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# ARIZONA

## FINAL GRADING ANALYSIS

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

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### 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**

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

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

**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**

<b>All</b>	Majority	Half	Minority	None
<b>5 Points</b>	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	<b>Discretion to conduct onsite reviews</b>	No onsite review specified
10 Points	8 Points	5 Points	<b>3 4 Points</b>	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	<b>0 Points</b>

**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
<b>Every 2 years or less</b>	Every 3-5 years	Over 5 years	Discretion to conduct reviews	No review specified
<b>20 Points</b>	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</b> 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)	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	<b>Fact sheet or equivalent given to students upon request</b>	No fact sheet required
20 Points	<b>10 Points</b>	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
<b>Cohort default rate (CDR)</b>	10 Points	<b>5 Points</b>	0 Points
<b>Graduation / completion rates</b>	10 Points	<b>5 Points</b>	0 Points
<b>Placement rates</b>	10 Points	<b>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:**

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
<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:**

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**

<b>Yes, strong regulation</b>	<b>Yes, moderate regulation</b>	<b>Yes, weak regulation</b>	<b>No list of prohibited acts</b>
100 Points	<b>75 Points</b>	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 affiliations (e.g., military, public institution, businesses)</b>	/
<b>Promise of employment</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>X</b>
<b>Misleading representations re: accreditation</b>	/

*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**

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

<b>Yes, full refund</b>	<b>Yes, partial refund</b>	<b>No refund r</b>
20 Points	<b>10 Points</b>	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**

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



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

**9/10 POINTS**

<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>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.

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

**15/20 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>	5 Points	<b>2.5 Points</b>	0 Points
<b>Enrollment contract</b>	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.

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

**7/10 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>	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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Yes	Limited	No
20 Points	15 Points	0 Points

**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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Yes	Limited circumstances	No
20 Points	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.



**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>.