

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
Total Points	60	50

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	0 Points	-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	0 Points

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.

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 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).

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:

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.

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:

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

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.

D. DOES STATE LAW EXPLICITLY AUTHORIZE ATTORNEY GENERAL INVOLVEMENT?

10/20 POINTS

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

Alabama does not receive any bonus points.



ILLUMINATING INFORMATION



RECIPROCITY AGREEMENTS

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

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>.