
FLORIDA

FINAL GRADING ANALYSIS

OVERALL SCORE: **318/700 POINTS (45.4%)**
LETTER GRADE: **F**

I. OVERSIGHT BODY: **52.5/100 POINTS**

A. IS THERE A STATUTORILY CREATED OVERSIGHT BODY
THAT IS PUBLICLY ACCOUNTABLE?
52.5/60 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	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
Total Points	60	52.5

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	-5 points

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	0 Points

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
5	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.

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	M
Completion Rate (or Graduation Rate)	M
Advertising Practices	D
Cohort Default Rate	
Accreditation Status	M
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.

E. DOES THE STATE'S OVERSIGHT DISTINGUISH BETWEEN FOR-PROFIT AND NON-PROFIT 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:

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.

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:

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).)

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:

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).)

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:

Florida law does not specify that institutions may or must disclose any of the above essential measures of institutional performance to potential students.

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 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.

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)	
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.)

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:

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.)

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.

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:

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.stml>.)



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	Yes, discretionary but limited	No
30 Points	20 Points	15 Points	5 Points	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	0 Points

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	0 Points

Explanation:

Florida law does not specify that attorney fees are available for students.

D. DOES STATE LAW EXPLICITLY AUTHORIZE
ATTORNEY GENERAL INVOLVEMENT?

0/20 POINTS

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>.)

BONUS POINTS

Florida receives no bonus points.



ILLUMINATING INFORMATION



PENDING LEGISLATION

2017 BILL TEXT FL H.B. 843

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>.

2017 BILL TEXT FL S.B. 186

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>.

2017 BILL TEXT FL H.B. 859

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>.

RECIPROCITY AGREEMENTS

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

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

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>.