diverse educational functions, including instruction, promotion of scholarship, preservation and discovery of knowledge, research and service. A university must meet additional specified criteria related to the provision of study and degrees. (22 Pa. Code § 31.2.)

As a state agency (65 Pa.C.S. § 703), BOE is subject to Pennsylvania’s Sunshine Act, which requires official action and deliberations by a quorum of the members of an agency to take place at a meeting open to the public. (65 Pa.C.S. § 701, *et seq.*) Pennsylvania requires agencies covered by the Sunshine Act to provide reasonable opportunity for comment at meetings. (65 Pa.C.S. § 710.1.)

## B. STATUTE-SPECIFIED MEMBERSHIP:

### 1. TO WHAT EXTENT ARE LIMITATIONS PLACED ON FOR-PROFIT MEMBERSHIP ON THE OVERSIGHT BODY?

**–2.5/25 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Explicit prohibition on for-profit majority, plus no possibility of a majority of the quorum	Explicit prohibition on for-profit majority	Discouraged	No prohibition specified, but not discouraged	For-profit majority mandated
<b>Type 1</b>	25 Points	20 Points	10 Points	0 Points	<b>–5 points</b>
<b>Type 2</b>	25 Points	20 Points	10 Points	<b>0 Points</b>	–5 Points

#### **Explanation:**

**Type 1: Private licensed schools.** BPLS, consisting of 15 members, is statutorily required to include three members who represent private licensed schools providing instruction in business and commercial pursuits, three members who represent private licensed schools providing instruction in trades or technologies, three members who represent private licensed schools providing correspondence or home-

study instruction, and five members who are representative of the general public having no current affiliation with private licensed schools. The Director of the Bureau of Consumer Protection in the Office of Attorney General, or a designee, shall serve ex officio and shall have voting rights. (24 P.S. § 6503(a).) While a for-profit majority is not mandated, the mandated composition of the board creates a substantial possibility that the Board will be dominated by individuals affiliated with private for-profit educational institutions; further, the state mandates that the majority of board members are affiliated with the industry the Board is charged with regulating.

**Type 2: Private colleges, universities and seminaries.** BOE consists of 21 members. There are no specific provisions in place which would prohibit individuals affiliated with private for-profit educational institutions from constituting a majority of the members. (24 P.S. § 26-2602-B.)

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**2. IS THE OVERSIGHT BODY S MANDATED TO INCLUDE  
AT LEAST ONE CONSUMER ADVOCATE?**

**6.25/10 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	No
<b>Type 1</b>	<b>10 Points</b>	0 Points
<b>Type 2</b>	10 Points	<b>0 2.5 Points</b>

**Explanation:**

**Type 1: Private licensed schools.** The Director of the Bureau of Consumer Protection in the Office of Attorney General, or a designee, serves as an ex officio member of BPLS and has voting rights. (24 P.S. § 6503(a).)

**Type 2: Private colleges, universities and seminaries.** Pennsylvania does not require the State Board of Education to include an individual with expertise and experience in the area of consumer advocacy. However, the state receives partial credit for this element because it does require the Board's membership to include the Chairman of the Professional Standards and Practices Commission, or a Commission member designated by the chairman (ex officio member on the State Board of Education without voting privileges). (24 P.S. § 26-2602-B(a).)

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**3. ARE THE MEMBERS APPOINTED BY A PUBLICLY ACCOUNTABLE  
OFFICIAL OR ELECTED IN A GENERAL ELECTION?**

**2.5/5 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	All	Majority	Half	Minority	None
<b>Type 1</b>	5 Points	3 Points	2.5 Points	<b>1 Point</b>	0 Points
<b>Type 2</b>	<b>5 Points</b>	3 Points	2.5 Points	1 Point	0 Points

**Explanation:**

**Type 1: Private licensed schools.** The Secretary of Education appoints 14 of the 15 members of the Board of Private Licensed Schools, the Director of the Bureau of Consumer Protection in the Office of Attorney General, or a designee serves as the 15<sup>th</sup> member. (24 P.S. § 6503(a).) Although none of the members are appointed by a publicly accountable official directly, the Secretary is appointed by the governor. As a result, Pennsylvania receives partial credit.

**Type 2: Private colleges, universities and seminaries.** All 21 members of the Pennsylvania State Board of Education are appointed by the governor with the advice and consent of the majority of all members of the Senate. (24 P.S. § 26-2602-B(a).)

## II. STATE OVERSIGHT—EFFICACY: 28.25/100 POINTS

### A. DOES THE STATE REQUIRE ONSITE REVIEW OF PRIVATE POSTSECONDARY INSTITUTIONS?

**3.5/10 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Mandatory onsite reviews			Discretionary	None
	Every 2 years or less	Every 3-5 years	Over 5 years	Discretion to conduct onsite reviews	No onsite review specified
<b>Type 1</b>	10 Points	8 Points	5 Points	<b>3 4 Points</b>	<b>0 Points</b>
<b>Type 2</b>	10 Points	8 Points	5 Points	<b>3 Points</b>	0 Point

#### Explanation:

**Type 1: Private licensed schools.** BPLS has discretion to conduct site visits within the re-licensure period. An additional point is awarded because Pennsylvania law mandates a site visit prior to initial licensure. (22 Pa. Code § 73.55.) There is not, however, any indication as to a timeframe for regular onsite reviews.

**Type 2: Private colleges, universities and seminaries.** Pennsylvania mandates that any institution holding a certificate of authority under the chapter authorizing the conferring of degrees shall be subject to visitation and inspection by representatives of the Department of Education. (24 Pa.C.S. § 6506(a).) There is not, however, any indication as to a timeframe for regular onsite reviews. The state receives one point for giving state officials the authority to conduct onsite visits. These institutions conduct Academic program audits in accordance with § 31.51 Academic program audit.

### B. DOES THE STATE REQUIRE UNANNOUNCED INSPECTIONS FOR ONSITE REVIEWS?

**1.5/5 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Required unannounced visits	Discretion to do unannounced visits	No indication
<b>Type 1</b>	5 Points	<b>3 Points</b>	0 Points
<b>Type 2</b>	5 Points	3 Points	<b>0 Points</b>

#### Explanation:

**Type 1: Private licensed schools.** BPLS has discretion to conduct unannounced site visits. (22 Pa. Code § 73.55.)

**Type 2: Private colleges, universities, and seminaries.** Pennsylvania law mandates that any institution holding a certificate of authority under the chapter authorizing the conferring of degrees shall be subject



to visitation and inspection by representatives of the Department of Education. (24 Pa.C.S. § 6506(a).)  
There is no requirement that these visits must be unannounced.

**C. DOES THE STATE REQUIRE REGULAR REVIEWS OF PRIVATE POSTSECONDARY APPROVAL TO OPERATE?**

**10/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	<b>Mandatory</b>			<b>Discretionary</b>	<b>None</b>
	Every 2 years or less	Every 3-5 years	Over 5 years	Discretion to conduct reviews	No review specified
<b>Type 1</b>	<b>20 Points</b>	15 Points	10 Points	5 Points	0 Points
<b>Type 2</b>	20 Points	15 Points	10 Points	5 Points	<b>0 Points</b>

**Explanation:**

**Type 1: Private licensed schools.** BPLS requires private licensed schools to renew their licenses after the first year and every two years thereafter. (22 Pa. Code § 73.142.)

**Type 2: Private colleges, universities, and seminaries.** Pennsylvania law requires colleges, universities and seminaries to maintain compliance with minimum standards, but there is no formal review or renewal of certification requirement.

**D. DO THE CRITERIA FOR RENEWAL OF AUTHORIZATION MANDATE A REVIEW OF FACTORS ESSENTIAL TO ACADEMIC AND ETHICAL INTEGRITY?**

**8.25/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	<b>8 of 8</b>	<b>7 of 8</b>	<b>6 of 8</b>	<b>5 of 8</b>	<b>4 of 8</b>	<b>3 of 8</b>	<b>2 of 8</b>	<b>1 of 8</b>	<b>0 of 8</b>
<b>Type 1</b>	20 Points	17.5 Points	15 Points	<b>12.5 Points</b>	10 Points	7.5 Points	5 Points	2.5 Points	0 Points
<b>Type 2</b>	20 Points	17.5 Points	15 Points	12.5 Points	10 Points	7.5 Points	5 Points	2.5 Points	<b>0.4 Points</b>

<b>Element</b>	<b>Type 1</b>	<b>Type 2</b>
<b>Admission requirements</b>	<b>M</b>	<b>D</b>
<b>Graduation requirements</b>	<b>M</b>	<b>D</b>
<b>Placement rate</b>	<b>M</b>	
<b>Completion rate (or graduation rate)</b>	<b>M</b>	
<b>Advertising practices</b>	<b>M</b>	
<b>Cohort default rate</b>		
<b>Accreditation status</b>		<b>D</b>
<b>Financial aid policies</b>		<b>D</b>

*M=Mandatory; D=Discretionary*

**Explanation:**

**Type 1: Private licensed schools.** Pennsylvania law requires private licensed schools to provide statistical data on tuition rates, job placement of graduates, percentage of students completing programs, and the level of state support for students for relicensure. (24 P.S. § 6507(a)(9).) Pennsylvania law requires regular review of private licensed school advertising. (24 P.S. § 6512.) The law also requires schools to submit copies of school publications as specified. (22 Pa. Code § 73.52.) The publications must contain admission and graduation requirements. (22 Pa. Code § 73.61.) Publications include information about admission and graduation requirements, the requirements must also be specifically reviewed for program approval, which is a component of licensure. (22 Pa. Code § 73.81(1).)

**Type 2: Private colleges, universities, and seminaries.** There is no set timeframe for regular reviews of colleges, universities, and seminaries once they are authorized. However, these institutions are required to continue to comply with minimum standards in order to maintain authorization to operate. (24 Pa.C.S. § 6503; 22 Pa. Code § 31.1 (d); 22 Pa. Code § 31.53.) The standards reviewed are admission requirements (22 Pa. Code § 31.31, 22 Pa. Code § 40.42), graduation requirements, accreditation status, and the proposed catalog, among other requirements. (22 Pa. Code § 40.42.) Financial aid policies are included in the minimum standards related to student services and records (22 Pa. Code § 31.33) and as such would likely be subject to review. Because there is no regular review timeframe, the state receives only partial credit for the included elements.

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**E. DOES THE STATE'S OVERSIGHT DISTINGUISH BETWEEN FOR-PROFIT AND NONPROFIT POSTSECONDARY INSTITUTIONS?**

**5/15 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, strongly distinguished	Yes, moderately distinguished	Yes, slightly distinguished	Not distinguished
<b>Type 1</b>	15	10	5	<b>0</b>
<b>Type 2</b>	15	<b>10</b>	5	0

**Explanation:**

**Type 1: Private licensed schools.** Pennsylvania law does not distinguish between for-profit and nonprofit colleges in its oversight and regulation of private licensed schools.

**Type 2: Private colleges, universities, and seminaries.** Specified nonprofits are distinguished from for-profit and public colleges, universities, and seminaries in several statutory and regulatory provisions. For example, 24 Pa.C.S. §§ 6505, 6503, and 6507.1, and 22 Pa. Code §§ 40.3, 40.4, and 40.51 all distinguish nonprofits in some way.

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**F. DOES THE STATE REQUIRE INCREASED OVERSIGHT/SCRUTINY OF PRIVATE POSTSECONDARY INSTITUTIONS BASED ON POOR PERFORMANCE?**

**0/10 POINTS\***

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*\*The points for Type 1 and Type 2 institutions have been averaged for the final element score, above.*

	Yes, Mandatory	Yes, Mandatory but Limited	Yes, Discretionary	Yes, Discretionary but Limited	No
<b>Type 1</b>	10 Points	7.5 Points	5 Points	2.5 Points	<b>0 Points</b>
<b>Type 2</b>	10 Points	7.5 Points	5 Points	2.5 Points	<b>0 Points</b>

**Explanation:*****Type 1: Private Licensed Schools:***

Pennsylvania requires private licensed schools to provide statistical data on tuition rates, job placement of graduates, percentage of students completing programs, and the level of state support for students for re-licensure. **24 P.S. § 6507(a)(9)** There is, however, no specific requirement that schools that repeatedly perform poorly are subject to additional oversight or scrutiny.

***Type 2: Private Colleges, Universities and Seminaries:***

Pennsylvania does not require increased oversight or scrutiny of colleges, universities or seminaries institutions based on poor performance.

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**G. DOES STATE LAW INCLUDE ANY SPECIAL PROTECTIONS FOR VETERANS WHO ATTEND PRIVATE POSTSECONDARY INSTITUTIONS?**

**0/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	No
Type 1	20 Points	0 Points
Type 2	20 Points	0 Points

**Explanation:**

***Type 1: Private licensed schools.*** Pennsylvania law does not include any special protections specifically for veterans who attend private licensed schools.

***Type 2: Private colleges, universities, and seminaries.*** Pennsylvania law does not include any special protections specifically for veterans who attend colleges, universities, or seminaries.

### **III. STATE OVERSIGHT—SCOPE AND INCLUSION:**

**75/100 POINTS**

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**A. ARE EXEMPTIONS TO STATE OVERSIGHT COVERAGE LIMITED?**

**75/100 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	No exemptions	Few exemptions	Moderate exemptions	Broad exemptions
Type 1	100 Points	75 Points	50 Points	0 Points
Type 2	100 Points	75 Points	50 Points	0 Points

**Explanation:**

***Type 1: Private licensed schools.*** Pennsylvania law exempts few private licensed schools from licensure. Private academic schools are exempt, as are schools or classes providing training in public service or other service occupations as specified, barber schools, flight training schools, degree-granting institutions, private tutorial schools, schools owned and operated by a bona fide religious institution for the sole purpose of giving religious instruction, a school operated by the Commonwealth or a political subdivision

thereof, a school which is operated by a hospital licensed under the Health Care Facilities Act, and other common exemptions.

**Type 2: Private colleges, universities, and seminaries.** Pennsylvania law exempts very few private colleges, universities or seminaries. The state exempts certain nonprofits and has some narrowly tailored exceptions for corporations which were in compliance under a prior law (Nonprofit Corporation Law of 1933) and certain corporations incorporated prior to September 1, 1937. (24 Pa.C.S. § 6503.)

#### IV. DISCLOSURE REQUIREMENTS: **12.5/100 POINTS**

##### A. ARE INSTITUTIONS REQUIRED TO DISCLOSE INSTITUTIONAL PERFORMANCE MEASURES TO POTENTIAL STUDENTS?

**0/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, mandatory	Yes, discretionary	None
	Fact sheet or equivalent required to be given to students:	Fact sheet or equivalent given to students upon request:	No fact sheet required
Type 1	20 Points	10 Points	0 Points
Type 2	20 Points	10 Points	0 Points

##### **Explanation:**

**Type 1: Private licensed schools.** Pennsylvania law does not explicitly require private licensed schools to make any performance disclosures directly to potential students prior to enrollment.

**Type 2: Private colleges, universities, and seminaries.** Pennsylvania law does not explicitly require private colleges, universities, or seminaries to make any performance disclosures directly to potential students prior to enrollment.

##### B. WHICH INSTITUTIONAL PERFORMANCE DISCLOSURES ARE REQUIRED TO BE GIVEN TO STUDENTS PRIOR TO ENROLLMENT?

**0/60 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

##### **Type 1: Private licensed schools**

Disclosures	Mandatory	Discretionary	Not specified
Cohort default rate (CDR)	10 Points	5 Points	0 Points
Graduation / completion rates	10 Points	5 Points	0 Points
Placement rates	10 Points	5 Points	0 Points
Wage information	10 Points	5 Points	0 Points
License exam passage rates	10 Points	5 Points	0 Points
Methods & sources used to calculate	10 Points	5 Points	0 Points

**Explanation:**

Pennsylvania law does not explicitly require private licensed schools to make any performance disclosures directly to potential students prior to enrollment.

***Type 2: Private colleges, universities, and seminaries***

Disclosures	Mandatory	Discretionary	Not specified
Cohort default rate (CDR)	10 Points	5 Points	0 Points
Graduation / completion rates	10 Points	5 Points	0 Points
Placement rates	10 Points	5 Points	0 Points
Wage information	10 Points	5 Points	0 Points
License exam passage rates	10 Points	5 Points	0 Points
Methods & sources used to calculate	10 Points	5 Points	0 Points

**Explanation:**

Pennsylvania law does not explicitly require private colleges, universities, or seminaries to make any performance disclosures directly to potential students prior to enrollment.

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**C. DOES THE STATE REQUIRE SCHOOLS TO DISCLOSE ELEMENTS  
ESSENTIAL TO STUDENT PROTECTION PRIOR TO ENROLLMENT OR  
IN THE ENROLLMENT CONTRACT?**

**12.5/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

***Type 1: Private licensed schools***

Element Description	Mandatory	Discretionary	Not specified
Total cost of program	5 Points	2.5 Points	0 Points
Refund information	5 Points	2.5 Points	0 Points
Transferability of credits	5 Points	2.5 Points	0 Points
Length of program	5 Points	2.5 Points	0 Points

**Explanation:**

Private licensed schools must disclose the costs associated with a program, the time required to complete a program, the refund policy of the institution in the enrollment agreement., the school also must include a copy the institution's student information publication. (22 Pa. Code § 73.61.)

***Type 2: Private colleges, universities, and seminaries***

Element Description	Mandatory	Discretionary	Not specified
Total cost of program	5 Points	2.5 Points	0 Points
Refund information	5 Points	2.5 Points	0 Points
Transferability of credits	5 Points	2.5 Points	0 Points
Length of program	5 Points	2.5 Points	0 Points

**Explanation:**

Private colleges, universities, and seminaries must provide each student a copy of the current catalog, in

print or electronic form, upon enrollment. Catalogs must include explicit tuition costs and fees for which students will be charged and a statement of the institution's refund policy. (22 Pa. Code § 31.32.)

## V. REGULATION OF RECRUITING PRACTICES:

**75/100 POINTS**

### A. HAS THE STATE PUT INTO LAW A LIST OF PROHIBITED ACTS REGARDING ADVERTISING AND RECRUITING?

**75/100 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, strong regulation	Yes, moderate regulation	Yes, weak regulation	No list of prohibited acts
<b>Type 1</b>	100 Points	75 Points	50 Points	0 Points
<b>Type 2</b>	100 Points	75 Points	50 Points	0 Points

#### PROHIBITED ACTS

Included in list of prohibited acts	Type 1	Type 2
Misleading representations using the word “college” or “university”	X	X
Misleading institution affiliations (e.g., military, public institution, businesses)	X	
Promise of employment	X	
Compensation for enrollment	X	
Compensation or “bounty” to recruiters		
Deception (broad prohibition)	X	
Misrepresentation (broad prohibition)	X	
Misleading representations re: accreditation	X	

*1-3=Weak; 3.5-6=Moderate; 6.5-8=Strong*

#### Explanation:

**Type 1: Private licensed schools.** Pennsylvania law prohibits private licensed schools from engaging in most of the above-listed actions in addition to several others related to misleading, deceptive, or fraudulent information. (22 Pa. Code § 73.173.)

**Type 2: Private colleges, universities, and seminaries.** Pennsylvania's laws and regulations related to the advertising and recruiting practices of private colleges, universities, and seminaries are far weaker than they are for private licensed schools. Pennsylvania law requires postsecondary institutions to comply with very specific standards before the institution can use the term “college” or “university” in its name. (24 Pa.C.S. § 6502; 22 Pa. Code § 31.2.) Aside from this restraint, none of the above elements are specifically prohibited in relation to the advertising, promotion and recruiting practices of private colleges, universities, and seminaries.

## VI. COMPLAINT PROCESS AND RELIEF FOR STUDENTS:

**51.75/100 POINTS**

### A. DOES THE STATE REQUIRE A BOND OR FUND AS A CONDITION OF AUTHORIZATION?

**15/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	No
Type 1	20 Points	0 Points
Type 2	<del>20</del> 10 Points	0 Points

#### **Explanation:**

**Type 1: Private licensed schools.** Private licensed schools must provide evidence of surety as a condition of licensure or registration. (24 P.S. § 6507; 22 Pa. Code § 73.52.)

**Type 2: Private colleges, universities, and seminaries.** Pennsylvania law does not require a bond, but the state does require colleges, universities and seminaries to have a minimum protective endowment of at least \$500,000 (with exceptions for some religious or eleemosynary institutions). (24 Pa.C.S. § 6502.) Thus, partial credit has been awarded.

### B. DOES THE STATE REQUIRE A REFUND OF TUITION IF A STUDENT ENROLLS AS THE RESULT OF MISREPRESENTATION?

**0/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, full refund	Yes, partial refund	No refund required
Type 1	20 Points	10 Points	0 Points
Type 2	20 Points	10 Points	0 Points

#### **Explanation:**

**Type 1: Private licensed schools.** Pennsylvania law does not explicitly require private licensed schools to refund tuition if a student enrolls as the result of misrepresentation.

**Type 2: Private colleges, universities, and seminaries.** Pennsylvania law does not explicitly require colleges, universities or seminaries to refund tuition if a student enrolls as the result of misrepresentation.

### C. DOES THE STATE REQUIRE INSTITUTIONS TO REFUND TUITION IN THE EVENT OF INSOLVENCY?

**7.5/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, full refund	Yes, partial refund	Yes, refund in limited circumstances	No refund required
Type 1	20 Points	15 Points	10 Points	0 Points
Type 2	20 Points	15 Points	10 Points	0 Points



**Explanation:**

**Type 1: Private licensed schools.** Private licensed schools must provide evidence of surety as a condition of licensure or registration. The purpose of the surety is to reimburse the unearned tuition due students whenever the licensed or registered school closes.

**Type 2: Private colleges, universities, and seminaries.** Pennsylvania law contains provisions relevant to the closure of a college, university or seminary (22 Pa. Code § 31.72), but those provisions do not contain any requirement that the closing institution refund tuition to its students.

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**D. DOES THE STATE ALLOW STUDENTS AMPLE TIME TO MAKE A COMPLAINT?**  
**10/10 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	2 years or more (or no deadline)	1-2 years	Under 1 year	Not applicable
<b>Type 1</b>	<b>10 Points</b>	5 Points	1 Point	0 Points
<b>Type 2</b>	<b>10 Points</b>	5 Points	1 Point	0 Points

**Explanation:**

**Type 1: Private licensed schools.** Pennsylvania law contains no set deadline or timeframe by which a student must file a complaint against a private licensed school.

**Type 2: Private colleges, universities, and seminaries.** Pennsylvania law contains no set deadline or timeframe by which a student must file a complaint against a college, university, or seminary.

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**E. DOES THE STATE REQUIRE INSTITUTIONS TO DISCLOSE INFORMATION ABOUT FILING A COMPLAINT WITH THE STATE OVERSIGHT BODY?**  
**11.25/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

***Type 1: Private Licensed Schools***

Medium	Mandatory	Discretionary	Not specified
<b>Catalog</b>	10 Points	5 Points	<b>0 Points</b>
<b>Website</b>	5 Points	2.5 Points	<b>0 Points</b>
<b>Enrollment contract</b>	<b>5 Points</b>	2.5 Points	0 Points

**Explanation:**

Private licensed schools must disclose their complaint procedure in the enrollment agreement. Schools are not required to include this information in their catalog (publications) or on their websites.

**Notable Provision:**

Pennsylvania law requires the BPLS to submit annually to the Education Committees of the Senate and House of Representatives a report describing the types of complaints received pertaining to private licensed schools. The report must include the source of the complaints, the status of the complaints, Board action initiated, and the elapsed time from the filing of the complaints until final resolution. (24 P.S. § 6504(c).)



*Type 2: Private colleges, universities, and seminaries*

Medium	Mandatory	Discretionary	Not specified
Catalog	10 Points	5 Points	0 Points
Website	5 Points	2.5 Points	0 Points
Enrollment contract	5 Points	2.5 Points	0 Points

**Explanation:**

Private colleges, universities, and seminaries are required to provide information about grievance procedures in the institutional catalog and in “official publications.” An institution’s website would likely be an “official publication,” institutions often post information similar to that included in their catalog online, and the regulations make reference to an electronic version of the catalog, therefore, it is reasonable to conclude that information included in the catalog is included on institutional websites. Institutions must provide students with a catalog upon enrollment, so, while this information is not in the body of the enrollment agreement, it is required as a part of the enrollment process, and the state receives partial credit for the element. (22 Pa. Code § 31.32.)

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**F. IS THE COMPLAINT PROCESS READILY ACCESSIBLE  
AND AVAILABLE ON THE STATE OVERSIGHT BODY’S WEBSITE?**

**8/10 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, with address	Yes, with phone #	Yes, with email address	Yes, with electronic form	No
Type 1	2 Points	2 Points	3 Points	3 1.5 Points	0 Points
Type 2	2 Points	2 1 Points	3 Points	3 1.5 Points	0 Points

**Explanation:**

**Type 1: Private licensed schools.** The BPLS webpage has a link to an electronic complaint form and instructions for filing a complaint. The form must be completed and mailed in. Because the form cannot be submitted directly from the internet, only partial credit is awarded. The form contains an email, phone number, and mailing address (<http://www.education.pa.gov/Postsecondary-Adult/College%20and%20Career%20Education/Pages/Private-Licensed-Schools.aspx#.Vw6jGkrLIV>).

**Type 2: Private colleges, universities and seminaries.** The Department of Education’s website includes a page with information related to filing a complaint with the State Board of Education related to a college, university, or seminary. The page contains a link to an electronic form, which contains a mailing address, fax number, and email address to which the form must be sent. Because the form cannot be submitted directly from the internet, only partial credit is awarded. The form also notes that questions may be sent to the email address (<http://www.education.pa.gov/Documents/Postsecondary-Adult/College%20and%20Career%20Education/Private%20Licensed%20Schools/Community%20Colleges-Colleges-Universities%20and%20Seminaries%20Complaint%20Form.pdf>).

## VII. ENFORCEMENT: 20/100 POINTS

### A. IS THERE LOSS OF STATE AID FOR SCHOOLS THAT REPEATEDLY PRODUCE SUBSTANDARD GRADUATION RATES, JOB PLACEMENT RATES, AND/OR COHORT DEFAULT RATES?

0/30 POINTS\*

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, required	Yes, required but limited	Yes, discretionary	Yes, discretionary but limited	No
Type 1	30 Points	20 Points	15 Points	5 Points	0 Points
Type 2	30 Points	20 Points	15 Points	5 Points	0 Points

#### Explanation:

**Type 1: Private licensed schools.** While Pennsylvania reviews statistical data related to performance outcomes such as graduation rates and placement rates as a condition or relicensure, (24 P.S. § 6507(a)(9)), there is no explicit mandate that a private licensed school lose state funding for repeatedly producing substandard graduation, job placement, or cohort default rates.

**Type 2: Private colleges, universities, and seminaries.** There is no an explicit mandate that a college, university or seminary lose state funding for repeatedly producing substandard graduation, job placement, or cohort default rates.

### B. DOES STATE LAW EXPLICITLY AUTHORIZE A PRIVATE RIGHT OF ACTION FOR STUDENTS AGAINST INSTITUTIONS THAT HAVE VIOLATED THE LAWS AND REGULATIONS IN PLACE TO GOVERN THEM?

0/30 POINTS\*

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	Limited circumstances	No
Type 1	30 Points	15 Points	0 Points
Type 2	30 Points	15 Points	0 Points

#### Explanation:

**Type 1: Private licensed schools.** Pennsylvania law does not contain a private right of action for students to bring against private licensed schools that have violated the laws and regulations in place to govern them.

**Type 2: Private colleges, universities, and seminaries.** Pennsylvania law does not contain a private right of action for students to bring against private colleges, universities, and seminaries that have violated the laws and regulations in place to govern them.

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**C. DOES STATE LAW EXPLICITLY ALLOW ATTORNEY FEE AWARDS FOR STUDENTS WHO PREVAIL IN LITIGATION AGAINST PRIVATE FOR-PROFIT POSTSECONDARY INSTITUTIONS?**

**0/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	Limited circumstances	No
Type 1	30 Points	15 Points	0 Points
Type 2	30 Points	15 Points	0 Points

**Explanation:**

**Type 1: Private licensed schools.** Pennsylvania law does not explicitly authorize attorney fee awards for students who prevail in litigation against private licensed schools.

**Type 2: Private colleges, universities, and seminaries.** Pennsylvania law does not explicitly authorize attorney fee awards for students who prevail in litigation against private colleges, universities, and seminaries.

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**D. DOES STATE LAW EXPLICITLY AUTHORIZE ATTORNEY GENERAL INVOLVEMENT?**

**20/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	Limited circumstances	No
Type 1	20 Points	10 Points	0 Points
Type 2	20 Points	10 Points	0 Points

**Explanation:**

**Type 1: Private licensed schools.** Pennsylvania law mandates inclusion of the Director of the Bureau of Consumer Protection in the Office of Attorney General, or a designee to serve ex officio member of BPLS with voting rights. (24 P.S. § 6503(a).) Additionally, the Attorney General assists with the collection of penalties. (22 Pa. Code § 73.193.)

**Type 2: Private colleges, universities, and seminaries.** Pennsylvania law provides for Attorney General involvement in enforcement of the laws in place to govern private colleges, universities, and seminaries. (24 Pa.C.S. § 6508.)

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**BONUS POINTS:**

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Pennsylvania does not receive any bonus points.



## ILLUMINATING INFORMATION

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### RECIPROCITY AGREEMENTS

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Pennsylvania is a member of the State Authorization Reciprocity Agreements (SARA).

### LITIGATION, INVESTIGATIONS, AND ACTIONS INVOLVING PRIVATE FOR-PROFIT EDUCATIONAL INSTITUTIONS IN PENNSYLVANIA

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For information about pending and recent federal and state government investigations and actions regarding for-profit colleges see David Halperin's compilation at <http://www.republicreport.org/2014/law-enforcement-for-profit-colleges/#sthash.1vc4HmPw.dpuf>.

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# RHODE ISLAND

## FINAL GRADING ANALYSIS

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OVERALL SCORE: **360.25/700 POINTS (51.5%)**  
LETTER GRADE: **F**

### I. OVERSIGHT BODY: **50/100 POINTS**

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#### A. IS THERE A STATUTORILY CREATED OVERSIGHT BODY THAT IS PUBLICLY ACCOUNTABLE?

**45/60 POINTS**

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Element	Points Available	Type 1	Type 2	Points Awarded (Average)
1. Oversight body is a multi-member board, commission, or panel created by statute	10	10	10	10
2. Oversight body was statutorily created specifically to oversee private postsecondary institutions	10	0	0	0
3. Multi-member board, commission, or panel is the ultimate decision maker (as opposed to a single person, like the head of a department or director)	10	10	10	10
4. Oversight body can engage in rulemaking	10	10	10	10
5. Oversight body's meetings must be open to the public	5	5	5	5
6. Oversight body's meetings must allow public comment	5	0	0	0
7. Oversight body can initiate investigations	5	5	5	5
8. Oversight body can impose penalties for violations	5	5	5	5
Total Points	60	45	45	45

#### Explanation:

The Rhode Island Council on Higher Education is charged with regulation and oversight of postsecondary educational institutions. The Council was not created specifically to oversee private postsecondary institutions, rather, it is charged with responsibility for public and independent higher education in the state. (R.I. Gen. Laws § 16-59-4.) The Council separates institutions into whether the certificates they offer are for above associate degree level (Type 1) or below associate degree level (Type 2).

The Council has authority to engage in rulemaking, investigate postsecondary institutions, and impose appropriate penalties. (R.I. Gen. Laws § 16-59-4.) The Council is a public body and, as such, its meetings must be open to the public. (R.I. Gen. Laws § 42-46-3; R.I. Gen. Laws § 16-59-5.) Pursuant to Rhode

Island's Open Meetings Law, public bodies have discretion to provide an open forum during public meetings at which the public may comment, but there is no requirement that the council provide for open forums at their meetings. (R.I. Gen. Laws § 42-46-2(6).)

Note that Rhode Island has separate statutes and regulations for degree-granting and non-degree-granting postsecondary educational institutions; however, this report reviews in detail only those law and regulations governing non-degree-granting postsecondary educational institutions because, with one statutory exception, Rhode Island does not allow private for-profit postsecondary educational institutions to grant degrees.

## B. STATUTE-SPECIFIED MEMBERSHIP:

### 1. TO WHAT EXTENT ARE LIMITATIONS PLACED ON FOR-PROFIT MEMBERSHIP ON THE OVERSIGHT BODY?

**0/25 POINTS**

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Explicit prohibition on for-profit majority, plus no possibility of a majority of the quorum	Explicit prohibition on for-profit majority	Discouraged	No prohibition specified, but not discouraged	For-profit majority mandated
Type 1	25 Points	20 Points	10 Points	0 Points	-5 Points
Type 2	25 Points	20 Points	10 Points	0 Points	-5 Points

#### **Explanation:**

Rhode Island law does put in place any limitations on Council membership specifically related to individuals affiliated with private for-profit educational institutions. (R.I. Gen. Laws § 16-59-2.)

### 2. IS THE OVERSIGHT BODY IS MANDATED TO INCLUDE AT LEAST ONE CONSUMER ADVOCATE?

**0/10 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	No
Type 1	10 Points	0 Points
Type 2	10 Points	0 Points

#### **Explanation:**

Rhode Island law does not specifically mandate the Council to include an individual with expertise and experience in the area of consumer advocacy. (R.I. Gen. Laws § 16-59-2.)

### 3. ARE THE MEMBERS APPOINTED BY A PUBLICLY ACCOUNTABLE OFFICIAL OR ELECTED IN A GENERAL ELECTION?

**5/5 POINTS**

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	All	Majority	Half	Minority	None
Type 1	5 Points	3 Points	2.5 Points	1 Point	0 Points
Type 2	5 Points	3 Points	2.5 Points	1 Point	0 Points

**Explanation:**

The Governor of Rhode Island appoints all members of the Council. (R.I. Gen. Laws § 16-59-2.)

## II. STATE OVERSIGHT—EFFICACY: 43.25/100 POINTS

### A. DOES THE STATE REQUIRE ONSITE REVIEW OF PRIVATE POSTSECONDARY INSTITUTIONS?

**6.5/10 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Mandatory onsite reviews			Discretionary	None
	Every 2 years or less	Every 3-5 years	Over 5 years	Discretion to conduct onsite reviews	No review specified
Type 1	10 Points	8 Points	5 Points	3 4 Points	0 Points
Type 2	10 Points	8 9 Points	5 Points	3 Points	0 Points

**Explanation:**

**Type 1: Below associate level proprietary institutions.** The Commissioner of Higher Education has discretion, at any time during regular business or school hours, with or without notice, to visit a school. (Rhode Island Board of Governors for Higher Education, Regulations Governing Proprietary Schools in Rhode Island § I (Initial Approval, pg. 7) & § IV, 9.4 (pg. 25).) Additionally, one extra point is awarded because the Council requires an onsite visit as part of the initial authorization process.

**Type 2: Above associate level proprietary institutions.** Rhode Island law requires inspections with renewals. (Rhode Island Board of Governors for Higher Education, Regulations Governing Institutions of Higher Education Operating in Rhode Island § II (Initial Approval, pg. 4) & § IV, C (pg. 20).) Additionally, one extra point is awarded because the Council requires an onsite visit as part of the initial authorization process.

### B. DOES THE STATE REQUIRE UNANNOUNCED INSPECTIONS FOR ONSITE REVIEWS?

**1.5/5 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Required unannounced visits	Discretion to do unannounced visits	No indication
Type 1	5 Points	3 Points	0 Points
Type 2	5 Points	3 Points	0 Points

**Explanation:**

**Type 1: Below associate level proprietary institutions.** The Commissioner (or his /her designee) has discretion to conduct onsite visits during regular business or school hours (see above).

**Type 2: Above associate level proprietary institutions.** There is no indication whether inspections may or must be unannounced.

**C. DOES THE STATE REQUIRE REGULAR REVIEWS OF PRIVATE POSTSECONDARY APPROVAL TO OPERATE?**

**20/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	<b>Mandatory</b>			<b>Discretionary</b>	<b>None</b>
	Every 2 years or less	Every 3-5 years	Over 5 years	Discretion to conduct reviews	No review specified
<b>Type 1</b>	<b>20 Points</b>	15 Points	10 Points	5 Points	0 Points
<b>Type 2</b>	<b>20 Points</b>	15 Points	10 Points	5 Points	0 Points

**Explanation:**

**Type 1: Below associate level proprietary institutions.** These institutions are required to submit annual reports as a condition of registration. (R.I. Gen. Laws § 16-40-11.)

**Type 2: Above associate level proprietary institutions.** These institutions that offer certificates above the associate level are required to submit annual reports to the Board. (R.I. Gen. Laws § 16-40-11.)

**D. DO THE CRITERIA FOR RENEWAL OF AUTHORIZATION MANDATE A REVIEW OF FACTORS ESSENTIAL TO ACADEMIC AND ETHICAL INTEGRITY?**

**15.25/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	<b>8 of 8</b>	<b>7 of 8</b>	<b>6 of 8</b>	<b>5 of 8</b>	<b>4 of 8</b>	<b>3 of 8</b>	<b>2 of 8</b>	<b>1 of 8</b>	<b>0 of 8</b>
<b>Type 1</b>	20 Points	17.5 Points	<del>15</del> <b>16 Points</b>	12.5 Points	10 Points	7.5 Points	5 Points	2.5 Points	0 Points
<b>Type 2</b>	20 Points	17.5 Points	15 Points	<del>12.5</del> <b>14.5 Points</b>	10 Points	7.5 Points	5 Points	2.5 Points	0 Points

<b>Element</b>	<b>Type 1</b>	<b>Type 2</b>
<b>Admission requirements</b>	<b>M</b>	<b>M</b>
<b>Graduation requirements</b>	<b>D</b>	<b>M</b>
<b>Placement rate</b>	<b>M</b>	<b>D</b>
<b>Completion rate (or graduation rate)</b>	<b>M</b>	<b>D</b>
<b>Advertising practices</b>	<b>M</b>	<b>M</b>
<b>Cohort default rate</b>		
<b>Accreditation status</b>	<b>M</b>	<b>M</b>
<b>Financial aid policies</b>	<b>M</b>	<b>M</b>

*M=Mandatory; D=Discretionary*

**Explanation:**

The Council requires proprietary schools to meet several standards in order to maintain authorization to operate. The standards include, but are not limited to, standards relating to admission requirements,



advertising practices, accreditation, and financial aid practices. The Council requires proprietary schools to report placement rates and completion rates on a regular basis. Finally, while the Council does not specify review of graduation requirements, it does require that these requirements are disclosed in the student catalog, which the Council reviews regularly, so the information is available for the Council to review at its discretion. (Governors for Higher Education, Regulations Governing Proprietary Schools in Rhode Island, § IV: Standards for the Operation of Proprietary Schools (pp. 17-32).)

**E. DOES THE STATE'S OVERSIGHT DISTINGUISH BETWEEN FOR-PROFIT AND NONPROFIT POSTSECONDARY INSTITUTIONS?**

**0/15 POINTS**

Yes, strongly distinguished	Yes, moderately distinguished	Yes, slightly distinguished	Not distinguished
15 Points	10 Points	5 Points	<b>0 Points</b>

**Explanation:**

Rhode Island law does not distinguish between for-profit and nonprofit proprietary schools; this is true for both Type 1 and Type 2 institutions. However, Rhode Island does distinguish between for-profit and nonprofit schools for the purposes of regulating degree-granting schools (as noted in “illuminating information,” below).

**F. DOES THE STATE REQUIRE INCREASED OVERSIGHT/SCRUTINY OF PRIVATE POSTSECONDARY INSTITUTIONS BASED ON POOR PERFORMANCE?**

**0/10 POINTS**

Yes, mandatory	Yes, mandatory but limited	Yes, discretionary	Yes, discretionary but limited	No
10 Points	7.5 Points	5 Points	2.5 Points	<b>0 Points</b>

**Explanation:**

While the Council requires proprietary schools (both Type 1 and Type 2) to regularly report placement and graduation rates, there is no specific requirement that poorly performing schools are subject to increased oversight or scrutiny.

**G. DOES STATE LAW INCLUDE ANY SPECIAL PROTECTIONS FOR VETERANS WHO ATTEND PRIVATE POSTSECONDARY INSTITUTIONS?**

**0/20 POINTS**

Yes	No
20 Points	<b>0 Points</b>

**Explanation:**

Rhode Island law does not provide any special protections specifically for veterans who attend proprietary schools (for either Type 1 or Type 2 institutions).

### III. STATE OVERSIGHT—SCOPE AND INCLUSION:

**75/100 POINTS**

#### A. ARE EXEMPTIONS TO STATE OVERSIGHT COVERAGE LIMITED?

**75/100 POINTS**

No exemptions	Few exemptions	Moderate exemptions	Broad exemptions
100 Points	<b>75 Points</b>	50 Points	0 Points

**Explanation:**

Rhode Island law contains very few narrowly tailored exceptions to oversight (both Type 1 and Type 2). Specifically, the state exempts under the public school system of this state, any academy, college, university, or institution of education which has been established and conducted within Rhode Island for ten years prior to April 13, 1932, any academy, college, university, or institution of education established by a special act of the general assembly of this state prior to January 1, 1987, and Roger Williams University in Bristol, Rhode Island.

### IV. DISCLOSURE REQUIREMENTS: **12.5/100 POINTS**

#### A. ARE INSTITUTIONS REQUIRED TO DISCLOSE INSTITUTIONAL PERFORMANCE MEASURES TO POTENTIAL STUDENTS?

**0/20 POINTS**

Yes, mandatory	Yes, discretionary	None
Fact sheet or equivalent required to be given to students	Fact sheet or equivalent given to students upon request	No fact sheet required
20 Points	10 Points	<b>0 Points</b>

**Explanation:**

The Council requires proprietary schools (both Type 1 and Type 2) to submit graduation / completion rates and placement rates for review, but does not specifically require the schools to disclose the information directly to students.

#### B. WHICH INSTITUTIONAL PERFORMANCE DISCLOSURES ARE REQUIRED TO BE GIVEN TO STUDENTS PRIOR TO ENROLLMENT?

**0/60 POINTS**

Disclosures	Mandatory	Discretionary	Not specified
Cohort default rate (CDR)	10 Points	5 Points	<b>0 Points</b>
Graduation / completion rates	10 Points	5 Points	<b>0 Points</b>
Placement rates	10 Points	5 Points	<b>0 Points</b>
Wage information	10 Points	5 Points	<b>0 Points</b>
License exam passage rates	10 Points	5 Points	<b>0 Points</b>
Methods & sources used to calculate	10 Points	5 Points	<b>0 Points</b>

**Explanation:**

The Council requires proprietary schools (Type 1 and Type 2) to submit graduation / completion rates and placement rates for review, but does not specifically require the schools to disclose the information directly to students prior to enrollment.

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**C. DOES THE STATE REQUIRE SCHOOLS TO DISCLOSE ELEMENTS  
ESSENTIAL TO STUDENT PROTECTION PRIOR TO ENROLLMENT OR  
IN THE ENROLLMENT CONTRACT?**

**12.5/20 POINTS**

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Element Description	Mandatory	Discretionary	Not specified
Total cost of program	5 Points	2.5 Points	0 Points
Refund information	5 Points	2.5 Points	0 Points
Transferability of credits	5 Points	2.5 Points	0 Points
Length of program	5 Points	2.5 Points	0 Points

**Explanation:**

The Council requires proprietary schools in Rhode Island (Type 1 and Type 2) to include information about the cost of its programs and its refund policy in the school catalog and in the enrollment agreement. (Rhode Island Board of Governors for Higher Education, Regulations Governing Proprietary Schools in Rhode Island, § IV, Standards 4 & 5 (pp. 20-21).)

Rhode Island receives partial credit for providing information about the transferability of credits because it requires proprietary schools to provide each student enrolled in a program that requires state licensure or other certification with specific information about licenses, credentials, or additional course work beyond that provided by the school required to practice the profession or vocation in the state; the degree to which completion of the required coursework meets state license or credential requirements; and whether the program has received the necessary approval or accreditation for students completing the program to apply for all required licenses or credentials. (Rhode Island Board of Governors for Higher Education, Regulations Governing Proprietary Schools in Rhode Island, §IV, Standard 6.7 (p. 23).) Transferability of credits may be relevant information in these circumstances and, therefore, would need to be provided to students.

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**V. REGULATION OF RECRUITING PRACTICES:**

**75/100 POINTS**

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**A. HAS THE STATE PUT INTO LAW A LIST OF PROHIBITED ACTS  
REGARDING ADVERTISING AND RECRUITING?**

**75/100 POINTS**

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Yes, strong regulation	Yes, moderate regulation	Yes, weak regulation	No list of prohibited acts
100 Points	75 Points	50 Points	0 Points

## PROHIBITED ACTS

Included in list of prohibited acts	
Misleading representations using the word “college” or “university”	
Misleading institution affiliations (e.g., military, public institution, businesses)	X
Promise of employment	X
Compensation for enrollment	
Compensation or “bounty” to recruiters	X
Deception (broad prohibition)	X
Misrepresentation (broad prohibition)	X
Misleading representations re: accreditation	X

*1-3=Weak; 3.5-6=Moderate; 6.5-8=Strong*

### **Explanation:**

Rhode Island law prohibits proprietary schools (Type 1 and Type 2) from misrepresentation or deception in advertising, and specifically prohibits use of photograph, cut, engraving, electronic image or illustration in such a manner as to convey a false impression of a school’s size, importance, location, equipment, or facilities (this has the effect of prohibiting misleading affiliations), and misleading statements relating to accreditation, misleading statements relating to employment. (Rhode Island Board of Governors for Higher Education, Regulations Governing Proprietary Schools in Rhode Island, § IV, Standard 7 (pp. 23-24).) Finally, Rhode Island law requires proprietary schools to comply with federal law (34 CFR 668.14), which addresses the issue of providing commissions or bonuses to recruiters. (§ IV, Standard 2.3, p. 19.)

## VI. COMPLAINT PROCESS AND RELIEF FOR STUDENTS:

**54.5/100 POINTS**

### A. DOES THE STATE REQUIRE A BOND OR FUND AS A CONDITION OF AUTHORIZATION?

**20/20 POINTS**

Yes	No
20 Points	0 Points

### **Explanation:**

The Council requires each proprietary school to show evidence that it is covered by a bond as a condition of authorization and renewal. (Rhode Island Board of Governors for Higher Education, Regulations Governing Proprietary Schools in Rhode Island, § IV, Standard 10.4 (p. 27).)

### B. DOES THE STATE REQUIRE A REFUND OF TUITION IF A STUDENT ENROLLS AS THE RESULT OF MISREPRESENTATION?

**0/20 POINTS**

Yes, full refund	Yes, partial refund	No refund required
20 Points	10 Points	0 Points

**Explanation:**

Rhode Island law does not explicitly requires proprietary schools (Type 1 or Type 2) to refund tuition in full if a student enrolls as the result of misrepresentation..

**C. DOES THE STATE REQUIRE INSTITUTIONS TO REFUND  
TUITION IN THE EVENT OF INSOLVENCY?**

**15/20 POINTS**

Yes, full refund	Yes, partial refund	Yes, refund in limited circumstances	No refund required
20 Points	<b>15 Points</b>	10 Points	0 Points

**Explanation:**

Rhode Island law requires proprietary schools (Type 1 and Type 2) to return any pre-paid tuition and/or other deposits to the students and/or persons who have made such deposits and tuition payments and for which instruction time will not be provided. (R.I. Gen. Laws § 16-40-16(e).)

**D. DOES THE STATE ALLOW STUDENTS AMPLE TIME TO MAKE A COMPLAINT?**

**10/10 POINTS**

2 years or more (or no deadline)	1-2 years	Under 1 year	Not applicable
<b>10 Points</b>	5 Points	1 Point	0 Points

**Explanation:**

Rhode Island law does not specify a deadline or a timeline by which a student must file a complaint.

