
ALASKA

FINAL GRADING ANALYSIS

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

I. OVERSIGHT BODY: **75/100 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:

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.

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

20/25 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:

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.

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

0/10 POINTS

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.

D. 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 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).)

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	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.

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

0/20 POINTS

Yes	No
20 Points	0 Points

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:

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.)

IV. DISCLOSURE REQUIREMENTS: 47.5/100 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	10 Points	0 Points

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

Yes	No
20 Points	0 Points

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

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

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

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

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.

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

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.)

**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:

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.

**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:

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.

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	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.

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?

15/30 POINTS

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.

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

0/20 POINTS

Yes	Limited circumstances	No
20 Points	15 Points	0 Points

Explanation:

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

D. DOES STATE LAW EXPLICITLY AUTHORIZE ATTORNEY GENERAL INVOLVEMENT?

20/20 POINTS

Yes	Limited Circumstances	No
20 Points	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).)

BONUS POINTS

Alaska does not receive any bonus points.



ILLUMINATING INFORMATION



RECIPROCITY AGREEMENTS

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

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

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>.