**E. DOES THE STATE REQUIRE INSTITUTIONS TO DISCLOSE INFORMATION  
ABOUT FILING A COMPLAINT WITH THE STATE OVERSIGHT BODY?**

**7.5/20 POINTS**

Medium	Mandatory	Discretionary	Not specified
Catalog	10 Points	<b>5 Points</b>	0 Points
Website	5 Points	<b>2.5 Points</b>	0 Points
Enrollment contract	5 Points	2.5 Points	<b>0 Points</b>

**Explanation:**

Rhode Island law requires proprietary schools (Type 1 and Type 2) to include information in school catalogs related to the school complaint procedure, but there is no specific requirement that this information must include information about how and where to file a complaint with the state oversight body. (Rhode Island Board of Governors for Higher Education, Regulations Governing Proprietary Schools in Rhode Island, § IV, Standard 14.1 (p. 31).) The state receives partial credit for requiring inclusion in the catalog (since inclusion is discretionary). The state also receives partial credit for requiring inclusion on the school website because it is common practice for schools to include school catalogs or information similar to that included in the catalog on the school website.

F. IS THE COMPLAINT PROCESS READILY ACCESSIBLE AND AVAILABLE ON THE STATE OVERSIGHT BODY'S WEBSITE?

**2/10 POINTS**

Yes, with address	Yes, with phone #	Yes, with email address	Yes, with electronic form	No
2 Points	2 Points	3 Points	3 Points	0 Points

**Explanation:**

The Council maintains a webpage containing information and instructions for students and third parties wishing to file a complaint against a proprietary school. The information includes the mailing address for each entity to which different types of complaints must be directed (for both Type 1 and Type 2). (See [http://www.riopc.edu/static/photos/2016/03/10/StudentComplaint\\_full\\_120215.pdf](http://www.riopc.edu/static/photos/2016/03/10/StudentComplaint_full_120215.pdf).)

**VII. ENFORCEMENT: 0/100 POINTS**

A. IS THERE LOSS OF STATE AID FOR SCHOOLS THAT REPEATEDLY PRODUCE SUBSTANDARD GRADUATION RATES, JOB PLACEMENT RATES, AND/OR COHORT DEFAULT RATES?

**0/30 POINTS**

Yes, required	Yes, required but limited	Yes, discretionary	Yes, discretionary but limited	No
30 Points	20 Points	15 Points	5 Points	0 Points

**Explanation:**

While the Council requires proprietary schools to regularly report placement and graduation rates, there is no specific requirement that poorly performing schools lose state aid.

B. DOES STATE LAW EXPLICITLY AUTHORIZE A PRIVATE RIGHT OF ACTION FOR STUDENTS AGAINST INSTITUTIONS THAT HAVE VIOLATED THE LAWS AND REGULATIONS IN PLACE TO GOVERN THEM?

**0/30 POINTS**

Yes	Limited circumstances	No
30 Points	15 Points	0 Points

**Explanation:**

Rhode Island law does not explicitly authorize a private right of action for students against institutions that have violated the laws and regulations in place to govern them.

C. DOES STATE LAW EXPLICITLY ALLOW ATTORNEY FEE AWARDS FOR STUDENTS WHO PREVAIL IN LITIGATION AGAINST PRIVATE FOR-PROFIT POSTSECONDARY INSTITUTIONS?

**0/20 POINTS**

Yes	Limited	No
20 Points	15 Points	0 Points

**Explanation:**

Rhode Island law does not explicitly allow students at proprietary schools attorney fee awards against institutions that have violated the laws and regulations in place to govern them..

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**D. DOES STATE LAW EXPLICITLY AUTHORIZE  
ATTORNEY GENERAL INVOLVEMENT?**

**0/20 POINTS**

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Yes	Limited circumstances	No
20 Points	10 Points	0 Points

**Explanation:**

While the Attorney General may have involvement in enforcing laws relating to proprietary schools in Rhode Island, there is no explicitly mandated role with regard to the enforcement of the statutes and regulations in place to govern these schools.

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**BONUS POINTS**

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Rhode Island receives 50 bonus points because the state has a unique policy. Private for-profit educational institutions are prohibited from granting degrees in the state (with one statutory exception). (Rhode Island Board of Governors for Higher Education, Regulations Governing Proprietary Schools in Rhode Island (available at <http://www.ribghe.org/proprietaryregs.pdf>, at Preface (p. ii).)




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**ILLUMINATING INFORMATION**

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**UNIQUE PROVISIONS**

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With one statutory exception, Rhode Island does not allow for-profit postsecondary institutions to grant degrees.

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**RECIPROCITY AGREEMENTS**

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Rhode Island is a member of the State Authorization Reciprocity Agreements (SARA).

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**LITIGATION, INVESTIGATIONS, AND ACTIONS INVOLVING PRIVATE  
FOR-PROFIT EDUCATIONAL INSTITUTIONS IN RHODE ISLAND**

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For information about pending and recent federal and state government investigations and actions regarding for-profit colleges see David Halperin's compilation at <http://www.republicreport.org/2014/law-enforcement-for-profit-colleges/#sthash.1vc4HmPw.dpuf>.

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# SOUTH CAROLINA

## FINAL GRADING ANALYSIS

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OVERALL SCORE: **383/700 POINTS (54.7%)**  
LETTER GRADE: **F**

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### I. OVERSIGHT BODY: **55/100 POINTS**

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A. IS THERE A STATUTORILY CREATED OVERSIGHT BODY  
THAT IS PUBLICLY ACCOUNTABLE?  
**50/60 POINTS**

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Element	Points Available	Points Awarded
1. Oversight body is a multi-member board, commission, or panel created by statute	10	10
2. Oversight body was statutorily created specifically to oversee private postsecondary institutions	10	0
3. Multi-member board, commission, or panel is the ultimate decision maker (as opposed to a single person, like the head of a department or director)	10	10
4. Oversight body can engage in rulemaking	10	10
5. Oversight body's meetings must be open to the public	5	5
6. Oversight body's meetings must allow public comment	5	5
7. Oversight body can initiate investigations	5	5
8. Oversight body can impose penalties for violations	5	5
<b>Total Points</b>	<b>60</b>	<b>50</b>

**Explanation:**

South Carolina law defines a “nonpublic institution” as inclusive, but is not limited to, of any educational entity operating or soliciting in South Carolina that is not owned or operated in whole or in part by the State of South Carolina offering resident or correspondence courses beyond the secondary school level to students upon the payment of tuition or fees. (S.C. Code Ann. § 59-58-20(4).) The South Carolina Commission on Higher Education has sole authority for licensing nonpublic educational institutions established in South Carolina. The Commission has authority to formulate standards and administer and enforce the law and regulations related to licensing nonpublic institutions. (S.C. Code Ann. § 59-58-40.) Further, the Commission has the power to investigate, as necessary, any institution subject to its jurisdiction. (S.C. Code Regs. 62-4(I).) Because the Commission operates in accordance with the South Carolina’s Freedom of Information Act (S.C. Code Ann. § 30-4 et seq.), its meetings must be open to the public. It must announce its meetings and include an agenda of items to be included, and the agenda must include an item specifically for public comment. (S.C. Code Ann. § 30-4-60.)

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**B. STATUTE-SPECIFIED MEMBERSHIP:**

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**1. TO WHAT EXTENT ARE LIMITATIONS PLACED ON FOR-PROFIT  
MEMBERSHIP ON THE OVERSIGHT BODY?**

**0/25 POINTS\***

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Explicit prohibition on for-profit majority, plus no possibility of a majority of the quorum	Explicit prohibition on for-profit majority	Discouraged	No prohibition specified, but not discouraged	For-profit majority mandated
25 Points	20 Points	10 Points	<b>0 Points</b>	-5 points

**Explanation:**

The Commission's membership is statutorily determined pursuant to S.C. Code Ann. § 59-103-10. Its membership must consist of one at-large member to serve as chairman, one representative from each of the congressional districts (for a total of seven), three members appointed from the state at large, three representatives of the public colleges and universities, and one representative of the independent colleges and universities of South Carolina.

Among other things, the representatives from the congressional districts and those appointed at large must have experience in at least one of the following areas: business, the education of future leaders and teachers, management, or policy. A member representing the congressional districts or appointed at large must not have been, during the succeeding five years, a member of a governing body of a public institution of higher learning in the state and must not be employed or have immediate family members employed by any of the public colleges and universities of the state.

For the three ex officio members representing the public colleges and universities, it shall not be a conflict of interest for any voting ex officio member to vote on matters pertaining to their individual college or university. One member must be serving on the board of trustees of one of the public senior research institutions, one member must be serving on the board of trustees of one of the four-year public institutions of higher learning, and one member must be a member of one of the local area technical education commissions or the State Board for Technical and Comprehensive Education to represent the State Board for Technical and Comprehensive Education.

The ex officio member representing the independent colleges and universities must be serving as a member of the Advisory Council of Private College Presidents. This member shall serve as a nonvoting member.

The Governor, by his appointments, shall assure that among other things, that graduates of no one public or private college or technical college are dominant on the Commission.

That said, South Carolina law does not explicitly prohibit or discourage a for-profit majority on the Commission (the only caveat being that graduates of one private college or technical college cannot dominate the Commission membership).

2. IS THE OVERSIGHT BODY MANDATED TO INCLUDE  
AT LEAST ONE CONSUMER ADVOCATE?

**0/10 POINTS\***

Yes	No
10 Points	0 Points

**Explanation:**

South Carolina law does not require appointment of an individual with expertise and experience in the area of consumer advocacy to the Commission.

3. ARE THE MEMBERS APPOINTED BY A PUBLICLY ACCOUNTABLE  
OFFICIAL OR ELECTED IN A GENERAL ELECTION?

**5/5 POINTS**

All	Majority	Half	Minority	None
5 Points	3 Points	2.5 Points	1 Point	0 Points

**Explanation:**

The governor of South Carolina appoints all 15 members of the Commission, although only eight are done with advice and consent of the Senate. (S.C. Code Ann. § 59-103-10.)

**II. STATE OVERSIGHT—EFFICACY: 46/100 POINTS**

A. DOES THE STATE REQUIRE ONSITE REVIEW OF  
PRIVATE POSTSECONDARY INSTITUTIONS?

**4/10 POINTS**

Mandatory onsite reviews			Discretionary	None
Every 2 years or less	Every 3-5 years	Over 5 years	Discretion to conduct onsite reviews	No review specified
10 Points	8 Points	5 Points	3 4 Points	0 Points

**Explanation:**

The Commission requires onsite visits for both degree-granting and non-degree-granting private postsecondary educational institutions in South Carolina. The Commission is required to make an initial visit within the first year of licensing and subsequent annual visits to the institution's facilities when appropriate (at the discretion of the Commission). The state receives 3 points for discretionary onsite visits and one additional point because the Commission is required to conduct an onsite review within the first year of licensure. (S.C. Code Regs. 62-15.)

B. DOES THE STATE REQUIRE UNANNOUNCED  
INSPECTIONS FOR ONSITE REVIEWS?

**0/5 POINTS\***

Required unannounced visits	Discretion to do unannounced visits	No indication
5 Points	3 Points	0 Points

**Explanation:**

South Carolina law does not explicitly require or authorize site visits to be unannounced.

**C. DOES THE STATE REQUIRE REGULAR REVIEWS OF PRIVATE POSTSECONDARY APPROVAL TO OPERATE?**

**20/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Mandatory			Discretionary	None
	Every 2 years or less	Every 3-5 years	Over 5 years	Discretion to conduct reviews	No Review Specified
Type 1:	20 Points	15 Points	10 Points	5 Points	0 Points
Type 2:	20 Points	15 Points	10 Points	5 Points	0 Points

**Explanation:**

**Type 1: Degree-granting institutions.** South Carolina law requires degree-granting institutions to file an annual report. (S.C. Code Regs. 62-24.)

**Type 2: Non-degree-granting institutions.** South Carolina law provides that licenses for non-degree-granting institutions are generally granted for twelve months, renewable annually. The Commission may issue licenses to non-degree-granting institutions for less than twelve months as circumstances justify. (S.C. Code Ann. § 59-58-50(F).)

**D. DO THE CRITERIA FOR RENEWAL OF AUTHORIZATION MANDATE A REVIEW OF FACTORS ESSENTIAL TO ACADEMIC AND ETHICAL INTEGRITY?**

**12/20 POINTS**

8 of 8	7 of 8	6 of 8	5 of 8	4 of 8	3 of 8	2 of 8	1 of 8	0 of 8
20 Points	17.5 Points	15 Points	12.5 Points	10 12 Points	7.5 Points	5 Points	2.5 Points	0 Points

Element	
Admission Requirements	M
Graduation Requirements	D
Placement Rate	
Completion Rate (or Graduation Rate)	D
Advertising Practices	M
Cohort Default Rate	
Accreditation Status	M
Financial Aid Policies	M

*M=Mandatory; D=Discretionary*

**Explanation:**

South Carolina law requires regular reviews of both degree-granting and non-degree-granting nonpublic postsecondary educational institutions. Each institution and its courses or programs, facilities, faculty, and all other operations must meet the requirements for an original license at the effective date of the renewal. (S.C. Code Ann. § 59-58-50(F).) The licensing criteria can be found at S.C. Code Regs. 62-6 and include a mandatory review of accreditation status and admission requirements. Further, institutions are required to have a clearly defined process by which the curriculum is established, reviewed, and evaluated. Institutions are required to provide for appropriate and regular evaluation of the institution and its program and course effectiveness including assessment of student learning, retention, graduation rates, and student, graduate, faculty, and employer satisfaction. (S.C. Code Regs. 62-6.2.) The state receives partial credit for reviewing graduation rates because the Commission does not review the graduation rates, but the information is likely available to the Commission if the institution is complying with the provision requiring institutional evaluation.

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**E. DOES THE STATE'S OVERSIGHT DISTINGUISH BETWEEN FOR-PROFIT AND NONPROFIT POSTSECONDARY INSTITUTIONS?**

**5/15 POINTS**

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Yes, strongly distinguished	Yes, moderately distinguished	Yes, slightly distinguished	Not distinguished
15 Points	10 Points	5 Points	0 Points

**Explanation:**

South Carolina law provides for selected exemptions including for some nonprofit nonpublic postsecondary educational institutions established in the state prior to 1953. (S.C. Code Ann. § 59-58-30(2).)

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**F. DOES THE STATE REQUIRE INCREASED OVERSIGHT/SCRUTINY OF PRIVATE POSTSECONDARY INSTITUTIONS BASED ON POOR PERFORMANCE?**

**5/10 POINTS**

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Yes, mandatory	Yes, mandatory but limited	Yes, discretionary	Yes, discretionary but limited	No
10 Points	7.5 Points	5 Points	2.5 Points	0 Points

**Explanation:**

The Commission does not explicitly require increased oversight or scrutiny of nonpublic postsecondary educational institutions based on poor performance. However, the Commission has discretion to give an institution a period of probation if in its judgment any unsatisfactory condition can reasonably be corrected within such time. (S.C. Code Regs. 62-28.) Additionally, South Carolina law allows the Commission to revoke, suspend, or refuse to issue a license to institutions due to noncompliance.

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**G. DOES STATE LAW INCLUDE ANY SPECIAL PROTECTIONS FOR VETERANS WHO ATTEND PRIVATE POSTSECONDARY INSTITUTIONS?**

**0/20 POINTS**

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Yes	No
20 Points	0 Points

**Explanation:**

South Carolina law does not have any special protections specifically for veterans who attend nonpublic postsecondary educational institutions. However, information about VA education benefits under Title 38 of the US Code can be found at [www.che.sc.gov/Students,FamiliesMilitary/MilitaryEducationTraining/MilitaryActiveVeterans.aspx](http://www.che.sc.gov/Students,FamiliesMilitary/MilitaryEducationTraining/MilitaryActiveVeterans.aspx).

**III. STATE OVERSIGHT—SCOPE AND INCLUSION:****75/100 POINTS****A. ARE EXEMPTIONS TO STATE OVERSIGHT COVERAGE LIMITED?****75/100 POINTS**

No exemptions	Few exemptions	Moderate exemptions	Broad exemptions
100 Points	75 Points	50 Points	0 Points

**Explanation:**

South Carolina law exempts degree-granting schools chartered by the Secretary of State before 1953; it has a narrowly tailored exemption for specified degree-granting religious nonprofits; institutions whose main purpose is theological or religious training, institutions offering avocational or noncredit bearing courses, institutions supported entirely or partly by the State of South Carolina; aviation institutions, courses or programs regulated and licensed or approved under an occupational licensing law of the State of South Carolina; specified noncredit bearing courses or programs sponsored by employers solely for the training of their employees, institutions that offer programs and courses on federal military installations; out-of-state institutions that formally collaborate with public South Carolina institutions in offering distance education coursework in this State and where the South Carolina institution offers the degree; degree-granting institutions accredited by an accrediting agency recognized by the United States Department of Education that conduct occasional or incidental recruiting activities to include activities at high school recruiting fairs or through seasonal recruitment advertising rather than continuing and regular activities that would otherwise establish an actual presence in South Carolina as defined in this chapter from the definition of nonpublic educational institution; and various other non-credit-bearing courses. (S.C. Code Ann. § 59-58-30.)

**IV. DISCLOSURE REQUIREMENTS: 30/100 POINTS****A. ARE INSTITUTIONS REQUIRED TO DISCLOSE INSTITUTIONAL PERFORMANCE MEASURES TO POTENTIAL STUDENTS?****0/20 POINTS**

Yes, mandatory	Yes, discretionary	None
Fact sheet or equivalent required to be given to students	Fact sheet or equivalent given to students upon request	No performance fact sheet required
20 Points	10 Points	0 Points

**Explanation:**

South Carolina law does not require nonpublic educational institutions to provide any performance

disclosures (graduation rates, placement rates, exam passage rates, cohort default rates, etc.) to potential students. There is no fact sheet-type disclosure required for either Type 1 or Type 2 institutions.

**B. WHICH INSTITUTIONAL PERFORMANCE DISCLOSURES ARE REQUIRED TO BE GIVEN TO STUDENTS PRIOR TO ENROLLMENT?**

**10/60 POINTS**

Disclosures	Mandatory	Discretionary	Not specified
<b>Cohort default rate (CDR)</b>	10 Points	5 Points	<b>0 Points</b>
<b>Graduation / completion rates</b>	10 Points	5 Points	<b>0 Points</b>
<b>Placement rates</b>	10 Points	<b>5 Points</b>	0 Points
<b>Wage information</b>	10 Points	<b>5 Points</b>	0 Points
<b>License exam passage rates</b>	10 Points	5 Points	<b>0 Points</b>
<b>Methods &amp; sources used to calculate</b>	10 Points	5 Points	<b>0 Points</b>

**Explanation:**

Both Type 1 and Type 2 institutions are required to make disclosures only if they advertise claims. The disclosures are required to substantiate from its own records any advertised claims, including employment and earnings claims. If any oral or written placement claims are made, the institution must disclose its placement rate. Advertising of salaries and other occupational opportunities must clearly disclose the normal range of salaries and opportunities available to students immediately after graduation. (S.C. Code Regs. 62-26(F).) The state receives partial credit for requiring disclosures related for placement rates because of the required disclosures related to employment in specified circumstances.

**C. DOES THE STATE REQUIRE SCHOOLS TO DISCLOSE ELEMENTS ESSENTIAL TO STUDENT PROTECTION PRIOR TO ENROLLMENT OR IN THE ENROLLMENT CONTRACT?**

**20/20 POINTS**

***Type 1: Degree-granting private institutions***

Element description	Mandatory	Discretionary	Not specified
<b>Total cost of program</b>	<b>5 Points</b>	2.5 Points	0 Points
<b>Refund information</b>	<b>5 Points</b>	2.5 Points	0 Points
<b>Transferability of credits</b>	<b>5 Points</b>	2.5 Points	0 Points
<b>Length of program</b>	<b>5 Points</b>	2.5 Points	0 Points

**Explanation:**

Degree-granting nonpublic educational institutions are required to include all of the above elements, as well as several additional elements, in their enrollment agreements. (S.C. Code Regs. 62-16.)

***Type 2: Non-degree-granting private institutions***

Element description	Mandatory	Discretionary	Not specified
<b>Total Cost of Program</b>	<b>5 Points</b>	2.5 Points	0 Points
<b>Refund Information</b>	<b>5 Points</b>	2.5 Points	0 Points
<b>Transferability of Credits</b>	<b>5 Points</b>	2.5 Points	0 Points
<b>Length of Program</b>	<b>5 Points</b>	2.5 Points	0 Points

**Explanation:**

Non-degree-granting nonpublic educational institutions are required to include all of the above elements, as well as several additional elements, in their enrollment agreements. (S.C. Code Regs. 62-19.)

## V. REGULATION OF RECRUITING PRACTICES:

**75/100 POINTS**

### A. HAS THE STATE PUT INTO LAW A LIST OF PROHIBITED ACTS REGARDING ADVERTISING AND RECRUITING?

**75/100 POINTS**

Yes, strong regulation	Yes, moderate regulation	Yes, weak regulation	No list of prohibited acts
100 Points	75 Points	50 Points	0 Points

#### PROHIBITED ACTS

Included in list of prohibited acts	
Misleading representations using the word “college” or “university”	X
Misleading institution affiliations (e.g., military, public institution, business)	X
Promise of employment	X
Compensation for enrollment	
Compensation or “bounty” to recruiters	
Deception (broad prohibition)	X
Misrepresentation (broad prohibition)	X
Misleading representations re: accreditation	X

*1-3=Weak; 3.5-6=Moderate; 6.5-8=Strong*

**Explanation:**

South Carolina law restricts the use of the name “college” and “university” to only institutions that meet specified criteria. (S.C. Code Ann. § 59-58-60.) In addition, nonpublic educational institutions are prohibited from making deceptive, false, or misleading statements; institutions are required to use specific language to represent their accreditation status; institutions are required to substantiate any claims they make regarding employment and earnings, and they are prohibited from making misleading claims related to employment. (S.C. Code Regs. 62-26.)

## VI. COMPLAINT PROCESS AND RELIEF FOR STUDENTS:

**62/100 POINTS**

### A. DOES THE STATE REQUIRE A BOND OR FUND AS A CONDITION OF AUTHORIZATION?

**10/20 POINTS**

Yes	No
20 10 Points	0 Points



**Explanation:**

Both degree-granting and non-degree-granting private postsecondary educational institutions may provide a surety bond or may pledge other means of collateral acceptable by the State Treasurer, in an aggregate market value of the required bond. (S.C. Code Ann. § 59-58-80; S.C. Code Regs. 62-7.). Because this is discretionary rather than mandatory (“may” instead of “shall” or “must”), the state only receives partial credit for this element.

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**B. DOES THE STATE REQUIRE A REFUND OF TUITION IF A STUDENT ENROLLS AS THE RESULT OF MISREPRESENTATION?**

**10/20 POINTS**

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Yes, full refund	Yes, partial refund	No refund required
20 Points	10 Points	0 Points

**Explanation:**

If the Commission determines that the circumstances justify a refund, it has discretion to require that the institution make a full or partial refund of tuition or other fees as appropriate. (S.C. Code Regs. 62-27.) Enrolling as the result of misrepresentation reasonably may be considered a circumstance that justifies a refund in the opinion of the Commission. Because the regulations provide the Commission with this discretion, the state receives partial credit for this element.

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**C. DOES THE STATE REQUIRE INSTITUTIONS TO REFUND TUITION IN THE EVENT OF INSOLVENCY?**

**15/20 POINTS**

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Yes, full refund	Yes, partial refund	Yes, refund in limited circumstances	No refund required
20 Points	15 Points	10 Points	0 Points

**Explanation:**

South Carolina law provides for some tuition refund for students at nonpublic educational institutions that close, but there is no requirement that institutions fully refund all tuition. (S.C. Code Ann. § 59-58-80; S.C. Code Regs. 62-7.)

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**D. DOES THE STATE ALLOW STUDENTS AMPLE TIME TO MAKE A COMPLAINT?**

**1/10 POINTS**

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2 years or more (or no deadline)	1-2 years	Under 1 year	Not applicable
10 Points	5 Points	1 Points	0 Points

**Explanation:**

Students must file a complaint with the Commission within six months of exhausting the appeals process at the institution.

E. DOES THE STATE REQUIRE INSTITUTIONS TO DISCLOSE INFORMATION ABOUT FILING A COMPLAINT WITH THE STATE OVERSIGHT BODY?

**17.5/20 POINTS**

Medium	Mandatory	Discretionary	Not specified
Catalog	10 Points	5 Points	0 Points
Website	5 Points	2.5 Points	0 Points
Enrollment contract	5 Points	2.5 Points	0 Points

**Explanation:**

Nonpublic educational institutions must provide its procedures for handling student complaints in its catalog. (S.C. Code Regs. 62-16; S.C. Code Regs. 62-27.) Institutions are required to include on the enrollment contract a statement that the student acknowledges he/she has received and reviewed a copy of the school catalog, which includes complaint filing information. The state receives partial credit for requiring institutions to include information about filing a complaint on the institution's website because many institutions include their catalog or information from the catalog on their websites.

F. IS THE COMPLAINT PROCESS READILY ACCESSIBLE AND AVAILABLE ON THE STATE OVERSIGHT BODY'S WEBSITE?

**8.5/10 POINTS**

Yes, with address	Yes, with phone #	Yes, with email address	Yes, with electronic form	No
2 Points	2 Points	3 Points	3 1.5 Points	0 Points

**Explanation:**

South Carolina maintains a webpage with a complaint form including instructions for students about the complaint procedure, and contact information. The student must complete and submit the form (by mail, email, or fax). Because the electronic form cannot be completed and submitted online, partial credit is awarded.

**VII. ENFORCEMENT: 40/100 POINTS**

A. IS THERE LOSS OF STATE AID FOR SCHOOLS THAT REPEATEDLY PRODUCE SUBSTANDARD GRADUATION RATES, JOB PLACEMENT RATES, AND/OR COHORT DEFAULT RATES?

**20/30 POINTS**

Yes, required	Yes, required but limited	Yes, discretionary	Yes, discretionary but limited	No
30 Points	20 Points	15 Points	5 Points	0 20 Points

**Explanation:**

There is no mandatory loss of state aid for nonpublic educational institutions that repeatedly produce substandard graduation rates, job placement rates, and/or cohort default rates. However, because state aid is limited to nonpublic educational institutions, the state receives 20 points.

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**B. DOES STATE LAW EXPLICITLY AUTHORIZE A PRIVATE RIGHT OF ACTION FOR STUDENTS AGAINST INSTITUTIONS THAT HAVE VIOLATED THE LAWS AND REGULATIONS IN PLACE TO GOVERN THEM?**

**0/30 POINTS**

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Yes	Limited circumstances	No
30 Points	15 Points	0 Points

**Explanation:**

South Carolina law does not explicitly authorize a private right of action for students against nonpublic educational institutions that have violated the laws and regulations in place to govern them.

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**C. DOES STATE LAW EXPLICITLY ALLOW ATTORNEY FEE AWARDS FOR STUDENTS WHO PREVAIL IN LITIGATION AGAINST PRIVATE FOR-PROFIT POSTSECONDARY INSTITUTIONS?**

**0/20 POINTS**

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Yes	Limited	No
20 Points	15 Points	0 Points

**Explanation:**

South Carolina law does not explicitly allow attorney fee awards for students who prevail in litigation against institutions that have violated the laws and regulations in place to govern them.

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**D. DOES STATE LAW EXPLICITLY AUTHORIZE ATTORNEY GENERAL INVOLVEMENT?**

**20/20 POINTS**

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Yes	Limited circumstances	No
20 Points	10 Points	0 Points

**Explanation:**

South Carolina law explicitly authorizes Attorney General involvement in enforcement of the laws governing nonpublic educational institutions in the state. (S.C. Code Ann. § 59-58-130.)

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**BONUS POINTS**

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South Carolina receives no bonus points.



## ILLUMINATING INFORMATION

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### RECIPROCITY AGREEMENTS

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South Carolina is a member of the State Authorization Reciprocity Agreements (SARA).

### LITIGATION, INVESTIGATIONS, AND ACTIONS INVOLVING PRIVATE FOR-PROFIT EDUCATIONAL INSTITUTIONS IN SOUTH CAROLINA

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For information about pending and recent federal and state government investigations and actions regarding for-profit colleges see David Halperin's compilation at <http://www.republicreport.org/2014/law-enforcement-for-profit-colleges/#sthash.1vc4HmPw.dpuf>.

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# SOUTH DAKOTA

## FINAL GRADING ANALYSIS

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OVERALL SCORE: **63.5/700 POINTS (9.1%)**  
LETTER GRADE: **F**

### I. OVERSIGHT BODY: **25/100 POINTS**

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#### A. IS THERE A STATUTORILY CREATED OVERSIGHT BODY THAT IS PUBLICLY ACCOUNTABLE?

**20/60 POINTS**

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Element	Points Available	Points Awarded
1. Oversight body is a multi-member board, commission, or panel created by statute	10	0
2. Oversight body was statutorily created specifically to oversee private postsecondary institutions	10	0
3. Multi-member board, commission, or panel is the ultimate decision maker (as opposed to a single person, like the head of a department or director)	10	0
4. Oversight body can engage in rulemaking	10	10
5. Oversight body's meetings must be open to the public	5	0
6. Oversight body's meetings must allow public comment	5	0
7. Oversight body can initiate investigations	5	5
8. Oversight body can impose penalties for violations	5	5
Total Points	60	20

**Explanation:**

South Dakota's Secretary of State has the authority to issue certificates of authorization to provide postsecondary education. (S.D. Codified Laws § 13-48-37.)

#### B. STATUTE-SPECIFIED MEMBERSHIP:

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##### 1. TO WHAT EXTENT ARE LIMITATIONS PLACED ON FOR-PROFIT MEMBERSHIP ON THE OVERSIGHT BODY?

**0/25 POINTS**

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Explicit prohibition on for-profit majority, plus no possibility of a majority of the quorum	Explicit prohibition on for-profit majority	Discouraged	No prohibition specified, but not discouraged	For-profit majority mandated
25 Points	20 Points	10 Points	0 Points	-5 points

**Explanation:**

This is inapplicable in South Dakota; the Secretary of State is not a public board or commission, nor is there an advisory board.

2. IS THE OVERSIGHT BODY MANDATED TO INCLUDE AT LEAST ONE CONSUMER ADVOCATE?

**0/10 POINTS**

Yes	No
10 Points	0 Points

**Explanation:**

This is inapplicable to South Dakota where there is no public board or commission, and no advisory board.

3. ARE THE MEMBERS APPOINTED BY A PUBLICLY ACCOUNTABLE OFFICIAL OR ELECTED IN A GENERAL ELECTION?

**5/5 POINTS**

All	Majority	Half	Minority	None
5 Points	3 Points	2.5 Points	1 Point	0 Points

**Explanation:**

The Secretary of State is a publicly elected, thus publicly accountable, official in South Dakota.

**II. STATE OVERSIGHT—EFFICACY: 5/100 POINTS**

A. DOES THE STATE REQUIRE ONSITE REVIEW OF PRIVATE POSTSECONDARY INSTITUTIONS?

**0/10 POINTS**

Mandatory onsite reviews			Discretionary	None
Every 2 years or less	Every 3-5 years	Over 5 years	Discretion to conduct onsite reviews	No review specified
10 Points	8 Points	5 Points	3 Points	0 Points

**Explanation:**

South Dakota law does not require private postsecondary educational institutions to undergo onsite inspections at any point.

B. DOES THE STATE REQUIRE UNANNOUNCED INSPECTIONS FOR ONSITE REVIEWS?

0/5 POINTS

Required unannounced visits	Discretion to do unannounced visits	No indication
5 Points	3 Points	0 Points

**Explanation:**

South Dakota law does not specify that private postsecondary educational institutions are required to undergo onsite inspections at any point, whether announced or unannounced.

C. DOES THE STATE REQUIRE REGULAR REVIEWS OF PRIVATE POSTSECONDARY APPROVAL TO OPERATE?

0/20 POINTS

Mandatory			Discretionary	None
Every 2 years or less	Every 3-5 years	Over 5 years	Discretion to conduct reviews	No review specified
20 Points	15 Points	10 Points	5 Points	0 Points

**Explanation:**

Authorization to provide educational programs at physical locations in the state, once granted by the Secretary, is continuous so long as the postsecondary institution continues to meet the requirements set forth in South Dakota law. (S.D. Codified Laws § 13-48-38.) There is no specified requirement for the state to formally review a private postsecondary educational institution's authorization to operate.

D. DO THE CRITERIA FOR RENEWAL OF AUTHORIZATION MANDATE A REVIEW OF FACTORS ESSENTIAL TO ACADEMIC AND ETHICAL INTEGRITY?

0/20 POINTS

8 of 8	7 of 8	6 of 8	5 of 8	4 of 8	3 of 8	2 of 8	1 of 8	0 of 8
20 Points	17.5 Points	15 Points	12.5 Points	10 Points	7.5 Points	5 Points	2.5 Points	0 Points

Element	
Admission requirements	
Graduation requirements	
Placement rate	
Completion rate (or graduation rate)	
Advertising practices	
Cohort default rate	
Accreditation status	
Financial aid policies	

**Explanation:**

The Secretary may issue a certificate of authorization to provide postsecondary education to any postsecondary institution to provide educational programs at physical locations in the state if the postsecondary institution (1) is established as an instrumentality of South Dakota or another state, or is legally established to operate as a private business entity or nonprofit corporation in accordance with applicable state law; and (2) is accredited or is operating under an affiliation agreement whose terms make an accredited postsecondary institution responsible for awarding academic credit and educational credentials to its students and maintaining transcripts for such students. (S.D. Codified Laws § 13-48-37.)

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**E. DOES THE STATE'S OVERSIGHT DISTINGUISH BETWEEN  
FOR-PROFIT AND NONPROFIT POSTSECONDARY INSTITUTIONS?**

**5/15 POINTS**

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<b>Yes, strongly distinguished</b>	<b>Yes, moderately distinguished</b>	<b>Yes, slightly distinguished</b>	<b>Not distinguished</b>
15 Points	10 Points	<b>5 Points</b>	0 Points

**Explanation:**

South Dakota law exempts postsecondary institutions that are established by, owned, controlled, operated, and maintained by a religious organization lawfully operating as a nonprofit religious corporation and awarding only religious degrees or certificates for the purpose of conferring clerical status or authority within that religion. (S.D. Codified Laws § 13-48-41(3).)

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**F. DOES THE STATE REQUIRE INCREASED OVERSIGHT/SCRUTINY OF PRIVATE  
POSTSECONDARY INSTITUTIONS BASED ON POOR PERFORMANCE?**

**0/10 POINTS**

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<b>Yes, mandatory</b>	<b>Yes, mandatory but limited</b>	<b>Yes, discretionary</b>	<b>Yes, discretionary but limited</b>	<b>No</b>
10 Points	7.5 Points	5 Points	2.5 Points	<b>0 Points</b>

**Explanation:**

South Dakota law does not require any increased oversight or scrutiny of private postsecondary institutions based on poor performance (low graduation/completion rates, high default rates, etc.).

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**G. DOES STATE LAW INCLUDE ANY SPECIAL PROTECTIONS FOR VETERANS  
WHO ATTEND PRIVATE POSTSECONDARY INSTITUTIONS?**

**0/20 POINTS**

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<b>Yes</b>	<b>No</b>
20 Points	<b>0 Points</b>

**Explanation:**

South Dakota law does not provide any special protections for veterans who attend private postsecondary educational institutions authorized to operate in the state.



### III. STATE OVERSIGHT—SCOPE AND INCLUSION:

**0/100 POINTS**

#### A. ARE EXEMPTIONS TO STATE OVERSIGHT COVERAGE LIMITED?

**0/100 POINTS**

No exemptions	Few exemptions	Moderate exemptions	Broad exemptions
100 Points	75 Points	50 Points	0 Points

**Explanation:**

South Dakota law authorizes institutions that are accredited if they are also established as an instrumentality of this state or another state, or is legally established to operate as a private business entity or nonprofit corporation in accordance with applicable state law. For the purposes of this analysis, providing authorization based solely or mostly on accreditation creates broad exemptions.

### IV. DISCLOSURE REQUIREMENTS: 0/100 POINTS

#### A. ARE INSTITUTIONS REQUIRED TO DISCLOSE INSTITUTIONAL PERFORMANCE MEASURES TO POTENTIAL STUDENTS?

**0/20 POINTS**

Yes, mandatory	Yes, discretionary	None
Fact sheet or equivalent required to be given to students	Fact sheet or equivalent given to students upon request	No fact sheet required
20 Points	10 Points	0 Points

**Explanation:**

South Dakota law does not require private postsecondary educational institutions to disclose institutional performance measure to potential students.

#### B. WHICH INSTITUTIONAL PERFORMANCE DISCLOSURES ARE REQUIRED TO BE GIVEN TO STUDENTS PRIOR TO ENROLLMENT?

**0/60 POINTS**

Disclosures	Mandatory	Discretionary	Not specified
Cohort default rate (CDR)	10 Points	5 Points	0 Points
Graduation / completion rates	10 Points	5 Points	0 Points
Placement rates	10 Points	5 Points	0 Points
Wage information	10 Points	5 Points	0 Points
License exam passage rates	10 Points	5 Points	0 Points
Methods & sources used to calculate	10 Points	5 Points	0 Points

**Explanation:**

South Dakota law does not require private postsecondary institutions to make any of the above disclosures to potential students prior to enrollment.

**C. DOES THE STATE REQUIRE SCHOOLS TO DISCLOSE ELEMENTS ESSENTIAL TO STUDENT PROTECTION PRIOR TO ENROLLMENT OR IN THE ENROLLMENT CONTRACT?**

**0/20 POINTS**

Element Description	Mandatory	Discretionary	Not specified
Total cost of program	5 Points	2.5 Points	0 Points
Refund information	5 Points	2.5 Points	0 Points
Transferability of credits	5 Points	2.5 Points	0 Points
Length of program	5 Points	2.5 Points	0 Points

**Explanation:**

South Dakota law does not require private postsecondary educational institutions to disclose any of the above information to potential students prior to enrollment or in the enrollment contract.

**V. REGULATION OF RECRUITING PRACTICES:**

**0/100 POINTS**

**A. HAS THE STATE PUT INTO LAW A LIST OF PROHIBITED ACTS REGARDING ADVERTISING AND RECRUITING?**

**0/100 POINTS**

Yes, strong regulation	Yes, moderate regulation	Yes, weak regulation	No list of prohibited acts
100 Points	75 Points	50 Points	0 Points

**PROHIBITED ACTS**

Included in list of prohibited acts	
Misleading representations using the word “college” or “university”	
Misleading institution affiliations (e.g., military, public institution, businesses)	
Promise of employment	
Compensation for enrollment	
Compensation or “bounty” to recruiters	
Deception (broad prohibition)	
Misrepresentation (broad prohibition)	
Misleading representations re: accreditation	

*1-3=weak; 3.5-6=moderate; 6.5-8=strong*

**Explanation:**

South Dakota law does not have a list of prohibited acts specific to private postsecondary educational institutions.

## VI. COMPLAINT PROCESS AND RELIEF FOR STUDENTS:

### 13.5/100 POINTS

- A. DOES THE STATE REQUIRE A BOND OR FUND  
AS A CONDITION OF AUTHORIZATION?

0/20 POINTS

Yes	No
20 Points	0 Points

**Explanation:**

South Dakota law does not require a bond as a condition of authorization.

- B. DOES THE STATE REQUIRE A REFUND OF TUITION IF A STUDENT  
ENROLLS AS THE RESULT OF MISREPRESENTATION?

0/20 POINTS

Yes, full refund	Yes, partial refund	No refund required
20 Points	10 Points	0 Points

**Explanation:**

South Dakota law does not explicitly require private postsecondary educational institutions to refund tuition if a student enrolls as the result of misrepresentation.

- C. DOES THE STATE REQUIRE INSTITUTIONS TO REFUND  
TUITION IN THE EVENT OF INSOLVENCY?

0/20 POINTS

Yes, full refund	Yes, partial refund	Yes, refund in limited circumstances	No refund required
20 Points	15 Points	10 Points	0 Points

**Explanation:**

South Dakota law does not explicitly require private postsecondary educational institutions to refund tuition if the institution closes.

- D. DOES THE STATE ALLOW STUDENTS AMPLE TIME TO MAKE A COMPLAINT?

10/10 POINTS

2 years or more (or no deadline)	1-2 years	Under 1 year	Not applicable
10 Points	5 Points	1 Point	0 Points

**Explanation:**

South Dakota law does not provide a deadline by which a student must file a complaint against a private postsecondary educational institution.

E. DOES THE STATE REQUIRE INSTITUTIONS TO DISCLOSE INFORMATION ABOUT FILING A COMPLAINT WITH THE STATE OVERSIGHT BODY?

**0/20 POINTS**

Medium	Mandatory	Discretionary	Not specified
Catalog	10 Points	5 Points	0 Points
Website	5 Points	2.5 Points	0 Points
Enrollment contract	5 Points	2.5 Points	0 Points

**Explanation:**

South Dakota law does not explicitly require institutions to disclose information about filing a complaint with the Attorney General, Division of Consumer Protection (the state body that is charged with handling complaints. (S.D. Codified Laws § 13-48-40.)

F. IS THE COMPLAINT PROCESS READILY ACCESSIBLE AND AVAILABLE ON THE STATE OVERSIGHT BODY'S WEBSITE?

**3.5/10 POINTS**

Yes, with address	Yes, with phone #	Yes, with email address	Yes, with electronic form	No
2 1 Points	2 1 Points	3 Points	3 1.5 Points	0 Points

**Explanation:**

South Dakota law requires students who have complaints related to a private postsecondary educational institution to file complaints with the Office of Attorney General, Division of Consumer Protection. (S.D. Codified Laws § 13-48-40.) The South Dakota Office of the Attorney General maintains a webpage with a generic complaint from consumers can use to file complaints. There is a contact link that students can use to find a phone number and an address. None of these contacts are specifically related to private postsecondary educational institutions, so the state receives only partial credit for the element.

**VII. ENFORCEMENT: 20/100 POINTS**

A. IS THERE LOSS OF STATE AID FOR SCHOOLS THAT REPEATEDLY PRODUCE SUBSTANDARD GRADUATION RATES, JOB PLACEMENT RATES, AND/OR COHORT DEFAULT RATES?

**0/30 POINTS**

Yes, required	Yes, required but limited	Yes, discretionary	Yes, discretionary but limited	No
30 Points	20 Points	15 Points	5 Points	0 Points

**Explanation:**

South Dakota law does not require any loss of state aid for schools that repeatedly produce substandard graduation rates, job placement rates and / or cohort default rates.

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**B. DOES STATE LAW EXPLICITLY AUTHORIZE A PRIVATE RIGHT OF ACTION FOR STUDENTS AGAINST INSTITUTIONS THAT HAVE VIOLATED THE LAWS AND REGULATIONS IN PLACE TO GOVERN THEM?**

**0/30 POINTS**

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Yes	Limited circumstances	No
30 Points	15 Points	0 Points

**Explanation:**

South Dakota law does not explicitly allow students a private right of action against institutions that have violated the laws and regulations in place to govern them.

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**C. DOES STATE LAW EXPLICITLY ALLOW ATTORNEY FEE AWARDS FOR STUDENTS WHO PREVAIL IN LITIGATION AGAINST PRIVATE FOR-PROFIT POSTSECONDARY INSTITUTIONS?**

**0/20 POINTS**

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Yes	Limited	No
20 Points	15 Points	0 Points

**Explanation:**

South Dakota law does not explicitly allow attorney fee awards for students who prevail in litigation against who have violated the laws and regulations in place to govern them.

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**D. DOES STATE LAW EXPLICITLY AUTHORIZE ATTORNEY GENERAL INVOLVEMENT?**

**20/20 POINTS**

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Yes	Limited circumstances	No
20 Points	10 Points	0 Points

**Explanation:**

State law authorizes Attorney General involvement in the oversight and regulation of private postsecondary educational institutions authorized to operate in the state. The Attorney General investigates and acts on complaints, has all enforcement powers, and provides necessary information to the Board of Regents in order to carry out administrative, oversight, information sharing, and reporting responsibilities on behalf of South Dakota under reciprocity agreements with other states. (S.D. Codified Laws § 13-48-40; S.D. Codified Laws § 13-48-42.)

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**BONUS POINTS:**

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South Dakota does not receive any bonus points.



## ILLUMINATING INFORMATION

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### RECIPROCITY AGREEMENTS

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South Dakota is a member of the State Authorization Reciprocity Agreements (SARA).

### LITIGATION, INVESTIGATIONS, AND ACTIONS INVOLVING PRIVATE FOR-PROFIT EDUCATIONAL INSTITUTIONS IN SOUTH DAKOTA

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For information about pending and recent federal and state government investigations and actions regarding for-profit colleges see David Halperin's compilation at <http://www.republicreport.org/2014/law-enforcement-for-profit-colleges/#sthash.1vc4HmPw.dpuf>.

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# TENNESSEE

## FINAL GRADING ANALYSIS

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OVERALL SCORE: **446/700 POINTS (64%)**  
LETTER GRADE: **D**

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### I. OVERSIGHT BODY: **50/100 POINTS**

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A. IS THERE A STATUTORILY CREATED OVERSIGHT BODY  
THAT IS PUBLICLY ACCOUNTABLE?

**45/60 POINTS**

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Element	Points Available	Points Awarded
1. Oversight body is a multi-member board, commission, or panel created by statute	10	10
2. Oversight body was statutorily created specifically to oversee private postsecondary institutions	10	0
3. Multi-member board, commission, or panel is the ultimate decision maker (as opposed to a single person, like the head of a department or director)	10	10
4. Oversight body can engage in rulemaking	10	10
5. Oversight body's meetings must be open to the public	5	5
6. Oversight body's meetings must allow public comment	5	0
7. Oversight body can initiate investigations	5	5
8. Oversight body can impose penalties for violations	5	5
<b>Total Points</b>	60	45

**Explanation:**

The Tennessee Higher Education Commission, a multi-member body created by statute, is tasked with duties related to a broad array of schools in the state of Tennessee; thus, it was not created solely for the oversight of private postsecondary educational institutions. (Tenn. Code Ann. § 49-7-202; Tenn. Code Ann. § 49-7-2005.)

The Commission can engage in rulemaking, initiate investigations, and exercise other powers and duties implied but not enumerated that, in the judgment of the Commission, are determined necessary in order to carry out the laws and regulations in place to govern the postsecondary institutions that fall within the jurisdiction of the commission. (Tenn. Code Ann. § 49-7-202; Tenn. Comp. R. & Regs. R. 1540-01-02-.02.)

The Commission is subject to Tennessee's Open Meetings Law and meetings must be open to the public.

(Tenn. Code Ann. § 8-44-102.) However, there is no specifically enumerated requirement that the public be allowed to comment during the meeting.

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**B. STATUTE-SPECIFIED MEMBERSHIP:**

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**1. TO WHAT EXTENT ARE LIMITATIONS PLACED ON FOR-PROFIT MEMBERSHIP ON THE OVERSIGHT BODY?**

**0/25 POINTS**

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Explicit prohibition on for-profit majority, plus no possibility of a majority of the quorum	Explicit prohibition on for-profit majority	Discouraged	No prohibition specified, but not discouraged	For-profit majority mandated
25 Points	20 Points	10 Points	0 Points	-5 points

**Explanation:**

While Tennessee law does place limitations on appointing employees or trustees of a public institution of higher learning to the Commission, it does not place limitations on for-profit membership on the Commission. (Tenn. Code Ann. § 49-7-204.)

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**2. IS THE OVERSIGHT BODY MANDATED TO INCLUDE AT LEAST ONE CONSUMER ADVOCATE?**

**0/10 POINTS**

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Yes	No
10 Points	0 Points

**Explanation:**

Although the Commission does include two students (one voting and one nonvoting), Tennessee law does not mandate that its membership include an individual with expertise and experience in the area of consumer advocacy. (Tenn. Code Ann. § 49-7-204.)

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**3. ARE THE MEMBERS APPOINTED BY A PUBLICLY ACCOUNTABLE OFFICIAL OR ELECTED IN A GENERAL ELECTION?**

**5/5 POINTS**

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All	Majority	Half	Minority	None
5 Points	3 Points	2.5 Points	1 Point	0 Points

**Explanation:**

The governor appoints 6 voting members, the speaker of the senate appoints 1 voting member, the speaker of the house of representatives appoints 1 voting member, and the speakers jointly appoint 1 voting member. (Tenn. Code Ann. § 49-7-204.)



## II. STATE OVERSIGHT—EFFICACY: 58/100 POINTS

### A. DOES THE STATE REQUIRE ONSITE REVIEW OF PRIVATE POSTSECONDARY INSTITUTIONS?

3/10 POINTS

Mandatory onsite reviews			Discretionary	None
Every 2 years or less	Every 3-5 years	Over 5 years	Discretion to conduct onsite reviews	No review specified
10 Points	8 Points	5 Points	3 Points	0 Points

#### Explanation:

Beginning on January 1, 2018, Tennessee requires institutions with regular, temporary, or conditional authorization to file for reauthorization annually. (Tenn. Comp. R. & Regs. R. 1540-01-02-.07 (3).)

### B. DOES THE STATE REQUIRE UNANNOUNCED INSPECTIONS FOR ONSITE REVIEWS?

3/5 POINTS

Required unannounced visits	Discretion to do unannounced visits	No indication
5 Points	3 Points	0 Points

#### Explanation:

Commission staff has discretion to conduct unannounced site visits. (Tenn. Comp. R. & Regs. R. 1540-01-02-.10(2).) However, the Commission may conduct these unannounced inspections only in very specific circumstances.

### C. DOES THE STATE REQUIRE REGULAR REVIEWS OF PRIVATE POSTSECONDARY APPROVAL TO OPERATE?

20/20 POINTS

Mandatory			Discretionary	None
Every 2 years or less	Every 3-5 years	Over 5 years	Discretion to conduct reviews	No review specified
20 Points	15 Points	10 Points	5 Points	0 Points

#### Explanation:

Beginning on January 1, 2018, Tennessee requires institutions to file for reauthorization annually. (Tenn. Comp. R. & Regs. R. 1540-01-02-.07 (3).)

### D. DO THE CRITERIA FOR RENEWAL OF AUTHORIZATION MANDATE A REVIEW OF FACTORS ESSENTIAL TO ACADEMIC AND ETHICAL INTEGRITY?

17/20 POINTS

8 of 8	7 of 8	6 of 8	5 of 8	4 of 8	3 of 8	2 of 8	1 of 8	0 of 8
20 Points	17.5 Points	<del>15</del> 17 Points	12.5 Points	10 Points	7.5 Points	5 Points	2.5 Points	0 Points

Element	
Admission requirements	M
Graduation requirements	M
Placement rate	M
Completion rate (or graduation rate)	M
Advertising practices	M
Cohort default rate	D
Accreditation status	M
Financial aid policies	D

*M= Mandatory; D=Discretionary*

### Explanation:

Tennessee law requires the Commission to act upon a renewal application for authorization under the same procedures used in initial applications. (Tenn. Code Ann. § 49-7-2008(f)(2).) The minimum standards are reviewed. Institutions must demonstrate that they are continuing to meet minimum standards. The minimum standards for postsecondary institutions seeking authorization include review of placement rates and graduation rates (Tenn. Comp. R. & Regs. R. 1540-01-02-.07; Tenn. Comp. R. & Regs. R. 1540-01-02-.18), advertising practices (Tenn. Code Ann. § 49-7-2006(a)(1)(I)), accreditation status (Tenn. Code Ann. § 49-7-2006(b)), and graduation requirements (Tenn. Code Ann. § 49-7-2006(a)(1)(A)). Tennessee regulations lay out minimum standards for admissions (Tenn. Comp. R. & Regs. R. 1540-01-02-.12). Financial Aid data is reviewed and the Commission may request any additional documentation it deems necessary for clarification – this may include a review of financial aid policies, the state receives partial credit (Tenn. Comp. R. & Regs. R. 1540-01-02-.07(b)). Cohort default rates are reviewed only for institutions participating in Federal IV-E financial aid programs (Tenn. Comp. R. & Regs. R. 1540-01-02-.07(2)(16)).

### E. DOES THE STATE'S OVERSIGHT DISTINGUISH BETWEEN FOR-PROFIT AND NONPROFIT POSTSECONDARY INSTITUTIONS?

**5/15 POINTS**

Yes, strongly distinguished	Yes, moderately distinguished	Yes, slightly distinguished	Not distinguished
15 Points	10 Points	<b>5 Points</b>	0 Points

### Explanation:

Tennessee law has a narrowly tailored exemption which applies to specified private nonprofit postsecondary institutions. (Tenn. Code Ann. § 49-7-2004.)

### F. DOES THE STATE REQUIRE INCREASED OVERSIGHT/SCRUTINY OF PRIVATE POSTSECONDARY INSTITUTIONS BASED ON POOR PERFORMANCE?

**10/10 POINTS**

Yes, mandatory	Yes, mandatory but limited	Yes, discretionary	Yes, discretionary but limited	No
10 Points	7.5 Points	5 Points	2.5 Points	0 Points

**Explanation:**

In Tennessee, institutions must annually report specified statistical data. If annual average institutional or individual program withdrawal rates exceed twenty-five percent (25%) or if annual average institutional or individual program in-field placement rates are less than seventy percent (70%), institutions shall explain the circumstances contributing to these rates, demonstrate how these rates are not an indicator of poor educational quality, and describe what actions the institution will take to lower the withdrawal rates and/or increase the in-field placement rates. Additionally, Commission staff may compare an institution's rates to the state average for that type of institution and/or program. When an institution-level or program level rate fails to meet the state average for two consecutive years Commission staff may recommend to the Commission that adverse action be taken against the institution.. (Tenn. Comp. R. & Regs. R. 1540-01-02-.18(6).)

**G. DOES STATE LAW INCLUDE ANY SPECIAL PROTECTIONS FOR VETERANS WHO ATTEND PRIVATE POSTSECONDARY INSTITUTIONS?**

**0/20 POINTS**

Yes	No
20 Points	0 Points

**Explanation:**

Tennessee law does not have any special protections in place specifically for veterans who attend private postsecondary educational institutions.

**III. STATE OVERSIGHT—SCOPE AND INCLUSION:**

**75/100 POINTS**

**A. ARE EXEMPTIONS TO STATE OVERSIGHT COVERAGE LIMITED?**

**75/100 POINTS**

No exemptions	Few exemptions	Moderate exemptions	Broad exemptions
100 Points	75 Points	50 Points	0 Points

**Explanation:**

Exempted institutions include those that offer instruction that is avocational/recreational; K-12 programs; eleemosynary institutions that do not promote their programs as leading toward educational credentials, narrowly tailored exemptions for some religious schools; narrowly tailored exemptions for some accredited institutions that have been in operation for at least 20 years; institutions that operate for the study of law and are subject to the approval of the board of law examiners for this state; educational programs conducted by state-licensed health care institutions; narrowly tailored exemptions for specified nonprofits. As of October 2016, degree-granting institutions can apply for expedited authorization if they meet specified criteria. (Tennessee Code Annotated, Title 49, Chapter 7, Part 20.)

#### IV. DISCLOSURE REQUIREMENTS: 60/100 POINTS

##### A. ARE INSTITUTIONS REQUIRED TO DISCLOSE INSTITUTIONAL PERFORMANCE MEASURES TO POTENTIAL STUDENTS?

20/20 POINTS

Yes, mandatory	Yes, discretionary	None
Fact sheet or equivalent required to be given to students	Fact sheet or equivalent given to students upon request	No fact sheet required
20 Points	10 Points	0 Points

##### Explanation:

Tennessee mandates that private postsecondary institutions require prospective students to sign and date a form to be placed in the student file, which is either part of the enrollment contract or a pre-enrollment check list verifying that the student has received various disclosures. Institutions must also include documentation that students received graduation placement data exactly as presented to the Commission during the last reauthorization cycle in a specified format. (Tenn. Comp. R. & Regs. R. 1540-01-02-.13.)

##### B. WHICH INSTITUTIONAL PERFORMANCE DISCLOSURES ARE REQUIRED TO BE GIVEN TO STUDENTS PRIOR TO ENROLLMENT?

20/60 POINTS

Disclosures	Mandatory	Discretionary	Not specified
Cohort default rate (CDR)	10 Points	5 Points	0 Points
Graduation / completion rates	10 Points	5 Points	0 Points
Placement rates	10 Points	5 Points	0 Points
Wage information	10 Points	5 Points	0 Points
License exam passage rates	10 Points	5 Points	0 Points
Methods & sources used to calculate	10 Points	5 Points	0 Points

##### Explanation:

Tennessee law mandates that private postsecondary institutions require prospective students to sign and date a form to be placed in the student file, which is either part of the enrollment contract or a pre-enrollment check list verifying that the student has received various disclosures. Institutions must also include documentation that students received graduation placement data exactly as presented to the Commission during the last reauthorization cycle in a specified format. (Tenn. Comp. R. & Regs. R. 1540-01-02-.13.).

##### C. DOES THE STATE REQUIRE SCHOOLS TO DISCLOSE ELEMENTS ESSENTIAL TO STUDENT PROTECTION PRIOR TO ENROLLMENT OR IN THE ENROLLMENT CONTRACT?

20/20 POINTS

Element description	Mandatory	Discretionary	Not specified
Total cost of program	5 Points	2.5 Points	0 Points
Refund information	5 Points	2.5 Points	0 Points

<b>Transferability of credits</b>	<b>5 Points</b>	2.5 Points	0 Points
<b>Length of program</b>	<b>5 Points</b>	2.5 Points	0 Points

**Explanation:**

Tennessee law requires institutions to include several disclosures in the enrollment contract. These disclosures include information about the cost of the program, refund information, information related to the transferability of credit and the length of programs in both academic and calendar terms. (Tenn. Comp. R. & Regs. R. 1540-01-02-.13.)

## V. REGULATION OF RECRUITING PRACTICES:

**100/100 POINTS**

### A. HAS THE STATE PUT INTO LAW A LIST OF PROHIBITED ACTS REGARDING ADVERTISING AND RECRUITING?

**100/100 POINTS**

<b>Yes, strong regulation</b>	<b>Yes, moderate regulation</b>	<b>Yes, weak regulation</b>	<b>No list of prohibited acts</b>
<b>100 Points</b>	75 Points	50 Points	0 Points

#### PROHIBITED ACTS

<b>Included in list of prohibited acts</b>	
<b>Misleading representations using the word “college” or “university”</b>	<b>X</b>
<b>Misleading institution affiliations (e.g. military, public institutions, businesses)</b>	<b>X</b>
<b>Promise of employment</b>	<b>X</b>
<b>Compensation for enrollment</b>	<b>X</b>
<b>Compensation or “bounty” to recruiters</b>	
<b>Deception (broad prohibition)</b>	<b>X</b>
<b>Misrepresentation (broad prohibition)</b>	<b>X</b>
<b>Misleading representations re: accreditation</b>	<b>X</b>

*1-3=Weak; 3.5-6=Moderate; 7+ =Strong*

**Explanation:**

Tennessee law prohibits use of the term “university” or other terminology that could mislead the general public without authorization to do so, further, Tennessee has very specific requirements in place that an institution must meet before it can use the term “college” in its name. (Tenn. Code Ann. § 49-7-2021; Tenn. Code Ann. § 49-7-2007; Tenn. Comp. R. & Regs. R. 1540-01-02-.20.) The state also prohibits misleading representations related to accreditation. There are several relevant laws and regulations in place to prohibit misleading representations related to institutional affiliations. (Tenn. Comp. R. & Regs. R. 1540-01-02-.20.) Finally, there are several regulations in place that have to effect of prohibiting representations relating to “free tuition” and prohibiting promotions related to financial aid incentives as opposed to education programs, these prohibitions are strong and broad in scope, and they have an effect similar to prohibiting compensation for enrollment, therefore, the state receives credit for prohibiting “compensation for enrollment.”

## VI. COMPLAINT PROCESS & RELIEF FOR STUDENTS:

**78/100 POINTS**

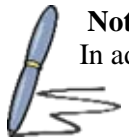
### A. DOES THE STATE REQUIRE A BOND OR FUND AS A CONDITION OF AUTHORIZATION?

**20/20 POINTS**

Yes	No
20 Points	0 Points

#### Explanation:

Tennessee law provides that at the time application is made for authorization to operate, or for renewal of the authorization, the Commission may require the postsecondary educational institution making the application to file with the Commission a good and sufficient surety bond. (Tenn. Code Ann. § 49-7-2013; Tenn. Comp. R. & Regs. R. 1540-01-02-.09.)



#### **Notable Provision:**

In addition to the required surety bond, Tennessee has created a tuition guaranty fund funded by fees assessed on authorized postsecondary institutions. The fee is based on tuition collected from students. While requiring a institutions to post a bond is the very least states should be doing to protect their students, it is important for states to have funds like tuition guaranty funds to ensure that students and tax payers are protected. (Tenn. Code Ann. § 49-7-2018.)

### B. DOES THE STATE REQUIRE A REFUND OF TUITION IF A STUDENT ENROLLS AS THE RESULT OF MISREPRESENTATION?

**10/20 POINTS**

Yes, full refund	Yes, partial refund	No refund required
20 Points	10 Points	0 Points

#### Explanation:

Tennessee law requires a bond to be conditioned to provide indemnification to any student or enrollee or the student's or enrollee's parents or guardian, determined to have suffered loss or damage as a result of any act or practice that is a violation of the governing statutes by the postsecondary educational institution. (Tenn. Code Ann. § 49-7-2013(a)(3)) Therefore, while there is no explicit requirement that the institution provide a full refund of tuition if a student enrolls as the result of misrepresentation, the law very clearly prohibits misrepresentation, thus, under this provision, the student would likely receive at least a partial refund.

Additionally, the board of directors of the tuition guaranty fund (the board) may reimburse valid claims of students for tuition paid to that an institution that is participating in the tuition guaranty fund and goes bankrupt or ceases operations without completing its educational obligations or reimbursing its students. The refund may be provided in accordance with guidelines and regulations established by the board. (Tenn. Code Ann. § 49-7-2018(f).) There is no requirement that the student's tuition is refunded in full.

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C. DOES THE STATE REQUIRE INSTITUTIONS TO REFUND  
TUITION IN THE EVENT OF CLOSURE?

**15/20 POINTS**

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Yes, full refund	Yes, partial refund	Yes, refund in limited circumstances	No refund required
20 Points	<b>15 Points</b>	10 Points	0 Points

**Explanation:**

Tennessee law has established a tuition guaranty fund from which reimbursement can be made to students, or an entity making loans to students, at private postsecondary education institutions that close without earning tuition collected from enrollees. (Tenn. Code Ann. § 49-7-2018.) There is no requirement that the student receive a full refund.

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D. DOES THE STATE ALLOW STUDENTS AMPLE TIME TO MAKE A COMPLAINT?

**10/10 POINTS**

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2 years or more (or no deadline)	1-2 years	Under 1 year	Not applicable
<b>10 Points</b>	5 Points	1 Point	0 Points

**Explanation:**

Tennessee law does not set a deadline by which students must submit a complaint to the commission.

Note: Tennessee's rule states "Complaints shall be signed and submitted through hand delivery, mail, or electronic mail as provided for in Rule .27 of these rules." There is not a Rule .27 at this writing in December of 2017. (Tenn. Comp. R. & Regs. R. 1540-01-02-.19(9)(a).)

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E. DOES THE STATE REQUIRE INSTITUTIONS TO DISCLOSE INFORMATION  
ABOUT FILING A COMPLAINT WITH THE STATE OVERSIGHT BODY?

**17.5/20 POINTS**

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Medium	Mandatory	Discretionary	Not specified
Catalog	<b>10 Points</b>	5 Points	0 Points
Website	5 Points	<b>2.5 Points</b>	0 Points
Enrollment contract	<b>5 Points</b>	2.5 Points	0 Points

**Explanation:**

Tennessee law requires schools to include information about filing a complaint including the address and telephone number of the licensure staff of the Commission for grievances not settled at the institutional level. (Tenn. Comp. R. & Regs. R. 1540-01-02-.11(p).) Prior to enrolling institutions must require students to sign and date a form which includes, among other disclosures, information on filing grievances, including contact information for the commission. (Tenn. Comp. R. & Regs. R. 1540-01-02-.13.) Though institutions are not explicitly required to include information on the institutional website, it is common for institutions to include the institutional catalog or information similar to that contained in the catalog on their website. Therefore, the state receives partial credit for providing discretion for institutions to post this information on the institutional website.

F. IS THE COMPLAINT PROCESS READILY ACCESSIBLE AND AVAILABLE ON THE STATE OVERSIGHT BODY WEBSITE?

**5.5/10 POINTS**

Yes, with address	Yes, with phone #	Yes, with email address	Yes, with electronic form	No
2 Points	2 Points	3 Points	3 1.5 Points	0 Points

**Explanation:**

The Commission makes a form available online that students must complete and mail or fax to it. The form contains instructions, a mailing address, and a fax number. Because the form cannot be submitted online from the website, only partial credit is given for the electronic form.

**VII. ENFORCEMENT: 25/100 POINTS**

A. IS THERE LOSS OF STATE AID FOR SCHOOLS THAT REPEATEDLY PRODUCE SUBSTANDARD GRADUATION RATES, JOB PLACEMENT RATES, AND/OR COHORT DEFAULT RATES?

**5/30 POINTS**

Yes, required	Yes, required but limited	Yes, discretionary	Yes, discretionary but limited	No
30 Points	20 Points	15 Points	5 Points	0 Points

**Explanation:**

Tennessee law does not mandate loss of aid for schools that repeatedly produce substandard graduation rates, job placement rates, and /or cohort default rates. However, in Tennessee, institutions must annually report specified statistical data. If annual average institutional or individual program withdrawal rates exceed twenty-five percent (25%) or if annual average institutional or individual program in-field placement rates are less than seventy percent (70%), institutions shall explain the circumstances contributing to these rates, demonstrate how these rates are not an indicator of poor educational quality, and describe what actions the institution will take to lower the withdrawal rates and/or increase the in-field placement rates. Additionally, Commission staff may compare an institution's rates to the state average for that type of institution and/or program. When an institution-level or program level rate fails to meet the state average for two consecutive years Commission staff may recommend to the Commission that adverse action be taken against the institution.. (Tenn. Comp. R. & Regs. R. 1540-01-02-.18(6).) Given this monitoring, it is possible that there may be some loss of state aid, at the discretion of the Commission.

B. DOES STATE LAW EXPLICITLY AUTHORIZE A PRIVATE RIGHT OF ACTION FOR STUDENTS AGAINST INSTITUTIONS THAT HAVE VIOLATED THE LAWS AND REGULATIONS IN PLACE TO GOVERN THEM?

**0/30 POINTS**

Yes	Limited circumstances	No
30 Points	15 Points	0 Points



**Explanation:**

Tennessee law has not created a private right of action for students to use against institutions that have violated the laws and regulations in place to govern them. Tennessee law allows for mediation; “[n]othing in this section shall be construed to prohibit the use of nonbinding mediation to settle disputes arising between a postsecondary institution and its enrollees, nor the inclusion of a mediation clause in enrollment contracts.” (Tenn. Code Ann. § 49-7-2011(d).)

**Notable Provision:**

Tennessee prohibits authorized postsecondary institutions from utilizing mandatory arbitration provisions. This is an important protection for students and other states should follow Tennessee’s lead here. (Tenn. Comp. R. & Regs. R. 1540-01-02-.19(4).)

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**C. DOES STATE LAW EXPLICITLY ALLOW ATTORNEY FEE  
AWARDS FOR STUDENTS WHO PREVAIL IN LITIGATION AGAINST  
PRIVATE FOR-PROFIT POSTSECONDARY INSTITUTIONS?**

**0/20 POINTS**

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Yes	Limited	No
20 Points	15 Points	0 Points

**Explanation:**

The state does not explicitly allow attorney fee awards for students who prevail in litigation against institutions that have violated the laws and regulations in place to govern them.

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**D. DOES STATE LAW EXPLICITLY AUTHORIZE  
ATTORNEY GENERAL INVOLVEMENT?**

**20/20 POINTS**

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Yes	Limited circumstances	No
20 Points	10 Points	0 Points

**Explanation:**

Tennessee law explicitly authorizes Attorney General involvement in enforcing laws and regulations in place to govern private postsecondary educational institutions. (Tenn. Code Ann. § 49-7-2017.)

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**BONUS POINTS:**

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Tennessee does not receive any bonus points.



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**ILLUMINATING INFORMATION**

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**RECIPROCITY AGREEMENTS**

Tennessee is a member of the State Authorization Reciprocity Agreements (SARA).

## LITIGATION, INVESTIGATIONS, AND ACTIONS INVOLVING PRIVATE FOR-PROFIT EDUCATIONAL INSTITUTIONS IN TENNESSEE

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For information about pending and recent federal and state government investigations and actions regarding for-profit colleges see David Halperin's compilation at <http://www.republicreport.org/2014/law-enforcement-for-profit-colleges/#sthash.1vc4HmPw.dpuf>.

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# TEXAS

## FINAL GRADING ANALYSIS

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OVERALL SCORE: **420.45/700 POINTS (60.1%)**  
LETTER GRADE: **D**

### I. OVERSIGHT BODY: **72.5/100 POINTS**

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#### A. IS THERE A STATUTORILY CREATED OVERSIGHT BODY THAT IS PUBLICLY ACCOUNTABLE?

**50/60 POINTS**

Element	Total Points Available	Type 1	Type 2	Points Awarded (Average)
1. Oversight body is a multi-member board, commission, or panel created by statute	10	10	10	10
2. Oversight body was statutorily created specifically to oversee private postsecondary institutions	10	0	0	0
3. Multi-member board, commission, or panel is the ultimate decision maker (as opposed to a single person, like the head of a department or director)	10	10	10	10
4. Oversight body can engage in rulemaking	10	10	10	10
5. Oversight body's meetings must be open to the public	5	5	5	5
6. Oversight body's meetings must allow public comment	5	5	5	5
7. Oversight body can initiate investigations	5	5	5	5
8. Oversight body can impose penalties for violations	5	5	5	5
<b>Total Points</b>	<b>60</b>	<b>50</b>	<b>50</b>	<b>50</b>

**Explanation:**

Texas divides its regulation between two types of private postsecondary educational institutions: degree-granting private postsecondary educational institutions (Type 1) and career schools or colleges (Type 2).

**Type 1: Degree-granting private postsecondary educational institutions.** The Texas Higher Education Coordinating Board was created with broad authority to provide leadership and coordination for the Texas higher education system, institutions, and governing boards. (Tex. Educ. Code § 61.001 *et seq.*) Thus, the Board was not created specifically to oversee private postsecondary institutions. The Board has authority to promulgate rules, initiate investigations and impose penalties necessary to carry out the functions enumerated in the statute. (Tex. Educ. Code § 61.304; Tex. Educ. Code § 61.021.)

The Board is subject to the Texas Open Meetings Act and every regular, special, or called meeting must be open to the public. (Tex. Gov't Code § 551.002.) The Board's 2017 Operating Policies and Procedures Manual mandates the opportunity for public comment at every meeting.

**Type 2: Career schools or colleges.** The Texas Workforce Commission exercises jurisdiction and control of the system of career schools and colleges in Texas. The Commission was not created solely to oversee career schools or colleges, rather, it was established to operate an integrated workforce development system in Texas, in particular through the consolidation of job training, employment, and employment-related educational programs available in the state, and to administer the unemployment compensation insurance program in the state. (Tex. Lab. Code § 301.001.)

The Commission carries out supervision of the provisions of applicable statutes, and enforces minimum standards for approval of career schools and colleges under the operating regulations and policies governing career schools and colleges in Texas. (Tex. Educ. Code § 132.021.) The Commission has authority to adopt necessary policies and rules, impose penalties (including revocation of certificates of approval and assessment of administrative penalties). (Tex. Educ. Code § 132.058; Tex. Educ. Code § 132.152.) The Commission has authority to initiate investigations in response to student complaints (40 TAC § 807.302) and enforce minimum standards set out to govern career schools or colleges (Tex. Educ. Code § 132.021), which implies that the Commission has authority to initiate investigations as necessary to carry out its duties under the law and enforce minimum standards.

The Commission is subject to the Texas Open Meetings Act and every regular, special, or called meeting must be open to the public. (Tex. Gov't Code § 551.002.) There is opportunity for public comment at meetings.

## B. STATUTE-SPECIFIED MEMBERSHIP:

### 1. TO WHAT EXTENT ARE LIMITATIONS PLACED ON FOR-PROFIT MEMBERSHIP ON THE OVERSIGHT BODY?

**17.5/ 25 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Explicit prohibition on for-profit majority, plus no possibility of a majority of the quorum	Explicit prohibition on for-profit majority	Discouraged	No prohibition specified, but not discouraged	For-profit majority mandated
<b>Type 1</b>	<b>25 Points</b>	20 Points	10 Points	0 Points	-5 points
<b>Type 2</b>	25 Points	20 Points	<b>10 Points</b>	0 Points	-5 Points

#### **Explanation:**

**Type 1: Degree-granting private postsecondary educational institutions.** Texas law prohibits Board members from being employed professionally for remuneration in the field of education during the member's term of office. (Tex. Educ. Code § 61.022.) Further, Texas law prohibits membership if the person or the person's spouse is employed by or participates in the management of a business entity or other organization regulated by the Board or receiving funds from the Board; owns or controls, directly or indirectly, more than a 10% interest in a business entity or other organization regulated by the Board or receiving funds from the Board; or uses or receives a substantial amount of tangible goods, services, or funds from the Board, other than compensation or reimbursement authorized by law for Board

membership, attendance, or expenses. (Tex. Educ. Code § 61.0222(a).) These provisions have the effect of prohibiting a for-profit majority and for-profit interests from constituting a majority of the quorum.

**Type 2: Career schools or colleges.** Texas law prohibits a person or a person's spouse who is employed by or participates in the management of a career school or college or a business entity or other organization receiving money from the Commission, or who owns or controls, directly or indirectly, more than a 10% interest in a career school or college or a business entity or other organization receiving money from the Commission from serving on the Commission. The state receives 15 points for this prohibition because there is no explicit prohibition on a for-profit majority, and a person associated with a career school not receiving money from the Commission could possibly be appointed. However, given the make-up of the Commission and the language in the statute, interests affiliated with for-profit educational institutions are not likely to dominate the Commission. (Tex. Lab. Code §§ 301.002, 301.003.)

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**2. IS THE OVERSIGHT BODY MANDATED TO INCLUDE  
AT LEAST ONE CONSUMER ADVOCATE?**

**0/10 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	No
<b>Type 1:</b>	10 Points	<b>0 Points</b>
<b>Type 2:</b>	10 Points	<b>0 Points</b>

**Explanation:**

**Type 1: Degree-granting private postsecondary educational institutions.** Texas law does not require Board membership to include an individual with expertise and experience in the area of consumer advocacy. (Tex. Educ. Code § 61.022.)

*Comment from Texas:* The Texas governor appoints a student representative to the Board to provide the student perspective on all Board decisions, including those that involve private for-profit oversight.

*Response to comment from Texas:* While it is a good practice and commendable for states to appoint students to their oversight boards, a consumer advocate is an individual with expertise and experience advocating for consumer rights. Points for this element are awarded only to states that require the oversight body to include at least one consumer advocate.

**Type 2: Career schools or colleges.** Texas law does not require Commission membership to include an individual with expertise and experience in the area of consumer advocacy. (Tex. Lab. Code § 301.002.)

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**3. ARE THE MEMBERS APPOINTED BY A PUBLICLY ACCOUNTABLE  
OFFICIAL OR ELECTED IN A GENERAL ELECTION?**

**5/5 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	All	Majority	Half	Minority	None
<b>Type 1</b>	<b>5 Points</b>	3 Points	2.5 Points	1 Point	0 Points
<b>Type 2</b>	<b>5 Points</b>	3 Points	2.5 Points	1 Point	0 Points

**Explanation:**

**Type 1: Degree-granting private postsecondary educational institutions.** The nine Board members are appointed by the governor with the advice and consent of the senate. (Tex. Educ. Code § 61.022.)

**Type 2: Career schools or colleges.** The governor appoints all members to the Commission. (Tex. Lab. Code § 301.002.)

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## II. STATE OVERSIGHT—EFFICACY: 53.5/100 POINTS

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A. DOES THE STATE REQUIRE ONSITE REVIEW OF  
PRIVATE POSTSECONDARY INSTITUTIONS?

**3/10 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Mandatory onsite reviews			Discretionary	None
	Every 2 years or less	Every 3-5 years	Over 5 years	Discretion to conduct onsite reviews	No review specified
<b>Type 1</b>	10 Points	8 Points	5 Points	<b>3 Points</b>	0 Points
<b>Type 2</b>	10 Points	8 Points	5 Points	<b>3 Points</b>	0 Points

**Explanation:**

**Type 1: Degree-granting private postsecondary educational institutions.** Depending upon its accreditation status, an institution may apply for a certificate of authorization or a certificate of authority to grant degrees in Texas or an alternate certificate of authority. (Tex. Educ. Code § 61.304.) A certificate of authorization requires an annual compliance review and a certificate of authority requires review every two years.

**A certificate of authorization:** Institutions that are accredited by an accrediting agency recognized by the state of Texas must apply for a certificate of authority to operate. (19 TAC § 7.7(1)(A).) There is no site visit required by the Board for these institutions. The Board requires that the accrediting agency must have requirements in place for onsite reviews as part of the initial and continuing accreditation of educational institutions. (19 TAC § 7.6(a)(1)(D).) Texas law specifies with regard to the annual review that prior to making a recommendation to the Board, staff has discretion to conduct a site visit at the institution if warranted by facts disclosed in the annual review documentation. (19 TAC § 7.7(C)(III).)

**A certificate of authority:** An institution that is not accredited by an accrediting agency recognized by the state of Texas must either obtain a Certificate of Authority or an Alternate Certificate of Authority. If an institution applies for a certificate of authority, the Commissioner of Higher Education determines whether a site review team is necessary. If a site review team is required, the Commissioner identifies a site review team of at least three individuals, all of whom have experience and knowledge in postsecondary education. (19 TAC § 7.8(4)(A), (B).) The renewal process follows the same procedure as the initial process. (19 TAC § 7.8(7)(B).) A Certificate of Authority must be renewed every two years. An institution may be granted consecutive Certificates of Authority for no longer than eight years. (19 TAC § 7.8(7)(C).) Absent sufficient cause, at the end of the eight years, the institution must be accredited by a Board-recognized accrediting agency. (19 TAC § 7.8(7)(C).) If the institution fails, after a good faith effort, to obtain accreditation it may appeal to the Board for an extension of the Certificate of Authority. (Tex Educ. Code §61.308(c).)

**Type 2: Career schools or colleges.** Texas law requires the Commission to conduct an onsite visit to reexamine the school or college for compliance with the eligibility criteria not later than three months after the date the school or college begins operation or after a change in ownership of the school or college. (Tex. Educ. Code § 132.056(f).) The Commission has discretion to conduct onsite visits as often as it needs to. Specifically, the statute specifies that the Commission shall reexamine the premises of the school or college as frequently as the Commission considers necessary and renew, revoke, or deny renewal of the school's or college's certificate of approval. (Tex. Educ. Code § 132.056(d).)

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**B. DOES THE STATE REQUIRE UNANNOUNCED INSPECTIONS  
FOR ONSITE REVIEWS?**

**3/5 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	<b>Required unannounced visits</b>	<b>Discretion to do unannounced visits</b>	<b>No indication</b>
<b>Type 1</b>	5 Points	<b>3 Points</b>	<b>0 Points</b>
<b>Type 2</b>	5 Points	<b>3 Points</b>	<b>0 Points</b>

**Explanation:**

**Type 1: Degree-granting private postsecondary educational institutions.** Texas law does not require unannounced onsite review for degree-granting private postsecondary institutions. However, onsite visits may be announced or unannounced. (Tex. Educ. Code 61.035(j)(2).) The Texas Oversight Coordinating Board has discretion to conduct a site visit at the institution if warranted by the facts disclosed in the annual review documentation. (19 TAC § 7.7(C)(III).)

**Type 2: Career schools or colleges.** Texas law does not require unannounced onsite review for career schools or colleges. However, onsite visits may be unannounced. The Commission's website cautions schools to be prepared for survey site visits which may be unannounced or planned, such as annual visits (see <http://www.twc.state.tx.us/partners/ongoing-requirements-licensed-career-schools>).

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**C. DOES THE STATE REQUIRE REGULAR REVIEWS OF PRIVATE  
POSTSECONDARY APPROVAL TO OPERATE?**

**19.5/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	<b>Mandatory</b>			<b>Discretionary</b>	<b>None</b>
	Every 2 years or less	Every 3-5 years	Over 5 years	Discretion to conduct reviews	No review specified
<b>Type 1</b>	<b>20 Points</b>	15 Points	10 Points	5 Points	0 Points
<b>Type 2</b>	<b>20 19 Points</b>	15 Points	10 Points	5 Points	0 Points

**Explanation:**

**Type 1: Degree-granting private postsecondary educational institutions.** Institutions accredited by an accreditor recognized by the Board are subject to annual review of their authorization. (19 TAC § 7.7(1)(C).) Institutions that are not accredited by an accreditor recognized by the Board and have obtained a Certificate of Authority to Operate must renew their Certificate of Authority every two years

up to a maximum of eight years, at which time they must have obtained accreditation from a Board recognized accreditor unless an exception applies. (19 TAC § 7.8(5)(A), (7)(C).)

**Type 2: Career schools or colleges.** Texas law requires career schools or colleges to renew their certificates of approval every year. (Tex. Educ. Code § 132.056(b).) Renewal of a certificate of approval requires Commission review. (Tex. Educ. Code § 132.056(a).) Because there is an exception for “small schools,” which must be renewed every three years, the state loses 1 point. (40 TAC § 807.12(a); Tex. Educ. Code § 132.054.)

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**D. DO THE CRITERIA FOR RENEWAL OF AUTHORIZATION MANDATE A REVIEW OF FACTORS ESSENTIAL TO ACADEMIC AND ETHICAL INTEGRITY?**

**14.25/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	8 of 8	7 of 8	6 of 8	5 of 8	4 of 8	3 of 8	2 of 8	1 of 8	0 of 8
<b>Type 1a</b>	20 Points	17.5 Points	15 Points	12.5 Points	10 Points	7.5 Points	5 Points	2.5 Points	0 Points
<b>Type 1b</b>	20 Points	17.5 Points	15 Points	<del>12.5</del> 13.5 Points	10 Points	7.5 Points	5 Points	2.5 Points	0 Points
<b>Type 2</b>	20 Points	17.5 Points	15 Points	<del>12.5</del> 13.5 Points	10 Points	7.5 Points	5 Points	2.5 Points	0 Points

Element	Type 1a	Type 1b	Type 2
Admission requirements	M	M	M
Graduation requirements	M	M	M
Placement rate	M	D	M
Completion rate (or graduation rate)	M	M	M
Advertising practices	M	M	M
Cohort default rate			D
Accreditation status	M	M	
Financial aid policies			

*M=Mandatory; D=Discretionary*

**Explanation:**

**Type 1a: Degree-granting private postsecondary educational institutions accredited by a Board-recognized accreditor.** The standards of operation that the Board enumerates in 19 TAC § 7.4(20)(A) includes a review of advertising practices, accreditation, completion/graduation rate, placement rate, graduation requirements, and admissions requirements. The law also states that all institutions that operate within Texas are required to meet certain standards that will be enforced through the Certificate of Authority process. Standards addressing the same principles will be enforced by Board-recognized accrediting agencies under the Certificate of Authorization process. The state receives full credit for review of accreditation status and review of advertising practices because the Board verifies information related to accreditation status and advertising practices on an annual basis. (19 TAC § 7.7(1)(B), (C).) The Board may revoke a certificate of authority to grant degrees at any time if it finds that advertising utilized on behalf of the institution is deceptive or misleading. (Tex. Educ. Code § 61.309.)



**Type 1b: Degree-granting private postsecondary educational institutions not accredited by a Board-recognized accreditor.** The standards of operation that the Board enumerates in 19 TAC § 7.4 include a review of advertising practices, accreditation, completion/graduation rate, graduation requirements, and admissions requirements. Disclosure of placement rates is discretionary. (19 TAC § 7.4(20)(B).)

**Type 2: Career schools or colleges.** Texas law requires the Commission to review admission requirements, graduation requirements placement rates, completion rates, and advertising practices of career schools and colleges. (Tex. Educ. Code § 132.055.)



**Notable Provision:** Texas law also requires the Commission to enter into a memorandum of understanding with the Texas Guaranteed Student Loan Corporation and each state agency regulating schools to reduce default rates at the regulated schools and to improve the overall quality of the programs. (Tex. Educ. Code § 132.023; 40 TAC § 807.3.) The Commission may require career schools or colleges to provide information to the Commission that is necessary for the purposes of the memorandum of understanding. (Tex. Educ. Code § 132.023(d).) Because the Commission is given discretion to collect this information from career schools or colleges, not mandated to do so, the state receives partial credit.

**E. DOES THE STATE'S OVERSIGHT DISTINGUISH BETWEEN FOR-PROFIT AND NONPROFIT EDUCATIONAL INSTITUTIONS?**

**2.5/15 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, strongly distinguished	Yes, moderately distinguished	Yes, slightly distinguished	Not distinguished
<b>Type 1</b>	15 Points	10 Points	5 Points	<b>0 Points</b>
<b>Type 2</b>	15 Points	10 Points	<b>5 Points</b>	0 Points

**Explanation:**

**Type 1: Degree-granting private postsecondary educational institutions.** Texas law does not distinguish between for-profit and nonprofit degree-granting private postsecondary educational institutions.

**Type 2: Career schools or colleges.** Texas law provides some very narrowly tailored exemptions, such as those for certain religious nonprofits; very specific nonprofit arts organizations which primarily provide instruction in the dramatic arts; and specific nonprofit course or training program conducted by a nonprofit association of air conditioning and refrigeration contractors approved by the Air Conditioning and Refrigeration Contractors Advisory Board to provide instruction for technical, business, or license examination preparation programs. (Tex. Educ. Code § 132.002.)

**F. DOES THE STATE REQUIRE INCREASED OVERSIGHT/SCRUTINY OF PRIVATE POSTSECONDARY INSTITUTIONS BASED ON POOR PERFORMANCE?**

**6.25/10 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, mandatory	Yes, mandatory but limited	Yes, discretionary	Yes, discretionary but limited	No
<b>Type 1</b>	10 Points	<b>7.5 Points</b>	5 Points	2.5 Points	0 Points
<b>Type 2</b>	10 Points	7.5 Points	<b>5 Points</b>	2.5 Points	0 Points

**Explanation:**

**Type 1: Degree-granting private postsecondary educational institutions.** The Board bases its authorization processes on accreditation, and does not specify any increased oversight measures based on poor performance as defined by low graduation rates, high default rates, or low exam passage rates, for example. However, if issues of concern are raised during annual compliance reviews, institutions must keep the Board apprised of any negative actions by the accrediting body or the U.S. Department of Education. (19 Tex. Admin. Code § 7.7; Kelly Carpenter Polden, External Relations, Texas Higher Education Coordinating Board. July 2017.) Issues of concern may include factors related to performance issues such as low graduation rates, high default rates, or low exam passage rates, but there is no specific requirement that these performance standards be monitored. Thus, the state receives partial credit here.

**Type 2: Career schools or colleges.** The Commission does not specifically mandate increased oversight or scrutiny based on poor performance. However, to maintain program approval, the Commission requires career schools and colleges to maintain a reasonable student completion rate for each program, and a minimum employment rate, as established by the Commission, for program graduates in jobs related to the stated occupation. (40 TAC § 807.131.) Additionally, as discussed above, Texas law requires the Commission to enter into a memorandum of understanding with the Texas Guaranteed Student Loan Corporation and each state agency regulating schools to reduce default rates at the regulated schools and to improve the overall quality of the programs. The Commission may require each career school or college to provide information to the Commission that is necessary for the purposes of the memorandum of understanding. (Tex. Educ. Code § 132.023; 40 TAC § 807.3.) These provisions make clear that, while there is no mandate for increased oversight or scrutiny based on poor performance, the Commission has discretion to do so.

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**G. DOES STATE LAW INCLUDE ANY SPECIAL PROTECTIONS FOR VETERANS WHO ATTEND PRIVATE POSTSECONDARY INSTITUTIONS?**

**5/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	No
<b>Type 1:</b>	20 Points	<b>0 Points</b>
<b>Type 2:</b>	<b>20 10 Points</b>	0 Points

**Explanation:**

**Type 1: Degree-granting private postsecondary educational institutions.** Texas has not enacted any special protections specifically for veterans who attend degree-granting private postsecondary educational institutions in the state. The Hazelwood Act has some provisions specific to veterans, but its benefits are available only for use at public colleges or universities. (See <http://www.tvc.texas.gov/Hazlewood-Act.aspx?CFID=58655681&CFTOKEN=27230720>.)

**Type 2: Career schools or colleges.** Texas law requires career schools and colleges to maintain, and include in the school or college's catalogue and enrollment contract, a policy under which a student of the school or college who withdraws from the school or college as a result of the student being called to active duty in a military service of the U.S. or the Texas National Guard may elect one of three options for each program in which the student is enrolled. (Tex. Educ. Code § 132.0611.) Veterans may re-enroll after their tours are completed without having to pay additional tuition or fees. This is not necessarily a program specifically designed for consumer protection, but the state receives partial credit for providing some measure of special assistance for military personnel.

### III. STATE OVERSIGHT—SCOPE AND INCLUSION:

**37.5/100 POINTS**

#### A. ARE EXEMPTIONS TO STATE OVERSIGHT COVERAGE LIMITED?

**37.5/100 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	No exemptions	Few exemptions	Moderate exemptions	Broad exemptions
Type 1	100 Points	75 Points	50 Points	0 Points
Type 2	100 Points	75 Points	50 Points	0 Points

#### **Explanation:**

**Type 1: Degree-granting private postsecondary educational institutions.** Texas exempts all institutions which are fully accredited by a recognized accrediting agency. (Tex. Educ. Code § 61.303.)

Pursuant to SB 1781 (West), which passed in 2017, the Board will have more authority over exempt institutions. This authority will be discretionary, but it is an improvement upon the current state of the law. The provisions in SB 1781 that amend Tex. Educ. Code § 61.303 are not effective as of this writing, and will become effective upon a contingency being met. SB 1781 represents an improvement in this area, and if the provisions in SB 1781 relating to Tex. Educ. Code § 61.303 were in effect at this writing, the state would receive 50 points for this element for degree-granting schools.

**Type 2: Career schools or colleges.** Texas exempts career schools or colleges that are physically located in another state; are legally authorized by the state to offer postsecondary education and award degrees; are accredited by a regional or national accrediting organization recognized by the U.S. Secretary of Education under the Higher Education Act of 1965 (20 U.S.C. Section 1001 *et seq.*); and offer in Texas only postsecondary distance or correspondence programs of instruction. (Tex. Educ. Code § 132.001(1)(B)(i)-(iv).) The state also has several common exemptions, including a school or educational institution supported by taxation from either a local or state source; nonprofit religious postsecondary educational institutions that meet specified requirements; avocational programs; specified tuition-free employer-provided training; course or courses of study or instruction sponsored by a recognized trade, business, or professional organization for the instruction of the members of the organization with a closed membership; a school or course that is otherwise regulated and approved under and pursuant to any other law or rulemaking process of this state or approved for continuing education credit by an organization that accredits courses for the maintenance of a license (with some exceptions); aviation schools approved by the FAA; schools that offer certain intensive review of a student's acquired education, training, or experience to prepare the student for an examination, other than a high school equivalency examination; a nonprofit arts organization that has as its primary purpose the provision of instruction in the dramatic arts and the communications media to persons younger than 19 years of age. (Tex. Educ. Code § 132.002.) Finally, the Commission has discretion to exempt "small career schools" from certain requirements that may lead to hardship for the school. (Tex. Educ. Code § 132.054.)

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#### IV. DISCLOSURE REQUIREMENTS: 61.7/100 POINTS

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A. ARE INSTITUTIONS REQUIRED TO DISCLOSE INSTITUTIONAL PERFORMANCE MEASURES TO POTENTIAL STUDENTS?

16.7/20 POINTS\*

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, mandatory	Yes, discretionary	None
	Fact sheet or equivalent required to be given to students	Fact sheet or equivalent given to students upon request	No fact sheet required
Type 1a	20 Points	10 Points	0 Points
Type 1b	20 Points	10 Points	0 Points
Type 2	20 Points	10 Points	0 Points

**Explanation:**

**Type 1a: Degree-granting private postsecondary educational institutions accredited by a Board-recognized accreditor.** The Board requires institutions to provide to each prospective student, newly-enrolled student, and returning student, complete and clearly presented information indicating the institution's current graduation rate by program and, if required by the Board, job placement rate by program for applied associate degree programs. (19 TAC § 7.4(20)(D).) However, because the Board allows the accrediting agency to enforce the standards specified in regulations under the Certificate of Authorization process, and the Board is not directly responsible for ensuring compliance, the state receives partial credit for this element. (19 TAC § 7.4(a); *see e.g.* 19 TAC § 7.7.)

**Type 1b: Degree-granting private postsecondary educational institutions not accredited by a Board-recognized accreditor.** The Board requires institutions to provide to each prospective student, newly-enrolled student, and returning student, complete and clearly presented information indicating the institution's current graduation rate by program and, if required by the Board, job placement rate by program for applied associate degree programs. (19 TAC § 7.4(20)(D).)

**Type 2: Career schools or colleges.** The Commission requires career schools or colleges to provide each student a copy of the current rates of job placement and employment of students issued a certificate of completion. (Tex. Educ. Code § 132.055(5).) Career schools must use a form provided by the Commission to verify student receipt of required information prior to enrollment and students must acknowledge receiving such information and documentation by initialing each page and signing the end of the receipt of the enrollment policy form of which a copy is provided to the student. (40 TAC § 807.193(a), (e)–(f).)

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B. WHICH INSTITUTIONAL PERFORMANCE DISCLOSURES ARE REQUIRED TO BE GIVEN TO STUDENTS PRIOR TO ENROLLMENT?

25/60 POINTS\*

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

**Type 1: Degree-granting private postsecondary educational institutions**

Disclosures	Mandatory	Discretionary	Not specified
Cohort default rate (CDR)	10 Points	5 Points	0 Points
Graduation / completion rates	10 Points	5 Points	0 Points
Placement rates	10 Points	5 Points	0 Points
Wage information	10 Points	5 Points	0 Points
License exam passage rates	10 Points	5 Points	0 Points
Methods & sources used to calculate	10 Points	5 Points	0 Points

**Explanation:**

Texas law requires degree-granting private postsecondary educational institutions to provide to each prospective student, newly-enrolled student, and returning student, complete and clearly presented information indicating the institution's current graduation rate by program and, if required by the Board, job placement rate by program for applied associate degree programs. (19 TAC § 7.4(20)(D).)

***Type 2: Career schools or colleges***

Disclosures	Mandatory	Discretionary	Not specified
Cohort default rate (CDR)	10 Points	5 Points	0 Points
Graduation / completion rates	10 Points	5 Points	0 Points
Placement rates	10 Points	5 Points	0 Points
Wage information	10 Points	5 Points	0 Points
License exam passage rates	10 Points	5 Points	0 Points
Methods & sources used to calculate	10 Points	5 Points	0 Points

**Explanation:**

Texas law require schools to disclose the current rates of job placement and employment of students issued a certificate of completion. (Tex. Educ. Code § 132.055(5).) If available, the career school must provide the average starting salary and wage information for the prospective student's stated occupation, and it must provide exam passage rates. (40 TAC § 807.193(6), (10).) Texas law requires the Commission to enter into a memorandum of understanding with the Texas Guaranteed Student Loan Corporation and each state agency regulating schools to reduce default rates at the regulated schools and to improve the overall quality of the programs. (Tex. Educ. Code § 132.023.) As such, default rate information may be available, but career schools are not currently mandated to disclose it. The state receives partial credit.

**C. DOES THE STATE REQUIRE SCHOOLS TO INCLUDE ELEMENTS  
ESSENTIAL TO STUDENT PROTECTION PRIOR TO ENROLLMENT  
OR IN THE ENROLLMENT CONTRACT?**

**20/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

***Type 1: Degree-granting private postsecondary educational institutions.***

Element description	Mandatory	Discretionary	Not specified
Total cost of program	5 Points	2.5 Points	0 Points
Refund information	5 Points	2.5 Points	0 Points
Transferability of credits	5 Points	2.5 Points	0 Points
Length of program	5 Points	2.5 Points	0 Points

**Explanation:**

The Board requires institutions to provide a catalog to each prospective student, prior to enrollment. The catalog must include information about the total cost of the program, refund information, transferability of credits, and the length of programs. (19 TAC § 7.4(20)(B).)

**Type 2: Career schools or colleges**

Element description	Mandatory	Discretionary	Not specified
Total cost of program	5 Points	2.5 Points	0 Points
Refund information	5 Points	2.5 Points	0 Points
Transferability of credits	5 Points	2.5 Points	0 Points
Length of program	5 Points	2.5 Points	0 Points

**Explanation:**

Texas law requires career schools or colleges to disclose information regarding the total cost of a program, refund information, and the length of programs to students prior to enrollment. (Tex. Educ. Code § 132.055; 40 TAC § 807.193(b).) The Commission requires any school that refers to the awarding of credit hours to explain to each student during the enrollment process that transferability of such hours may be limited, and each student must sign a statement indicating such an explanation has been provided. (40 TAC § 807.193(c).)

## V. REGULATION OF RECRUITING PRACTICES:

**62.5/100 POINTS**

### A. HAS THE STATE PUT INTO LAW A LIST OF PROHIBITED ACTS REGARDING ADVERTISING AND RECRUITING?

**62.5/100 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, strong regulation	Yes, moderate regulation	Yes, weak regulation	No list of prohibited acts
Type 1	100 Points	75 Points	50 Points	0 Points
Type 2	100 Points	75 Points	50 Points	0 Points

#### PROHIBITED ACTS

Included in list of prohibited acts	Type 1	Type 2
Misleading representations using the word “college” or “university”	X	
Misleading institution affiliations (re: military, public institution, businesses)		X
Promise of employment		X
Compensation for enrollment		/
Compensation or “bounty” to recruiters		
Deception (broad prohibition)	X	X
Misrepresentation (broad prohibition)	X	X
Misleading representations re: accreditation		X

*1–3=Weak; 3.5–6=Moderate; 6.5–8=Strong*



**Explanation:**

**Type 1: Degree-granting private postsecondary educational institutions.** Neither the institution nor its agents or other representatives shall engage in advertising, recruiting, sales, collection, financial credit, or other practices of any type which are false, deceptive, misleading, or unfair. Likewise, all publications, by any medium, shall accurately and fairly represent the institution, its programs, available resources, tuition and fees, and requirements. (19 TAC § 7.4(20)(A).)

**Type 2: Career schools or colleges.** Texas prohibits career schools or colleges from engaging in advertising designed to mislead or deceive students. (Tex. Educ. Code § 132.151(4).) Career schools are further prohibited from advertising under any help wanted, employment, or similar classification. Career schools cannot use terms to describe the significance of the approval that specify or connote greater approval. (40 TAC § 807.172(a)-(c).) Further, career schools are prohibited from using a photograph, cut, engraving, illustration or graphic in advertising in such a manner as to convey a false impression of size, importance, or location of the school, equipment, or facilities associated with the school. (40 TAC § 807.173.) Additionally, statements or omissions implying that prospective employees are being sought are prohibited. Because the Commission has developed regulations specifically to prohibit schools from misleading advertising related to financial incentives, the state receives partial credit for prohibiting compensation for enrollment. (40 TAC § 807.174.)

## **VI. COMPLAINT PROCESS AND RELIEF FOR STUDENTS:**

**60.25/100 POINTS**

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**A. DOES THE STATE REQUIRE A BOND OR FUND  
AS A CONDITION OF AUTHORIZATION?**

**7.5/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	<b>Yes</b>	<b>No</b>
<b>Type 1</b>	<b>20 10 Points</b>	0 Points
<b>Type 2</b>	20 Points	<b>0 5 Points</b>

**Explanation:**

**Type 1: Degree-granting private postsecondary educational institutions.** The Board requires degree-granting private postsecondary educational institutions to have “sufficient reserves, line of credit, or surety instrument.” (19 TAC § 7.4(5).) The Board only explicitly requires proof of an adequate surety bond, assignment of account, certificate of deposit, irrevocable letter of credit, or a properly executed participation contract from degree-granting private postsecondary educational institutions that have not been accredited by a Board-recognized accrediting agency. (19 TAC § 7.8(1)(B).) The state loses ten points because it does not explicitly require surety instrument from all degree-granting private postsecondary educational institutions, and it leaves verification of financial stability to the Board-recognized accrediting agency for some degree-granting private postsecondary educational institutions.

SB 1781 (West), signed into law in July 2017, amends Tex. Educ. Code § 61.303 and several other provisions related to state oversight of private for-profit institutions. As of this writing Tex. Educ. Code § 61.303 is “effective upon contingency being met.” When this law becomes effective, Texas will receive more point for this element for degree-granting private postsecondary institutions.

**Type 2: Career schools or colleges.** Texas does not require schools and colleges to have a surety bond or other fund in place as a condition of authority to operate (bond requirements were repealed in 2003). However, schools are required to pay into a tuition trust account annually, as determined by the Commission. The money in the fund is meant to provide refunds for students and provide for other expenses (teach-out expenses) to the extent possible. (40 TAC § 807.342.) Because this fund serves to provide some protection for students, the state receives partial credit.

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**B. DOES THE STATE REQUIRE A REFUND OF TUITION IF A STUDENT ENROLLS AS THE RESULT OF MISREPRESENTATION?**

**10/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, full refund	Yes, partial refund	No refund required
<b>Type 1a</b>	20 Points	10 Points	<b>0 Points</b>
<b>Type 1b</b>	20 Points	<b>10 Points</b>	0 Points
<b>Type 2</b>	<b>20 Points</b>	10 Points	0 Points

**Explanation:**

**Type 1: Degree-granting private postsecondary educational institutions accredited by a Board-recognized accreditor.** Texas law does not explicitly require degree-granting private postsecondary educational institutions that are accredited by a Board-recognized accreditor to refund tuition if a student enrolls as the result of misrepresentation.

**Type 1b: Degree-granting private postsecondary educational institutions not accredited by a Board-recognized accreditor.** Texas law requires these schools to have a surety bond, and one requirement of the surety bond is that indemnification to any student or enrollee of the school or his/her parent or guardian determined by the Board to have suffered loss of prepaid tuition or any fees as a result of violation of any minimum standard or as a result of an institution ceasing operation. (19 TAC § 7.8(1)(B).) Because all institutions are required to be fair and accurate in advertising (19 TAC § 7.4(20)), a student may receive a refund in circumstances in which the student enrolled as a result of misrepresentation. The state receives partial credit for this element.

**Type 2: Career schools or colleges.** Texas law requires career schools or colleges to maintain a policy of providing a full refund to a student if the enrollment of the student was procured as the result of any misrepresentation in advertising, promotional materials of the school or college, or representations by the owner or representatives of the school or college. (40 Tex. Educ. Code § 132.061.)

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**C. DOES THE STATE REQUIRE INSTITUTIONS TO REFUND TUITION IN THE EVENT OF CLOSURE?**

**10/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, full refund	Yes, partial refund	Yes, refund in limited circumstances	No refund required
<b>Type 1a:</b>	20 Points	15 Points	10 Points	<b>0 Points</b>
<b>Type 1b:</b>	20 Points	<b>15 Points</b>	10 Points	0 Points
<b>Type 2:</b>	20 Points	<b>15 Points</b>	10 Points	0 Points



**Explanation:**

***Type 1a: Degree-granting private postsecondary educational institutions accredited by a Board-recognized accreditor.*** The Board does not explicitly require these institutions to refund tuition in the event that the institution closes. If an institution closes or intends to close before all currently enrolled students have completed all requirements for graduation, it shall assure the continuity of students' education by entering into a teach-out agreement with another institution authorized by the Board to hold a Certificate of Authority, with an institution operating under a Certificate of Authorization, or with a public or private institution of higher education. (19 TAC § 7.7(4)(C).)

***Type 1b: Degree-granting private postsecondary educational institutions not accredited by a Board-recognized accreditor.*** Texas law requires these institutions to have a surety bond, and one requirement of the surety bond is that indemnification to any student or enrollee of the school or his/her parent or guardian determined by the Board to have suffered loss of prepaid tuition or any fees as a result of violation of any minimum standard or as a result of an institution ceasing operation. (19 TAC § 7.8(1)(B).) Thus, while the students may not be entitled to a full refund, the Board has regulations in place to protect students and provide at least a partial refund should their school close before they complete the courses for which they paid tuition.

***Type 2: Career schools or colleges.*** If a program of instruction is discontinued by the career school or college and this prevents the student from completing the program, all tuition and fees paid are then due and refundable. (Tex. Educ. Code § 132.061(d).) If a school closes, it is discontinuing programs of instruction and preventing students from completing the programs they were pursuing when the school closed. In addition, there are policies and procedures in place to provide students with a refund from the tuition trust account when a school closes, though these refunds may be limited by the amount of money in the account. (Tex. Educ. Code § 132.241; 40 TAC § 807.342.) The refund is limited by the availability of funding in the tuition trust account should the school close without sufficient resources to refund tuition to every student entitled to a refund.

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**D. DOES THE STATE ALLOW STUDENTS AMPLE TIME TO MAKE A COMPLAINT?**  
**7/10 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	2 years or more (or no deadline)	Under 2 years	Under 1 year	Not applicable
Type 1	10 Points	<b>5 4 Points</b>	1 Point	0 Points
Type 2	<b>10 Points</b>	5 Points	1 Point	0 Points

**Explanation:**

***Type 1: Degree-granting private postsecondary educational institutions.*** The Board does not handle, investigate, or attempt to resolve complaints concerning actions that occurred more than two years prior to filing a student complaint form with it, unless the cause of the delay in filing the student complaint form with the Board was the complainant's exhaustion of the institution's grievance procedures. (19 TAC § 1.114(d).) Former students shall file a student complaint form with the Board no later than one year after the student's last date of attendance at the institution, or within 6 months of discovering the grounds for complaint, unless the cause of the delay in filing the student complaint form with the Board was the complainant's exhaustion of the institution's grievance procedures. (19 TAC § 1.114(e).) The state loses one point because it only allows former students 6 months to file a complaint after discovering grounds for the complaint.

**Type 2: Career schools or colleges.** The Commission allows up to two years for a student to file a complaint. “Unless good cause is shown, a complaint is timely only if it is filed with the Agency while the student who files the complaint is enrolled or within two years of the date the student withdraws, terminates, or graduates from the program that is the subject of the complaint. Good cause includes, but is not limited to, fraud. (40 TAC § 807.302(d).)

**E. DOES THE STATE REQUIRE INSTITUTIONS TO DISCLOSE INFORMATION ABOUT FILING A COMPLAINT WITH THE STATE OVERSIGHT BODY?**

**17.5/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

**Type 1: Degree-granting private postsecondary educational institutions**

Medium	Mandatory	Discretionary	Not specified
Catalog	10 Points	5 Points	0 Points
Website	5 Points	2.5 Points	0 Points
Enrollment contract	5 Points	2.5 Points	0 Points

**Explanation:**

Texas law requires these institutions to provide all students with written information regarding the complaint procedure at the beginning of each academic year, such as in the school’s catalog. It also requires institutions to post information regarding the complaint procedure on the institutional website along with contact information needed to file a complaint with the Board. (19 TAC § 1.112.) Further, the Board requires these institutions to outline the established grievance process of the institution, which must indicate that students should follow this process and may contact the Board and/or Attorney General to file a complaint about the institution if all other avenues have been exhausted, and publish these policies in a handbook, which must include other rights and responsibilities of the students. This handbook must be supplied in print or electronically to each student upon enrollment in the institution. (19 TAC § 7.4(22).) The school receives full credit for requiring this information in the student handbook because, like the catalog, institutions are required to distribute the student handbook to all students. The state also receives partial credit because the handbook is required upon enrollment, though there is no requirement that the student sign an acknowledgement of receipt in the enrollment contract or elsewhere.



**Notable Provision:** Texas’s requirements for degree-granting private postsecondary educational institutions’ posting complaint information online are notable. State law requires each institution to post information regarding the complaint procedure on its website that must, at a minimum, provide contact information for filing student complaints with the Board, a description of the complaint procedure, and a link to the Texas Secretary of State’s website; be accessible from the institution’s website home page by use of not more than three links; be searchable by keywords and phrases; be accessible to the public without requiring registration or use of a user name, a password, or a user identification; and be updated as soon as practicable if the information changes. (19 TAC § 1.112.)

**Type 2: Career schools or colleges**

Medium	Mandatory	Discretionary	Not specified
Catalog	10 Points	5 Points	0 Points
Website	5 Points	2.5 Points	0 Points
Enrollment contract	5 Points	2.5 Points	0 Points

**Explanation:**

Texas law requires schools to provide information to students regarding how to file a complaint with the Commission on their websites and in their catalog. (Tex. Educ. Code § 132.202; 40 TAC § 807.175.)

Texas law also requires schools to provide the information prior to enrollment (Tex. Educ. Code § 132.055), and the Commission requires the student to receive a catalog (which contains complaint policy) and sign acknowledgement of receipt. (40 TAC § 807.193(e).) Thus, the state receives partial credit for including the information in the enrollment contract because, while it is not in the contract, provision of the information is a mandated part of the enrollment process.

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**F. IS THE COMPLAINT PROCESS READILY ACCESSIBLE AND  
AVAILABLE ON THE STATE OVERSIGHT BODY WEBSITE?**

**8.25/10 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, with address	Yes, with phone #	Yes, with email address	Yes, with electronic form	No
<b>Type 1</b>	<b>2 Points</b>	2 Points	<b>3 Points</b>	<b>3 Points</b>	0 Points
<b>Type 2</b>	<b>2 Points</b>	<b>2 Points</b>	<b>3 Points</b>	<del>3</del> <b>1.5 Points</b>	0 Points

**Explanation:**

**Type 1: Degree-granting private postsecondary educational institutions.** The Board maintains a webpage which contains an email address, mailing address, and a link to an electronic complaint form, which contains information about complaint procedures and an address to which students can send the completed form.

**NOTE:** The Board utilizes the Customer Relationship and Feedback Tracking (CRAFT) System to track customer service and student complaints. The CRAFT System is a web-based application that organizes, tracks, and automates all customer-related contacts with the agency, including contacts via email, telephone, and the Internet. This tool allows the agency to track customer inquiries and provide an efficient and effective way of responding to customers in a timely manner, as well as to monitor the quality of staff responses. Texas is working to improve data tracking related to consumer/student complaints and thereby improve the response to those complaints. (Taken from the Texas Higher Education Coordinating Board Customer Service Report, June 2016 and from comments by Kelly Carpenter Polden, External Relations, Texas Higher Education Coordinating Board, July 2017.)

**Type 2: Career schools or colleges.** The Commission maintains a website from which students and the general public can obtain information about filing a complaint and can download complaint forms. The complaint form contains a mailing address, email address, and phone number. Because the form cannot be submitted from the website (it must be completed and emailed or mailed to the Commission), points have been deducted above.

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**VII. ENFORCEMENT: 72.5/100 POINTS**

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**A. IS THERE LOSS OF STATE AID FOR SCHOOLS THAT REPEATEDLY  
PRODUCE SUBSTANDARD GRADUATION RATES, JOB PLACEMENT  
RATES, AND/OR COHORT DEFAULT RATES?**

**30/30 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, required	Yes, required but limited	Yes, discretionary	Yes, discretionary but limited	No
<b>Type 1</b>	<b>30 Points</b>	20 Points	15 Points	5 Points	0 Points
<b>Type 2</b>	<b>30 Points</b>	20 Points	15 Points	5 Points	0 Points

**Explanation:**

**Type 1: Degree-granting private postsecondary educational institutions.** Texas does not provide state aid to private for-profit postsecondary institutions, therefore, the state cannot withhold aid it does not provide. (Kelly Carpenter Polden, External Relations, Texas Higher Education Coordinating Board. July 2017.)

**Type 2: Career schools or colleges.** Texas does not provide state aid to private for-profit postsecondary institutions, therefore, the state cannot withhold aid it does not provide. (Kelly Carpenter Polden, External Relations, Texas Higher Education Coordinating Board. July 2017.)

**B. DOES STATE LAW EXPLICITLY AUTHORIZE A PRIVATE RIGHT OF ACTION FOR STUDENTS AGAINST INSTITUTIONS THAT HAVE VIOLATED THE LAWS AND REGULATIONS IN PLACE TO GOVERN THEM?**

**15/30 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	Limited circumstances	No
<b>Type 1:</b>	30 Points	15 Points	<b>0 Points</b>
<b>Type 2:</b>	<b>30 Points</b>	15 Points	0 Points

**Explanation:**

**Type 1: Degree-granting private postsecondary educational institutions.** Texas has not created a private right of action for students to use against institutions that have violated the laws and regulations in place to govern them.

**Type 2: Career schools or colleges.** Texas allows any person who is injured by any act taken or permitted in violation of Chapter 132 (regarding career schools or colleges) may, on behalf of the person and others similarly situated, maintain an action in a district court in Travis County, regardless of the amount in controversy, for temporary or permanent injunctive relief, declaratory relief, or other relief, including damages. (Tex. Educ. Code § 132.121(a).)

**C. DOES STATE LAW EXPLICITLY ALLOW ATTORNEY FEE AWARDS FOR STUDENTS WHO PREVAIL IN LITIGATION AGAINST PRIVATE FOR-PROFIT POSTSECONDARY INSTITUTIONS?**

**7.5/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	Limited	No
<b>Type 1</b>	20 Points	15 Points	<b>0 Points</b>
<b>Type 2</b>	20 Points	<b>15 Points</b>	0 Points

**Explanation:**

**Type 1: Degree-granting private postsecondary educational institutions.** Texas law does not explicitly allow attorney fee awards for students who prevail in litigation against institutions that have violated the laws and regulations in place to govern them.

**Type 2: Career schools or colleges.** A plaintiff who prevails in a class action shall be awarded court costs and reasonable attorney's fees in the judgment. A legal aid society or legal services program that represents the plaintiff or plaintiffs in such an action shall be awarded a service fee in lieu of attorney's fees. (Tex. Educ. Code § 132.123.)

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**D. DOES STATE LAW EXPLICITLY AUTHORIZE  
ATTORNEY GENERAL INVOLVEMENT?**

**20/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	Limited circumstances	No
Type 1:	20 Points	10 Points	0 Points
Type 2:	20 Points	10 Points	0 Points

**Explanation:**

**Type 1: Degree-granting private postsecondary educational institutions.** Texas provides for Attorney General involvement in enforcing the laws governing degree-granting private postsecondary educational institutions. (Tex. Educ. Code § 61.318.)

**Type 2: Career schools or colleges.** Texas provides for Attorney General involvement in enforcing the laws governing career schools or colleges. (Tex. Educ. Code § 132.304.)

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**BONUS POINTS:**

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Texas does not receive any bonus points.



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**ILLUMINATING INFORMATION**

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**RECENT AND PENDING LEGISLATION**

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SB 1781 (West) was passed and signed into law in 2017. The law will strengthen Board oversight of degree-granting private post-secondary institutions, and put in place provisions for a program to benefit veterans (College Credit for Heroes Program). Provisions of this law will improve Texas's grade once enacted. At this writing several provisions (Sections 61.303; 61.315; and 61.316 of the Texas Education Code) are effective upon a contingency being met, and others (Sections 61.3025, 61.3075, and 61.835 of the Texas Education Code) are contingently enacted.

## RECIPROCITY AGREEMENTS

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Texas is a member of the State Authorization Reciprocity Agreements (SARA).

## LITIGATION, INVESTIGATIONS, AND ACTIONS INVOLVING PRIVATE FOR-PROFIT EDUCATIONAL INSTITUTIONS

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For information about pending and recent federal and state government investigations and actions regarding for-profit colleges see David Halperin's compilation at <http://www.republicreport.org/2014/law-enforcement-for-profit-colleges/#sthash.1vc4HmPw.dpuf>.

State watching nine 'high-risk' for-profit colleges (Oct. 12, 2016); see article at <http://www.chron.com/local/education/campus-chronicles/article/State-starts-monitoring-high-risk-for-profits-9966545.php>.

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# UTAH

## FINAL GRADING ANALYSIS

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OVERALL SCORE: **323.5/700 POINTS (46.2%)**  
LETTER GRADE: **F**

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### I. OVERSIGHT BODY: **20/100 POINTS**

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#### A. IS THERE A STATUTORILY CREATED OVERSIGHT BODY THAT IS PUBLICLY ACCOUNTABLE?

**20/60 POINTS**

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Element	Points Available	Points Awarded
1. Oversight body is a multi-member board, commission, or panel created by statute	10	0
2. Oversight body was statutorily created specifically to oversee private postsecondary institutions	10	0
3. Multi-member board, commission, or panel is the ultimate decision maker (as opposed to a single person, like the head of a department or director)	10	0
4. Oversight body can engage in rulemaking	10	10
5. Oversight body's meetings must be open to the public	5	0
6. Oversight body's meetings must allow public comment	5	0
7. Oversight body can initiate investigations	5	5
8. Oversight body can impose penalties for violations	5	5
Total Points	60	20

**Explanation:**

Utah divides its private postsecondary educational institutions into postsecondary proprietary schools (Type 1) and postsecondary educational institutions (Type 2) for purposes of oversight and regulation. Postsecondary educational institutions that are accredited by a regional or national accrediting agency recognized by the U.S. Department of Education are exempt from Postsecondary Proprietary School Act; these schools are governed by the Utah Postsecondary School State Authorization Act (enacted in response to 34 C.F.R. Sec. 600.9).

Both types of institutions fall under the authority of the Utah Consumer Protection Division. (Utah Code Ann. § 13-34a-204; Utah Code Ann. § 13-34-106.) The Division is not a multi-member body, and instead functions under the supervision, direction, and control of a director (Utah Code Ann. § 13-2-2), who has

responsibility to issue rule and investigate the activities of any business governed by the laws administered and enforced by the division. (Utah Code Ann. § 13-2-5.)

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**B. STATUTE-SPECIFIED MEMBERSHIP:**

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**1. TO WHAT EXTENT ARE LIMITATIONS PLACED ON FOR-PROFIT MEMBERSHIP ON THE OVERSIGHT BODY?**

**0/25 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Explicit prohibition on for-profit majority, plus no possibility of a majority of the quorum	Explicit prohibition on for-profit majority	Discouraged	No prohibition specified, but not discouraged	For-profit majority mandated
<b>Type 1</b>	25 Points	20 Points	10 Points	<b>0 Points</b>	-5 points
<b>Type 2</b>	25 Points	20 Points	10 Points	<b>0 Points</b>	-5 Points

**Explanation:**

**Type 1: Postsecondary proprietary schools.** This element is not applicable here because in Utah, there is no public board with appointed members to oversee proprietary schools.

**Type 2: Postsecondary educational institutions.** This element is not applicable here because in Utah, there is no public board with appointed members to oversee postsecondary schools.

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**2. IS THE OVERSIGHT BODY MANDATED TO INCLUDE AT LEAST ONE CONSUMER ADVOCATE?**

**0/10 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	No
<b>Type 1</b>	10 Points	<b>0 Points</b>
<b>Type 2</b>	10 Points	<b>0 Points</b>

**Explanation:**

**Type 1: Postsecondary proprietary schools.** This element is not applicable here because in Utah, there is no public board with appointed members to oversee proprietary schools.

**Type 2: Postsecondary educational institutions.** This element is not applicable here because in Utah, there is no public board with appointed members to oversee postsecondary schools.

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**3. ARE THE MEMBERS APPOINTED BY A PUBLICLY ACCOUNTABLE OFFICIAL OR ELECTED IN A GENERAL ELECTION?**

**0/5 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*



	All	Majority	Half	Minority	None
<b>Type 1</b>	5 Points	3 Points	2.5 Points	1 Point	<b>0 Points</b>
<b>Type 2</b>	5 Points	3 Points	2.5 Points	1 Point	<b>0 Points</b>

**Type 1: Postsecondary proprietary schools.** This element is not applicable here because in Utah, there is no public board with appointed members to oversee proprietary schools.

The Division director is appointed by the executive director of commerce with the approval of the governor. (Utah Code Ann. § 13-2-2.)

**Type 2: Postsecondary educational institutions.** This element is not applicable here because in Utah, there is no public board with appointed members to oversee postsecondary schools.

The Division director is appointed by the executive director of commerce with the approval of the governor. (Utah Code Ann. § 13-2-2.)

## II. STATE OVERSIGHT—EFFICACY: **34/100 POINTS**

### A. DOES THE STATE REQUIRE ONSITE REVIEW OF PRIVATE POSTSECONDARY INSTITUTIONS?

**1.5/10 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Mandatory onsite reviews			Discretionary	None
	Every 2 years or less	Every 3-5 years	Over 5 years	Discretion to conduct onsite reviews	No review specified
<b>Type 1</b>	10 Points	8 Points	5 Points	<b>3 Points</b>	0 Points
<b>Type 2</b>	10 Points	8 Points	5 Points	3 Points	<b>0 Points</b>

#### Explanation:

**Type 1: Postsecondary proprietary schools.** The Division may perform onsite evaluations to verify information submitted by an institution or an agent, or to investigate complaints filed with the Division. (U.A.C. R152-34-10.)

**Type 2: Postsecondary educational institutions.** Utah law does not require the Division to conduct onsite evaluations.

### B. DOES THE STATE REQUIRE UNANNOUNCED INSPECTIONS FOR ONSITE REVIEWS?

**1.5/5 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Required unannounced visits	Discretion to do unannounced visits	No indication
<b>Type 1</b>	5 Points	<b>3 Points</b>	0 Points
<b>Type 2</b>	5 Points	3 Points	<b>0 Points</b>

**Explanation:**

**Type 1: Postsecondary proprietary schools.** Utah law provides the Division with discretion to conduct unannounced inspections. (Utah Code Ann. § 13-34-108(d).)

**Type 2: Postsecondary educational institutions.** Utah law does not require the Division to conduct any onsite evaluations.

**C. DOES THE STATE REQUIRE REGULAR REVIEWS OF PRIVATE POSTSECONDARY APPROVAL TO OPERATE?**

**20/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Mandatory			Discretionary	None
	Every 2 years or less	Every 3-5 years	Over 5 years	Discretion to conduct reviews	No review specified
<b>Type 1</b>	<b>20 Points</b>	15 Points	10 Points	5 Points	0 Points
<b>Type 2</b>	<b>20 Points</b>	15 Points	10 Points	5 Points	0 Points

**Explanation:**

**Type 1: Postsecondary proprietary schools.** Utah requires proprietary schools to renew their registration every 2 years. (Utah Code Ann. § 13-34-107(4)(a).) No later than one year after the issuance or renewal of a certificate of registration to a proprietary school, Utah law requires proprietary schools to submit a review of the proprietary school's continued qualification for a certificate of registration, on a form approved by the division. (Utah Code Ann. § 13-34-107(4)(b).)

**Type 2: Postsecondary educational institutions.** The certificate of state authorization expires one year after the day the certificate of authorization was issued. (Utah Code Ann. § 13-34a-204(7).)

**D. DO THE CRITERIA FOR RENEWAL OF AUTHORIZATION MANDATE A REVIEW OF FACTORS ESSENTIAL TO ACADEMIC AND ETHICAL INTEGRITY?**

**6/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	8 of 8	7 of 8	6 of 8	5 of 8	4 of 8	3 of 8	2 of 8	1 of 8	0 of 8
<b>Type 1</b>	20 Points	17.5 Points	15 Points	12.5 Points	10 Points	<del>7.5</del> <b>9.5 Points</b>	5 Points	2.5 Points	0 Points
<b>Type 2</b>	20 Points	17.5 Points	15 Points	12.5 Points	10 Points	7.5 Points	5 Points	<b>2.5 Points</b>	0 Points

Element	Type 1	Type 2
Admission requirements	D	
Graduation requirements	D	
Placement rate	M	
Completion rate (or graduation rate)	M	
Advertising practices	M	

Cohort default rate		
Accreditation status		<b>M</b>
Financial aid policies		

*M=Mandatory; D=Discretionary*

**Explanation:**

**Type 1: Postsecondary proprietary schools.** The Division requires proprietary schools to report the percentage of students who graduated and the percentage of students who were employed after graduation on a form provided by the Division. (U.A.C. R152-34-7(4).) In addition, the Division requires proprietary schools to submit a sample of its current advertising along with its application for registration or renewal registration. (U.A.C. R152-34-6(2).)

Proprietary schools are required to submit the school catalog for review. (U.A.C. R152-34-7(4).) School catalogs must include admission requirements and graduation requirements. (U.A.C. R152-34-4(4).) Because the Division does not specifically require review of this information, but requires a review of the catalog, the state receives partial credit for these elements.

**Type 2: Postsecondary educational institutions.** Utah law requires postsecondary educational institutions to submit information about the school's accreditation on the school's registration form. (Utah Code Ann. § 13-34a-204(2)(a)(i).)

**E. DOES THE STATE'S OVERSIGHT DISTINGUISH BETWEEN FOR-PROFIT AND NONPROFIT POSTSECONDARY INSTITUTIONS?**

**5/15 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, strongly distinguished	Yes, moderately distinguished	Yes, slightly distinguished	Not distinguished
<b>Type 1</b>	15 Points	10 Points	5 Points	<b>0 Points</b>
<b>Type 2</b>	15 Points	<b>10 Points</b>	5 Points	0 Points

**Explanation:**

**Type 1: Postsecondary proprietary schools.** Utah law does not distinguish between for-profit and nonprofit proprietary schools for the purposes of oversight and regulation.

**Type 2: Postsecondary educational institutions.** Utah law distinguishes between private nonprofit and for-profit postsecondary educational institutions. The procedure to obtain state authorization varies. (Utah Code Ann. § 13-34a-203; Utah Code Ann. § 13-34a-204.)

**F. DOES THE STATE REQUIRE INCREASED OVERSIGHT/SCRUTINY OF PRIVATE POSTSECONDARY INSTITUTIONS BASED ON POOR PERFORMANCE?**

**0/10 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, mandatory	Yes, mandatory but limited	Yes, discretionary	Yes, discretionary but limited	No
<b>Type 1</b>	10 Points	7.5 Points	5 Points	2.5 Points	<b>0 Points</b>
<b>Type 2</b>	10 Points	7.5 Points	5 Points	2.5 Points	<b>0 Points</b>

**Explanation:**

**Type 1: Postsecondary proprietary schools.** Utah law requires the Division to review graduation rates and the state requires schools to disclose graduation rates to potential students, but does not mandate any increased oversight or scrutiny based on poor performance (low graduation rates, high cohort default rates, low placement rates, etc.).

**Type 2: Postsecondary educational institutions.** Utah law does not mandate any increased oversight or scrutiny based on poor performance (low graduation rates, high cohort default rates, low placement rates, etc.).

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**G. DOES STATE LAW INCLUDE ANY SPECIAL PROTECTIONS FOR VETERANS WHO ATTEND PRIVATE POSTSECONDARY INSTITUTIONS?**

**0/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	No
Type 1	20 Points	0 Points
Type 2	20 Points	0 Points

**Explanation:**

**Type 1: Postsecondary proprietary schools.** Utah law does not mandate any special protections specifically for veterans who attend proprietary schools regulated by the state.

**Type 2: Postsecondary educational institutions.** Utah law does not mandate any special protections specifically for veterans who attend postsecondary schools regulated by the state.

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**III. STATE OVERSIGHT—SCOPE AND INCLUSION:**

**100/100 POINTS**

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**A. ARE EXEMPTIONS TO STATE OVERSIGHT COVERAGE LIMITED?**

**100/100 POINTS\***

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	No exemptions	Few exemptions	Moderate exemptions	Broad exemptions
Type 1	100 Points	75 Points	50 Points	0 Points
Type 2	100 Points	75 Points	50 Points	0 Points

**Explanation:**

**Type 1: Postsecondary proprietary schools.** Utah law contains several common exemptions. It exempts, for example, professional review courses, religious postsecondary institutions, institutions offering avocational courses, and programs regulated by another state or federal agency, among others. The state exempts institutions that are accredited by a regional or national accrediting agency recognized by the United States Department of Education as well. However, the state does not lose credit here, because accredited institutions are governed in the state by Utah's Utah Postsecondary School State Authorization Act. (Utah Code Ann. § 13-34-105.) Utah law does not contain any significant exemptions.

**Type 2: Postsecondary educational institutions.** There are no exemptions to state oversight of schools in Utah seeking state authorization for the purposes of complying with 34 C.F.R. Sec. 600.9 and which Utah defines as “postsecondary school” in Utah Code Ann. § 13-34a-102(12).

#### IV. DISCLOSURE REQUIREMENTS: **30.25/100 POINTS**

##### A. ARE INSTITUTIONS REQUIRED TO DISCLOSE INSTITUTIONAL PERFORMANCE MEASURES TO POTENTIAL STUDENTS?

**7.5/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, mandatory	Yes, discretionary	None
	Fact sheet or equivalent required to be given to students	Fact sheet or equivalent given to students upon request	No fact sheet required
Type 1	<del>20</del> <b>15 Points</b>	10 Points	0 Points
Type 2	20 Points	10 Points	<b>0 Points</b>

**Explanation:**

**Type 1: Postsecondary proprietary schools.** Utah law requires proprietary schools to make available in writing, to all applicants, prior to enrollment of the applicant or the receipt of any tuition by the institution or proprietary school graduation rates and employment rates for each of the immediately preceding years. (Utah Code Ann. § 13-34-108(1)(a)(iv)(K).) The state loses five points because there is no requirement that the students sign an acknowledgement of receipt of this information.

**Type 2: Postsecondary educational institutions.** Utah law does not require postsecondary educational institutions to disclose institutional performance measures to potential students.

##### B. WHICH INSTITUTIONAL PERFORMANCE DISCLOSURES ARE REQUIRED TO BE GIVEN TO STUDENTS PRIOR TO ENROLLMENT?

**10/60 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

**Type 1: Postsecondary proprietary schools**

Disclosures	Mandatory	Discretionary	Not specified
Cohort default rate (CDR)	10 Points	5 Points	<b>0 Points</b>
Graduation / completion rates	<b>10 Points</b>	5 Points	0 Points
Placement / employment rates	<b>10 Points</b>	5 Points	0 Points
Wage information	10 Points	5 Points	<b>0 Points</b>
License exam passage rates	10 Points	5 Points	<b>0 Points</b>
Methods & sources used to calculate	10 Points	5 Points	<b>0 Points</b>

**Explanation:**

Utah requires proprietary schools to make available in writing, to all applicants, prior to enrollment of the applicant or the receipt of any tuition by the institution or proprietary school: graduation rates and employment rates for each of the immediately preceding years. (Utah Code Ann. § 13-34-

108(1)(a)(iv)(K).) The state receives credit for providing employment rates, although Utah law does not require disclosure of placement rates.

*Type 2: Postsecondary educational institutions*

Disclosures	Mandatory	Discretionary	Not specified
Cohort default rate (CDR)	10 Points	5 Points	0 Points
Graduation / completion rates	10 Points	5 Points	0 Points
Placement rates	10 Points	5 Points	0 Points
Wage information	10 Points	5 Points	0 Points
License exam passage rates	10 Points	5 Points	0 Points
Methods & sources used to calculate	10 Points	5 Points	0 Points

**Explanation:**

Utah law does not require postsecondary schools to disclose institutional performance measures to potential students.

C. DOES THE STATE REQUIRE SCHOOLS TO DISCLOSE ELEMENTS  
ESSENTIAL TO STUDENT PROTECTION PRIOR TO ENROLLMENT OR  
IN THE ENROLLMENT CONTRACT?

**12.75/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

*Type 1: Postsecondary proprietary schools*

Element description	Mandatory	Discretionary	Not specified
Total cost of program	5 Points	2.5 Points	0 Points
Refund information	5 Points	2.5 Points	0 Points
Transferability of credits	5 Points	2.5 Points	0 Points
Length of program	5 Points	2.5 Points	0 Points

**Explanation:**

Utah law requires proprietary schools to make available in writing, to all applicants, prior to enrollment of the applicant or the receipt of any tuition by the institution or proprietary school, information about tuition, fees, and other charges and expenses and the length of the program, among other disclosures. (Utah Code Ann. § 13-34-108.) Proprietary schools are required to disclose information regarding the school's refund policy in the enrollment agreement. (U.A.C. R152-34-8.) Schools are required to provide students information about transferability of credits in the school catalog, but there is no requirement that the schools provide the information prior to enrollment. (U.A.C. R152-34-4(4)(t).) Because information is in the catalog, it is likely available to students prior to enrollment, so the state receives partial credit.

*Type 2: Postsecondary educational institutions*

Element description	Mandatory	Discretionary	Not specified
Total cost of program	5 4 Points	2.5 Points	0 Points
Refund information	5 4 Points	2.5 Points	0 Points
Transferability of credits	5 Points	2.5 Points	0 Points
Length of program	5 Points	2.5 Points	0 Points

**Explanation:**

The Division requires postsecondary schools that hold a certificate of authorization to disclose to each student, in writing, the school's tuition schedule, total program cost, and refund policy before requiring a student to make any payment to the school. (U.A.C. R152-34a-302(1)(b).) The state loses a point for "total cost of program," and for "refund information" because the information is required before requiring the student to make any payment—not necessarily prior to enrollment.

## V. REGULATION OF RECRUITING PRACTICES:

### 62.5/100 POINTS

#### A. HAS THE STATE PUT INTO LAW A LIST OF PROHIBITED ACTS REGARDING ADVERTISING AND RECRUITING?

**62.5/100 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, strong regulation	Yes, moderate regulation	Yes, weak regulation	No list of prohibited acts
<b>Type 1</b>	100 Points	<b>75 Points</b>	50 Points	0 Points
<b>Type 2</b>	100 Points	75 Points	<b>50 Points</b>	0 Points

#### PROHIBITED ACTS

Included in list of prohibited acts	Type 1	Type 2
Misleading representations using the word "college" or "university"		
Misleading institution affiliations (e.g., military, public institution, businesses)	<b>X</b>	
Promise of employment	<b>X</b>	
Compensation for enrollment		
Compensation or "bounty" to recruiters		
Deception (broad prohibition)	<b>X</b>	<b>X</b>
Misrepresentation (broad prohibition)	<b>X</b>	<b>X</b>
Misleading representations re: accreditation	/	

*1-3=Weak; 3.5-6=Moderate; 6.5-8=Strong*

**Explanation:**

**Type 1: Postsecondary proprietary schools.** Utah law requires that advertising be clear, factual, supportable, and shall not include any false or misleading statements with respect to the institution, its personnel, its courses and programs, its services, nor the occupational opportunities for its graduates. (U.A.C. R152-34-8(7)(b).) Proprietary schools must disclose that their purpose is educational only, they are prohibited from making misleading statements about employment opportunities or advertise as "help wanted." (U.A.C. R152-34-8(7)(c).) Further, proprietary schools are prohibited from misleading students with regard to affiliation. Schools are prohibited, for example, from making claims as to endorsement by manufacturers or businesses or organizations until and unless written evidence supporting this fact is on file. (U.A.C. R152-34-8(7)(d).) Schools are prohibited from advertising that they are endorsed by state of Utah, and must make clear that they are not accredited by the state to avoid misleading representations on these issues. (U.A.C. R152-34-8(g), (h).)



**Type 2: Postsecondary educational institutions.** Utah law prohibits postsecondary schools from promulgating to the public a fraudulent or misleading statement relating to a program or service offered. (U.A.C. R152-34a-302(2)(a).) This prohibition on fraudulent or misleading information is substantially similar to a broad prohibition on deception and a broad prohibition misrepresentation.

## VI. COMPLAINT PROCESS AND RELIEF FOR STUDENTS:

**56.75/100 POINTS**

### A. DOES THE STATE REQUIRE A BOND OR FUND AS A CONDITION OF AUTHORIZATION?

**10/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	No
Type 1	20 Points	0 Points
Type 2	20 Points	0 Points

#### **Explanation:**

**Type 1: Postsecondary proprietary schools.** A satisfactory surety in the form of a bond, certificate of deposit, or irrevocable letter of credit shall be provided by the institution before a certificate of registration will be issued by the Division. (U.A.C. R152-34-7(9)(a); Utah Code Ann. § 13-34-107.)

**Type 2: Postsecondary educational institutions.** Utah law does not require postsecondary educational institutions to obtain a bond as a condition of authorization.

### B. DOES THE STATE REQUIRE A REFUND OF TUITION IF A STUDENT ENROLLS AS THE RESULT OF MISREPRESENTATION?

**15/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, full refund	Yes, partial refund	No refund required
Type 1	20 Points	10 Points	0 Points
Type 2	20 Points	10 Points	0 Points

#### **Explanation:**

**Type 1: Postsecondary proprietary schools.** Utah law requires proprietary schools to indemnify any student from loss or other injury as a result of any fraud or other form of misrepresentation used by an agent in the recruitment process. (U.A.C. R152-34-8(11).)

**Type 2: Postsecondary educational institutions.** Utah law does not explicitly require a full refund if a student enrolls as the result of misrepresentation. However, state law requires that, if a postsecondary school's certificate of postsecondary state authorization is revoked, a student who enrolled in the postsecondary school in reliance upon the postsecondary school's possession of a valid certificate of postsecondary state authorization may rescind any enrollment agreement and obtain a full refund from the postsecondary school for any tuition, fees, or other charges that the student paid to the postsecondary school. (Utah Code Ann. § 13-34a-303.) This provision, read in light of Utah Code Ann. § 13-34a-



302(1)(b)(i), which allows the Division to revoke a certificate of authorization if the denial, suspension, or revocation is in the public interest and U.A.C. R152-34a-302(2)(a), which prohibits secondary schools from promulgating fraudulent or misleading statements, could lead to a refund in some cases in which a student enrolls as the result of misrepresentation. The state receives partial credit.

**C. DOES THE STATE REQUIRE INSTITUTIONS TO REFUND TUITION IN THE EVENT OF CLOSURE?**

**12.5/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, full refund	Yes, limited refund	Yes, refund in limited circumstances	No refund required
<b>Type 1</b>	20 Points	<b>15 Points</b>	10 Points	0 Points
<b>Type 2</b>	20 Points	15 Points	<b>10 Points</b>	0 Points

**Explanation:**

**Type 1: Postsecondary proprietary schools.** Utah law requires proprietary schools to secure a surety bond as a condition of registration (as noted above). The surety bond is in place, in part, to provide for student refunds if the proprietary school closes. (U.A.C. R152-34-9(4); U.A.C. R152-34-7(9)(d).) There is no requirement that students receive a full refund.

**Type 2: Postsecondary educational institutions.** A postsecondary school may be required to refund student tuition in full, if the school closes as a result of having its certificate of authorization revoked. (Utah Code Ann. § 13-34a-303.)

**D. DOES THE STATE ALLOW STUDENTS AMPLE TIME TO MAKE A COMPLAINT?**

**10/10 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	2 years or more (or no deadline)	1-2 years	Under 1 year	Not applicable
<b>Type 1</b>	<b>10 Points</b>	5 Points	1 Point	0 Points
<b>Type 2</b>	<b>10 Points</b>	5 Points	1 Point	0 Points

**Explanation:**

**Type 1: Postsecondary proprietary schools.** The Division does not set a deadline or timeframe by which a student must file a complaint.

**Type 2: Postsecondary educational institutions.** The Division does not set a deadline or timeframe by which a student must file a complaint.

**E. DOES THE STATE REQUIRE INSTITUTIONS TO DISCLOSE INFORMATION ABOUT FILING A COMPLAINT WITH THE STATE OVERSIGHT BODY?**

**3.75/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

***Type 1: Postsecondary proprietary schools***

Medium	Mandatory	Discretionary	Not specified
Catalog	10 Points	5 Points	0 Points
Website	5 Points	2.5 Points	0 Points
Enrollment contract	5 Points	2.5 Points	0 Points

**Explanation:**

Utah law does not specifically mandate, in either statute or regulations related to proprietary schools, disclosure of information about filing a complaint with the state oversight body

***Type 2: Postsecondary educational institutions***

Medium	Mandatory	Discretionary	Not specified
Catalog	10 Points	5 Points	0 Points
Website	5 Points	2.5 Points	0 Points
Enrollment contract	5 Points	2.5 Points	0 Points

**Explanation:**

Utah law requires postsecondary schools to provide each student or prospective student written information regarding how to file a complaint against the postsecondary school with the division, the postsecondary school's accrediting agency, and the postsecondary school's approval or licensing entity. State law gives schools the option to satisfy the requirement by posting this information conspicuously on the school website. (Utah Code Ann. § 13-34a-206.)

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**F. IS THE COMPLAINT PROCESS READILY ACCESSIBLE AND AVAILABLE ON THE STATE OVERSIGHT BODY'S WEBSITE?**

**5.5/10 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, with address	Yes, with phone #	Yes, with email address	Yes, with electronic form	No
Type 1	2 Points	2 Points	3 Points	3 1.5 Points	0 Points
Type 2	2 Points	2 Points	3 Points	3 1.5 Points	0 Points

**Explanation:**

***Type 1: Postsecondary proprietary schools.*** The Division of Consumer Protection maintains a website with a generic form consumers can use to file a complaint against a proprietary school. The form website and the form contain instructions, a phone number, fax number, and mailing address. Because the form cannot be submitted online, the state receives only partial credit for providing an electronic form.

***Type 2: Postsecondary educational institutions*** The Division of Consumer Protection maintains a website with a generic form consumers can use to file a complaint against a private postsecondary school. The form website and the form contain instructions, a phone number, fax number, and mailing address. Because the form cannot be submitted online, the state receives only partial credit for providing an electronic form.

## VII. ENFORCEMENT: 20/100 POINTS

### A. IS THERE LOSS OF STATE AID FOR SCHOOLS THAT REPEATEDLY PRODUCE SUBSTANDARD GRADUATION RATES, JOB PLACEMENT RATES, AND/OR COHORT DEFAULT RATES?

0/30 POINTS\*

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, required	Yes, required but limited	Yes, discretionary	Yes, discretionary but limited	No
Type 1	30 Points	20 Points	15 Points	5 Points	0 Points
Type 2	30 Points	20 Points	15 Points	5 Points	0 Points

#### Explanation:

**Type 1: Postsecondary proprietary schools.** While Utah law requires the Division to review graduation rates and requires schools to disclose graduation rates to potential students, the state does not mandate any loss of state aid for proprietary schools that repeatedly produce substandard graduation rates, cohort default rates, and/or job placement rates.

**Type 2: Postsecondary educational institutions.** Utah law does not mandate any loss of state aid for postsecondary schools that repeatedly produce substandard graduation rates, cohort default rates, and/or job placement rates.

### B. DOES STATE LAW EXPLICITLY AUTHORIZE A PRIVATE RIGHT OF ACTION FOR STUDENTS AGAINST INSTITUTIONS THAT HAVE VIOLATED THE LAWS AND REGULATIONS IN PLACE TO GOVERN THEM?

0/30 POINTS\*

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	Limited circumstances	No
Type 1	30 Points	15 Points	0 Points
Type 2	30 Points	15 Points	0 Points

#### Explanation:

**Type 1: Postsecondary proprietary schools.** Utah law does not authorize a private right of action for students to use against proprietary schools that have violated the laws and regulations in place to govern them.

**Type 2: Postsecondary educational institutions.** Utah law does not authorize a private right of action for students to use against postsecondary schools that have violated the laws and regulations in place to govern them.

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C. DOES STATE LAW EXPLICITLY ALLOW ATTORNEY FEE AWARDS FOR STUDENTS WHO PREVAIL IN LITIGATION AGAINST PRIVATE FOR-PROFIT POSTSECONDARY INSTITUTIONS?

**0/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	Limited	No
Type 1	20 Points	15 Points	0 Points
Type 2	20 Points	15 Points	0 Points

**Explanation:**

**Type 1: Postsecondary proprietary schools.** Utah law does not explicitly authorize attorney fee awards for students who prevail in litigation against proprietary schools that have violated the laws and regulations in place to govern them.

**Type 2: Postsecondary educational institutions.** Utah law does not explicitly authorize attorney fee awards for students who prevail in litigation against postsecondary schools that have violated the laws and regulations in place to govern them.

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D. DOES STATE LAW EXPLICITLY AUTHORIZE ATTORNEY GENERAL INVOLVEMENT?

**20/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	Limited circumstances	No
Type 1	20 Points	10 Points	0 Points
Type 2	20 Points	10 Points	0 Points

**Explanation:**

**Type 1: Postsecondary proprietary schools.** Utah law provides for attorney general involvement in enforcing the laws governing proprietary schools. (Utah Code Ann. § 13-34-111.)

**Type 2: Postsecondary educational institutions.** Utah law provides for attorney general involvement in enforcing the laws governing postsecondary schools. (Utah Code Ann. § 13-34a-305(2)(a).)

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**BONUS POINTS:**

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Utah does not receive any bonus points.



## ILLUMINATING INFORMATION

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### RECIPROCITY AGREEMENTS

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Utah is a member of the State Authorization Reciprocity Agreements (SARA).

### LITIGATION, INVESTIGATIONS, AND ACTIONS INVOLVING PRIVATE FOR-PROFIT EDUCATIONAL INSTITUTIONS IN UTAH

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For information about pending and recent federal and state government investigations and actions regarding for-profit colleges see David Halperin's compilation at <http://www.republicreport.org/2014/law-enforcement-for-profit-colleges/#sthash.1vc4HmPw.dpuf>.

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# VERMONT

## FINAL GRADING ANALYSIS

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OVERALL SCORE: **184.25/700 POINTS (26.3%)**  
LETTER GRADE: **F**

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### I. OVERSIGHT BODY: **40/100 POINTS**

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A. IS THERE A STATUTORILY CREATED OVERSIGHT  
BODY THAT IS PUBLICLY ACCOUNTABLE?  
**35/60 POINTS**

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Element	Points Available	Type 1	Type 2	Points Awarded (Average)
1. Oversight body is a multi-member board, commission, or panel created by statute	10	10	0	5
2. Oversight body was statutorily created specifically to oversee private postsecondary institutions	10	0	0	0
3. Multi-member board, commission, or panel is the ultimate decision maker (as opposed to a single person, like the head of a department or director)	10	10	0	5
4. Oversight body can engage in rulemaking	10	10	10	10
5. Oversight body's meetings must be open to the public	5	5	0	2.5
6. Oversight body's meetings must allow public comment	5	5	0	2.5
7. Oversight body can initiate investigations	5	5	5	5
8. Oversight body can impose penalties for violations	5	5	5	5
Total Points	60	50	20	35

**Explanation:**

The Vermont State Board of Education has authority to license and regulate degree-granting private postsecondary educational institutions (Type 1). Non-degree-granting private postsecondary educational institutions (Type 2) are businesses and as such are required to register with the Vermont Secretary of State.

***Type 1: Degree-granting private postsecondary educational institutions.*** Degree-granting private postsecondary institutions in Vermont must apply for a certificate of approval from the State Board of Education prior to registering with the Secretary of State. The Board was not established specifically to oversee degree-granting institutions; it has broad authority to establish and advance education policy for

the State of Vermont. (16 V.S.A. § 164.) The Secretary has authority to investigate schools under the authority of the Board. (CVR 22-000-004(2243.8.3).) The Board is subject to Vermont’s Open Meetings Law. (1 V.S.A. §§ 310 et seq.) Its meetings must be open to the public, and it must give the public an opportunity to comment on its proceedings. (1 V.S.A. § 312(h).)



**A Note of Caution.** Prior to any action taken by the Board with respect to any application for degree-granting authority, the Board shall obtain the advice of the Vermont Higher Education Council, Incorporated (VHEC). (16 V.S.A. § 176(h).) VHEC is designated as the Vermont state postsecondary review entity for the purpose of reviewing all institutions of higher education that are eligible or which desire to become eligible for funding under 42 U.S.C. Chapter 34, Subchapter I, Part C (work study programs) or 20 U.S.C. Chapter 28, Subchapter IV (student assistance). (16 V.S.A. § 2881.) VHEC presents recommendations to the Commissioner with regard to granting degree-granting authority. Although the Board makes the final decision regarding whether or not to approve degree-granting authority, VHEC has substantial influence in the process. The Council is comprised of members of the industry over which it is mandated to exert influence with the governing authority. Generally, the expertise available should provide a benefit; however, this influence may also present a conflict if it should be exercised in a way to benefit institutional interests, particularly with regard to for-profit institutions, over those of the students.

**Type 2: Non-degree-granting private postsecondary educational institutions.** Vermont law requires non-degree-granting, non-credit bearing private postsecondary institutions to register with the Secretary of State, these institutions are treated like any other business in the state. The Secretary of State is not a multi-member body; the Secretary of State is the ultimate decision maker.

## B. STATUTE-SPECIFIED MEMBERSHIP:

### 1. TO WHAT EXTENT ARE LIMITATIONS PLACED ON FOR-PROFIT MEMBERSHIP ON THE OVERSIGHT BODY?

**0/25 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Explicit prohibition on for-profit majority, plus no possibility of a majority of the quorum	Explicit prohibition on for-profit majority	Discouraged	No prohibition specified, but not discouraged	For-profit majority mandated
<b>Type 1</b>	25 Points	20 Points	10 Points	0 Points	–5 points
<b>Type 2</b>	25 Points	20 Points	10 Points	0 Points	–5 Points

#### **Explanation:**

**Type 1: Degree-granting private postsecondary educational institutions.** In addition to two secondary students who be appointed to the Board, the Board consists of 10 members must be “persons with a demonstrated commitment to ensuring quality education for Vermont students.” There are no prohibitions on including individuals affiliated with private for-profit educational institutions in the Board’s membership. (16 V.S.A. § 161)

**Type 2: Non-degree-granting private postsecondary educational institutions.** This element is not applicable here because the oversight body, the Secretary of State, is not a multi-member board.



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2. IS THE OVERSIGHT BODY MANDATED TO INCLUDE  
AT LEAST ONE CONSUMER ADVOCATE?

**0/10 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	No
Type 1	10 Points	0 Points
Type 2	10 Points	0 Points

**Explanation:**

**Type 1: Degree-granting private postsecondary educational institutions.** While a consumer advocate may be a “person with a demonstrated commitment to ensuring quality education for Vermont students,” as specified in 16 V.S.A. § 161, state law does not specifically mandate inclusion of an individual with expertise and experience in the area of consumer advocacy.

**Type 2: Non-degree-granting private postsecondary educational institutions.** This element is not applicable here because the oversight body, the Secretary of State, is not a multi-member board.

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3. ARE THE MEMBERS APPOINTED BY A PUBLICLY ACCOUNTABLE  
OFFICIAL OR ELECTED IN A GENERAL ELECTION?

**5/5 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	All	Majority	Half	Minority	None
Type 1	5 Points	3 Points	2.5 Points	1 Point	0 Points
Type 2	5 Points	3 Points	2.5 Points	1 Point	0 Points

**Explanation:**

**Type 1: Degree-granting private postsecondary educational institutions.** All members of the Board are appointed by the governor with the advice and consent of the senate. (16 V.S.A. § 161.)

**Type 2: Non-degree-granting private postsecondary educational institutions.** The Secretary of State is an elected official in Vermont.

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**II. STATE OVERSIGHT—EFFICACY: 23/100 POINTS**

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A. DOES THE STATE REQUIRE ONSITE REVIEW OF  
PRIVATE POSTSECONDARY INSTITUTIONS?

**1.5/10 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Mandatory onsite reviews			Discretionary	None
	Every 2 years or less	Every 3-5 years	Over 5 years	Discretion to conduct onsite reviews	No review specified
<b>Type 1</b>	10 Points	8 Points	5 Points	<b>3 Points</b>	0 Points
<b>Type 2</b>	10 Points	8 Points	5 Points	3 Points	<b>0 Points</b>

**Explanation:**

**Type 1: Degree-granting private postsecondary educational institutions.** Vermont has regulations in place that allow for discretionary onsite visits as a part of the process of review for both certificates of approval and for the Commissioner appoints a teams to review applications for certificates of approval, the teams may visit the institutions to verify information if necessary. (CVR 22-000-004(2243.1).) The Vermont Higher Education Council reviews applications for certificates of degree-granting authority and determines the accuracy of contents, if necessary, by visiting the schools. The Commissioner may also appoint independent reviewers to accompany representatives of the Higher Education Council reviewing the schools. (CVR 22-000-004(2243.2).)

**Type 2: Non-degree-granting private postsecondary educational institutions.** Vermont law does not require regular onsite reviews of non-degree-granting private postsecondary institutions.

**B. DOES THE STATE REQUIRE UNANNOUNCED INSPECTIONS FOR ONSITE REVIEWS?**

**0/5 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Required unannounced visits	Discretion to do unannounced visits	No indication
<b>Type 1</b>	5 Points	3 Points	<b>0 Points</b>
<b>Type 2</b>	5 Points	3 Points	<b>0 Points</b>

**Explanation:**

**Type 1: Degree-granting private postsecondary educational institutions.** Vermont law does not require or authorize unannounced inspections. In fact, in situations in which the Commissioner intends to visit a degree-granting institution in the course of an investigation, the institution must be notified. (CVR 22-000-004(2243.8.3).)

**Type 2: Non-degree-granting private postsecondary educational institutions.** Vermont law does not require or authorize unannounced inspections.

**C. DOES THE STATE REQUIRE REGULAR REVIEWS OF PRIVATE POSTSECONDARY APPROVAL TO OPERATE?**

**8/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Mandatory			Discretionary	None
	Every 2 years or less	Every 3-5 years	Over 5 years	Discretion to conduct reviews	No review specified
<b>Type 1</b>	20 Points	<b>15 16 Points</b>	10 Points	5 Points	0 Points
<b>Type 2</b>	20 Points	15 Points	10 Points	5 Points	<b>0 Points</b>

**Explanation:**

**Type 1: Degree-granting private postsecondary educational institutions.** The Board may grant a certificate of approval or degree granting authority, or renewal thereof, for a period of time it deems reasonable and appropriate not to exceed five years. (CVR 22-000-004 (2243.7).) Postsecondary schools not chartered in Vermont must register annually with the State Board of Education by providing evidence of accreditation and approval by the state in which it primarily operates after initial approval. (16 V.S.A. § 176a(d).) The state receives 15 points because the Board's certificates of approval or degree-granting authority are limited to a maximum of five years, and the state receives an additional point because postsecondary schools not chartered in Vermont must register more frequently.

**Type 2: Non-degree-granting private postsecondary educational institutions.** Vermont law does not require regular reviews of non-degree-granting private postsecondary institutions' approval to operate.

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**D. DO THE CRITERIA FOR RENEWAL OF AUTHORIZATION MANDATE A REVIEW OF FACTORS ESSENTIAL TO ACADEMIC AND ETHICAL INTEGRITY?**

**3.5/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	8 of 8	7 of 8	6 of 8	5 of 8	4 of 8	3 of 8	2 of 8	1 of 8	0 of 8
<b>Type 1</b>	20 Points	17.5 Points	15 Points	12.5 Points	10 Points	7.5 Points	<b>5.7 Points</b>	2.5 Points	0 Points
<b>Type 2</b>	20 Points	17.5 Points	15 Points	12.5 Points	10 Points	7.5 Points	5 Points	2.5 Points	<b>0 Points</b>

Element	Type 1	Type 2
Admission requirements		
Graduation requirements	M	
Placement rate		
Completion rate (or graduation rate)		
Advertising practices	M	
Cohort default rate		
Accreditation status	D	
Financial aid policies	D	

*M=Mandatory; D=Discretionary*

**Explanation:**

**Type 1: Degree-granting private postsecondary educational institutions.** Vermont law states that certificates may be renewed on application in the same manner as originally issued. (16 V.S.A. § 176(f).) The state requires review of graduation requirements (criteria for granting a degree) as a part of the review process related to an institution's application for a certificate of degree-granting authority. (CVR 22-000-004 (2243.6.1).) State law requires that information institutions provide to students either directly or through advertisements be accurate and truthful (not false or misleading). (CVR 22-000-004 (2243.5.3).) State law requires institutions to make specified disclosure in a general catalogue, bulletin or other public information document provided to prospective students prior to enrollment. The disclosures must include information about accreditation and financial aid availability. The state receives partial credit for reviewing these elements because the state requires the disclosures in the catalog as a condition

of authorization, therefore, while the state must review the catalog to ensure inclusion of the information, the state does not necessarily review the information itself as a part of the review process.

**Type 2: Non-degree-granting private postsecondary educational institutions.** Vermont law does not require review of any of the above-listed elements for non-degree-granting postsecondary institutions.

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**E. DOES THE STATE'S OVERSIGHT DISTINGUISH BETWEEN FOR-PROFIT AND NONPROFIT EDUCATIONAL INSTITUTIONS?**

**0/15 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, strongly distinguished	Yes, moderately distinguished	Yes, slightly distinguished	Not distinguished
<b>Type 1</b>	15 Points	10 Points	5 Points	<b>0 Points</b>
<b>Type 2</b>	15 Points	10 Points	5 Points	<b>0 Points</b>

**Explanation:**

**Type 1: Degree-granting private postsecondary educational institutions.** Vermont law does not distinguish between for-profit and nonprofit educational institutions for the purposes of oversight and regulation of degree-granting institutions.

**Type 2: Non-degree-granting private postsecondary educational institutions.** Vermont law does not distinguish between for-profit and nonprofit educational institutions for the purposes of oversight and regulation of non-degree-granting institutions.

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**F. DOES THE STATE REQUIRE INCREASED OVERSIGHT/SCRUTINY OF PRIVATE POSTSECONDARY INSTITUTIONS BASED ON POOR PERFORMANCE?**

**0/10 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, mandatory	Yes, mandatory but limited	Yes, discretionary	Yes, discretionary but limited	No
<b>Type 1</b>	10 Points	7.5 Points	5 Points	2.5 Points	<b>0 Points</b>
<b>Type 2</b>	10 Points	7.5 Points	5 Points	2.5 Points	<b>0 Points</b>

**Explanation:**

**Type 1: Degree-granting private postsecondary educational institutions.** Vermont law does not require increased oversight/scrutiny of degree-granting private postsecondary institutions based on poor performance (low graduation rates, high cohort default rates, etc.).

**Type 2: Non-degree-granting private postsecondary educational institutions.** Vermont law does not require increased oversight/scrutiny of non-degree-granting private postsecondary institutions based on poor performance (low graduation rates, high cohort default rates, etc.).

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G. DOES STATE LAW INCLUDE ANY SPECIAL PROTECTIONS FOR VETERANS WHO ATTEND PRIVATE POSTSECONDARY INSTITUTIONS?

**10/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	No
Type 1	20 Points	0 Points
Type 2	20 Points	0 Points

**Explanation:**

**Type 1: Degree-granting private postsecondary educational institutions.** Vermont law requires institutions, as a condition of obtaining a certificate of approval, to include in a general catalog, bulletin or other public information document provided to prospective students prior to enrollment, an accurate representation of, and the distinction between, state VA-approving agency course approval and state certification. (CVR 22-000-004 (2243.5.3).)

**Type 2: Non-degree-granting private postsecondary educational institutions.** Vermont law has not enacted any special protections specifically for veterans who attend non-degree-granting private postsecondary institutions.

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### III. STATE OVERSIGHT—SCOPE AND INCLUSION:

**50/100 POINTS**

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A. ARE EXEMPTIONS TO STATE OVERSIGHT COVERAGE LIMITED?

**50/100 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	No exemptions	Few exemptions	Moderate exemptions	Broad exemptions
Type 1	100 Points	75 Points	50 Points	0 Points
Type 2	100 Points	75 Points	50 Points	0 Points

**Explanation:**

**Type 1: Degree-granting private postsecondary educational institutions.** Vermont law exempts several postsecondary institutions from approval and oversight by the Board. In particular, the state exempts postsecondary schools currently licensed or approved by a Vermont State occupational licensing board, postsecondary schools that are accredited, and non-degree-granting and noncredit-granting postsecondary schools that offer only training in specific trades or vocations. (16 V.S.A. § 176)

**Type 2: Non-degree-granting private postsecondary educational institutions.** All businesses in the state of Vermont must register with the Secretary of State; no Non-degree-granting private postsecondary educational institutions are exempt from this requirement.

#### IV. DISCLOSURE REQUIREMENTS: 11.25/100 POINTS

##### A. ARE INSTITUTIONS REQUIRED TO DISCLOSE INSTITUTIONAL PERFORMANCE MEASURES TO POTENTIAL STUDENTS?

5/20 POINTS\*

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, mandatory	Yes, discretionary	None
	Fact sheet or equivalent required to be given to students	Fact sheet or equivalent given to students upon request	No fact sheet required
Type 1	20 Points	10 Points	0 Points
Type 2	20 Points	10 Points	0 Points

##### Explanation:

**Type 1: Degree-granting private postsecondary educational institutions.** Vermont law does not require institutions to provide students with a fact sheet containing information related to institutional performance. However, institutions are required to provide students with a catalog, bulletin or other public information containing specified disclosures prior to enrollment. While none of the specified disclosures relate to institutional performance, institutions are required to provide students with accurate information and must be able to substantiate any claims regarding such matters as the likelihood of employment, graduate school admission or transfer of credit. (CVR 22-000-004 (2243.5.3).) Because this information may include information relating to institutional performance, the state receives partial credit.

**Type 2: Non-degree-granting private postsecondary educational institutions.** Vermont law contains no disclosure requirements for non-degree-granting institutions.

##### B. WHICH INSTITUTIONAL PERFORMANCE DISCLOSURES ARE REQUIRED TO BE GIVEN TO STUDENTS PRIOR TO ENROLLMENT?

0/60 POINTS\*

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

##### **Type 1: Degree-granting private postsecondary educational institutions**

Disclosures	Mandatory	Discretionary	Not specified
Cohort default rate (CDR)	10 Points	5 Points	0 Points
Graduation / completion rates	10 Points	5 Points	0 Points
Placement rates	10 Points	5 Points	0 Points
Wage information	10 Points	5 Points	0 Points
License exam passage rates	10 Points	5 Points	0 Points
Methods & sources used to calculate	10 Points	5 Points	0 Points

##### Explanation:

Vermont does not require degree-granting institutions to disclose any of the above-listed information to students prior to enrollment.

##### **Type 2: Non-degree-granting private postsecondary educational institutions**

Disclosures	Mandatory	Discretionary	Not specified
Cohort default rate (CDR)	10 Points	5 Points	0 Points
Graduation / completion rates	10 Points	5 Points	0 Points
Placement rates	10 Points	5 Points	0 Points
Wage information	10 Points	5 Points	0 Points
License exam passage rates	10 Points	5 Points	0 Points
Methods & sources used to calculate	10 Points	5 Points	0 Points

**Explanation:**

Vermont law contains no disclosure requirements for non-degree-granting institutions.

**C. DOES THE STATE REQUIRE SCHOOLS TO DISCLOSE ELEMENTS ESSENTIAL TO STUDENT PROTECTION PRIOR TO ENROLLMENT OR IN THE ENROLLMENT CONTRACT?**

**6.25/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

***Type 1: Degree-granting private postsecondary educational institutions***

Element description	Mandatory	Discretionary	Not specified
Total cost of program	5 Points	2.5 Points	0 Points
Refund information	5 Points	2.5 Points	0 Points
Transferability of credits	5 Points	2.5 Points	0 Points
Length of program	5 Points	2.5 Points	0 Points

**Explanation:**

Degree-granting institutions are required to disclose specified information in a general catalog, bulletin or other public information document provided to prospective students prior to enrollment. The information must include, among other disclosures, information related to the length of the institution's programs (CVR 22-000-004 (2243.5.3.i)), and information about the institution's refund policy. (CVR 22-000-004 (2243.5.3.u)). Institutions are required to substantiate any claims regarding transfer of credit. (CVR 22-000-004 (2243.5.3).) The state receives partial credit for disclosing information about transferability of credits because it requires substantiation only where an institution makes claims about transferability.

***Type 2: Non-degree-granting private postsecondary educational institutions***

Element description	Mandatory	Discretionary	Not specified
Total cost of program	5 Points	2.5 Points	0 Points
Refund information	5 Points	2.5 Points	0 Points
Transferability of credits	5 Points	2.5 Points	0 Points
Length of program	5 Points	2.5 Points	0 Points

**Explanation:**

Vermont law does not mandate that non-degree-granting institutions provide any of the above disclosures to students.



## V. REGULATION OF RECRUITING PRACTICES:

**37.5/100 POINTS**

### A. HAS THE STATE PUT INTO LAW A LIST OF PROHIBITED ACTS REGARDING ADVERTISING AND RECRUITING?

**37.5/100 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, strong regulation	Yes, moderate regulation	Yes, weak regulation	No list of prohibited acts
Type 1	100 Points	75 Points	50 Points	0 Points
Type 2	100 Points	75 Points	50 Points	0 Points

#### PROHIBITED ACTS

Included in list of prohibited acts	Type 1	Type 2
Misleading representations using the word “college” or “university”		
Misleading institution affiliations (e.g., military, public institution, businesses)		
Promise of employment	X	
Compensation for enrollment		
Compensation or “bounty” to recruiters		
Deception (broad prohibition)	X	
Misrepresentation (broad prohibition)	X	
Misleading representations re: accreditation	X	

*1-3=Weak; 3.5-6=Moderate; 6.5-8=Strong*

#### Explanation:

**Type 1: Degree-granting private postsecondary educational institutions.** Information provided by the school to prospective students, either directly or through advertisements, shall not be false or misleading. The school shall be able to substantiate any claims regarding such matters as the likelihood of employment, graduate school admission, or transfer of credit. (CVR 22-000-004 (2243.5.3).) Vermont law also requires institutions to disclose to potential students prior to enrollment an accurate representation of, and the distinction between, school accreditation, institutional memberships in professional organizations, specialized or professional program accreditation, state VA-approving agency course approval and state certification. (CVR 22-000-004 (2243.5.3.t).)



**Notably:** Vermont law requires institutions to provide potential students, prior to enrollment, information regarding their closing policy, procedures that will be followed in the event a determination is made to cease operation. (CVR 22-000-004 (2243.5.3.v).)

**Type 2: Non-degree-granting private postsecondary educational institutions.** Vermont law does contain prohibitions specific to non-degree-granting institutions.



## VI. COMPLAINT PROCESS AND RELIEF FOR STUDENTS:

### 12.5/100 POINTS

#### A. DOES THE STATE REQUIRE A BOND OR FUND AS A CONDITION OF AUTHORIZATION?

0/20 POINTS\*

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	No
Type 1	20 Points	0 Points
Type 2	20 Points	0 Points

#### Explanation:

**Type 1: Degree-granting private postsecondary educational institutions.** Vermont law does not require a bond or a fund (such as a tuition protection fund) as a condition of authorization.

**Type 2: Non-degree-granting private postsecondary educational institutions.** Vermont law does not require a bond or a fund (such as a tuition protection fund) as a condition of authorization.

#### B. DOES THE STATE REQUIRE A REFUND OF TUITION IF A STUDENT ENROLLS AS THE RESULT OF MISREPRESENTATION?

0/20 POINTS\*

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, full refund	Yes, partial refund	No refund required
Type 1	20 Points	10 Points	0 Points
Type 2	20 Points	10 Points	0 Points

#### Explanation:

**Type 1: Degree-granting private postsecondary educational institutions.** Vermont law does not explicitly require degree-granting institutions to provide a full tuition refund if a student enrolls as the result of misrepresentation.

**Type 2: Non-degree-granting private postsecondary educational institutions.** Vermont law does not explicitly require non-degree-granting institutions to provide a full tuition refund if a student enrolls as the result of misrepresentation.

#### C. DOES THE STATE REQUIRE INSTITUTIONS TO REFUND TUITION IN THE EVENT OF CLOSURE?

0/20 POINTS\*

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, full refund	Yes, partial refund	Yes, refund in limited circumstances	No refund required
Type 1	20 Points	15 Points	10 Points	0 Points
Type 2	20 Points	15 Points	10 Points	0 Points

**Explanation:**

**Type 1: Degree-granting private postsecondary educational institutions.** Vermont law requires institutions to disclose to potential students their closing policy, procedures that will be followed if a determination is made to cease operation. (CVR 22-000-004 (2243.5.3.v).) It does not, however, explicitly require institutions to refund tuition upon closure.

**Type 2: Non-degree-granting private postsecondary educational institutions.** Vermont law contains no explicit requirement for institutions to refund tuition upon closure.

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**D. DOES THE STATE ALLOW STUDENTS AMPLE TIME TO MAKE A COMPLAINT?**

**10/10 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	2 years or more (or no deadline)	1-2 years	Under 1 year	Not applicable
<b>Type 1</b>	<b>10 Points</b>	5 Points	1 Point	0 Points
<b>Type 2</b>	<b>10 Points</b>	5 Points	1 Point	0 Points

**Explanation:**

**Type 1: Degree-granting private postsecondary educational institutions.** Vermont law does not specify a timeframe or deadline by which students at degree-granting institutions must file a complaint.

**Type 2: Non-degree-granting private postsecondary educational institutions.** Vermont law does not specify a timeframe or deadline by which students at non-degree-granting institutions must file a complaint.

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**E. DOES THE STATE REQUIRE INSTITUTIONS TO DISCLOSE INFORMATION ABOUT FILING A COMPLAINT WITH THE STATE OVERSIGHT BODY?**

**0/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

**Type 1: Degree-granting private postsecondary educational institutions.**

Medium	Mandatory	Discretionary	Not specified
<b>Catalog</b>	10 Points	5 Points	<b>0 Points</b>
<b>Website</b>	5 Points	2.5 Points	<b>0 Points</b>
<b>Enrollment contract</b>	5 Points	2.5 Points	<b>0 Points</b>

**Explanation:**

Vermont law does not require institutions to disclose information about filing a complaint with the Board.

**Type 2: Non-degree-granting private postsecondary educational institutions.**

Medium	Mandatory	Discretionary	Not specified
<b>Catalog</b>	10 Points	5 Points	<b>0 Points</b>
<b>Website</b>	5 Points	2.5 Points	<b>0 Points</b>
<b>Enrollment contract</b>	5 Points	2.5 Points	<b>0 Points</b>

**Explanation:**

Vermont law does not require institutions to disclose information about filing a complaint with the Secretary of State.

F. IS THE COMPLAINT PROCESS READILY ACCESSIBLE AND  
AVAILABLE ON THE STATE OVERSIGHT BODY'S WEBSITE?

**2.5/10 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, with address	Yes, with phone #	Yes, with email address	Yes, with electronic form	No
<b>Type 1</b>	2 Points	2 Points	3 Points	3 Points	0 Points
<b>Type 2</b>	2 Points	2 Points	3 Points	3 Points	0 Points

**Explanation:**

**Type 1: Degree-granting private postsecondary educational institutions.** The Board maintains a website on which students can find information on filing a complaint about degree-granting institutions under the authority of the Board. The document strongly encourages students to try to resolve the complaint with the institution before taking any further steps. Should the student need to file a complaint, there is a phone number and an email address the student can use to obtain guidance on how to file a complaint with the Board.

**Type 2: Non-degree-granting private postsecondary educational institutions.** Students may be able to file a complaint with the Secretary of State or with the attorney general, however, neither site has an easily located and easily accessible link to a complaint form or any information specific to non-degree-granting institutions.

**VII. ENFORCEMENT: 10/100 POINTS**

A. IS THERE LOSS OF STATE AID FOR SCHOOLS THAT REPEATEDLY  
PRODUCE SUBSTANDARD GRADUATION RATES, JOB PLACEMENT  
RATES, AND/OR COHORT DEFAULT RATES?

**0/30 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, required	Yes, required but limited	Yes, discretionary	Yes, discretionary but limited	No
<b>Type 1</b>	30 Points	20 Points	15 Points	5 Points	0 Points
<b>Type 2</b>	30 Points	20 Points	15 Points	5 Points	0 Points

**Explanation:**

**Type 1: Degree-granting private postsecondary educational institutions.** Vermont law does not mandate any loss of state aid to degree-granting institutions that repeatedly produce substandard graduation rates, job placement rates, and/or cohort default rates.

**Type 2: Non-degree-granting private postsecondary educational institutions.** Vermont law does not mandate any loss of state aid to degree-granting institutions that repeatedly produce substandard graduation rates, job placement rates, and/or cohort default rates.

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**B. DOES STATE LAW EXPLICITLY AUTHORIZE A PRIVATE RIGHT OF ACTION FOR STUDENTS AGAINST INSTITUTIONS THAT HAVE VIOLATED THE LAWS AND REGULATIONS IN PLACE TO GOVERN THEM?**

**0/30 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	Limited circumstances	No
<b>Type 1</b>	30 Points	15 Points	<b>0 Points</b>
<b>Type 2</b>	30 Points	15 Points	<b>0 Points</b>

**Explanation:**

**Type 1: Degree-granting private postsecondary educational institutions.** Vermont law does not explicitly authorize a private right of action for students against degree-granting institutions that have violated the laws and regulations in place to govern them.

**Type 2: Non-degree-granting private postsecondary educational institutions.** Vermont does not explicitly authorize a private right of action for students against non-degree-granting institutions that have violated the laws and regulations in place to govern them.

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**C. DOES STATE LAW EXPLICITLY ALLOW ATTORNEY FEE AWARDS FOR STUDENTS WHO PREVAIL IN LITIGATION AGAINST PRIVATE FOR-PROFIT POSTSECONDARY INSTITUTIONS?**

**0/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	Limited	No
<b>Type 1</b>	20 Points	15 Points	<b>0 Points</b>
<b>Type 2</b>	20 Points	15 Points	<b>0 Points</b>

**Explanation:**

**Type 1: Degree-granting private postsecondary educational institutions.** Vermont law does not explicitly allow attorney fee awards for students who prevail in litigation against degree-granting institutions that have violated the laws and regulations in place to govern them.

**Type 2: Non-degree-granting private postsecondary educational institutions.** Vermont law does not explicitly allow attorney fee awards for students who prevail in litigation against non-degree-granting institutions that have violated the laws and regulations in place to govern them.

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D. DOES STATE LAW EXPLICITLY AUTHORIZE  
ATTORNEY GENERAL INVOLVEMENT?

**10/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	Limited circumstances	No
Type 1	20 Points	10 Points	0 Points
Type 2	20 Points	10 Points	0 Points

**Explanation:**

**Type 1: Degree-granting private postsecondary educational institutions.** Vermont law explicitly authorizes attorney general involvement in the enforcement of the laws governing degree-granting institutions. (16 V.S.A. § 176(k).)

**Type 2: Non-degree-granting private postsecondary educational institutions.** The attorney general likely has authority here where consumer protection issues become an issue (under Vt. Stat. Ann. tit. 9, § 2453 et seq.); however, there is no explicit authorization specifically related to the enforcement of laws governing non-degree-granting institutions beyond the authority to enforce consumer protection laws that would be in place for any business in the state.

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**BONUS POINTS:**

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Vermont does not receive any bonus points.



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**ILLUMINATING INFORMATION**

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**RECIPROCITY AGREEMENTS**

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Vermont is a member of the State Authorization Reciprocity Agreements (SARA).

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**LITIGATION, INVESTIGATIONS, AND ACTIONS INVOLVING PRIVATE  
FOR-PROFIT EDUCATIONAL INSTITUTIONS IN VERMONT**

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For information about pending and recent federal and state government investigations and actions regarding for-profit colleges see David Halperin's compilation at <http://www.republicreport.org/2014/law-enforcement-for-profit-colleges/#sthash.1vc4HmPw.dpuf>.

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# VIRGINIA

## FINAL GRADING ANALYSIS

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OVERALL SCORE: **356.5/700 POINTS (50.9%)**  
LETTER GRADE: **F**

### I. OVERSIGHT BODY: **80.5/100 POINTS**

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#### A. IS THERE A STATUTORILY CREATED OVERSIGHT BODY THAT IS PUBLICLY ACCOUNTABLE?

**52.5/60 POINTS**

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Element	Points Available	Points Awarded
1. Oversight body is a multi-member board, commission, or panel created by statute	10	10
2. Oversight body was statutorily created specifically to oversee private postsecondary institutions	10	5
3. Multi-member board, commission, or panel is the ultimate decision maker (as opposed to a single person, like the head of a department or director)	10	10
4. Oversight body can engage in rulemaking	10	10
5. Oversight body's meetings must be open to the public	5	5
6. Oversight body's meetings must allow public comment	5	2.5
7. Oversight body can initiate investigations	5	5
8. Oversight body can impose penalties for violations	5	5
Total Points	60	52.5

**Explanation:**

The State Council of Higher Education for Virginia (Council) is charged with regulation and oversight of private postsecondary institutions in Virginia. (VA ST § 23.1–200(A).) The Council was not statutorily created specifically to oversee private postsecondary institutions; rather, it is tasked with overseeing postsecondary institutions more broadly. (VA ST § 23.1–200(A).) The state receives partial credit for this element because Virginia has created the Career College Advisory Board specifically to assist and advise the Council on matters related to the private proprietary sector of institutions of higher education and academic-vocational noncollege degree schools. (VA ST § 23.1–216.) The Council is responsible for rulemaking (VA ST § 23.1–203(1) and has authority to initiate investigations (8 VAC 40-31-100(A)(6)) and impose penalties for violations. (8 VAC 40-31-195(A).)

The Virginia Freedom of Information Act requires Council meetings to be open to the public. (Va. Code Ann. §2.2-3707.) However, Virginia law leaves to the discretion of the Council the allowance of opportunity for public comment at meetings. (Va. Code Ann. §2.2-3707(C).)

## B. STATUTE-SPECIFIED MEMBERSHIP:

### 1. TO WHAT EXTENT ARE LIMITATIONS PLACED ON FOR-PROFIT MEMBERSHIP ON THE OVERSIGHT BODY?

**25/25 POINTS**

Explicit prohibition on for-profit majority, plus no possibility of a majority of the quorum	Explicit prohibition on for-profit majority	Discouraged	No prohibition specified, but not discouraged	For-profit majority mandated
25 Points	20 Points	10 Points	0 Points	-5 points

#### **Explanation:**

Virginia law explicitly excludes officers, employees, trustees, and members of the governing board of any institution of higher education from eligibility for membership in the Council. (Va. Code Ann. §23-9.3.) The only exceptions are that at least one appointee shall have served as president or chief executive of a public institution of higher education.



One caveat here: Virginia has created a Career College Advisory Board to advise the Council on matters related to private proprietary institutions. The membership of the Advisory Board is “composed of college and university representatives and such other members as the Council may select and shall be broadly representative of the private proprietary sector of institutions of higher education and academic-vocational noncollege degree schools.” Thus, the Council has an Advisory Board that consists, at least in part, of private proprietary interests.

### 2. IS THE OVERSIGHT BODY MANDATED TO INCLUDE AT LEAST ONE CONSUMER ADVOCATE?

**0/10 POINTS**

Yes	No
10 Points	0 Points

#### **Explanation:**

Virginia law does not require the Council to include at least one consumer advocate in its membership.

In addition to the Career College Advisory Board discussed above, the state has created a Student Advisory Committee to advise the Council. This advisory body consists of students enrolled in public institutions of higher education in the Commonwealth and students enrolled in private and accredited institutions of higher education in the Commonwealth. (VA ST § 23.1–201.) While this is a step in the right direction, it would also be to students’ benefit for the Council to include at least one voting member who is an experienced consumer advocate, not affiliated with any of the institutions over which the Council has authority. Given that the Career College Advisory Board is comprised of private proprietary interests, the presence of at least one consumer advocate on the Council is of even greater import.



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3. ARE THE MEMBERS APPOINTED BY A PUBLICLY ACCOUNTABLE  
OFFICIAL OR ELECTED IN A GENERAL ELECTION?

**3/5 POINTS**

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All	Majority	Half	Minority	None
5 Points	3 Points	2.5 Points	1 Point	0 Points

**Explanation:**

The Council consists of 13 members, 12 of whom are appointed by the Governor and subject to confirmation by the General Assembly and one ex officio member. The ex officio member is the President of the Virginia Economic Development Partnership. (VA ST § 23.1–200(C).)

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**II. STATE OVERSIGHT—EFFICACY: 49/100 POINTS**

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A. DOES THE STATE REQUIRE ONSITE REVIEW OF  
PRIVATE POSTSECONDARY INSTITUTIONS?

**6/10 POINTS**

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Mandatory onsite reviews			Discretionary	None
Every 2 years or less	Every 3-5 years	Over 5 years	Discretion to conduct onsite reviews	No review specified
10 Points	8 Points	5 6 Points	3 Points	0 Points

**Explanation:**

Virginia requires the Council to conduct an onsite review as a part of the certification, and additionally requires the Council to perform random and periodic school visits to review, inspect and investigate school compliance. (8 VAC 40-31-100(A)(3).) Because the frequency of these onsite inspection is not specified, Virginia receives partial credit for the mandatory visits, the state receives an additional point for requiring a site visit as part of the initial certification process. (8 VAC 40-31-180(F).)

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B. DOES THE STATE REQUIRE UNANNOUNCED  
INSPECTIONS FOR ONSITE REVIEWS?

**3/5 POINTS**

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Required unannounced visits	Discretion to do unannounced visits	No indication
5 Points	3 Points	0 Points

**Explanation:**

Virginia law requires the Council to perform “random” and periodic school visits to review, inspect and investigate school compliance. (8 VAC 40-31-100(A)(3).) While state law does not explicitly require visits to be unannounced, the fact that they must be random indicates that they may be unannounced. At a minimum, the practice of random visits makes it more likely that the Council will be able to ascertain the uncensored day-to-day operations of the institution.

C. DOES THE STATE REQUIRE REGULAR REVIEWS OF PRIVATE POSTSECONDARY APPROVAL TO OPERATE?

**20/20 POINTS**

Mandatory			Discretionary	None
Every 2 years or less	Every 3-5 years	Over 5 years	Discretion to conduct reviews	No review specified
<b>20 Points</b>	15 Points	10 Points	5 Points	0 Points

**Explanation:**

Virginia law requires schools to renew their certificate to operate annually. (8 VAC 40-31-170(H).)

D. DO THE CRITERIA FOR RENEWAL OF AUTHORIZATION MANDATE A REVIEW OF FACTORS ESSENTIAL TO ACADEMIC AND ETHICAL INTEGRITY?

**10/20 POINTS**

8 of 8	7 of 8	6 of 8	5 of 8	4 of 8	3 of 8	2 of 8	1 of 8	0 of 8
20 Points	17.5 Points	15 Points	12.5 Points	<b>10 Points</b>	7.5 Points	5 Points	2.5 Points	0 Points

Element	
Admission requirements	<b>M</b>
Graduation requirements	<b>M</b>
Placement rate	
Completion rate (or graduation rate)	<b>M</b>
Advertising practices	
Cohort default rate	
Accreditation status	<b>M</b>
Financial aid policies	

*M=Mandatory; D=Discretionary*

**Explanation:**

Virginia law requires schools to submit a complete certification package. This must include, among other requirements, a statement regarding the school's accreditation status, and a list of all certificate, diploma, and degree offerings, including the number of hours required for completion of each program, the Classification of Instructional Programs Code where applicable, and the type of program and degree. Virginia also requires the package to include a completed checklist, signed and dated, acknowledging full compliance with certification criteria, along with a notarized attestation statement signed by the chief executive officer or equivalent. (8 VAC 40-31-180.) These criteria include, among other requirements, disclosure of admission requirements and completion/graduation rates. (8 VAC 40-31-160.)

E. DOES THE STATE'S OVERSIGHT DISTINGUISH BETWEEN FOR-PROFIT AND NONPROFIT EDUCATIONAL INSTITUTIONS?

**5/15 POINTS**

<b>Yes, strongly distinguished</b>	<b>Yes, moderately distinguished</b>	<b>Yes, slightly distinguished</b>	<b>Not distinguished</b>
15 Points	10 Points	<b>5 Points</b>	0 Points

**Explanation:**

Virginia law distinguishes between for-profits and nonprofits for purposes of certification renewal (VA ST § 23.1–210(A)) and exempts a few programs associated with nonprofit trade and religious associations. (8 VAC 40-31-160.)

**F. DOES THE STATE REQUIRE INCREASED OVERSIGHT/SCRUTINY OF PRIVATE POSTSECONDARY INSTITUTIONS BASED ON POOR PERFORMANCE?**

**5/10 POINTS**

<b>Yes, mandatory</b>	<b>Yes, mandatory but limited</b>	<b>Yes, discretionary</b>	<b>Yes, discretionary but limited</b>	<b>No</b>
10 Points	7.5 Points	<b>5 Points</b>	2.5 Points	0 Points

**Explanation:**

Virginia law has created a special status, conditional certification, which subjects schools to increased oversight and penalties at the discretion of the Council. The Council may grant the status of conditional certification to a school certified to operate in Virginia to allow time for the correction of major deficiencies or weaknesses identified in the school's administration that are of such magnitude that, if not corrected, may result in the suspension or revocation of the school's certificate to operate. During a period of conditional certification, a school may not enroll new students or confer any degrees, diplomas, or certificates. (8 VAC 40-31-10.)

**G. DOES STATE LAW INCLUDE ANY SPECIAL PROTECTIONS FOR VETERANS WHO ATTEND PRIVATE POSTSECONDARY INSTITUTIONS?**

**0/20 POINTS**

<b>Yes</b>	<b>No</b>
20 Points	<b>0 Points</b>

**Explanation:**

Virginia law has no special protections in place for veterans who attend private postsecondary institutions.

**III. STATE OVERSIGHT—SCOPE AND INCLUSION:**

**50/100 POINTS**

**A. ARE EXEMPTIONS TO STATE OVERSIGHT COVERAGE LIMITED?**

**50/100 POINTS**

<b>No exemptions</b>	<b>Few exemptions</b>	<b>Moderate exemptions</b>	<b>Broad exemptions</b>
100 Points	75 Points	<b>50 Points</b>	0 Points

**Explanation:**

Virginia law exempts several institutions from many provisions governing private postsecondary schools. Many of the exemptions are common, such as public schools, religious or theological schools conferring degrees related to religion and theology, and honorary degrees. However, Virginia law exempts programs offered through approved multistate compacts (VA ST § 23.1–226(3)) and the Council has discretion to apply a presumption of compliance with criteria with regard to certification of postsecondary schools if the school is accredited by an accrediting agency recognized by the U.S. Department of Education and has complied with an accreditation standard directed to the same subject matter as the criteria.

## IV. DISCLOSURE REQUIREMENTS: **42.5/100 POINTS**

### A. ARE INSTITUTIONS REQUIRED TO DISCLOSE INSTITUTIONAL PERFORMANCE MEASURES TO POTENTIAL STUDENTS?

**10/20 POINTS**

Yes, mandatory	Yes, discretionary	None
Fact sheet or equivalent required to be given to students	Fact sheet or equivalent given to students upon request	No fact sheet required
20 Points	<b>10 Points</b>	0 Points

**Explanation:**

Virginia law requires schools to make a clear, accurate, and comprehensive written statement available to the public upon request. Among other requirements, the statement must disclose total number of students that completed/graduated from the school as of the end of the last academic year and the total number and percentage of students who completed/graduated from each program offered by the school as of the end of the last academic year; and for unaccredited institutions of higher education and career-technical schools only, the total number of students who report employment in their field of study within six months of graduation/completion and within one year of graduation/completion. (8 VAC 40-31-160(B).)

### B. WHICH INSTITUTIONAL PERFORMANCE DISCLOSURES ARE REQUIRED TO BE GIVEN TO STUDENTS PRIOR TO ENROLLMENT?

**12.5/60 POINTS**

Disclosures	Mandatory	Discretionary	Not specified
<b>Cohort default rate (CDR)</b>	10 Points	5 Points	<b>0 Points</b>
<b>Graduation / completion rates</b>	<b>10 Points</b>	5 Points	0 Points
<b>Placement rates</b>	10 Points	<del>5</del> <b>2.5 Points</b>	0 Points
<b>Wage information</b>	10 Points	5 Points	<b>0 Points</b>
<b>License exam passage rates</b>	10 Points	5 Points	<b>0 Points</b>
<b>Methods &amp; sources used to calculate</b>	10 Points	5 Points	<b>0 Points</b>

**Explanation:**

Virginia law requires schools to make available to the public, upon request, a document detailing the last academic year's graduation/completion rates from each program. (8 VAC 40-31-160(B).) It further requires unaccredited institutions of higher education and career-technical schools to disclose the total number of students who report employment in their field of study within six months of graduation/completion and within one year of graduation/completion. Because employment disclosures are required

only for some schools, the state receives partial credit for this element. Additionally, 8 VAC 40-31-160(F) requires that schools to provide or make available to students, prospective students, and other interested persons a catalog, bulletin, brochure, or electronic media containing specified information, including the total number of students that completed/graduated from the school as of the end of the last academic year and the total number and percentage of students who completed/graduated from each program offered by the school as of the end of the last academic year.

**C. DOES THE STATE REQUIRE SCHOOLS TO DISCLOSE ELEMENTS ESSENTIAL TO STUDENT PROTECTION PRIOR TO ENROLLMENT OR IN THE ENROLLMENT CONTRACT?**

**20/20 POINTS**

Element description	Mandatory	Discretionary	Not specified
Total cost of program	5 Points	2.5 Points	0 Points
Refund information	5 Points	2.5 Points	0 Points
Transferability of credits	5 Points	2.5 Points	0 Points
Length of program	5 Points	2.5 Points	0 Points

**Explanation:**

Virginia law requires schools to provide or make available to students, prospective students, and other interested persons a catalog, bulletin, brochure, or electronic media containing, among other things, the total cost of the program, refund information, information about the transferability of courses, and the number of hours of instruction in each subject and total number of hours required for course completion, course descriptions, and a statement of the type of credential awarded. (8 VAC 40-31-160(F).)

**V. REGULATION OF RECRUITING PRACTICES:**

**75/100 POINTS**

**A. HAS THE STATE PUT INTO LAW A LIST OF PROHIBITED ACTS REGARDING ADVERTISING AND RECRUITING?**

**75/100 POINTS**

Yes, strong regulation	Yes, moderate regulation	Yes, weak regulation	No list of prohibited acts
100 Points	75 Points	50 Points	0 Points

**PROHIBITED ACTS**

Included in list of prohibited acts	
Misleading representations using the word “college” or “university”	X
Misleading institution name (e.g., military, public institution, businesses)	X
Promise of employment	X
Compensation for enrollment	
Compensation or “bounty” to recruiters	
Deception (broad prohibition)	X
Misrepresentation (broad prohibition)	X
Misleading representations re: accreditation	X

*1-3=Weak; 3.5-6=Moderate; 6.5-8=Strong*

**Explanation:**

Virginia law clearly defines “college” and “university” and repeatedly prohibits schools from using either of those terms in the school name unless the school has been approved to do so. (VA ST § 23.1–225(A).) The Council may refuse to certify school names and terms that have the potential to mislead the general public about the school’s affiliation or association with any state-supported institution of higher education in Virginia. (8 VAC 40-31-20(E).) Further, state law specifies that the Council may suspend or revoke a school’s certification if the school presents to prospective students, either at the time of solicitation or enrollment, or through advertising, mail circulars, or telephone solicitation, misleading, deceptive, false, or fraudulent information relating to any program, employment opportunity, or opportunities for enrollment after entering or completing programs offered by the school. (8 VAC 40-31-195(A)(4).) Finally Virginia law prohibits any entity that is not an institution of higher education accredited by an accrediting agency recognized by the U.S. Department of Education, or having the foreign equivalent of such accreditation, from representing that the entity is so accredited. (VA ST § 23.1–225(4).) Virginia law does not explicitly prohibit “misrepresentation,” however, taken together, the prohibitions on false, misleading or fraudulent information achieve the same purposes.

**VI. COMPLAINT PROCESS AND RELIEF FOR STUDENTS:****59.5/100 POINTS****A. DOES THE STATE REQUIRE A BOND OR FUND  
AS A CONDITION OF AUTHORIZATION?****20/20 POINTS**

Yes	No
20 Points	0 Points

**Explanation:**

As a condition of certification, Virginia law requires schools to have and maintain a surety instrument issued by a surety company or banking institution authorized to transact business in Virginia that is adequate to provide refunds to students for the unearned non-Title IV portion of tuition and fees for any given semester, quarter or term and to cover the administrative cost associated with the instrument claim. (VA ST § 23.1–215(B); 8 VAC 40-31-160(I).)

**B. DOES THE STATE REQUIRE A REFUND OF TUITION IF A STUDENT  
ENROLLS AS THE RESULT OF MISREPRESENTATION?****0/20 POINTS**

Yes, full refund	Yes, partial refund	No refund required
20 Points	10 Points	0 Points

**Explanation:**

Virginia law does not specifically require a refund of tuition if a student enrolls as the result of misrepresentation.

C. DOES THE STATE REQUIRE INSTITUTIONS TO REFUND  
TUITION IN THE EVENT OF CLOSURE?

**15/20 POINTS**

Yes, full refund	Yes, partial refund	Yes, refund in limited circumstances	No refund required
20 Points	<b>15 Points</b>	10 Points	0 Points

**Explanation:**

Virginia law requires students to receive a refund of unearned tuition upon the cessation of operations of a school. However, the director will attempt to secure a teach-out agreement prior to issuing a refund of the unearned tuition to a student unable to complete a program of study due to a school closure. (8 VAC 40-31-310.)

D. DOES THE STATE ALLOW STUDENTS AMPLE TIME TO MAKE A COMPLAINT?

**10/10 POINTS**

2 years or more (or no deadline)	1-2 years	Under 1 year	Not applicable
<b>10 Points</b>	5 Points	1 Point	0 Points

**Explanation:**

Virginia law does not specify a timeline for student complaints.

E. DOES THE STATE REQUIRE INSTITUTIONS TO DISCLOSE INFORMATION  
ABOUT FILING A COMPLAINT WITH THE STATE OVERSIGHT BODY?

**7.5/20 POINTS**

Medium	Yes	Discretionary	No
Catalog	10 Points	<b>5 Points</b>	0 Points
Website	5 Points	<b>2.5 Points</b>	0 Points
Enrollment contract	5 Points	2.5 Points	<b>0 Points</b>

**Explanation:**

Each school shall provide or make available to students, prospective students, and other interested persons a catalog, bulletin, brochure, or electronic media containing the school's procedures for handling complaints, including procedures to ensure that a student will not be subject to unfair actions as a result of his initiation of a complaint proceeding. (8 VAC 40-31-160(F)(7).) There are two reasons that Virginia receives only partial credit for disclosing this information on their website and catalog: (1) the statute leaves to the discretion of the school whether to provide the required disclosures on the website or in the catalog, bulletin, brochure or a combination of those medium, and (2) the wording "provide or make available" gives a certain amount of discretion to the school. There is a significant difference between handing a student information and telling the student where it is available.

F. IS THE COMPLAINT PROCESS READILY ACCESSIBLE AND  
AVAILABLE ON THE STATE OVERSIGHT BODY'S WEBSITE?

**7/10 POINTS**

Yes, with address	Yes, with phone #	Yes, with email address	Yes, with electronic form	No
2 Points	2 Points	3 Points	3 Points	0 Points

**Explanation:**

Virginia provides several webpages which contain a detailed description of the state's student complaint policy. The information provided stresses that students should file a complaint with the Council only as a last resort. The student can navigate through two pages of explanation to get to a third, which contains an electronic complaint form, the pages also provide a phone number to call with questions and an address.

## VII. ENFORCEMENT: 0/100 POINTS

A. IS THERE LOSS OF STATE AID FOR SCHOOLS THAT REPEATEDLY PRODUCE SUBSTANDARD GRADUATION RATES, JOB PLACEMENT RATES, AND/OR COHORT DEFAULT RATES?

**0/30 POINTS**

Yes, required	Yes, required but limited	Yes, discretionary	Yes, discretionary but limited	No
30 Points	20 Points	15 Points	5 Points	0 Points

**Explanation:**

Virginia law does not explicitly specify that schools that repeatedly produce substandard graduation rates, job placement rates, and/or cohort default rates will lose state aid.

B. DOES STATE LAW EXPLICITLY AUTHORIZE A PRIVATE RIGHT OF ACTION FOR STUDENTS AGAINST INSTITUTIONS THAT HAVE VIOLATED THE LAWS AND REGULATIONS IN PLACE TO GOVERN THEM?

**0/30 POINTS**

Yes	Limited circumstances	No
30 Points	15 Points	0 Points

**Explanation:**

Virginia law does not explicitly authorize a private right of action for students against institutions that have violated the laws and regulations in place to govern them. The complaint webpage does, however, instruct students that they can consult with a private attorney with regard to complaints.

C. DOES STATE LAW EXPLICITLY ALLOW ATTORNEY FEE AWARDS FOR STUDENTS WHO PREVAIL IN LITIGATION AGAINST PRIVATE FOR-PROFIT POSTSECONDARY INSTITUTIONS?

**0/20 POINTS**

Yes	Limited	No
20 Points	15 Points	0 Points



**Explanation:**

While the Council may be awarded reasonable attorney's fees in certain circumstances (Va Code Ann. §23-276.12), no such provision exists for students who suffer damages and prevail in litigation against institutions that have violated the laws and regulations in place to govern them.

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**D. DOES STATE LAW EXPLICITLY AUTHORIZE  
ATTORNEY GENERAL INVOLVEMENT?**

**0/20 POINTS**

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<b>Yes</b>	<b>Limited circumstances</b>	<b>No</b>
20 Points	10 Points	<b>0 Points</b>

**Explanation:**

Virginia law does not explicitly authorize attorney general involvement in issues related to private postsecondary schools in the state.

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**BONUS POINTS:**

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Virginia does not receive any bonus points.



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**ILLUMINATING INFORMATION**

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**RECIPROCITY AGREEMENTS**

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Virginia is a party to the Southern Regional Education Board's Electronic Campus (<http://www.electroniccampus.org/virginia>) and the State Authorization Reciprocity Agreements (SARA).

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**LITIGATION, INVESTIGATIONS, AND ACTIONS INVOLVING PRIVATE  
FOR-PROFIT EDUCATIONAL INSTITUTIONS IN VIRGINIA**

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For up-to-date information about pending and recent federal and state government investigations and actions regarding for-profit colleges see David Halperin's compilation at <http://www.republicreport.org/2014/law-enforcement-for-profit-colleges/#sthash.1vc4HmPw.dpuf>.

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# WASHINGTON

## FINAL GRADING ANALYSIS

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OVERALL SCORE: **410.75/700 POINTS (58.7%)**  
LETTER GRADE: **F**

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### I. OVERSIGHT BODY: **66.5/100 POINTS**

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#### A. IS THERE A STATUTORILY CREATED OVERSIGHT BODY THAT IS PUBLICLY ACCOUNTABLE?

**47.5/60 POINTS**

Element	Points Available	Type 1	Type 2	Points Awarded (Average)
1. Oversight body is a multi-member board, commission, or panel created by statute	10	10	10	10
2. Oversight body was statutorily created specifically to oversee private postsecondary institutions	10	0	0	0
3. Multi-member board, commission, or panel is the ultimate decision maker (as opposed to a single person, like the head of a department or director)	10	10	10	10
4. Oversight body can engage in rulemaking	10	10	10	10
5. Oversight body's meetings must be open to the public	5	5	5	5
6. Oversight body's meetings must allow public comment	5	2.5	2.5	2.5
7. Oversight body can initiate investigations	5	5	5	5
8. Oversight body can impose penalties for violations	5	5	5	5
Total Points	60	47.5	47.5	47.5

**Explanation:**

Washington divides oversight and regulation of private postsecondary educational institutions between two entities: the Student Achievement Council is responsible for the oversight and regulation of degree-granting private postsecondary institutions (Type 1) and the Workforce Training and Education Coordinating Board is responsible for the oversight and regulation of private vocational schools (Type 2).

***Type 1: Degree-granting private postsecondary institutions.*** Among its duties related to monitoring and oversight of higher education, the Washington Student Achievement Council has authority to oversee and regulate degree-granting private postsecondary educational institutions in Washington. The Council has authority to authorize degree-granting private postsecondary institutions, promulgate rules, investigate

any entity it reasonably believes to be subject to its jurisdiction, and impose penalties. (Rev. Code Wash. (RCW) § 28B.85.020; Rev. Code Wash. (RCW) § 28B.85.030; Rev. Code Wash. (RCW) § 28B.85.100.)

Council meetings, subject to the Open Public Meetings Act, must be open to the public. (Rev. Code Wash. (RCW) § 42.30.010 et seq.) Partial credit is awarded for #6 above because Washington requires agencies to solicit comments from the public on subjects of possible rulemaking. (RCW § 34.05.310.)

**Type 2: Private vocational schools.** As a part of its broader duties and responsibilities in the area of workforce development, the Workforce Education and Training Board has authority to oversee and regulate private vocational schools. The Board has authority to promulgate rules, investigate non-degree-granting institutions it reasonably believes to be under its jurisdiction and coordinates with the Council to regulate degree-granting private vocational schools with respect to degree and non-degree programs. (Rev. Code Wash. (RCW) § 28C.18.060; Rev. Code Wash. (RCW) § 28C.10.030.)

Meetings of the Board are subject to Washington’s Open Public Meetings Act and must be open to the public. (Rev. Code Wash. (RCW) § 42.30.010 et seq.) The Act does not mandate that the public bodies it governs provide an opportunity for public comment during the course of meetings, however partial credit is awarded for #6 above because Washington requires agencies to solicit comments from the public on subjects of possible rulemaking. (RCW § 34.05.310.)

## B. STATUTE-SPECIFIED MEMBERSHIP:

### 1. TO WHAT EXTENT ARE LIMITATIONS PLACED ON FOR-PROFIT MEMBERSHIP ON THE OVERSIGHT BODY?

**15/25 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Explicit prohibition on for-profit majority, plus no possibility of a majority of the quorum	Explicit prohibition on for-profit majority	Discouraged	No prohibition specified, but not discouraged	For-profit majority mandated
<b>Type 1</b>	25 Points	20 Points	<b>10 Points</b>	0 Points	–5 points
<b>Type 2</b>	25 Points	<b>20 Points</b>	10 Points	0 Points	–5 Points

#### **Explanation:**

**Type 1: Degree-granting private postsecondary institutions.** There are nine members of the Council. Five are appointed by the governor from the general public, based on their knowledge of or experience in higher education, and one must be a student. Any or all of these five members may be an individual affiliated with for-profit postsecondary education interests, but there is no mandate that the governor appoint a representative of a for-profit institution. The other members are a representative of an independent nonprofit higher education institution, a representative of the four-year institutions of higher education as defined in RCW 28B.10.016, a representative of the state’s community and technical college system, and a representative of the state’s K–12 education system. (Rev. Code Wash. (RCW) § 28B.77.005.)

Washington law does not mandate inclusion of any representatives of private for-profit educational institutions and the state has noted that the current Board membership does not include any for-profit members. For-profits do not, and likely will not dominate the Board, however, the points for this element are based on what the law would allow.

**Type 2: Private vocational schools.** While Washington law does not explicitly prohibit a for-profit majority on the Board, the structure of the Board, statutorily, is such that it would be impossible for a majority of Board seats to be filled by individuals affiliated with private for-profit educational institutions. There are checks and balances built into the statute to ensure diversity of perspectives, population groups, geography, and sectors. The Board is tri-partite, with equal voting membership from business, labor, and government (3 members from each sector). The government members are ex officio, the business and labor members are each appointed by the Governor from a slate of candidates selected by the state's largest employer association and the state's largest labor organization. The two organizations must act to ensure diverse representation on the Workforce Board. (Rev. Code Wash. (RCW) § 28C.18.020((2)(a).) The structure of the statute has the effect of imposing a prohibition on for-profit membership that would result in domination of the Board by for-profit interests.

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**2. IS THE OVERSIGHT BODY MANDATED TO INCLUDE  
AT LEAST ONE CONSUMER ADVOCATE?**

**0/10 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	No
<b>Type 1</b>	10 Points	<b>0 Points</b>
<b>Type 2</b>	10 Points	<b>0 Points</b>

**Explanation:**

**Type 1: Degree-granting private postsecondary institutions.** Washington law requires the Council to include a student member, but does not require the Council to include an individual with expertise and experience in the area of consumer advocacy.

The state notes that the Board is heavily focused on consumer advocacy and all members of the oversight body are charged with ensuring that this priority is met. (Response from Sam Lofton, Associate Director for Consumer Protection, Washington State.) However, this element requires the inclusion of a consumer advocate—a person with expertise and experience in the area of consumer advocacy—because of the value such an informed perspective can contribute to the important issues the Board must consider related to for-profit postsecondary educational institutions. The mandatory inclusion of a consumer advocate would help to inform and further Washington's intent to focus on consumer advocacy and protection.

**Type 2: Private vocational schools.** Washington law does not require the Board to include an individual with expertise and experience in the area of consumer advocacy.

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**3. ARE THE MEMBERS APPOINTED BY A PUBLICLY ACCOUNTABLE  
OFFICIAL OR ELECTED IN A GENERAL ELECTION?**

**4/5 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	All	Majority	Half	Minority	None
<b>Type 1</b>	5 Points	<b>3 Points</b>	2.5 Points	1 Point	0 Points
<b>Type 2</b>	<b>5 Points</b>	3 Points	2.5 Points	1 Point	0 Points

**Type 1: Degree-granting private postsecondary institutions.** The majority of the members (5) are appointed by the governor with the advice and consent of the senate. (Rev. Code Wash. (RCW) § 28B.77.005(2)(a).) The remaining 4 members are selected as follows: a representative of an independent nonprofit higher education institution, selected by an association of independent nonprofit baccalaureate degree-granting institutions; a representative of the four-year institutions of higher education, selected by the presidents of those institutions; a representative of the state’s community and technical college system, selected by the state board for community and technical colleges; and a representative of the state’s K–12 education system, selected by the superintendent of public instruction. (Rev. Code Wash. (RCW) § 28B.77.005(2)(b)-(c).)

**Type 2: Private vocational schools.** All nine members of the Board are appointed by the governor with the consent of the senate. (Rev. Code Wash. (RCW) § 28C.18.020(2)(a).)



Note that the business representatives on the Board are selected from among nominations provided by a statewide business organization representing a cross-section of industries. This could result in one or more nominees from a private for-profit postsecondary institution.

## II. STATE OVERSIGHT—EFFICACY: 42.5/100 POINTS

### A. DOES THE STATE REQUIRE ONSITE REVIEW OF PRIVATE POSTSECONDARY INSTITUTIONS?

**1.5/10 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Mandatory onsite reviews			Discretionary	None
	Every 2 years or less	Every 3-5 years	Over 5 years	Discretion to conduct onsite reviews	No review specified
<b>Type 1</b>	10 Points	8 Points	5 Points	<b>3 Points</b>	0 Points
<b>Type 2</b>	10 Points	8 Points	5 Points	3 Points	<b>0 Points</b>

#### Explanation:

**Type 1: Degree-granting private postsecondary institutions.** The Council has discretion to conduct onsite visits to verify or supplement the information provided in an institution’s application.

This discretion to conduct on onsite visit may be exercised any time a concern arises. (Response from Sam Lofton, Associate Director for Consumer Protection, Washington State.)

**Type 2: Private vocational schools.** Washington law does not require the Board to conduct onsite inspections of private vocational schools as a condition of licensure.

### B. DOES THE STATE REQUIRE UNANNOUNCED INSPECTIONS FOR ONSITE REVIEWS?

**0/5 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Required unannounced visits	Discretion to do unannounced visits	No indication
Type 1	5 Points	3 Points	0 Points
Type 2	5 Points	3 Points	0 Points

**Explanation:**

**Type 1: Degree-granting private postsecondary institutions.** Washington law does not mandate, authorize, or prohibit unannounced Council visits to inspect degree-granting private postsecondary institutions. Although Washington's response indicates that the absence of a prohibition has the effect of allowing the state discretion to conduct unannounced visits, this element is graded on what the law expressly requires or authorizes with regard to unannounced visits.

**Type 2: Private vocational schools.** Washington law does not mandate, authorize, or prohibit unannounced Board visits to inspect private vocational schools.

**C. DOES THE STATE REQUIRE REGULAR REVIEWS OF PRIVATE POSTSECONDARY APPROVAL TO OPERATE?**

**20/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Mandatory			Discretionary	None
	Every 2 years or less	Every 3-5 years	Over 5 years	Discretion to conduct reviews	No review specified
Type 1	20 Points	15 Points	10 Points	5 Points	0 Points
Type 2	20 Points	15 Points	10 Points	5 Points	0 Points

**Explanation:**

**Type 1: Degree-granting private postsecondary institutions.** Washington law requires degree-granting private postsecondary institutions to renew authorization every two years. (WAC § 250-61-170(2)(a).)

**Type 2: Private vocational schools.** Washington law requires private vocational schools to file a license renewal application annually. (Rev. Code Wash. (RCW) § 28C.10.060; WAC § 490-105-041.)

**D. DO THE CRITERIA FOR RENEWAL OF AUTHORIZATION MANDATE A REVIEW OF FACTORS ESSENTIAL TO ACADEMIC AND ETHICAL INTEGRITY?**

**9.75/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	8 of 8	7 of 8	6 of 8	5 of 8	4 of 8	3 of 8	2 of 8	1 of 8	0 of 8
Type 1	20 Points	17.5 Points	15 Points	12.5 Points	10 Points	7.5 Points	5 Points	2.5 Points	0 Points
Type 2	20 Points	17.5 Points	15 Points	12.5 Points	10 Points	7.5 Points	5.75 Points	2.5 Points	0 Points

Element	Type 1	Type 2
Admission requirements	M	M
Graduation requirements	M	M
Placement rate		
Completion rate (or graduation rate)		D
Advertising practices	M	
Cohort default rate		
Accreditation status	M	
Financial aid policies	M	D

*M=Mandatory; D=Discretionary*

### **Explanation:**

***Type 1: Degree-granting private postsecondary institutions.*** The Council reviews admission requirements, graduation requirements (degree requirements), accreditation status, and financial aid policies, among other authorization standards related to accreditation, administrative requirements, academic requirements, student services, catalog, cancellation and refund, application, and complaint procedures. (WAC § 250-61-100; WAC § 250-61-085; WAC § 250-61-110(1)(b).)

The Student Achievement Council is tasked with coordinating with the educational data center in Washington to collect data for the state's accountability monitoring and reporting system. The system tracks several areas of performance for institutions of higher education in Washington. However, there is no specific mandate either in statute or regulation that the Council regularly collect and review these data from the private postsecondary educational institutions under its authority.

***Type 2: Private vocational schools.*** The Board reviews admissions standards (WAC § 490-105-140) and a description of programs (which would include graduation requirements). (WAC § 490-105-041(10).) The Board reviews the school catalog, which is required to include information on the school's financial aid policies. (WAC § 490-105-042(19).) Therefore, while the Board does not specifically review the school's financial aid policies, the policies must be available in the catalog and the Board has access during the review process to these policies as a result. The Board also requires private vocational schools to report data on each student. The required data includes information from which the Board could extrapolate graduation rates; therefore, the state receives partial credit for reviewing graduation rates. (WAC § 490-105-160.)

Notably, the Board requires private vocational schools to annually report the veteran status of each student, in addition to various other data. (WAC § 490-105-160(11).)

## **E. DOES THE STATE'S OVERSIGHT DISTINGUISH BETWEEN FOR-PROFIT AND NONPROFIT POSTSECONDARY INSTITUTIONS?**

**0/15 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, strongly distinguished	Yes, moderately distinguished	Yes, slightly distinguished	Not distinguished
<b>Type 1</b>	15 Points	10 Points	5 Points	<b>0 Points</b>
<b>Type 2</b>	15 Points	10 Points	5 Points	<b>0 Points</b>

### **Explanation:**

***Type 1: Degree-granting private postsecondary institutions.*** Washington law does not distinguish in any



substantial sense between nonprofit and for-profit degree-granting private postsecondary educational institutions for the purposes of oversight and regulation.

A Washington official has noted that this distinction is becoming increasingly irrelevant because some for-profit institutions have transitioned into and/or spun off into nonprofit entities, in various ways.

**Type 2: Private vocational schools.** Washington law does not distinguish in any substantial sense between nonprofit and for-profit private vocational schools for the purposes of oversight and regulation.

As mentioned above, there is a trend for some for-profit schools operating in multiple states to change to nonprofit status in various ways. Nonprofit schools are not subject to the gainful employment rule requirements.

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**F. DOES THE STATE REQUIRE INCREASED OVERSIGHT/SCRUTINY OF PRIVATE POSTSECONDARY INSTITUTIONS BASED ON POOR PERFORMANCE?**

**6.25/10 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, mandatory	Yes, mandatory but limited	Yes, discretionary	Yes, discretionary but limited	No
<b>Type 1</b>	10 Points	7.5 Points	<b>5 Points</b>	2.5 Points	0 Points
<b>Type 2</b>	10 Points	<b>7.5 Points</b>	5 Points	2.5 Points	0 Points

**Explanation:**

**Type 1: Degree-granting private postsecondary institutions.** Washington law has recently been amended to allow the Council to identify “at-risk institutions” based on an adverse action or other findings that indicate a heightened potential of closure or other negative impacts on students. An institution designated by the Council as at-risk will be notified of deficiencies and may be subject to additional and/or more frequent reporting requirements as specified by the Council. The Council may also impose restrictions on the offering of new programs, and it may increase security requirements consistent with the risk assessed. Also, the Council may suspend or withdraw authorization. (WAC § 250-61-155.)

**Type 2: Private vocational schools.** The Board may determine that a licensed private vocational school or a particular program of a private vocational school is at risk of closure or termination if there is a pattern or history of substantiated student complaints filed with the Board. (Rev. Code Wash. (RCW) § 28C.10.050(4)(a).) The Board is authorized to deny, revoke, or suspend the license of any school found to have engaged in a substantial number of unfair business practices or significant unfair business practices. (WAC § 490-105-170(6).) A private vocational school will be deemed to be “at risk” in specified circumstances, such as if financial benchmarks are not met, there are a substantial number of student complaints, or the school has engaged in a pattern of misrepresentation. None of the circumstances specified in Washington’s regulation specifically enumerate performance standards such as low graduation rates, high default rates, or low exam passage rates as triggers for a vocational school’s being deemed “at risk,” however, these performance indicators would likely have an impact on the enumerated factors the Board does consider when determining a school to be “at risk.” When the Board determines that a school or program is at risk, it shall require the school to take corrective action. (Rev. Code Wash. (RCW) § 28C.10.050(5)) and will place it on probation and required to meet specified requirements to demonstrate improvement or the Board will take action to suspend or revoke its license. (WAC § 490-105-175.) The state receives partial credit for this (it would receive full credit if it expressly included performance standards such as graduation rates and cohort default rates, at minimum, as triggers).

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G. DOES STATE LAW INCLUDE ANY SPECIAL PROTECTIONS FOR VETERANS WHO ATTEND PRIVATE POSTSECONDARY INSTITUTIONS?

**5/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	No
Type 1	20 Points	0 Points
Type 2	20 Points	0 10 Points

**Explanation:**

**Type 1: Degree-granting private postsecondary institutions.** Washington law does not have any protections in place specifically for veterans who attend private postsecondary educational institutions.

As provided by federal law (38 U.S.C. § 3675), Washington has a state approving agency tasked with determining courses of study that may be approved for the enrollment of veterans and which inspects institutions to ensure they are complying with certain established standards. (WAC § 250-50-020.) However, this element is looking for state provisions that require increased scrutiny over private for-profit postsecondary institutions that enroll a large percentage of students from the veteran community, for example, and that go beyond the standard rules put in place for veteran's educational benefits.

**Type 2: Private vocational schools.** Washington law does not have any protections in place specifically for veterans who attend private vocational schools. However, the state receives partial credit for this element because it requires private vocational schools to report data related to the veteran status of students. This is a good first step in recognizing if there are a disproportionate number of veterans attending troubled schools.

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### III. STATE OVERSIGHT—SCOPE AND INCLUSION:

**75/100 POINTS**

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A. ARE EXEMPTIONS TO STATE OVERSIGHT COVERAGE LIMITED?

**75/100 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	No exemptions	Few exemptions	Moderate exemptions	Broad exemptions
Type 1	100 Points	75 Points	50 Points	0 Points
Type 2	100 Points	75 Points	50 Points	0 Points

**Explanation:**

**Type 1: Degree-granting private postsecondary institutions.** Washington exempts public institutions, institutions that grant honorary degrees, some religious institutions that offer only programs devoted to religious or theological objectives, and institutions that offer only credit-bearing seminars or workshops that last no longer than 3 days. Significantly, Washington exempts institutions that are accredited by an accrediting association recognized by the Council if those institutions meet minimum exemption standards adopted by the Council, and if an institution, branch, extension, or facility operating within Washington which is affiliated with an institution operating in another state is a separately accredited member institution of any such accrediting association. (Rev. Code Wash. (RCW) § 28B.85.040(3).) The

statute specifies that no exemptions are permanent, and requires the Council to periodically review exempted degree-granting institutions and degree-granting institutions granted a waiver, and continue exemptions or waivers only if an institution meets the statutory or Council requirements for exemption or waiver in effect on the date of the review. (Rev. Code Wash. (RCW) § 28B.85.040(2).)

**Type 2: Private vocational schools.** Exemptions to Board oversight are extremely narrow and include programs regulated by occupational boards, avocational programs, religious institutions which offer only programs religious in nature, continuing education programs, programs certified by the federal aviation administration, and others. (Rev. Code Wash. (RCW) § 28C.10.030.)

#### IV. DISCLOSURE REQUIREMENTS: 17.5/100 POINTS

##### A. ARE INSTITUTIONS REQUIRED TO DISCLOSE INSTITUTIONAL PERFORMANCE MEASURES TO POTENTIAL STUDENTS?

0/20 POINTS\*

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, mandatory	Yes, discretionary	None
	Fact sheet or equivalent required to be given to students	Fact sheet or documents given to students upon request:	No fact sheet required
<b>Type 1</b>	20 Points	10 Points	<b>0 Points</b>
<b>Type 2</b>	20 Points	10 Points	<b>0 Points</b>

##### Explanation:

**Type 1: Degree-granting private postsecondary institutions.** Washington law does not require degree-granting private postsecondary institutions to disclose performance standards (graduation rates, placement rates, cohort default rates, etc.) to potential students.

**Type 2: Private vocational schools.** Washington law does not require private vocational schools to disclose performance standards (graduation rates, placement rates, cohort default rates, etc.) to potential students.

Washington notes that while institutions are not required to disclose performance measures, Washington (like all states) is required by the U.S. Department of Labor to maintain an active Eligible Training Provider List, which includes qualifying education programs. This list is limited to education programs that have met minimum performance thresholds for completion, employment, and earnings. The thresholds are determined by individual states. Only programs that meet minimum thresholds are allowed on the state's Eligible Training Provider List, and can then qualify for federal training funds or certain state-funded training dollars (this differs from eligibility for federal financial aid in the form of federal loans, for example).

The Workforce Board sets and enforces these standards, and pushes out information on individual program performance results through a public-facing website ([www.CareerBridge.wa.gov](http://www.CareerBridge.wa.gov)). This website is used every day by job counselors and customers in the state's WorkSource career center system. Career Bridge is also widely used by job counselors and consumers in Washington's WorkSource career center system as well as by middle and high school students in Washington.

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**B. WHICH INSTITUTIONAL PERFORMANCE DISCLOSURES ARE REQUIRED TO BE GIVEN TO STUDENTS PRIOR TO ENROLLMENT?**

**0/60 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

***Type 1: Degree-granting private postsecondary institutions***

Disclosures	Mandatory	Discretionary	Not specified
Cohort default rate (CDR)	10 Points	5 Points	0 Points
Graduation / completion rates	10 Points	5 Points	0 Points
Placement rates	10 Points	5 Points	0 Points
Wage information	10 Points	5 Points	0 Points
License exam passage rates	10 Points	5 Points	0 Points
Methods & sources used to calculate	10 Points	5 Points	0 Points

**Explanation:**

Washington law does not require degree-granting private postsecondary institutions to disclose performance standards (graduation rates, placement rates, cohort default rates, etc.) to students prior to enrollment.

***Type 2: Private vocational schools***

Disclosures	Mandatory	Discretionary	Not specified
Cohort default rate (CDR)	10 Points	5 Points	0 Points
Graduation / completion rates	10 Points	5 Points	0 Points
Placement rates	10 Points	5 Points	0 Points
Wage information	10 Points	5 Points	0 Points
License exam passage rates	10 Points	5 Points	0 Points
Methods & sources used to calculate	10 Points	5 Points	0 Points

**Explanation:**

Washington law does not require private vocational schools to disclose performance standards (graduation rates, placement rates, cohort default rates, etc.) to students prior to enrollment.

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**C. DOES THE STATE REQUIRE SCHOOLS TO DISCLOSE ELEMENTS ESSENTIAL TO STUDENT PROTECTION PRIOR TO ENROLLMENT OR IN THE ENROLLMENT CONTRACT?**

**17.5/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

***Type 1: Degree-granting private postsecondary institutions***

Element description	Mandatory	Discretionary	Not specified
Total cost of program	5 Points	2.5 Points	0 Points
Refund information	5 Points	2.5 Points	0 Points
Transferability of credits	5 Points	2.5 Points	0 Points
Length of program	5 Points	2.5 Points	0 Points

**Explanation:**

Washington law requires that a degree-granting private postsecondary institution's enrollment contract contain a section directly above the student's signature where the student acknowledges that the institution discussed all terms and provisions of the contract with him/her and that the student understands all financial obligations and responsibilities. (WAC § 250-61-100(4).) It further requires each institution to publish its cancellation and refund policies in clear language that can be easily understood by prospective students. No student shall be enrolled without having received the explanatory materials. (WAC § 250-61-130(1).) It also requires a statement explaining the transferability of credits from the institution to other institutions and a complete curriculum, which would indicate the program's length.

***Type 2: Private vocational schools***

Element description	Mandatory	Discretionary	Not specified
Total cost of program	5 Points	2.5 Points	0 Points
Refund information	5 Points	2.5 Points	0 Points
Transferability of credits	5 Points	2.5 Points	0 Points
Length of program	5 Points	2.5 Points	0 Points

**Explanation:**

Private vocational schools must disclose specified information, in some combination of a catalog, brochure, or other written material and furnish the information to each prospective student prior to completing an enrollment agreement. The information must include, among other requirements, the total cost of the program, refund information, and information about the average length of time required for successful completion of programs. (WAC § 490-105-042.) Refund information and total cost must be disclosed in the enrollment agreement as well. (Rev. Code Wash. (RCW) § 28C.10.050; WAC § 490-105-043(d).)



**Notable Provision.** In addition to various other disclosures, Washington law requires private vocational schools to “[d]iscuss with each potential student the potential student’s obligations in signing any enrollment contract and/or incurring any debt for educational purposes. The discussion shall include the inadvisability of acquiring an excessive educational debt burden that will be difficult to repay given employment opportunities and average starting salaries in the potential student’s chosen occupation.” (Rev. Code Wash. (RCW) § 28C.10.050(h).) This would necessarily include a discussion of the total cost of the program. In addition, state law requires institutions to include on each enrollment contract an attachment signed by both the school and the student which stipulates that the school has complied with this requirement and that the student understands and accepts his or her responsibilities in signing any enrollment contract or debt application. (Rev. Code Wash. (RCW) § 28C.10.050 (i).) In 2016, Washington passed a new law further requiring institutions to disclose to an enrolled student who has applied for student financial aid information about student loans, including an estimate of the total amount of student education loans taken out by the student; potential total payoff amount of the student education loans incurred or a range of the total payoff amount, including principal and interest; the monthly repayment amount that the student may incur for the amount of student education loans the student has taken out, based on the federal loan repayment plan borrowers are automatically enrolled in if they do not select an alternative repayment plan; the percentage of the aggregate federal direct loan borrowing limit applicable to the student’s program of study the student has reached at the time the information is sent to the student; and consumer information about the differences between private student loans and federal student loans, including the availability of income-based repayment plans and loan forgiveness programs for federal loans.

## V. REGULATION OF RECRUITING PRACTICES:

### 62.5/100 POINTS

#### A. HAS THE STATE PUT INTO LAW A LIST OF PROHIBITED ACTS REGARDING ADVERTISING AND RECRUITING?

**62.5/100 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, strong regulation	Yes, moderate regulation	Yes, weak regulation	No list of prohibited acts
<b>Type 1</b>	100 Points	75 Points	<b>50 Points</b>	0 Points
<b>Type 2</b>	100 Points	<b>75 Points</b>	50 Points	0 Points

#### PROHIBITED ACTS

Included in list of prohibited acts	Type 1	Type 2
Misleading representations using the word “college” or “university”		
Misleading institution affiliations (e.g., military, public institution, businesses)		<b>X</b>
Promise of employment		<b>X</b>
Compensation for enrollment		/
Compensation or “bounty” to recruiters		
Deception (broad prohibition)	<b>X</b>	<b>X</b>
Misrepresentation (broad prohibition)	<b>X</b>	<b>X</b>
Misleading representations re: accreditation	<b>X</b>	<b>X</b>

*1-3=Weak; 3.5-6=Moderate; 6.5-8=Strong*

#### **Explanation:**

**Type 1: Degree-granting private postsecondary institutions.** All publications relating to the institution, including advertisements, catalogs, and other communications shall be accurate and not misleading. (WAC § 250-61-110(7).) This serves a purpose substantially similar to a broad prohibition on deception and misrepresentation. Further, institutions are prohibited from advertising or publicizing that they are approved, recommended, accredited, or otherwise endorsed by the Council. (WAC § 250-61-110(7).)

**Type 2: Private vocational schools.** Washington law prohibits unfair business practices including deception, misrepresentation, or misleading statements or representations regarding the size, qualifications, or affiliations of a school, employment opportunities, or accreditation. Schools cannot use financial aid as an inducement, which is not necessarily offering compensation for enrollment, but it is similar in nature to compensation as an inducement. Further, state law prohibits schools from designating or referring to sales representatives as “counselors,” “advisors,” or similar terms which have the tendency to mislead or deceive prospective students or the public regarding the authority or qualifications of the sales representatives, and from attempting to recruit students in or within forty feet of a building that contains a welfare or unemployment office (although this prohibition does not include leaving or distributing flyers or brochures at these locations). (Rev. Code Wash. (RCW) § 28C.10.110.)



## VI. COMPLAINT PROCESS AND RELIEF FOR STUDENTS:

**69.25/100 POINTS**

### A. DOES THE STATE REQUIRE A BOND OR FUND AS A CONDITION OF AUTHORIZATION?

**20/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	No
Type 1	20 Points	0 Points
Type 2	20 Points	0 Points

#### **Explanation:**

**Type 1: Degree-granting private postsecondary institutions.** Washington law requires degree-granting private postsecondary institutions to have an original surety bond or other acceptable security in lieu of a bond on file with the Council. (Rev. Code Wash. (RCW) § 28B.85.070; WAC § 250-61-140.)

**Type 2: Private vocational schools.** Washington law requires private vocational schools to make cash deposits on behalf of the school into a Tuition Recovery Trust Fund (TRTF) as a condition of obtaining a license and remaining licensed. (Rev. Code Wash. (RCW) § 28C.10.082 & Rev. Code Wash. § 28C.10.084.) The TRTF serves to protect students in the event of a school closure.

### B. DOES THE STATE REQUIRE A REFUND OF TUITION IF A STUDENT ENROLLS AS THE RESULT OF MISREPRESENTATION?

**10/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, full refund	Yes, partial refund	No refund required
Type 1	20 Points	10 Points	0 10 Points
Type 2	20 Points	10 Points	0 10 Points

#### **Explanation:**

**Type 1: Degree-granting private postsecondary institutions.** It is possible for a student to receive a refund if the student enrolls as the result of misrepresentation. Washington law provides that a person claiming loss of tuition or fees as a result of an unfair business practice may file a complaint with the Council. The complaint shall set forth the alleged violation and shall contain information required by the Council. A complaint may also be filed with the council by an authorized staff member of the Council or by the attorney general. (Rev. Code Wash. (RCW) § 28B.85.090.) The law further provides that if the Council finds that the complainant has suffered loss as a result of the act or practice, it may order full or partial restitution for the loss.” (Rev. Code Wash. (RCW) § 28B.85.090.)

Because Washington law allows (but does not require) a full refund in cases in which a student enrolls as the result of misrepresentation, the state receives partial credit.

**Type 2: Private vocational schools.** Washington law does not specifically mandate a full refund to students who enroll in a private vocational school as the result of misrepresentation. However, student claims may be made to the Tuition Recovery Trust Fund (TRTF) in the event of a school closure and

there is not a suitable option for a teach-out at another institution, and to settle claims adjudicated under Rev. Code Wash. (RCW) § 28C.10.120 for claims resulting in an unfair business practice or violation of minimum standards, if the student suffered a financial loss as a result of the act. Unfair business practices are defined at Rev. Code Wash. (RCW) § 28C.10.110, and would include instances of enrollment as a result of misrepresentation. TRTF claims may be partial (prepaid unearned) or full restitution of monies lost to include tuition, books and materials, living expenses and any other reasonable expenses incurred. If a school fails to pay restitution to a student as ordered by the Workforce Board, the TRTF reimburses the student, and the funds disbursed are recovered by making demand on the school owner, including but not limited to asserting claims as a creditor in a bankruptcy proceeding.

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**C. DOES THE STATE REQUIRE INSTITUTIONS TO REFUND  
TUITION IN THE EVENT OF CLOSURE?**

**15/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, full refund	Yes, partial refund	Yes, refund in limited circumstances	No refund required
<b>Type 1</b>	20 Points	<b>15 Points</b>	10 Points	0 Points
<b>Type 2</b>	20 Points	<b>15 Points</b>	10 Points	0 Points

**Explanation:**

**Type 1: Degree-granting private postsecondary institutions.** The Council requires degree-granting private postsecondary institutions to furnish enrolled students with a written notice explaining the reasons for closure and what procedures they are to follow to secure refunds and their official records, and what arrangements have been made for providing continuing instruction at other institutions. (WAC § 250-61-160(2)(b).) The Council does not require a full refund and there is no mandate that institutions provide a refund, but it does require that institutions provide information about how students are to secure refunds.

**Type 2: Private vocational schools.** Washington law has established a tuition relief fund to reimburse students who are Washington state residents, or agencies or businesses that pay tuition and fees on behalf of Washington students for purposes including but not limited to the settlement of claims related to school closures. (Rev. Code Wash. (RCW) § 28C.10.082; Rev. Code Wash. (RCW) § 28C.10.084.) Private vocational schools must provide students a pro rata refund or must arrange for comparable training at another institution (students can accept or reject the comparable training offered in writing) if the school discontinues training or closes. (WAC § 490-105-130(6)(a); WAC § 490-105-210(5).)

According to a Washington official, all verified claims made on the TRTF have resulted in 100% reimbursement of monies to which the student was entitled under state law.

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**D. DOES THE STATE ALLOW STUDENTS AMPLE TIME TO MAKE A COMPLAINT?**

**5/10 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	2 years or more (or no deadline)	1-2 years	Under 1 year	Not applicable
<b>Type 1</b>	10 Points	<b>5 Points</b>	1 Point	0 Points
<b>Type 2</b>	10 Points	<b>5 Points</b>	1 Point	0 Points



**Explanation:**

**Type 1: Degree-granting private postsecondary institutions.** Any complaints must be filed within two years after the student's last recorded date of attendance in order to be considered by the Council, unless a school has discontinued all Washington operations, in which case, complaints must be filed within one year of discontinuance of all Washington operations. (WAC § 250-61-190(4).)

**Type 2: Private vocational schools.** Complaints may be filed only by a current student or exiter of a program or training affected by an unfair business practice. (Rev. Code Wash. (RCW) § 28C.10.120(1).) A complaint must be filed no more than one calendar year following a resident student's last recorded date of attendance; or the date a distance education school received a student's last completed lesson; or sixty calendar days from the date a school ceases to provide educational services. (WAC § 490-105-180.)

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E. DOES THE STATE REQUIRE INSTITUTIONS TO DISCLOSE INFORMATION ABOUT FILING A COMPLAINT WITH THE STATE OVERSIGHT BODY?

**10/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

**Type 1: Degree-granting private postsecondary institutions**

Medium	Mandatory	Discretionary	Not specified
Catalog	10 Points	5 Points	0 Points
Website	5 Points	2.5 Points	0 Points
Enrollment contract	5 Points	2.5 Points	0 Points

**Explanation:**

Washington law does not require degree-granting private postsecondary institutions to disclose to students information about filing a complaint against an institution on any of the above-listed media.

**Type 2: Private vocational schools**

Medium	Mandatory	Discretionary	Not specified
Catalog	10 Points	5 Points	0 Points
Website	5 Points	2.5 Points	0 Points
Enrollment contract	5 Points	2.5 Points	0 Points

**Explanation: Notable Provision:** The Board requires private vocational schools to provide the school grievance procedure along with the contact information necessary to file a complaint with the Board in the school catalog, or brochure, or other written material prior to enrollment. (WAC § 490-105-042(9).) Private vocational schools are further required to include this information in the enrollment agreement. Washington recently improved its regulations to ensure that students are aware of the complaint process in place at private vocational schools. WAC § 490-105-043(7) requires private vocational schools to provide and include with the enrollment agreement written disclosure to the students on how to file a complaint with the Workforce Board. The document shows students the process and procedures related to how to file a contact the Workforce Board and how to file a complaint. During the enrollment process, the school is required to discuss the complaint / grievance policy listed in the school catalog. Students and school representatives are required to sign the complaint disclosure addendum included with the enrollment agreement.

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F. IS THE COMPLAINT PROCESS READILY ACCESSIBLE AND AVAILABLE ON THE STATE OVERSIGHT BODY'S WEBSITE?

**9.25/10 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, with address	Yes, with phone #	Yes, with email address	Yes, with electronic form	No
Type 1	2 Points	2 Points	3 Points	3 Points	0
Type 2	2 Points	2 Points	3 Points	<del>3</del> 1.5 Points	0

**Explanation:**

**Type 1: Degree-granting private postsecondary institutions.** The Council maintains a webpage with information about the complaint process and with which entity a student should file a complaint on different issues. The page contains an address and phone number for the Council, an email address specific to complaints and an electronic web form that can be completed and submitted online.

**Type 2: Private vocational schools.** The Board maintains a webpage with information about the complaint process. The page contains a link to a form, in word, and the form provides a mailing address, phone number, a fax number and an email address specific to complaints. Because the form cannot be completed and submitted online, only partial credit is awarded.

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**VII. ENFORCEMENT: 77.5/100 POINTS**

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A. IS THERE LOSS OF STATE AID FOR SCHOOLS THAT REPEATEDLY PRODUCE SUBSTANDARD GRADUATION RATES, JOB PLACEMENT RATES, AND/OR COHORT DEFAULT RATES?

**7.5/30 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, required	Yes, required but limited	Yes, discretionary	Yes, discretionary but limited	No
Type 1	30 Points	20 Points	15 Points	5 Points	0 Points
Type 2	30 Points	20 Points	15 Points	5 Points	0 Points

**Explanation:**

**Type 1: Degree-granting private postsecondary institutions.** Washington law does not explicitly mandate any loss of state aid for degree-granting private postsecondary institutions that repeatedly produce substandard graduation rates, job placement rates, and/or cohort default rates.

**Type 2: Private vocational schools.** When a school is determined to be “at risk” (see explanation at II.F, above), the Board will place it on probation and the school must then meet specified requirements to demonstrate improvement or the Board will take action to suspend or revoke its license. (WAC § 490-105-175.) If the school does not meet the requirements, it will lose its license and as a result, it will lose aid. The state receives partial credit because, while repeated production of poor performance measure would likely contribute to an “at risk” status, no performance measures (graduation rates, default rates, etc.) are specifically enumerated as triggers. The Board has discretion some discretion where these actions are concerned.

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**B. DOES STATE LAW EXPLICITLY AUTHORIZE A PRIVATE RIGHT OF ACTION FOR STUDENTS AGAINST INSTITUTIONS THAT HAVE VIOLATED THE LAWS AND REGULATIONS IN PLACE TO GOVERN THEM?**

**30/30 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	Limited circumstances	No
Type 1	30 Points	15 Points	0 Points
Type 2	30 Points	15 Points	0 Points

**Explanation:**

**Type 1: Degree-granting private postsecondary institutions.** Washington law allows students to bring a private right of action against institutions that have violated the laws in place to govern them under Wash. Rev. Code Ann. (RCW) § 19.86.090. The law allows, in some circumstances, for the court to award treble damages.

**Type 2: Private vocational schools.** Washington law allows students to bring a private right of action against institutions that have violated the laws in place to govern them under Wash. Rev. Code Ann. (RCW) § 19.86.090. The law allows, in some circumstances, for the court to award treble damages. In addition, the state specifies that remedies and penalties provided for in Rev. Code Wash. (RCW) § 28C.10.010 et seq. are nonexclusive and cumulative and do not affect any other actions or proceedings. (Rev. Code Wash. (RCW) § 28C.10.220.)

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**C. DOES STATE LAW EXPLICITLY ALLOW ATTORNEY FEE AWARDS FOR STUDENTS WHO PREVAIL IN LITIGATION AGAINST PRIVATE FOR-PROFIT POSTSECONDARY INSTITUTIONS?**

**20/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	Limited	No
Type 1	20 Points	15 Points	0 Points
Type 2	20 Points	15 Points	0 Points

**Explanation:**

**Type 1: Degree-granting private postsecondary institutions.** Washington law explicitly allows attorney fee awards for students who prevail in litigation against degree-granting private postsecondary institutions that have violated the laws in place to govern them. (Wash. Rev. Code Ann. § 19.86.090.)

**Type 2: Private vocational schools.** Washington law explicitly allows attorney fee awards for students who prevail in litigation against degree-granting private postsecondary institutions that have violated the laws in place to govern them. (Wash. Rev. Code Ann. § 19.86.090.)

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D. DOES STATE LAW EXPLICITLY AUTHORIZE  
ATTORNEY GENERAL INVOLVEMENT?

**20/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score.*

	Yes	Limited circumstances	No
Type 1	20 Points	10 Points	0 Points
Type 2	20 Points	10 Points	0 Points

**Explanation:**

**Type 1: Degree-granting private postsecondary institutions.** Washington law explicitly authorizes attorney general involvement in enforcing the laws in place to govern degree-granting private postsecondary institutions. (Rev. Code Wash. (RCW) § 28B.85.030; Rev. Code Wash. (RCW) § 28B.85.160; Rev. Code Wash. (RCW) § 28B.85.090.)

**Type 2: Private vocational schools.** Washington law explicitly authorizes attorney general involvement in enforcing the laws in place to govern degree-granting private postsecondary institutions. (Rev. Code Wash. (RCW) § 28C.10.140; Rev. Code Wash. (RCW) § 28C.10.190.)

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**BONUS POINTS:**

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Washington does not receive any bonus points.



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**ILLUMINATING INFORMATION**

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**RECIPROCITY AGREEMENTS**

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Washington is a member of the State Authorization Reciprocity Agreements (SARA).

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**LITIGATION, INVESTIGATIONS, AND ACTIONS INVOLVING PRIVATE  
FOR-PROFIT EDUCATIONAL INSTITUTIONS IN WASHINGTON**

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For information about pending and recent federal and state government investigations and actions regarding for-profit colleges see David Halperin's compilation at <http://www.republicreport.org/2014/law-enforcement-for-profit-colleges/#sthash.1vc4HmPw.dpuf>.

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# WEST VIRGINIA

## FINAL GRADING ANALYSIS

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OVERALL SCORE: **355.7/700 POINTS (50.8%)**  
LETTER GRADE: **F**

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### I. OVERSIGHT BODY: **66.3/100 POINTS**

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#### A. IS THERE A STATUTORILY CREATED OVERSIGHT BODY THAT IS PUBLICLY ACCOUNTABLE?

**48.3/60 POINTS**

Element	Total Points Available	Type 1	Types 2&3	Total Points (Average)
1. Oversight body is a multi-member board, commission, or panel created by statute	10	10	10x2	10
2. Oversight body was statutorily created specifically to oversee private postsecondary institutions	10	0	0	0
3. Multi-member board, commission, or panel is the ultimate decision maker (as opposed to a single person, like the head of a department or director)	10	10	10x2	10
4. Oversight body can engage in rulemaking	10	10	10x2	10
5. Oversight body's meetings must be open to the public	5	5	5x2	5
6. Oversight body's meetings must allow public comment	5	0	5x2	3.3
7. Oversight body can initiate investigations	5	5	5x2	5
8. Oversight body can impose penalties for violations	5	5	5x2	5
Total Points	60	45	50x2	48.3

**Explanation:**

West Virginia divides authority for private postsecondary educational institutions oversight and regulation between two entities. The West Virginia Higher Education Policy Commission is responsible for the approval of any institution, association, or organization, external or within the state, seeking to offer programs or credit-bearing courses of higher learning. Before an institution offers any course above the associate level, it must apply for authorization to operate in state. This requirement is inclusive of non-profit private institutions, proprietary institutions, out-of-state public institutions, degree-granting entities that offer degrees at the baccalaureate level or above and entities that use the term “academy” “college” “institution” “university” or similar titles (Type 1). (W. Va. CSR § 133-20-2.)

The West Virginia Council for Community and Technical College Education is responsible for authorizing postsecondary institutions that offer certificates, diplomas, associate degrees and specialized associate degrees (Type 2) (W. Va. Code § 18B-4-7) and for authorizing permits for correspondence, business, occupational and trade schools (Type 3) (W. Va. Code § 18B-2B-9).

**Type 1: Degree-granting institutions (baccalaureate and above).** The West Virginia Higher Education Policy Commission is responsible for developing, gaining consensus around and overseeing the public policy agenda for higher education and other statewide issues. The Commission authorize institutions, associations or organizations external to or within the state to offer programs or credit-bearing academic courses of higher learning in West Virginia. (W. Va. CSR § 133-20-2.) The Commission has the authority to promulgate laws, investigate institutions under its authority and other powers and duties necessary or expedient to accomplish its purposes under W. Va. Code § 18B-1B-1 et seq.

The Commission is subject to West Virginia’s Open Governmental Meetings Act. (W. Va. Code § 6-9A-1 et seq.) Meetings must be open to the public and noticed. There is no mandate that these meetings must allow public comment.

**Type 2 & 3: Certificate- and associate degree-granting institutions and occupational and trade schools.** The West Virginia Council for Community and Technical College Education is charged with the administration of vocational-technical-occupational education and community and technical college education in the state. Its responsibilities include the authorization of any institution, association or organization external to or within the state that offers credit-bearing courses or degree programs not above the associate level and which desires to offer such programs or courses of higher learning in West Virginia. (W. Va. CSR § 135-20-2.) The Council is also responsible for the issuance, renewal, and revocation of permits for correspondence, business, occupational, and trade schools. (W. Va. Code § 18B-2B-6.) The Council has the authority to promulgate rules, investigate institutions, and any other powers and duties necessary or expedient to accomplish its purposes as articulated in W. Va. Code § 18B-2B-6.

The Council is subject to West Virginia’s Open Governmental Meetings Act. (W. Va. Code § 6-9A-1 et seq.) Meetings must be open to the public and noticed. West Virginia law provides that one meeting per year shall be a public forum for the discussion of the goals and standards for workforce development, economic development and vocational education. (W. Va. Code § 18B-2B-5.)

## B. STATUTE-SPECIFIED MEMBERSHIP:

### 1. TO WHAT EXTENT ARE LIMITATIONS PLACED ON FOR-PROFIT MEMBERSHIP ON THE OVERSIGHT BODY?

**15/25 POINTS**

*\*points for Type 1, Type 2, and Type 3 schools have been averaged to calculate the above score*

	Explicit prohibition on for-profit majority, plus no possibility of a majority of the quorum	Explicit prohibition on for-profit majority	Discouraged	No prohibition specified, but not discouraged	For-profit majority mandated
<b>Type 1</b>	<b>25 Points</b>	20 Points	10 Points	0 Points	–5 points
<b>Type 2</b>	25 Points	20 Points	<b>10 Points</b>	0 Points	–5 Points
<b>Type 3</b>	25 Points	20 Points	<b>10 Points</b>	0 Points	–5 Points

**Explanation:**

**Type 1: Degree-granting institutions (baccalaureate and above).** Although West Virginia law does not explicitly prohibit individuals affiliated with private for-profit educational institutions from comprising a majority of the membership on the Commission, it includes the following provision, which has the effect of prohibiting individuals affiliated with private for-profit educational institutions from comprising a majority of the membership on the Commission.

The Governor may not appoint any person to be a member of the commission who is an officer, employee or member of the council or an advisory board of any state college or university; an officer or member of any political party executive committee; the holder of any other public office or public employment under the government of this State or any of its political subdivisions; an appointee or employee of any governing board; or an immediate family member of any employee under the jurisdiction of the commission, the council or any governing board. (W. Va. Code § 18B-1B-2(c).)

**Types 2 & 3: Certificate- and associate degree-granting institutions and occupational and trade schools.** West Virginia law does not explicitly prohibit individuals affiliated with private for-profit educational institutions from comprising a majority of the membership on the Council, but the mandated composition of the Council makes a for-profit majority or a majority of the quorum extremely unlikely. (W. Va. Code § 18B-2B-4(a).)

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2. **IS THE OVERSIGHT BODY MANDATED TO INCLUDE  
AT LEAST ONE CONSUMER ADVOCATE?**

**0/10 POINTS\***

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*\*points for Type 1, Type 2, and Type 3 schools have been averaged to calculate the above score*

	Yes	No
Type 1	10 Points	0 Points
Type 2	10 Points	0 Points
Type 3	10 Points	0 Points

**Explanation:**

**Type 1: Degree-granting institutions (baccalaureate and above).** West Virginia law does not mandate the inclusion of an individual with expertise and experience in the area of consumer advocacy on the Commission.

**Types 2 & 3: Certificate- and associate degree-granting institutions and occupational and trade schools.** West Virginia law does not mandate the inclusion of an individual with expertise and experience in the area of consumer advocacy on the Council.

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3. **ARE THE MEMBERS APPOINTED BY A PUBLICLY ACCOUNTABLE  
OFFICIAL OR ELECTED IN A GENERAL ELECTION?**

**3/5 POINTS\***

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*\*points for Type 1, Type 2, and Type 3 schools have been averaged to calculate the above score*



	All	Majority	Half	Minority	None
<b>Type 1</b>	5 Points	<b>3 Points</b>	2.5 Points	1 Point	0 Points
<b>Type 2</b>	5 Points	<b>3 Points</b>	2.5 Points	1 Point	0 Points
<b>Type 3</b>	5 Points	<b>3 Points</b>	2.5 Points	1 Point	0 Points

**Explanation:**

**Type 1: Degree-granting institutions (baccalaureate and above).** The Commission is comprised of ten members, all of whom are entitled to vote: the Secretary of Education and the Arts, ex officio; the State Superintendent of Schools, ex officio; the chair of the West Virginia Council for Community and Technical College Education, ex officio; and seven at-large members who are citizens of the state, appointed by the Governor, by and with the advice and consent of the Senate. (W. Va. Code § 18B-1B-2(a).)

**Types 2 & 3: Certificate- and associate degree-granting institutions and occupational and trade schools.** Of the thirteen Council members, eight are appointed by the governor with the advice and consent of the senate. The remaining five members are the Chairperson of the West Virginia Workforce Investment Council; the Executive Director of the West Virginia Development Office, or designee; the President of the West Virginia AFL-CIO, or a designee; the Chair of the Higher Education Policy Commission who serves as an ex officio, nonvoting member of the council; and the Assistant Superintendent for Technical and Adult Education of the State Department of Education, who serves as an ex officio, nonvoting member of the council. (W. Va. Code § 18B-2B-4(a).)

## II. STATE OVERSIGHT—EFFICACY: **46/100 POINTS**

### A. DOES THE STATE REQUIRE ONSITE REVIEW OF PRIVATE POSTSECONDARY INSTITUTIONS?

**3/10 POINTS\***

*\*points for Type 1, Type 2, and Type 3 schools have been averaged to calculate the above score*

	Mandatory onsite reviews			Discretionary	None
	Every 2 years or less	Every 3-5 years	Over 5 years	Discretion to conduct onsite reviews	No review specified
<b>Type 1</b>	10 Points	8 Points	5 Points	<b>3 Points</b>	0 Points
<b>Type 2</b>	10 Points	8 Points	5 Points	<b>3 Points</b>	0 Points
<b>Type 3</b>	10 Points	8 Points	5 Points	<b>3 Points</b>	0 Points

**Explanation:**

**Type 1: Degree-granting institutions (baccalaureate and above).** The compliance review committee may conduct a site review as a part of the renewal and review process at its discretion. (W. Va. CSR § 133-52-5(5.10.a).)

**Type 2: Certificate- and associate degree-granting institutions.** The Commission and the Council coordinate when an institution grants degrees. The compliance review committee may conduct a site review as a part of the renewal and review process at its discretion. (W. Va. CSR § 133-52-5(5.10.a).)

**Type 3: Occupational and trade schools.** The Council has discretion to conduct onsite visits to verify information. “The council is hereby authorized to adopt rules and conduct on-site reviews to evaluate



academic standards maintained by schools for the awarding of certificates, diplomas, associate degrees and specialized associate degrees.” The Council is authorized, but not mandated to conduct these reviews. W. Va. Code § 18B-2B-9(j)

**B. DOES THE STATE REQUIRE UNANNOUNCED INSPECTIONS FOR ONSITE REVIEWS?**

**0/5 POINTS\***

*\*points for Type 1, Type 2, and Type 3 schools have been averaged to calculate the above score*

	<b>Required unannounced visits</b>	<b>Discretion to do unannounced visits</b>	<b>No indication</b>
<b>Type 1</b>	5 Points	3 Points	<b>0 Points</b>
<b>Type 2</b>	5 Points	3 Points	<b>0 Points</b>
<b>Type 3</b>	5 Points	3 Points	<b>0 Points</b>

**Explanation:**

**Type 1: Degree-granting institutions (baccalaureate and above).** West Virginia law does not explicitly require or authorize unannounced inspections for onsite reviews of degree-granting institutions.

**Type 2: Certificate- and associate degree-granting institutions.** West Virginia law does not explicitly require or authorize unannounced inspections for onsite reviews of degree-granting institutions.

**Type 3: Occupational and trade schools.** West Virginia law does not explicitly require or authorize unannounced inspections for onsite reviews of occupational and trade schools.

**C. DOES THE STATE REQUIRE REGULAR REVIEWS OF PRIVATE POSTSECONDARY APPROVAL TO OPERATE?**

**20/20 POINTS\***

*\*points for Type 1, Type 2, and Type 3 schools have been averaged to calculate the above score*

	<b>Mandatory</b>			<b>Discretionary</b>	<b>None</b>
	Under 3 years	Every 3-5 years	Over 5 years	Discretion to conduct reviews	No review specified
<b>Type 1</b>	<b>20 Points</b>	15 Points	10 Point	5 Points	0 Points
<b>Type 2</b>	<b>20 Points</b>	15 Points	10 Point	5 Points	0 Points
<b>Type 3</b>	<b>20 Points</b>	15 Points	10 Point	5 Points	0 Points

**Explanation:**

**Type 1: Degree-granting institutions (baccalaureate and above).** To retain the authority to confer degrees, each institution is required provide annually to the Commission all information the Commission considers necessary to assess the performance of the institution and to determine whether the institution continues to meet the minimum standards for conferring degrees. (W. Va. Code § 18B-4-7(e).)

**Type 2: Certificate- and associate degree-granting institutions.** To retain the authority to confer degrees, each institution is required provide annually to the Council all information the Council considers necessary to assess the performance of the institution and to determine whether the institution continues to meet the minimum standards for conferring degrees. (W. Va. Code § 18B-4-7(e).) These institutions

must follow the same procedures outlined by the Commission for degree-granting institutions for annual renewal. (W. Va. CSR § 135-20-14.)

**Type 3: Occupational and trade schools.** A permit shall be valid for one year and may be renewed upon application, accompanied by the required fee and the surety bond as herein required. (W. Va. Code § 18B-2B-9(e).)

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**D. DO THE CRITERIA FOR RENEWAL OF AUTHORIZATION MANDATE A REVIEW OF FACTORS ESSENTIAL TO ACADEMIC AND ETHICAL INTEGRITY?**  
**9.7/20 POINTS\***

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*\*points for Type 1, Type 2, and Type 3 schools have been averaged to calculate the above score*

	8 of 8	7 of 8	6 of 8	5 of 8	4 of 8	3 of 8	2 of 8	1 of 8	0 of 8
<b>Type 1</b>	20 Points	17.5 Points	15 Points	12.5 Points	<del>10</del> 12 Points	7.5 Points	5 Points	2.5 Points	0 Points
<b>Type 2</b>	20 Points	17.5 Points	15 Points	12.5 Points	<del>10</del> 12 Points	7.5 Points	5 Points	2.5 Points	0 Points
<b>Type 3</b>	20 Points	17.5 Points	15 Points	12.5 Points	10 Points	7.5 Points	<b>5 Points</b>	2.5 Points	0 Points

Element	Type 1	Type 2	Type 3
Admission requirements	D	D	
Graduation requirements			M
Placement rate	M	M	
Completion rate (or graduation rate)	M	M	
Advertising practices	D	D	
Cohort default rate	M	M	
Accreditation status	M	M	M
Financial aid policies			

*M=Mandatory; D=Discretionary*

**Explanation:**

**Type 1: Degree-granting institutions (baccalaureate and above).** The Commission requires institutions to provide specified information for review annually; this information includes graduation and retention rates, transfers, post-graduation placements, loan defaults and numbers. (W. Va. CSR § 133-52-5(5.4.h), (5.4.j), (5.4.k).) The Commission requires accreditation information (W. Va. CSR § 133-52-5(5.9.b).) At the request of the compliance review committee, institutions must provide information on admissions policies. (W. Va. CSR § 133-52-5(5.9.g).)

**Type 2: Certificate- and associate degree-granting institutions.** The Council requires institutions to provide specified information for review annually, this information includes graduation and retention rates, transfers, post-graduation placements, loan defaults and numbers. (W. Va. Code § 18B-4-7(e)(2).) The compliance review committee may request information on how the institution ensures accuracy in its usual publications such as the catalog and institutional brochures and fair representation by recruiters and agents. (W. Va. CSR § 133-52-5(5.9.h.2).) Accreditation must be documented or its potential for

accreditation established and accepted by the Council. Institutions authorized to operate pending full accreditation shall pursue full accreditation continuously and shall make reasonable and timely progress toward accreditation in order to retain authorization. (W. Va. CSR § 135-20-7.7.1.) At the request of the compliance review committee, institutions must provide information on admissions policies. (W. Va. CSR § 133-52-5(5.9.g).)

**Type 3: Occupational and trade schools.** The Council requires occupational and trade schools to submit an application for a permit and to renew the permit annually. The schools must provide information about its curriculum (which would include information about graduation /completion requirements) and information about accreditation, among other requirements. (W. Va. CSR § 135-35-4.)

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**E. DOES THE STATE'S OVERSIGHT DISTINGUISH BETWEEN  
FOR-PROFIT AND NONPROFIT EDUCATIONAL INSTITUTIONS?**

**10/15 POINTS\***

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*\*points for Type 1, Type 2, and Type 3 schools have been averaged to calculate the above score*

	<b>Yes, strongly distinguished</b>	<b>Yes, moderately distinguished</b>	<b>Yes, slightly distinguished</b>	<b>Not distinguished</b>
<b>Type 1</b>	15 Points	<b>10 Points</b>	5 Points	0 Points
<b>Type 2</b>	15 Points	<b>10 Points</b>	5 Points	0 Points
<b>Type 3</b>	15 Points	<b>10 Points</b>	5 Points	0 Points

**Explanation:**

**Type 1: Degree-granting institutions (baccalaureate and above).** Nonprofit religious degree-granting are distinguished and governed by a different set of regulations than other similar institutions. (W. Va. CSR § 133-20-7(7.4.a).)

**Type 2: Certificate- and associate degree-granting institutions.** Nonprofit religious institutions that grant degrees up to Associates' degrees are distinguished and governed by a different set of regulations than other similar institutions. (W. Va. CSR § 135-20-7.7.4.)

**Type 3: Occupational and trade schools.** Non-profit independent colleges, universities, and other non-profit entities that are accredited by a regional accrediting agency recognized by the U.S. Department of Education are exempt. (W. Va. CSR § 135-35-3(3.1.g).)

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**F. DOES THE STATE REQUIRE INCREASED OVERSIGHT/SCRUTINY OF PRIVATE  
POSTSECONDARY INSTITUTIONS BASED ON POOR PERFORMANCE?**

**3.3/10 POINTS\***

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*\*points for Type 1, Type 2, and Type 3 schools have been averaged to calculate the above score*

	<b>Yes, mandatory</b>	<b>Yes, mandatory but limited</b>	<b>Yes, discretionary</b>	<b>Yes, discretionary but limited</b>	<b>No</b>
<b>Type 1</b>	10 Points	7.5 Points	<b>5 Points</b>	2.5 Points	0 Points
<b>Type 2</b>	10 Points	7.5 Points	<b>5 Points</b>	2.5 Points	0 Points
<b>Type 3</b>	10 Points	7.5 Points	5 Points	2.5 Points	<b>0 Points</b>

**Explanation:**

***Type 1: Degree-granting institutions (baccalaureate and above).*** West Virginia has a phased approach to authorization. An institution receives preliminary authorization for six months while it works toward satisfactorily completing preliminary information as required by the regional or other appropriate, acceptable, accrediting association. During this time period, the institution shall not accept students, offer instruction, award credits toward a degree, or award a degree until granted further authorization by the Commission. Once the institution has been accepted for consideration for candidacy by the regional accrediting organization and/or other appropriate accrediting association and has submitted evidence to this fact to the Commission, the institution shall be placed on Probationary Authorization status. The institution shall remain on Probationary status no longer than six years. (W. Va. CSR § 133-20-7 (7.2.j).) Schools on probation status must submit an annual report including information on retention rates and program completion rates. (W. Va. CSR § 133-20-7 (7.2.n).) Upon review of the information and an onsite accreditation visit, the Commission can grant the institution full authorization, continue the probationary status, or not authorize the institution (as a result of denial by the accrediting agency). (W. Va. CSR § 133-20-7 (7.2.o).) Institutions must continue to make progress toward accreditation. Presumably, given that the Commission requires review of some performance data, this data factors into Commission decisions about whether or not to move a school off of probationary status. Thus, there is some degree of increased oversight/scrutiny of these institutions based on poor performance.

***Type 2: Certificate- and associate degree-granting institutions.*** West Virginia has a phased approach to authorization. A school applies, receives preliminary authorization for six months while it works toward satisfactorily completing preliminary information as required by the regional or other appropriate, acceptable, accrediting association. During this time period, the institution shall not accept students, offer instruction, award credits toward a degree, or award a degree until granted further authorization by the Council. Once the institution has been accepted for consideration for candidacy by the regional accrediting organization and/or other appropriate accrediting association and has submitted evidence to this fact to the Council, the institution shall be placed on Probationary Authorization status. The institution shall remain on Probationary status no longer than six years. (W. Va. CSR § 135-20-7(7.2.j).) Schools on probation status must submit an annual report including information on retention rates and program completion rates. (W. Va. CSR § 135-20-7 (7.2.n).) Upon review of the information and an onsite accreditation visit, the Council can grant the institution full authorization, continue the probationary status, or not authorize the institution (as a result of denial by the accrediting agency). (W. Va. CSR § 135-20-7 (7.2.o).) Institutions must continue to make progress toward accreditation. Presumably, given that the Council requires review of some performance data, this data factors into Council decisions about whether or not to move a school off of probationary status. Thus, there is some degree of increased oversight/scrutiny of these institutions based on poor performance.

***Type 3: Occupational and trade schools.*** West Virginia law does not require increased oversight for occupational and trade schools based on poor performance (low graduation rates, high cohort default rates, low exam passage rates, etc.).

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**G. DOES STATE LAW INCLUDE ANY SPECIAL PROTECTIONS FOR VETERANS WHO ATTEND PRIVATE POSTSECONDARY INSTITUTIONS?**

**0/20 POINTS\***

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*\*points for Type 1, Type 2, and Type 3 schools have been averaged to calculate the above score*

	Yes	No
<b>Type 1</b>	20 Points	<b>0 Points</b>
<b>Type 2</b>	20 Points	<b>0 Points</b>
<b>Type 3</b>	20 Points	<b>0 Points</b>

**Explanation:**

***Type 1: Degree-granting institutions (baccalaureate and above).*** West Virginia law does not include special protections specifically for veterans who attend degree-granting institutions.

***Type 2: Certificate- and associate degree-granting institutions.*** West Virginia law does not include special protections specifically for veterans who attend these institutions.

***Type 3: Occupational and trade schools.*** West Virginia law does not include special protections specifically for veterans who attend occupational and trade schools.

### **III. STATE OVERSIGHT—SCOPE AND INCLUSION:**

**100/100 POINTS**

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#### **A. ARE EXEMPTIONS TO STATE OVERSIGHT COVERAGE LIMITED?**

**100/100 POINTS\***

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*\*points for Type 1, Type 2, and Type 3 schools have been averaged to calculate the above score*

	No exemptions	Few exemptions	Moderate exemptions	Broad exemptions
<b>Type 1</b>	<b>100 Points</b>	75 Points	50 Points	0 Points
<b>Type 2</b>	<b>100 Points</b>	75 Points	50 Points	0 Points
<b>Type 3</b>	<b>100 Points</b>	75 Points	50 Points	0 Points

**Explanation:**

***Type 1: Degree-granting institutions (baccalaureate and above).*** There are no significant exemptions to Commission oversight of institutions granting degrees at the baccalaureate level and above. The exemptions listed are schools that are covered in other areas of the law either by the Commission or Council. (W. Va. CSR § 133-20-4; W. Va. CSR § 133-20-4.)

***Type 2: Certificate- and associate degree-granting institutions.*** There are no significant exemptions to Council oversight of institutions granting degrees up to associates. The exemptions listed are schools that are covered in other areas of the law either by the Council or the Commission. (W. Va. CSR § 135-20-4; W. Va. CSR § 133-52-4.)

***Type 3: Occupational and trade schools.*** West Virginia law does not have any substantial exemptions to council oversight and regulation of occupational and trade schools. The state exempts programs that are authorized or regulated by other statutes and oversight bodies, it also exempts schools that offer only programs to teach preparation of tax returns, specified schools that do not charge students tuition, training or apprenticeship programs conducted by a company, union, or other organization in which students, members, or employees enrolled in the training or educational programs are not charged tuition or other fees, personal development classes, and private tutorials that are supplemental to other classes. (W. Va. CSR § 135-35-3.)

#### IV. DISCLOSURE REQUIREMENTS: 11.6/100 POINTS

##### A. ARE INSTITUTIONS REQUIRED TO DISCLOSE INSTITUTIONAL PERFORMANCE MEASURES TO POTENTIAL STUDENTS?

0/20 POINTS\*

*\*points for Type 1, Type 2, and Type 3 schools have been averaged to calculate the above score*

	Yes, mandatory	Yes, discretionary	None
	Fact sheet or equivalent required to be given to students	Fact sheet or equivalent given to students upon request	No fact sheet required
Type 1	20 Points	10 Points	0 Points
Type 2	20 Points	10 Points	0 Points
Type 3	20 Points	10 Points	0 Points

##### Explanation:

**Type 1: Degree-granting institutions (baccalaureate and above).** West Virginia law requires the Commission to review the graduation rates, cohort default rates, and other performance measures for degree-granting institutions; however, there is no mandate that the institutions disclose this information directly to the students prior to enrollment.

**Type 2: Certificate- and associate degree-granting institutions.** West Virginia law requires the Council to review the graduation rates, cohort default rates, and other performance measures for these institutions; however, there is no mandate that the institutions disclose this information to students prior to enrollment.

**Type 3: Occupational and trade schools.** West Virginia law does not require occupational and trade schools to disclose institutional performance measures to directly potential students prior to enrollment.

##### B. WHICH INSTITUTIONAL PERFORMANCE DISCLOSURES ARE REQUIRED TO BE GIVEN TO STUDENTS PRIOR TO ENROLLMENT?

0/60 POINTS\*

*\*points for Type 1, Type 2, and Type 3 schools have been averaged to calculate the above score*

##### **Type 1: Degree-granting institutions (baccalaureate and above)**

Disclosures	Mandatory	Discretionary	Not specified
Cohort default rate (CDR)	10 Points	5 Points	0 Points
Graduation / completion rates	10 Points	5 Points	0 Points
Placement rates	10 Points	5 Points	0 Points
Wage information	10 Points	5 Points	0 Points
License exam passage rates	10 Points	5 Points	0 Points
Methods & sources used to calculate	10 Points	5 Points	0 Points

##### Explanation:

West Virginia law requires the Commission to review the graduation rates, cohort default rates, and other performance measures for these institutions; however, there is no mandate that the institutions disclose this information directly to the students prior to enrollment.

*Type 2: Institutions Granting Degrees up to Associates*

Disclosures	Mandatory	Discretionary	Not specified
Cohort default rate (CDR)	10 Points	5 Points	0 Points
Graduation / completion rates	10 Points	5 Points	0 Points
Placement rates	10 Points	5 Points	0 Points
Wage information	10 Points	5 Points	0 Points
License exam passage rates	10 Points	5 Points	0 Points
Methods & sources used to calculate	10 Points	5 Points	0 Points

**Explanation:**

West Virginia law requires the Council to review the graduation rates, cohort default rates, and other performance measures for these institutions; however, there is no mandate that the institutions disclose this information directly to the students prior to enrollment.

*Type 3: Occupational and trade schools*

Disclosures	Mandatory	Discretionary	Not specified
Cohort default rate (CDR)	10 Points	5 Points	0 Points
Graduation / completion rates	10 Points	5 Points	0 Points
Placement rates	10 Points	5 Points	0 Points
Wage information	10 Points	5 Points	0 Points
License exam passage rates	10 Points	5 Points	0 Points
Methods & sources used to calculate	10 Points	5 Points	0 Points

**Explanation:**

West Virginia law does not mandate that the occupational and trade schools disclose this information directly to the students prior to enrollment.

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**C. DOES THE STATE REQUIRE SCHOOLS TO DISCLOSE ELEMENTS  
ESSENTIAL TO STUDENT PROTECTION PRIOR TO ENROLLMENT OR  
IN THE ENROLLMENT CONTRACT?**

**11.6/20 POINTS\***

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*\*points for Type 1, Type 2, and Type 3 schools have been averaged to calculate the above score*

*Type 1: Degree-granting institutions (baccalaureate and above)*

Element description	Mandatory	Discretionary	Not specified
Total cost of program	5 Points	2.5 Points	0 Points
Refund information	5 Points	2.5 Points	0 Points
Transferability of credits	5 Points	2.5 Points	0 Points
Length of program	5 Points	2.5 Points	0 Points

**Explanation:**

West Virginia law requires degree-granting institutions to “develop and make available to all students and prospective students” refund criteria. (W. Va. CSR § 133-20-9 (9.1.i.2,3).) Information about the requirements for the satisfactory completion of a program and transferability of credit is required in the



school catalog, which may be available to students prior to enrollment; however, there is no mandate that the school provide this information to students prior to enrollment. (W. Va. CSR § 133-20-9 (9.1.m.2).) All extra charges and costs shall be revealed to the prospective student before he or she is enrolled. (W. Va. CSR § 133-20-9 (9.1.i.1.C).) The true and accurate costs of courses and program completion must be published and made readily available to all prospective and current students. (W. Va. CSR § 133-20-9 (9.1.i.1.D).)

***Type 2: Certificate- and associate degree-granting institutions***

Element description	Mandatory	Discretionary	Not specified
Total cost of program	5 Points	2.5 Points	0 Points
Refund information	5 Points	2.5 Points	0 Points
Transferability of credits	5 Points	2.5 Points	0 Points
Length of program	5 Points	2.5 Points	0 Points

**Explanation:**

West Virginia law requires institutions granting degrees up to the associate level to “develop and make available to all students and prospective students” refund criteria. (W. Va. CSR § 135-20-9 (9.1.i.2,3).) Information about the requirements for the satisfactory completion of a program and transferability of credit is required in the school catalog, which may be available to students prior to enrollment; however, there is no mandate that the school provide this information to students prior to enrollment. (W. Va. CSR § 135-20-9 (9.1.m.2).) All extra charges and costs shall be revealed to the prospective student before he or she is enrolled. (W. Va. CSR § 135-20-9 (9.1.i.1.C).) The true and accurate costs of courses and program completion must be published and made readily available to all prospective and current students. (W. Va. CSR § 135-20-9 (9.1.i.1.D).)

***Type 3: Occupational and trade schools***

Element description	Mandatory	Discretionary	Not specified
Total cost of program	5 Points	2.5 Points	0 Points
Refund information	5 Points	2.5 Points	0 Points
Transferability of credits	5 Points	2.5 Points	0 Points
Length of program	5 Points	2.5 Points	0 Points

**Explanation:**

Before the schooling begins, all students must receive a completed, signed and dated enrollment contract specifying both the school’s and student’s legal rights and obligations. The enrollment contract must contain information about the total cost of the course term or program for which the student is obligated and it must contain information about the school’s refund policy, among other disclosures. (W. Va. CSR § 135-35-10 (10.1).)

## V. REGULATION OF RECRUITING PRACTICES:

**58.3/100 POINTS**

### A. HAS THE STATE PUT INTO LAW A LIST OF PROHIBITED ACTS REGARDING ADVERTISING AND RECRUITING?

**58.3/100 POINTS\***



*\*points for Type 1, Type 2, and Type 3 schools have been averaged to calculate the above score*

	Yes, strong regulation	Yes, moderate regulation	Yes, weak regulation	No list of prohibited acts
<b>Type 1</b>	100 Points	75 Points	<b>50 Points</b>	0 Points
<b>Type 2</b>	100 Points	75 Points	<b>50 Points</b>	0 Points
<b>Type 3</b>	100 Points	<b>75 Points</b>	50 Points	0 Points

#### PROHIBITED ACTS

Included in list of prohibited acts	Type 1	Type 2	Type 3
Misleading representations using the word “college” or “university”			
Misleading institution affiliations (e.g., military, public institution, business)			X
Promise of employment			X
Compensation for enrollment			
Compensation or “bounty” to recruiters			
Deception (broad prohibition)	X	X	X
Misrepresentation (broad prohibition)	X	X	X
Misleading representations re: accreditation	X	X	X

*1-3=Weak; 3.5-6=Moderate; 6.5-8=Strong*

#### Explanation:

**Type 1: Degree-granting institutions (baccalaureate and above).** West Virginia law prohibits institutions from making statements in any advertising distributed in West Virginia that are untrue, deceptive or misleading with respect to the institution, its personnel, its services or the content, accreditation status and transferability of its courses or degree, diploma or certificate programs. The state also prohibits misleading advertising related to accreditation. (W. Va. CSR § 133-20-13.)

**Type 2: Certificate- and associate degree-granting institutions.** West Virginia law prohibits institutions from making statements in any advertising distributed in West Virginia that are untrue, deceptive or misleading with respect to the institution, its personnel, its services or the content, accreditation status and transferability of its courses or degree, diploma or certificate programs. The state also prohibits misleading advertising related to accreditation. (W. Va. CSR § 135-20-13.)

**Type 3: Occupational and trade schools.** Occupational and trade schools are prohibited from making false or misleading statements in advertising. They are prohibited from making misleading statements or representations about endorsements or affiliation and they are prohibited from making false or misleading statements about accreditation or about employment opportunities. (W. Va. CSR § 135-35-12.)

## VI. COMPLAINT PROCESS AND RELIEF FOR STUDENTS:

**50.2/100 POINTS**

### A. DOES THE STATE REQUIRE A BOND OR FUND AS A CONDITION OF AUTHORIZATION?

**20/20 POINTS\***

*\*points for Type 1, Type 2, and Type 3 schools have been averaged to calculate the above score*

	Yes	No
Type 1	20 Points	0 Points
Type 2	20 Points	0 Points
Type 3	20 Points	0 Points

**Explanation:**

**Type 1: Degree-granting institutions (baccalaureate and above).** Before an institution of higher education can be authorized by the Commission to operate within West Virginia, a surety bond must be provided by the institution. (W. Va. CSR § 133-20-6 (6.12).)

**Type 2: Certificate- and associate degree-granting institutions.** Before an institution of higher education can be authorized by the Council to operate within West Virginia, a surety bond must be provided by the institution. (W. Va. CSR § 135-20-6 (6.12).)

**Type 3: Occupational and trade schools.** Occupational and trade schools must submit a bond with their initial or renewal application as a condition of receiving a permit. (W. Va. CSR § 135-35-6.)

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**B. DOES THE STATE REQUIRE A REFUND OF TUITION IF A STUDENT ENROLLS AS THE RESULT OF MISREPRESENTATION?**

**0/20 POINTS\***

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*\*points for Type 1, Type 2, and Type 3 schools have been averaged to calculate the above score*

	Yes, full refund	Yes, partial refund	No refund required
Type 1	20 Points	10 Points	0 Points
Type 2	20 Points	10 Points	0 Points
Type 3	20 Points	10 Points	0 Points

**Explanation:**

**Type 1: Degree-granting institutions (baccalaureate and above).** West Virginia law contains no explicit requirement that these institutions provide a full refund to students who enroll as the result of misrepresentation.

**Type 2: Certificate- and associate degree-granting institutions.** West Virginia law contains no explicit requirement that these institutions provide a full refund to students who enroll as the result of misrepresentation.

**Type 3: Occupational and trade schools.** West Virginia law contains no explicit requirement that occupational and trade schools provide a full refund to students who enroll as the result of misrepresentation.

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**C. DOES THE STATE REQUIRE INSTITUTIONS TO REFUND TUITION IN THE EVENT OF INSOLVENCY?**

**10/20 POINTS\***

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*\*points for Type 1, Type 2, and Type 3 schools have been averaged to calculate the above score*

	Yes, full refund	Yes, partial refund	Yes, refund in limited circumstances	No refund required
<b>Type 1</b>	20 Points	15 Points	<b>10 Points</b>	0 Points
<b>Type 2</b>	20 Points	15 Points	<b>10 Points</b>	0 Points
<b>Type 3</b>	20 Points	15 Points	<b>10 Points</b>	0 Points

**Explanation:**

**Type 1: Degree-granting institutions (baccalaureate and above).** One purpose of the required bond (see above) is to provide student refunds. Additionally, the Commission may, for good cause, suspend, withdraw, or revoke institutional authorization. One enumerated instance that would constitute “good cause” is “closure of the institution without adequately providing for the completion of students’ classes or course work, without refunding students’ unearned tuition or otherwise discharged the institution’s contractual obligations to the students (W. Va. CSR § 133-20-10 10.1.b.8.) Therefore, while the state does not mandate a refund, it clearly allows for students to receive at least a partial refund when the institution they are attending closes, and makes some effort to ensure the students are protected.

**Type 2: Certificate- and associate degree-granting institutions.** One purpose of the required bond (see above) is to provide student refunds. Additionally, the Council may, for good cause, suspend, withdraw, or revoke institutional authorization. One enumerated instance that would constitute “good cause” is “closure of the institution without adequately providing for the completion of students’ classes or course work, without refunding students’ unearned tuition or otherwise discharged the institution’s contractual obligations to the students. (W. Va. CSR § 135-20-10 10.1.b.8.) Therefore, while the state does not mandate a refund, it clearly allows for students to receive at least a partial refund when the institution they are attending closes, and makes some effort to ensure the students are protected.

**Type 3: Occupational and trade schools.** West Virginia law does not explicitly require occupational and trade schools to provide students with a full refund if their school closes. However, state regulations delineate that the amount of a student’s refund is based on how much of the program the student completed. Additionally, the Council may, for good cause, suspend, withdraw, or revoke a school’s authorization to operate within the state or to solicit students within the state. One enumerated instance that would constitute “good cause” is “closure of the institution without adequately providing for the completion of students’ classes or course work, without refunding students’ unearned tuition or otherwise discharged the institution’s contractual obligations to the students. (W. Va. CSR § 135-35-14.) Thus, while a refund is not mandated, state law appears to allow students to receive at least a partial refund should their occupational or trade school close.

**D. DOES THE STATE ALLOW STUDENTS AMPLE TIME TO MAKE A COMPLAINT?**

**10/10 POINTS\***

*\*points for Type 1, Type 2, and Type 3 schools have been averaged to calculate the above score*

	2 years or more (or no deadline)	1-2 years	Under 1 year	Not applicable
<b>Type 1</b>	<b>10 Points</b>	5 Points	1 Point	0 Points
<b>Type 2</b>	<b>10 Points</b>	5 Points	1 Point	0 Points
<b>Type 3</b>	<b>10 Points</b>	5 Points	1 Point	0 Points

**Explanation:**

**Type 1: Degree-granting institutions (baccalaureate and above).** There is no stated timeframe or

deadline by which a student must file a complaint with the Commission.

**Type 2: Certificate- and associate degree-granting institutions.** There is no stated timeframe or deadline by which a student must file a complaint with the Council.

**Type 3: Occupational and trade schools.** There is no stated timeframe or deadline by which a student must file a complaint with the Council.

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**E. DOES THE STATE REQUIRE INSTITUTIONS TO DISCLOSE INFORMATION ABOUT FILING A COMPLAINT WITH THE STATE OVERSIGHT BODY?**

**6.7/20 POINTS\***

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*\*points for Type 1, Type 2, and Type 3 schools have been averaged to calculate the above score*

**Type 1: Degree-granting institutions (baccalaureate and above)**

Medium	Mandatory	Discretionary	Not specified
Catalog	10 Points	5 Points	0 Points
Website	5 Points	2.5 Points	0 Points
Enrollment contract	5 Points	2.5 Points	0 Points

**Explanation:**

West Virginia law requires institutions to “publish and make available to all students the institution’s grievance policies and procedures regarding the receipt, investigation and resolution of student complaints. (W. Va. CSR § 133-20-9 (9.1.n).) It does not specify where this information must be published. It is reasonable to assume that most institutions would publish this in their catalog and/or on their websites.

**Type 2: Certificate- and associate degree-granting institutions**

Medium	Mandatory	Discretionary	Not specified
Catalog	10 Points	5 Points	0 Points
Website	5 Points	2.5 Points	0 Points
Enrollment contract	5 Points	2.5 Points	0 Points

**Explanation:**

West Virginia law requires institutions to “publish and make available to all students the institution’s grievance policies and procedures regarding the receipt, investigation and resolution of student complaints. (W. Va. CSR § 135-20-9 (9.1.n).) It does not specify where this information must be published. Many institutions publish this in their catalog and/or on their websites.

**Type 3: Occupational and trade schools**

Medium	Mandatory	Discretionary	Not specified
Catalog	10 Points	5 Points	0 Points
Website	5 Points	2.5 Points	0 Points
Enrollment contract	5 Points	2.5 Points	0 Points

**Explanation:**

West Virginia law requires occupational and trade schools to have written procedures that describe in detail how a student may register a complaint with the school and Council, and how the school will

investigate and attempt to resolve the complaint. There is no specification about where these written procedures must appear. School catalogs often contain this information, so the state receives partial credit for requiring the information is made available to students.

**F. IS THE COMPLAINT PROCESS READILY ACCESSIBLE AND AVAILABLE ON THE STATE OVERSIGHT BODY'S WEBSITE?**

**3.5/10 POINTS\***

*\*points for Type 1, Type 2, and Type 3 schools have been averaged to calculate the above score*

	Yes, with address	Yes, with phone #	Yes, with email address	Yes, with electronic form	No
<b>Type 1</b>	<b>2 Points</b>	2 Points	3 Points	<b>3 1.5 Points</b>	0 Points
<b>Type 2</b>	<b>2 Points</b>	2 Points	3 Points	<b>3 1.5 Points</b>	0 Points
<b>Type 3</b>	<b>2 Points</b>	2 Points	3 Points	<b>3 1.5 Points</b>	0 Points

**Explanation:**

**Type 1: Degree-granting institutions (baccalaureate and above).** The Commission maintains a webpage instructing students how to file a complaint, providing a link to the student complaint form. The form contains the Commission's fax number, and mailing address. Partial credit is awarded because the online form cannot be submitted directly from the website (it must be completed and mailed to the Commission).

**Type 2: Certificate- and associate degree-granting institutions.** The Council maintains a webpage instructing students how to file a complaint and with a link to the student complaint form. The form contains the fax number, and mailing address for the Council. Partial credit is awarded because the online form cannot be submitted directly from the website (it must be completed and mailed to the Council).

**Type 3: Occupational and trade schools.** The Council maintains a webpage instructing students how to file a complaint and with a link to the student complaint form. The form contains the fax number, and mailing address for the Council. Partial credit is awarded because the online form cannot be submitted directly from the website (it must be completed and mailed to the Council).

**VII. ENFORCEMENT: 23.3/100 POINTS**

**A. IS THERE LOSS OF STATE AID FOR SCHOOLS THAT REPEATEDLY PRODUCE SUBSTANDARD GRADUATION RATES, JOB PLACEMENT RATES, AND/OR COHORT DEFAULT RATES?**

**10/30 POINTS\***

*\*points for Type 1, Type 2, and Type 3 schools have been averaged to calculate the above score*

	Yes, required	Yes, required but limited	Yes, discretionary	Yes, discretionary but limited	No
<b>Type 1</b>	30 Points	20 Points	<b>15 Points</b>	5 Points	0 Points
<b>Type 2</b>	30 Points	20 Points	<b>15 Points</b>	5 Points	0 Points
<b>Type 3</b>	30 Points	20 Points	15 Points	5 Points	<b>0 Points</b>

**Explanation:**

**Type 1: Degree-granting institutions (baccalaureate and above).** In light of West Virginia’s “Probationary Authorization status” (see II.F. above) and the fact that the Commission regularly reviews performance data, it is possible that an institution may lose state aid (and other aid) as the result of repeatedly producing substandard graduation, job placement, and/or cohort default rates.

**Type 2: Certificate- and associate degree-granting institutions.** In light of West Virginia’s “Probationary Authorization status” (see II.F. above) and the fact that the Council regularly reviews performance data, it is possible that an institution may lose state aid (and other aid) as the result of repeatedly producing substandard graduation, job placement, and/or cohort default rates.

**Type 3: Occupational and trade schools.** West Virginia law does not explicitly mandate a loss of state aid for schools that repeatedly produce substandard graduation, job placement, and/or cohort default rates.

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**B. DOES STATE LAW EXPLICITLY AUTHORIZE A PRIVATE RIGHT OF ACTION FOR STUDENTS AGAINST INSTITUTIONS THAT HAVE VIOLATED THE LAWS AND REGULATIONS IN PLACE TO GOVERN THEM?**

**0/30 POINTS\***

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*\*points for Type 1, Type 2, and Type 3 schools have been averaged to calculate the above score*

	Yes	Limited circumstances	No
Type 1	30 Points	15 Points	0 Points
Type 2	30 Points	15 Points	0 Points
Type 3	30 Points	15 Points	0 Points

**Explanation:**

**Type 1: Degree-granting institutions (baccalaureate and above).** West Virginia law does not explicitly authorize a private right of action for students against degree-granting institutions that have violated the laws and regulations in place to govern them.

**Type 2: Certificate- and associate degree-granting institutions.** West Virginia law does not explicitly authorize a private right of action for students against institutions that have violated the laws and regulations in place to govern them.

**Type 3: Occupational and trade schools.** West Virginia law does not explicitly authorize a private right of action for students against occupational and trade schools that have violated the laws and regulations in place to govern them.

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**C. DOES STATE LAW EXPLICITLY ALLOW ATTORNEY FEE AWARDS FOR STUDENTS WHO PREVAIL IN LITIGATION AGAINST PRIVATE FOR-PROFIT POSTSECONDARY INSTITUTIONS?**

**0/20 POINTS\***

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*\*points for Type 1, Type 2, and Type 3 schools have been averaged to calculate the above score*

	Yes	Limited circumstances	No
<b>Type 1</b>	20 Points	15 Points	<b>0 Points</b>
<b>Type 2</b>	20 Points	15 Points	<b>0 Points</b>
<b>Type 3</b>	20 Points	15 Points	<b>0 Points</b>

**Explanation:**

**Type 1: Degree-granting institutions (baccalaureate and above).** West Virginia law does not explicitly allow attorney fee awards for students who prevail in litigation against degree-granting that have violated the laws and regulations in place to govern them.

**Type 2: Certificate- and associate degree-granting institutions.** West Virginia law does not explicitly allow attorney fee awards for students who prevail in litigation against institutions that have violated the laws and regulations in place to govern them.

**Type 3: Occupational and trade schools.** West Virginia law does not explicitly allow attorney fee awards for students who prevail in litigation against occupational and trade schools that have violated the laws and regulations in place to govern them.

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**D. DOES STATE LAW EXPLICITLY AUTHORIZE  
ATTORNEY GENERAL INVOLVEMENT?**

**13.3/20 POINTS\***

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*\*points for Type 1, Type 2, and Type 3 schools have been averaged to calculate the above score*

	Yes	Limited circumstances	No
<b>Type 1</b>	20 Points	10 Points	<b>0 Points</b>
<b>Type 2</b>	<b>20 Points</b>	10 Points	0 Points
<b>Type 3</b>	<b>20 Points</b>	10 Points	0 Points

**Explanation:**

**Type 1: Degree-granting institutions (baccalaureate and above).** While it is likely the attorney general plays a role in enforcement, there is no specific provision regarding the enforcement of laws governing private degree-granting postsecondary institutions.

**Type 2: Certificate- and associate degree-granting institutions.** West Virginia law explicitly authorizes attorney general involvement in enforcing the laws in place to govern these private postsecondary institutions. (W. Va. Code § 18B-2B-6(c)(13); W. Va. Code § 18B-2B-9(n).)

**Type 3: Occupational and trade schools.** West Virginia law explicitly authorizes attorney general involvement in enforcing the laws in place to govern occupational and trade schools. (W. Va. Code § 18B-2B-9(j); W. Va. Code § 18B-2B-9 (n); W. Va. Code § 18B-2B-6(c)(13).)

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**BONUS POINTS:**

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West Virginia does not receive any bonus points.



## ILLUMINATING INFORMATION

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### RECIPROCITY AGREEMENTS

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West Virginia is a member of the State Authorization Reciprocity Agreements (SARA).

### LITIGATION, INVESTIGATIONS, AND ACTIONS INVOLVING PRIVATE FOR-PROFIT EDUCATIONAL INSTITUTIONS IN WEST VIRGINIA

For information about pending and recent federal and state government investigations and actions regarding for-profit colleges see David Halperin's compilation at <http://www.republicreport.org/2014/law-enforcement-for-profit-colleges/#sthash.1vc4HmPw.dpuf>.



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# WISCONSIN

## FINAL GRADING ANALYSIS

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OVERALL SCORE: **462/700 POINTS (66%)**  
LETTER GRADE: **D**

### I. OVERSIGHT BODY: **70/100 POINTS**

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#### A. IS THERE A STATUTORILY CREATED OVERSIGHT BODY THAT IS PUBLICLY ACCOUNTABLE?

**55/60 POINTS**

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Element	Points Available	Points Awarded
1. Oversight body is a multi-member board, commission, or panel created by statute	10	10
2. Oversight body was statutorily created specifically to oversee private postsecondary institutions	10	10
3. Multi-member board, commission, or panel is the ultimate decision maker (as opposed to a single person, like the head of a department or director)	10	10
4. Oversight body can engage in rulemaking	10	10
5. Oversight body's meetings must be open to the public	5	5
6. Oversight body's meetings must allow public comment	5	0
7. Oversight body can initiate investigations	5	5
8. Oversight body can impose penalties for violations	5	5
<b>Total Points</b>	60	55

**Explanation:**

Wisconsin has created the Educational Approval Board specifically to oversee private for-profit postsecondary institutions. (Wis. Stat. § 38.50(1), (2), (7).) The Board is responsible for rulemaking (Wis. Stat. § 38.50(3)), has authority to initiate investigations (Wis. Adm. Code EAB 4.01(2)), and may impose penalties. (Wis. Adm. Code EAB 4.01.)

Wisconsin's Open Meetings Act requires that Board meetings be open to the public (Wis. Stat. § 19.81 *et seq.*), but does not require the Board to allow opportunity for public comment; that is left to the discretion of the Board. (Wis. Stat. § 19.83(2).)

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**B. STATUTE-SPECIFIED MEMBERSHIP:**

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**1. TO WHAT EXTENT ARE LIMITATIONS PLACED ON FOR-PROFIT MEMBERSHIP ON THE OVERSIGHT BODY?**

**10/25 POINTS**

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Explicit prohibition on for-profit majority, plus no possibility of a majority of the quorum	Explicit prohibition on for-profit majority	Discouraged	No prohibition specified, but not discouraged	For-profit majority mandated
25 Points	20 Points	10 Points	0 Points	-5 points

**Explanation:**

Wisconsin law does not explicitly prohibit a for-profit majority membership on the Board. (Wis. Stat. § 15.945.) However, Wisconsin law discourages for-profit interests on the Board in Wis. Stat. § 19.46, which prohibits public officials from “taking any official action substantially affecting a matter in which the official, a member of his or her immediate family, or an organization with which the official is associated has a substantial financial interest.”

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**2. IS THE OVERSIGHT BODY MANDATED TO INCLUDE AT LEAST ONE CONSUMER ADVOCATE?**

**0/10 POINTS**

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Yes	No
10 Points	0 Points

**Explanation:**

Wisconsin law does not require the membership of the Board to include a consumer advocate.

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**3. ARE THE MEMBERS APPOINTED BY A PUBLICLY ACCOUNTABLE OFFICIAL OR ELECTED IN A GENERAL ELECTION?**

**5/5 POINTS**

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All	Majority	Half	Minority	None
5 Points	3 Points	2.5 Points	1 Point	0 Points

**Explanation:**

The Board members serve at the pleasure of the governor. (Wis. Stat. § 15.945.)

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**II. STATE OVERSIGHT—EFFICACY: 61/100 POINTS**

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**A. DOES THE STATE REQUIRE ONSITE REVIEW OF PRIVATE POSTSECONDARY INSTITUTIONS?**

**8/10 POINTS**

Mandatory onsite reviews			Discretionary	None
Every 2 years or less	Every 3-5 years	Over 5 years	Discretion to conduct onsite reviews	No review specified
10 Points	8 Points	5 Points	3 Points	0 Points

**Explanation:**

Wisconsin law requires periodic review of all approved schools and programs by the Board, and that these reviews include visitation of the school involved. (Wis. Adm. Code EAB 4.08(1)(d).) The Board's website contains a document outlining visitation procedures. The document specifies that non-accredited schools are visited every 3 years, and accredited schools are visited at the mid-point in the accreditation cycle. Thus, accredited schools should be visited at least every 5 years. Generally, schools are accredited for 10 years or less, depending upon the program. An annual visit is discretionary (<http://eab.state.wi.us/resources/schoolvisits/processoverview.pdf>).

**B. DOES THE STATE REQUIRE UNANNOUNCED INSPECTIONS FOR ONSITE REVIEWS?**

**3/5 POINTS**

Required unannounced visits	Discretion to do unannounced visits	No indication
5 Points	3 Points	0 Points

**Explanation:**

Wisconsin does not explicitly require unannounced inspections for onsite visits. The Board's website contains information outlining the visitation process, which outlines four types of visits – comprehensive, annual, new school, and other. Generally, routine visits are scheduled two months in advance. The Board will send an initial letter and background information to the school, and will then contact the school to set up a site visit date, time, and interview schedule. However, the state receives partial credit here because the Board has the authority to conduct unannounced visits as a result of a complaint filed with the agency or other concerns. Information about such visits is contained in various Board materials.

**C. DOES THE STATE REQUIRE REGULAR REVIEWS OF PRIVATE POSTSECONDARY APPROVAL TO OPERATE?**

**20/20 POINTS**

Mandatory			Discretionary	None
Every 2 years or less	Every 3-5 years	Over 5 years	Discretion to conduct reviews	No review specified
20 Points	15 Points	10 Points	5 Points	0 Points

**Explanation:**

Wisconsin law requires schools to renew their approval every year. (Wis. Adm. Code EAB 4.01(4); Wis. Adm. Code EAB 4.10(2).)

**D. DO THE CRITERIA FOR RENEWAL OF AUTHORIZATION MANDATE A REVIEW OF FACTORS ESSENTIAL TO ACADEMIC AND ETHICAL INTEGRITY?**

**20/20 POINTS**

8 of 8	7 of 8	6 of 8	5 of 8	4 of 8	3 of 8	2 of 8	1 of 8	0 of 8
<b>20 Points</b>	17.5 Points	15 Points	12.5 Points	10 Points	7.5 Points	5 Points	2.5 Points	0 Points

Element	
Admission requirements	M
Graduation requirements	M
Placement rate	M
Completion rate (or graduation rate)	M
Advertising practices	M
Cohort default rate	M
Accreditation status	M
Financial aid policies	M

*M=Mandatory; D=Discretionary*

**Explanation:**

Wisconsin law requires the Board to review 8 elements for approval. Review of cohort default rates is required of all schools.

**E. DOES THE STATE'S OVERSIGHT DISTINGUISH BETWEEN FOR-PROFIT AND NONPROFITS POSTSECONDARY INSTITUTIONS?**

**5/15 POINTS**

Yes, strongly distinguished	Yes, moderately distinguished	Yes, slightly distinguished	Not distinguished
15 Points	10 Points	<b>5 Points</b>	0 Points

**Explanations:**

Wisconsin law exempts some in-state nonprofit schools from the oversight of the Board. (Wis. Stat. § 38.50(1)(e).)

**F. DOES THE STATE REQUIRE INCREASED OVERSIGHT/SCRUTINY OF PRIVATE POSTSECONDARY INSTITUTIONS BASED ON POOR PERFORMANCE?**

**5/10 POINTS**

Yes, mandatory	Yes, mandatory but limited	Yes, discretionary	Yes, discretionary but limited	No
10 Points	7.5 Points	<b>5 Points</b>	2.5 Points	0 Points

**Explanation:**

If a school fails to comply with provisions required to maintain approval, Wisconsin has put in place sanctions, which the Board has discretion to apply progressively. These sanctions include requiring the submission and implementation of a school improvement plan to address or correct problems identified by the Board. (Wis. Adm. Code EAB 4.01(4m)(a).)

G. DOES STATE LAW INCLUDE ANY SPECIAL PROTECTIONS FOR VETERANS WHO ATTEND PRIVATE POSTSECONDARY INSTITUTIONS?

0/20 POINTS

Yes	No
20 Points	0 Points

**Explanation:**

Wisconsin has no special protections in place for veterans who attend private postsecondary institutions.

III. STATE OVERSIGHT—SCOPE AND INCLUSION:

75/100 POINTS

A. ARE EXEMPTIONS TO STATE OVERSIGHT COVERAGE LIMITED?

75/100 POINTS

No exemptions	Few exemptions	Moderate exemptions	Broad exemptions
100 Points	75 Points	50 Points	0 Points

**Exemptions:**

Wisconsin has several common sense exemptions, including some nonprofit schools, public schools, parochial schools, and schools offering primarily offering instruction avocational or recreational in nature. The Board has the authority to exempt some schools that meet the requirements of the U.S. Department of Education “program integrity rules,” and is required to review and publish exemptions annually. According to a representative of the state, in practice the Board does not use the exemption provision.

IV. DISCLOSURE REQUIREMENTS: 7.5/100 POINTS

A. ARE INSTITUTIONS REQUIRED TO DISCLOSE INSTITUTIONAL PERFORMANCE MEASURES TO POTENTIAL STUDENTS?

0/20 POINTS

Yes, mandatory	Yes, discretionary	None
Fact sheet or equivalent required to be given to students	Fact sheet or equivalent given to students upon request	No fact sheet required
20 Points	10 Points	0 Points

**Explanation:**

Wisconsin law does not require schools to disclose institutional performance to potential students.



**Notable fact.** The Board annually collects student outcome data and posts information on its website (<http://eab.state.wi.us/search/searchbycategory.asp>) on all students and all institutions.

Wisconsin approaches disclosures in this way to allow students to get institutional performance data from an independent government source. Wisconsin has found, based on student input, many students question the data they receive directly from schools. This is commendable, and Wisconsin

would receive at least partial credit if it also required schools to provide the Board's website to potential students (as students may not check the Board's website prior to making enrollment decisions). It is important for students to be aware of this important information and have it readily available to them as they are making a decision as to whether or not to enroll in one of these institutions.

**B. WHICH INSTITUTIONAL PERFORMANCE DISCLOSURES ARE REQUIRED TO BE GIVEN TO STUDENTS PRIOR TO ENROLLMENT?**

**0/60 POINTS**

Disclosures	Mandatory	Discretionary	Not specified
Cohort default rate (CDR)	10 Points	5 Points	0 Points
Graduation / completion rates	10 Points	5 Points	0 Points
Placement rates	10 Points	5 Points	0 Points
Wage information	10 Points	5 Points	0 Points
License exam passage rates	10 Points	5 Points	0 Points
Methods & sources used to calculate	10 Points	5 Points	0 Points

**Explanation:**

Wisconsin law requires these disclosures to the Board for purposes of gaining approval and some of the elements impact the purposes of determining financial stability and bonding requirements. (Wis. Adm. Code EAB 4.01; Wis. Adm. Code EAB 4.05.) As noted above, the Board collects student outcome data during its annual renewal of approval and makes that information available on its website. However, Wisconsin law does not require institutions to ensure disclosure of any of the above information to students prior to enrollment in the institution.

**C. DOES THE STATE REQUIRE SCHOOLS TO INCLUDE ELEMENTS ESSENTIAL TO STUDENT PROTECTION PRIOR TO ENROLLMENT OR IN THE ENROLLMENT CONTRACT?**

**7.5/20 POINTS**

Element description	Mandatory	Discretionary	Not specified
Total cost of program	5 Points	2.5 Points	0 Points
Refund information	5 Points	2.5 Points	0 Points
Transferability of credits	5 Points	2.5 Points	0 Points
Length of program	5 Points	2.5 Points	0 Points

**Explanation:**

Wisconsin law requires schools to include information about the total cost of the program, refund information, and information about the number of hours, units of instruction or lessons, and the date the program is to begin and end in the enrollment agreement, but only if the school chooses to use an enrollment agreement. (Wis. Adm. Code EAB 6.01.) Thus, provision of this information is deemed to be discretionary.

## V. REGULATION OF RECRUITING PRACTICES:

**75/100 POINTS**

### A. HAS THE STATE PUT INTO LAW A LIST OF PROHIBITED ACTS REGARDING ADVERTISING AND RECRUITING?

**75/100**

Yes, strong regulation	Yes, moderate regulation	Yes, weak regulation	No list of prohibited acts
100 Points	75 Points	50 Points	0 Points

#### PROHIBITED ACTS

Included in list of prohibited acts	
Misleading representations using the word “college” or “university”	X
Misleading institution affiliations (e.g., military, public institution, businesses)	X
Promise of employment	X
Compensation for enrollment	
Compensation or “bounty” to recruiters	
Deception (broad prohibition)	X
Misrepresentation (broad prohibition)	X
Misleading representations re: accreditation	X

*1-3=weak; 3.5-6=moderate; 6.5-8=strong*

#### Explanation:

Wisconsin law prohibits schools from using false or misleading trade or business names that may deceive or mislead students. (Wis. Adm. Code EAB 5.02.) For example, schools are prohibited from using names that falsely represent affiliation with the government, employment agencies, or authorized training facilities for an industry. The prohibition also includes a prohibition on falsely representing connection with a public or private university, college or other institution of higher learning. (Wis. Adm. Code EAB 5.02–5.08.) Wisconsin law also prohibits schools from using the term “college” or “university” unless it provides an educational program for which an associate or higher degree is awarded and unless it has accreditation recognized by the Council for Higher Education Accreditation. (Wis. Stat. § 38.50(12)(a).)

## VI. COMPLAINT PROCESS AND RELIEF FOR STUDENTS:

**73.5/100 POINTS**

### A. DOES THE STATE REQUIRE A BOND OR FUND AS A CONDITION OF AUTHORIZATION?

**20/20 POINTS**

Yes	No
20 Points	0 Points

**Explanation:**

Wisconsin law requires schools to provide a surety bond as a condition of obtaining and maintaining approval. (Wis. Adm. Code EAB 4.03(1)(i); Wis. Adm. Code EAB 4.06.)

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**B. DOES THE STATE REQUIRE A REFUND OF TUITION IF A STUDENT ENROLLS AS THE RESULT OF MISREPRESENTATION?**

**20/20 POINTS**

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Yes, full refund	Yes, partial refund	No refund required
20 Points	10 Points	0 Points

**Explanation:**

Wisconsin law specifies that the Board may use a surety bond to provide indemnification to any student who suffers damages or loss as a result of fraud or false representation used in procuring a student's enrollment. (Wis. Adm. Code EAB 4.06(3)(a)(1).) If a school procured a student's enrollment as the result of any false representations in the written materials used by the school or in oral representations made by or on behalf of the school, the school must provide for a full refund of all money paid by the student. (Wis. Adm. Code EAB 8.03(3).)

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**C. DOES THE STATE REQUIRE INSTITUTIONS TO REFUND TUITION IN THE EVENT OF CLOSURE?**

**15/20 POINTS**

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Yes, full refund	Yes, partial refund	Yes, refund in limited circumstances	No refund required
20 Points	15 Points	10 Points	0 Points

**Explanation:**

Wisconsin law states that when a student is unable to complete a program because the school failed to perform its contractual obligations, the school board may use a surety bond to provide indemnification to students suffering loss or damage as a result. (Wis. Adm. Code EAB 3.) Further, the law provides for a student protection fund, from which the Board may authorize full or partial payment of losses incurred by students when a school closes, to the extent that the surety bond is unable to fully cover those losses. (Wis. Adm. Code EAB 4.06(3).)

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**D. DOES THE STATE ALLOW STUDENTS AMPLE TIME TO MAKE A COMPLAINT?**

**1/10 POINTS**

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2 years or more (or no deadline)	1-2 years	Under 1 year	Not applicable
10 Points	5 Points	1 Point	0 Points

**Explanation:**

Wisconsin law requires students to file complaints within one year after the student's last recorded date of attendance. (Wis. Adm. Code EAB 4.08(2)(b).)



E. DOES THE STATE REQUIRE INSTITUTIONS TO DISCLOSE INFORMATION ABOUT FILING A COMPLAINT WITH THE STATE OVERSIGHT BODY?

**7.5/20 POINTS**

Medium	Yes	Discretionary	No
Catalog	10 Points	5 Points	0 Points
Website	5 Points	2.5 Points	0 Points
Enrollment contract	5 Points	2.5 Points	0 Points

**Explanation:**

Although Wisconsin law requires school catalogs or bulletins to contain the school policy for handling complaints (Wis. Adm. Code EAB 4.03(2)(f)), there is no indication that schools must disclose information about filing a complaint with the Board. Whether the school complaint policy will include information about how a student can file a complaint with the Board is at the discretion of the school. Therefore, Wisconsin receives partial credit for posting this information in the catalog and on their website (because it is common for schools to post the school catalog or information therefrom online). There is no indication that this information is required in enrollment agreements or enrollment applications.

F. IS THE COMPLAINT PROCESS READILY ACCESSIBLE AND AVAILABLE ON THE STATE OVERSIGHT BODY'S WEBSITE?

**10/10 POINTS**

Yes, with address	Yes, with phone #	Yes, with email address	Yes, with electronic form	No
2 Points	2 Points	3 Points	3 Points	0 Points

**Explanation:**

The Board's website provides students with information and resources with regard to filing complaints online (<http://eab.state.wi.us/resources/complaint.asp>). The website contains a link to contact information including email, phone number and address, as well as electronic copies of the complaint form in word and .pdf formats.

**VII. ENFORCEMENT: 100/100 POINTS**

A. IS THERE LOSS OF STATE AID FOR SCHOOLS THAT REPEATEDLY PRODUCE SUBSTANDARD GRADUATION RATES, JOB PLACEMENT RATES, AND/OR COHORT DEFAULT RATES?

**30/30 POINTS**

Yes, required	Yes, required but limited	Yes, discretionary	Yes, discretionary but limited	No
30 Points	20 Points	15 Points	5 Points	0 Points

**Explanation:**

Institutions subject to Board approval are not eligible for any type of state aid, including state financial aid. Because institutions are not eligible for state aid, the state receives full credit here.

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**B. DOES STATE LAW EXPLICITLY AUTHORIZE A PRIVATE RIGHT OF ACTION FOR STUDENTS AGAINST INSTITUTIONS THAT HAVE VIOLATED THE LAWS AND REGULATIONS IN PLACE TO GOVERN THEM?**

**30/30 POINTS**

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Yes	Limited circumstances	No
30 Points	15 Points	0 Points

**Explanation:**

Wisconsin law provides that in addition to any other remedies provided by law, a student who attends a school that is in violation of specified law may bring a civil action to recover fees paid to the school in violation of that law, together with costs and disbursements, including reasonable attorney fees. (Wis. Stat. § 38.50 (10)(f).) In addition, in instances in which a school has misled a student by misusing the term “college” or “university” or by using the term “state” or “Wisconsin,” a student may bring a civil action to recover fees paid to the school, together with costs and disbursements, including reasonable attorney fees. (Wis. Stat. § 38.50(12).)

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**C. DOES STATE LAW EXPLICITLY ALLOW ATTORNEY FEE AWARDS FOR STUDENTS WHO PREVAIL IN LITIGATION AGAINST PRIVATE FOR-PROFIT POSTSECONDARY INSTITUTIONS?**

**20/20 POINTS**

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Yes	Limited	No
20 Points	15 Points	0 Points

**Explanation:**

Wisconsin law provides that in addition to any other remedies provided by law, a student who attends a school that is in violation of specified law may bring a civil action to recover fees paid to the school in violation of that law, together with costs and disbursements, including reasonable attorney fees. (Wis. Stat. § 38.50 (10)(f).) In addition, in instances in which a school has misled a student by misusing the term “college” or “university” or by using the term “state” or “Wisconsin,” a student may bring a civil action to recover fees paid to the school, together with costs and disbursements, including reasonable attorney fees. (Wis. Stat. § 38.50(12).)

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**D. DOES STATE LAW EXPLICITLY AUTHORIZE ATTORNEY GENERAL INVOLVEMENT?**

**20/20 POINTS**

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Yes	Limited circumstances	No
20 Points	10 Points	0 Points

**Explanation:**

Wisconsin law explicitly authorizes attorney general involvement. (Wis. Stat. § 38.50.)

## BONUS POINTS:

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Wisconsin does not receive any bonus points.



## ILLUMINATING INFORMATION

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## RECIPROCITY AGREEMENTS

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Wisconsin is a member of the State Authorization Reciprocity Agreements (SARA).

## LITIGATION, INVESTIGATIONS, AND ACTIONS INVOLVING PRIVATE FOR-PROFIT EDUCATIONAL INSTITUTIONS IN WISCONSIN

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For up-to-date information about pending and recent federal and state government investigations and actions regarding for-profit colleges see David Halperin's compilation at <http://www.republicreport.org/2014/law-enforcement-for-profit-colleges/#sthash.1vc4HmPw.dpuf>.

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# WYOMING

## FINAL GRADING ANALYSIS

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OVERALL SCORE: **263.5/700 POINTS (37.6%)**  
LETTER GRADE: **F**

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### I. OVERSIGHT BODY: **20/100 POINTS**

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A. IS THERE A STATUTORILY CREATED OVERSIGHT BODY  
THAT IS PUBLICLY ACCOUNTABLE?  
**20/60 POINTS**

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Element	Points Available	Points Awarded
1. Oversight body is a multi-member board, commission, or panel created by statute	10	0
2. Oversight body was statutorily created specifically to oversee private postsecondary institutions	10	0
3. Multi-member board, commission, or panel is the ultimate decision maker (as opposed to a single person, like the head of a department or director)	10	0
4. Oversight body can engage in rulemaking	10	10
5. Oversight body's meetings must be open to the public	5	0
6. Oversight body's meetings must allow public comment	5	0
7. Oversight body can initiate investigations	5	5
8. Oversight body can impose penalties for violations	5	5
Total Points	60	20

**Explanation:**

Wyoming divides the private postsecondary educational institutions into two categories for purposes of regulation and oversight: degree-granting institutions (Type 1) and non-degree-granting proprietary schools (Type 2). Both are regulated by the Wyoming Department of Education, which is not a multi-member body; the Department head (the State Superintendent of Public Instruction) is the decision maker. (Wyo. Stat. § 21-2-201.) As such, there is not the same high level of transparency and accountability with regard to rulemaking, decision making, investigations and other functions as exists with a public board. (Wyo. Stat. § 21-2-401.)

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**B. STATUTE-SPECIFIED MEMBERSHIP:**

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**1. TO WHAT EXTENT ARE LIMITATIONS PLACED ON FOR-PROFIT MEMBERSHIP ON THE OVERSIGHT BODY?**

**0/25 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Explicit prohibition on for-profit majority, plus no possibility of a majority of the quorum	Explicit prohibition on for-profit majority	Discouraged	No prohibition specified, but not discouraged	For-profit majority mandated
<b>Type 1</b>	25 Points	20 Points	10 Points	<b>0 Points</b>	–5 points
<b>Type 2</b>	25 Points	20 Points	10 Points	<b>0 Points</b>	–5 Points

**Explanation:**

***Type 1: Degree-granting institutions.***

Wyoming has not appointed a public board to oversee degree-granting private postsecondary educational institutions in the state, and there are no laws or regulations that relate to the make-up of the department of education in this regard.

***Type 2: Non-degree-granting proprietary institutions.***

Wyoming has not appointed a public board to oversee degree-granting private postsecondary educational institutions in the state, and there are no laws or regulations that relate to the make-up of the department of education in this regard.

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**2. IS THE OVERSIGHT BODY MANDATED TO INCLUDE AT LEAST ONE CONSUMER ADVOCATE?**

**0/10 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	No
<b>Type 1</b>	10 Points	<b>0 Points</b>
<b>Type 2</b>	10 Points	<b>0 Points</b>

**Explanation:**

***Type 1: Degree-granting institutions.*** Wyoming does not have a multi-member board to oversee degree-granting private postsecondary educational institutions, and there are no relevant laws or regulations relating to the composition of the Department of Education.

***Type 2: Non-degree-granting proprietary institutions.*** Wyoming does not have a multi-member board to oversee non-degree-granting proprietary institutions, and there are no relevant laws or regulations relating to the composition of the Department of Education.

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**3. ARE THE MEMBERS APPOINTED BY A PUBLICLY ACCOUNTABLE OFFICIAL OR ELECTED IN A GENERAL ELECTION?**

**0/5 POINTS\***

---

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	All	Majority	Half	Minority	None
<b>Type 1</b>	5 Points	3 Points	2.5 Points	1 Point	<b>0 Points</b>
<b>Type 2</b>	5 Points	3 Points	2.5 Points	1 Point	<b>0 Points</b>

### **Explanation**

**Type 1: Degree-granting institutions.** Because Wyoming does not have a multi-member board overseeing degree-granting private postsecondary educational institutions, this element is inapplicable.

**Type 2: Non-degree-granting proprietary institutions.** Because Wyoming does not have a multi-member board overseeing non-degree-granting proprietary institutions, this element is inapplicable.

## **II. STATE OVERSIGHT—EFFICACY: 25/100 POINTS**

### **A. DOES THE STATE REQUIRE ONSITE REVIEW OF PRIVATE POSTSECONDARY INSTITUTIONS?**

**0/10 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	<b>Mandatory onsite reviews</b>			<b>Discretionary</b>	<b>None</b>
	Every 2 years or less	Every 3-5 years	Over 5 years	Discretion to conduct onsite reviews	No review specified
<b>Type 1</b>	10 Points	8 Points	5 Points	3 Points	<b>0 Points</b>
<b>Type 2</b>	10 Points	8 Points	5 Points	3 Points	<b>0 Points</b>

### **Explanation:**

**Type 1: Degree-granting institutions.** Wyoming law requires private degree-granting postsecondary educational institutions to register with the Department of Education annually. (WCWR 005-000-030, Section 7. However, it does not require the Department to conduct onsite reviews of these institutions either as a requirement of registration or as a requirement of registration renewal. (WCWR 005-000-030.)

**Type 2: Non-degree-granting proprietary institutions.** Wyoming law requires non-degree-granting proprietary institutions to obtain a license from the state Department of Education and apply to renew the license annually. (WCWR 005-000-001, Section 8.) However, it does not require the Department to conduct onsite reviews of these institutions as a requirement of licensure. (WCWR 005-000-001.)

### **B. DOES THE STATE REQUIRE UNANNOUNCED INSPECTIONS FOR ONSITE REVIEWS?**

**0/5 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	<b>Required unannounced visits</b>	<b>Discretion to do unannounced visits</b>	<b>No indication</b>
<b>Type 1</b>	5 Points	3 Points	0 Points
<b>Type 2</b>	5 Points	3 Points	0 Points

**Explanation:**

**Type 1: Degree-granting institutions.** Wyoming law does not require unannounced onsite reviews of private postsecondary degree-granting institutions, either as a condition of initial registration or renewal of registration.

**Type 2: Non-degree-granting proprietary institutions.** Wyoming does not require unannounced onsite reviews of non-degree-granting proprietary schools, either as a condition of initial licensure or renewal of licensure.

**C. DOES THE STATE REQUIRE REGULAR REVIEWS OF PRIVATE POSTSECONDARY APPROVAL TO OPERATE?**

**20/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	<b>Mandatory</b>			<b>Discretionary</b>	<b>None</b>
	Every 2 years or less	Every 3-5 years	Over 5 years	Discretion to conduct reviews	No review specified
<b>Type 1</b>	<b>20 Points</b>	15 Points	10 Points	5 Points	0 Points
<b>Type 2</b>	<b>20 Points</b>	15 Points	10 Points	5 Points	0 Points

**Explanation:**

**Type 1: Degree-granting institutions.** Wyoming law requires private degree-granting institutions to renew registration annually. (WCWR 005-000-030, Section 8.)

**Type 2: Non-degree-granting proprietary institutions.** Wyoming law requires private non-degree-granting proprietary schools to apply for license renewal every year. The renewal process requires schools to resubmit updated versions of all forms initially submitted to obtain licensure. (WCWR 005-000-001, Section 8.)

**D. DO THE CRITERIA FOR RENEWAL OF AUTHORIZATION MANDATE A REVIEW OF FACTORS ESSENTIAL TO ACADEMIC AND ETHICAL INTEGRITY?**

**2.5/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	<b>8 of 8</b>	<b>7 of 8</b>	<b>6 of 8</b>	<b>5 of 8</b>	<b>4 of 8</b>	<b>3 of 8</b>	<b>2 of 8</b>	<b>1 of 8</b>	<b>0 of 8</b>
<b>Type 1</b>	20 Points	17.5 Points	15 Points	12.5 Points	10 Points	7.5 Points	5 Points	<b>2.5 Points</b>	0 Points
<b>Type 2</b>	20 Points	17.5 Points	15 Points	12.5 Points	10 Points	7.5 Points	5 Points	<b>2.5 Points</b>	0 Points

<b>Element</b>	<b>Type 1</b>	<b>Type 2</b>
<b>Admission requirements</b>		
<b>Graduation requirements</b>		
<b>Placement rate</b>		



Completion rate (or graduation rate)		
Advertising practices		M
Cohort default rate		
Accreditation status	M	
Financial aid policies		

*M=Mandatory; D=Discretionary*

**Explanation:**

**Type 1: Degree-granting institutions.** Wyoming reviews only the accreditation status of degree-granting institutions applying for registration in the state. (WCWR 005-000-030, Sections 8 & 9.)

**Type 2: Non-degree-granting proprietary institutions.** Wyoming reviews advertising practices of non-degree-granting proprietary institutions applying for licensure and renewal of licensure in the state. (WCWR 005-000-001, Sections 7 & 8.)

**E. DOES THE STATE'S OVERSIGHT DISTINGUISH BETWEEN FOR-PROFIT AND NONPROFIT EDUCATIONAL INSTITUTIONS?**

**2.5/15 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, strongly distinguished	Yes, moderately distinguished	Yes, slightly distinguished	Not distinguished
<b>Type 1</b>	15 Points	10 Points	5 Points	0 Points
<b>Type 2</b>	15 Points	10 Points	5 Points	0 Points

**Explanation:**

**Type 1: Degree-granting institutions.** Wyoming law exempts specified religious nonprofits from regulations governing private degree-granting institutions. (WCWR 005-000-030, Section 14.)

**Type 2: Non-degree-granting proprietary institutions.** Wyoming law does not distinguish between for-profit and nonprofit non-degree-granting proprietary schools for purposes of oversight and regulation.

**F. DOES THE STATE REQUIRE INCREASED OVERSIGHT/SCRUTINY OF PRIVATE POSTSECONDARY INSTITUTIONS BASED ON POOR PERFORMANCE?**

**0/10 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, mandatory	Yes, mandatory but limited	Yes, discretionary	Yes, discretionary but limited	No
<b>Type 1</b>	10 Points	7.5 Points	5 Points	2.5 Points	0 Points
<b>Type 2</b>	10 Points	7.5 Points	5 Points	2.5 Points	0 Points

**Explanation:**

**Type 1: Degree-granting institutions.** Although Wyoming has a process for “candidate institutions,” it involves accreditation, and does not provide any increased scrutiny or oversight of institutions based on poor performance (poor graduation rates, high cohort default rates, low exam passage rates, etc.).

**Type 2: Non-degree-granting proprietary institutions.** Wyoming law does not require increased oversight/scrutiny of private non-degree-granting proprietary institutions based on poor performance.

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**G. DOES STATE LAW INCLUDE ANY SPECIAL PROTECTIONS FOR VETERANS WHO ATTEND PRIVATE POSTSECONDARY INSTITUTIONS?**

**0/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	No
Type 1	20 Points	0 Points
Type 2	20 Points	0 Points

**Explanation:**

**Type 1: Degree-granting institutions.** Wyoming law does not provide any special protections for veterans who attend degree-granting private postsecondary institutions.

**Type 2: Non-degree-granting proprietary institutions.** Wyoming law does not provide any special protections for veterans who attend non-degree-granting proprietary institutions.

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**III. STATE OVERSIGHT—SCOPE AND INCLUSION:**

**100/100 POINTS**

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**A. ARE EXEMPTIONS TO STATE OVERSIGHT COVERAGE LIMITED?**

**100/100 POINTS\***

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	No exemptions	Few exemptions	Moderate exemptions	Broad exemptions
Type 1	100 Points	75 Points	50 Points	0 Points
Type 2	100 Points	75 Points	50 Points	0 Points

**Explanation:**

**Type 1: Degree-granting institutions.** Wyoming law has very few narrowly tailored exemptions, none of which are substantial. The state exempts specified religious schools, home-based schools, flight training schools and specified non-degree-granting schools are exempt. (WCWR 005-000-030, Section 14.)

**Type 2: Non-degree-granting proprietary institutions.** Wyoming law has very few narrowly tailored exemptions, none of which are substantial. The state exempts specified religious schools, home-based schools, flight training schools and specified non-degree-granting schools are exempt. (WCWR 005-000-001, Section 3.)

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**IV. DISCLOSURE REQUIREMENTS: 0/100 POINTS**

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**A. ARE INSTITUTIONS REQUIRED TO DISCLOSE INSTITUTIONAL PERFORMANCE MEASURES TO POTENTIAL STUDENTS?**

**0/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, mandatory	Yes, discretionary	None
	Fact sheet or equivalent required to be given to students:	Fact sheet or equivalent given to students upon request:	No fact sheet required
<b>Type 1</b>	20 Points	10 Points	<b>0 Points</b>
<b>Type 2</b>	20 Points	10 Points	<b>0 Points</b>

**Explanation:**

**Type 1: Degree-granting institutions.** Wyoming law does not require private postsecondary degree-granting educational institutions to disclose any institutional performance standards to potential students.

**Type 2: Non-degree-granting proprietary institutions.** Wyoming law does not require non-degree-granting proprietary schools to disclose any institutional performance standards to potential students.

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**B. WHICH INSTITUTIONAL PERFORMANCE DISCLOSURES ARE REQUIRED TO BE GIVEN TO STUDENTS PRIOR TO ENROLLMENT?**

**0/60 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

**Type 1: Degree-granting institutions**

Disclosures	Mandatory	Discretionary	Not specified
<b>Cohort default rate (CDR)</b>	10 Points	5 Points	<b>0 Points</b>
<b>Graduation / completion rates</b>	10 Points	5 Points	<b>0 Points</b>
<b>Placement rates</b>	10 Points	5 Points	<b>0 Points</b>
<b>Wage information</b>	10 Points	5 Points	<b>0 Points</b>
<b>License exam passage rates</b>	10 Points	5 Points	<b>0 Points</b>
<b>Methods &amp; sources used to calculate</b>	10 Points	5 Points	<b>0 Points</b>

**Explanation:**

Wyoming law does not require private postsecondary degree-granting educational institutions to disclose any institutional performance standards to students prior to enrollment.

**Type 2: Non-degree-granting proprietary institutions**

Disclosures	Mandatory	Discretionary	Not specified
<b>Cohort default rate (CDR)</b>	10 Points	5 Points	<b>0 Points</b>
<b>Graduation / completion rates</b>	10 Points	5 Points	<b>0 Points</b>
<b>Placement rates</b>	10 Points	5 Points	<b>0 Points</b>
<b>Wage information</b>	10 Points	5 Points	<b>0 Points</b>
<b>License exam passage rates</b>	10 Points	5 Points	<b>0 Points</b>
<b>Methods &amp; sources used to calculate</b>	10 Points	5 Points	<b>0 Points</b>

**Explanation:**

Wyoming law does not require non-degree-granting proprietary institutions to disclose any institutional performance standards to students prior to enrollment.

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**C. DOES THE STATE REQUIRE SCHOOLS TO DISCLOSE ELEMENTS  
ESSENTIAL TO STUDENT PROTECTION PRIOR TO ENROLLMENT OR  
IN THE ENROLLMENT CONTRACT?**

**0/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

***Type 1: Degree-granting institutions***

Element description	Mandatory	Discretionary	Not specified
Total cost of program	5 Points	2.5 Points	0 Points
Refund information	5 Points	2.5 Points	0 Points
Transferability of credits	5 Points	2.5 Points	0 Points
Length of program	5 Points	2.5 Points	0 Points

**Explanation:**

Wyoming law does not require private postsecondary degree-granting educational institutions to disclose any of the above information to students prior to enrollment.

***Type 2: Non-degree-granting proprietary institutions***

Element description	Mandatory	Discretionary	Not specified
Total cost of program	5 Points	2.5 Points	0 Points
Refund information	5 Points	2.5 Points	0 Points
Transferability of credits	5 Points	2.5 Points	0 Points
Length of program	5 Points	2.5 Points	0 Points

**Explanation:**

Though Wyoming reviews many of the above elements as part of licensure and licensure renewal (WCWR 005-000-001, Sections 7 & 9), it does not require non-degree-granting proprietary schools to disclose any of the above information to students prior to enrollment.

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**V. REGULATION OF RECRUITING PRACTICES:**

**56.25/100 POINTS**

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**A. HAS THE STATE PUT INTO LAW A LIST OF PROHIBITED ACTS  
REGARDING ADVERTISING AND RECRUITING?**

**62.5/100 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, strong regulation	Yes, moderate regulation	Yes, weak regulation	No list of prohibited acts
Type 1	100 Points	75 Points	50 Points	0 Points
Type 2	100 Points	75 Points	50 Points	0 Points

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**PROHIBITED ACTS**

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Included in list of prohibited acts	Type 1	Type 2
Misleading representations using the word “college” or “university”		
Misleading institution affiliations (e.g., military, public institution, businesses)		/
Promise of employment		
Compensation for enrollment		
Compensation or “bounty” to recruiters		
Deception (broad prohibition)		X
Misrepresentation (broad prohibition)		X
Misleading representations re: accreditation	X	X

*1-3=Weak; 3.5-6=Moderate; 6.5-8=Strong*

**Explanation:**

**Type 1: Degree-granting institutions.** Wyoming law prohibits private postsecondary degree-granting educational institutions from claiming or advertising to prospective or enrolled students that it is accredited in the U.S. unless the named accrediting association, commission or other entity is approved by the U.S. Department of Education and the institution is registered by the Department in accordance with rule, regulation and statute. (WCWR 005-000-030, Section 13(f).)

**Type 2: Non-degree-granting proprietary institutions.** Wyoming law prohibits non-degree-granting proprietary schools from utilizing advertising which tends to mislead students or falsify information regarding job placement or accreditation by the state. The state specifies that if a school wishes to refer to the fact that it is licensed in the “State of Wyoming,” it shall refer to that fact only in the following phraseology: “Licensed by the State of Wyoming as a post-secondary proprietary school under W.S. 21-11-101 through 21-11-107.” (WCWR 005-000-001, Section 9(h).)

## VI. COMPLAINT PROCESS AND RELIEF FOR STUDENTS:

**36/100 POINTS**

A. DOES THE STATE REQUIRE A BOND OR FUND  
AS A CONDITION OF AUTHORIZATION?

**17.5/20 POINTS\***

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	No
Type 1	<del>20</del> 15 Points	0 Points
Type 2	20 Points	0 Points

**Explanation:**

**Type 1: Degree-granting institutions.** Wyoming law requires private postsecondary degree-granting educational institutions to post a performance bond or a letter of credit as a condition of registration. (Wyo. Stat. § 21-2-405; WCWR 005-000-030, Section 9(b).) Because institutions have the option to post a letter of credit instead of a bond, partial credit has been awarded.

**Type 2: Non-degree-granting proprietary institutions.** Wyoming law requires non-degree-granting proprietary schools to post a performance bond as a condition of licensure. (WCWR 005-000-030, Section 7(a).)

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B. DOES THE STATE REQUIRE A REFUND OF TUITION IF A STUDENT ENROLLS AS THE RESULT OF MISREPRESENTATION?

**0/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, full refund	Yes, partial refund	No refund required
Type 1	20 Points	10 Points	0 Points
Type 2	20 Points	10 Points	0 Points

**Explanation:**

**Type 1: Degree-granting institutions.** Wyoming law does not explicitly require private postsecondary degree-granting institutions to provide a refund to students who enroll as the result of misrepresentation.

**Type 2: Non-degree-granting proprietary institutions.** Wyoming law does not explicitly require non-degree-granting proprietary schools to provide a refund to students who enroll as the result of misrepresentation.

---

C. DOES THE STATE REQUIRE INSTITUTIONS TO REFUND TUITION IN THE EVENT OF CLOSURE?

**0/20 POINTS\***

---

*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, full refund	Yes, partial refund	Yes, refund in limited circumstances	No refund required
Type 1	20 Points	15 Points	10 Points	0 Points
Type 2	20 Points	15 Points	10 Points	0 Points

**Explanation:**

**Type 1: Degree-granting institutions.** Wyoming law does not explicitly require private postsecondary degree-granting institutions to provide a refund to impacted students in the event of school closure.

**Type 2: Non-degree-granting proprietary institutions.** Wyoming law does not explicitly require non-degree-granting proprietary schools to provide a refund to impacted students in the event of school closure.

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D. DOES THE STATE ALLOW STUDENTS AMPLE TIME TO MAKE A COMPLAINT?

**10/10 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	2 years or more (or no deadline)	1-2 years	Under 1 year	Not Applicable
Type 1	10 Points	5 Points	1 Points	0 Points
Type 2	10 Points	5 Points	1 Points	0 Points

**Explanation:**

**Type 1: Degree-granting institutions.** Wyoming law does not specify a deadline or timeframe by which students must file complaints against private postsecondary degree-granting institutions.

**Type 2: Non-degree-granting proprietary institutions.** Wyoming law does not specify a deadline or timeframe by which students must file complaints against non-degree-granting proprietary schools.

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**E. DOES THE STATE REQUIRE INSTITUTIONS TO DISCLOSE INFORMATION ABOUT FILING A COMPLAINT WITH THE STATE OVERSIGHT BODY?**

**0/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

**Type 1: Degree-granting institutions**

Medium	Mandatory	Discretionary	Not specified
Catalog	10 Points	5 Points	0 Points
Website	5 Points	2.5 Points	0 Points
Enrollment contract	5 Points	2.5 Points	0 Points

**Explanation:**

Wyoming law does not explicitly require private postsecondary degree-granting institutions to disclose information about filing a complaint with the state board through any of the above publications.

**Type 2: Non-degree-granting proprietary institutions**

Medium	Mandatory	Discretionary	Not specified
Catalog	10 Points	5 Points	0 Points
Website	5 Points	2.5 Points	0 Points
Enrollment contract	5 Points	2.5 Points	0 Points

**Explanation:**

Wyoming law does not explicitly require non-degree-granting proprietary schools to disclose information about filing a complaint with the state board through any of the above publications.

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**F. IS THE COMPLAINT PROCESS READILY ACCESSIBLE AND AVAILABLE ON THE STATE OVERSIGHT BODY'S WEBSITE?**

**8.5/10 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, with address	Yes, with phone #	Yes, with email address	Yes, with electronic form	No
Type 1	2 Points	2 Points	3 Points	3 1.5 Points	0 Points
Type 2	2 Points	2 Points	3 Points	3 1.5 Points	0 Points

**Explanation:**

**Type 1: Degree-granting institutions.** The Department of Education maintains a webpage which explains an explanation of the student complaint process, the Department address, phone number, email

address, and a link to an online form that students can complete and mail to the Department (however, only partial credit is awarded because the form cannot be completed and submitted online).

**Type 2: Non-degree-granting proprietary institutions.** The Department of Education maintains a webpage which contains an explanation of the student complaint process, the Department address, phone number, email address, and a link to an online form that students can complete and mail to the Department (however, only partial credit is awarded because the form cannot be completed and submitted online).

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## VII. ENFORCEMENT: 20/100 POINTS

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A. IS THERE LOSS OF STATE AID FOR SCHOOLS THAT REPEATEDLY PRODUCE SUBSTANDARD GRADUATION RATES, JOB PLACEMENT RATES, AND/OR COHORT DEFAULT RATES?

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**0/30 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes, required	Yes, required but limited	Yes, discretionary	Yes, discretionary but limited	No
Type 1	30 Points	20 Points	15 Points	5 Points	0 Points
Type 2	30 Points	20 Points	15 Points	5 Points	0 Points

**Explanation:**

**Type 1: Degree-granting institutions.** Wyoming law does not require loss of state aid to private postsecondary degree-granting institutions that repeatedly produce substandard graduation rates, job placement rates, and/or cohort default rates

**Type 2: Non-degree-granting proprietary institutions.** Wyoming law does not require loss of state aid to non-degree-granting proprietary schools that repeatedly produce substandard graduation rates, job placement rates, and/or cohort default rates

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B. DOES STATE LAW EXPLICITLY AUTHORIZE A PRIVATE RIGHT OF ACTION FOR STUDENTS AGAINST INSTITUTIONS THAT HAVE VIOLATED THE LAWS AND REGULATIONS IN PLACE TO GOVERN THEM?

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**0/30 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	Limited circumstances	No
Type 1	30 Points	15 Points	0 Points
Type 2	30 Points	15 Points	0 Points

**Explanation:**

**Type 1: Degree-granting institutions.** Wyoming law does not explicitly authorize a private right of



action for students against private postsecondary degree-granting institutions that have violated the laws and regulations in place to govern them.

**Type 2: Non-degree-granting proprietary institutions.** Wyoming law does not explicitly authorize a private right of action for students against non-degree-granting schools that have violated the laws and regulations in place to govern them.

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**C. DOES STATE LAW EXPLICITLY ALLOW ATTORNEY FEE AWARDS  
FOR STUDENTS WHO PREVAIL IN LITIGATION AGAINST PRIVATE  
FOR-PROFIT POSTSECONDARY INSTITUTIONS?**

**0/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	Limited	No
<b>Type 1</b>	20 Points	15 Points	<b>0 Points</b>
<b>Type 2</b>	20 Points	15 Points	<b>0 Points</b>

**Explanation:**

**Type 1: Degree-granting institutions.** Wyoming law does not explicitly allow attorney fee awards for students who prevail in litigation against private postsecondary degree-granting institutions that have violated the laws and regulations in place to govern them.

**Type 2: Non-degree-granting proprietary institutions.** Wyoming law does not explicitly allow attorney fee awards for students who prevail in litigation against non-degree-granting proprietary schools that have violated the laws and regulations in place to govern them.

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**D. DOES STATE LAW EXPLICITLY AUTHORIZE  
ATTORNEY GENERAL INVOLVEMENT?**

**20/20 POINTS\***

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*\*points for Type 1 and Type 2 schools have been averaged to calculate the above score*

	Yes	Limited circumstances	No
<b>Type 1</b>	<b>20 Points</b>	10 Points	0 Points
<b>Type 2</b>	<b>20 Points</b>	10 Points	0 Points

**Explanation:**

**Type 1: Degree-granting institutions.** Wyoming law authorizes attorney general involvement in enforcing the law and regulations governing private postsecondary degree-granting institutions. (WCWR 005-000-030, Section 13(c).)

**Type 2: Non-degree-granting proprietary institutions.** Wyoming law authorizes attorney general involvement in enforcing the law and regulations governing private postsecondary degree-granting institutions. (Wyo. Stat. § 21-2-407.)

## BONUS POINTS:

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Wyoming does not receive any bonus points.



## ILLUMINATING INFORMATION

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## RECIPROCITY AGREEMENTS

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Wyoming is a member of the State Authorization Reciprocity Agreements (SARA).

## LITIGATION, INVESTIGATIONS, AND ACTIONS INVOLVING PRIVATE FOR-PROFIT EDUCATIONAL INSTITUTIONS IN WYOMING

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For information about pending and recent federal and state government investigations and actions regarding for-profit colleges see David Halperin's compilation at <http://www.republicreport.org/2014/law-enforcement-for-profit-colleges/#sthash.1vc4HmPw.dpuf>.