

KENTUCKY

FINAL GRADING ANALYSIS

OVERALL SCORE: **349/700 POINTS (49.9%)**
 LETTER GRADE: **F**

I. OVERSIGHT BODY: **55.25/100 POINTS**

A. IS THERE A STATUTORILY CREATED OVERSIGHT BODY
 THAT IS PUBLICLY ACCOUNTABLE?
46.25/ 60 POINTS

Element	Points Available	Type 1	Type 2	Points Awarded (Average)
1. Oversight body is a multi-member board, commission, or panel created by statute	10	10	10	10
2. Oversight body was statutorily created specifically to oversee private postsecondary institutions	10	10	0	5
3. Multi-member board, commission, or panel is the ultimate decision maker (as opposed to a single person, like the head of a department or director)	10	10	10	10
4. Oversight body can engage in rulemaking	10	10	10	10
5. Oversight body's meetings must be open to the public	5	5	5	5
6. Oversight body's meetings must allow public comment	5	0	0	0
7. Oversight body can initiate investigations	5	5	0	2.5
8. Oversight body can impose penalties for violations	5	5	2.5	3.75
Total Points	60	55	37.5	46.25

Explanation:

Kentucky uses two parallel regulatory structures to oversee private postsecondary institutions. Proprietary institutions (Type 1) are private for-profit institutions including but not limited to traditional, Web-based, distance learning, or correspondence schools. Proprietary schools do not include those schools that offer a four-year bachelor's degree. Proprietary schools are regulated by the Kentucky Commission on Proprietary Education, which was created specifically for the purpose of overseeing and regulating proprietary schools. (KRS §165A.320; KRS §165A.340.) The Commission has authority to initiate investigations and to impose penalties on proprietary schools. (KRS §165A.370(2).)

Private postsecondary institutions that offer four-year bachelor's degrees (Type 2) are regulated and overseen by the Kentucky Council on Postsecondary Education, which is charged more broadly with the

oversight of all public postsecondary institutions as well as the oversight of degree-granting private postsecondary institutions. (KRS § 164.020; KRS §165A.320; KRS §164.947.) There is no specific authority granted to the Council to initiate investigations. If it is determined that the public interest requires that sanctions be imposed, the president of the Council shall take one of several specified actions. (13 KAR 1:020, Section 14.)

Both the Commission and the Council engage in rulemaking. (KRS § 165A.340(6)(a); KRS § 165A.400; KRS § 164.947(1); KRS §164.002; KRS § 164.947.)

Kentucky’s Open Meetings Act provides that meetings of both the Commission and the Council are open to the public. However, Kentucky only encourages public bodies to allow public comment; opportunity for public comment is not required under Kentucky’s Open Meetings Act. (KRS §61.805 to §61.850.)

B. STATUTE-SPECIFIED MEMBERSHIP:

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

5/25 POINTS*

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

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

Explanation:

Type 1: Proprietary institutions. Kentucky requires four of the eleven commissioners to be representative of privately owned for-profit postsecondary institutions licensed by the Commission and appointed by the Governor from a list names submitted by the Kentucky Association of Career Colleges and Schools. Four commissioners must be representative of the public at large with a background in education, business, or industry in Kentucky (appointed by the Governor). (KRS § 165A.340.) There is no express prohibition on these four members having a material interest in the for-profit institutions they are regulating. The final three commissioners are the Secretary of the Education and Workforce Development Cabinet or the Secretary’s designee, the President of the Council on Postsecondary Education or the President’s designee, and the Commissioner of Education or the Commissioner’s designee. (KRS § 165A.340.) Given that a quorum exists when a majority of the commissioners are present (6 commissioners), the for-profit owners could constitute a majority of the quorum. Thus, though Kentucky does not specifically mandate that a majority of the Commission be comprised of for-profit interests, there is a possibility that for profit interest may govern this Commission, given the statutory requirements for membership.

Kentucky has recognized the potential conflict in one provision. The Chairperson of the Commission’s Complaint Committee must not be employed by, have ownership interest in, or be otherwise affiliated with a licensed institution, and school representatives who are commissioners must not constitute a majority of the Committee’s membership. (KRS §165A.340(12).)

Type 2: Degree-granting institutions. The Council includes the Commissioner of Education, a faculty member, a student member, and thirteen citizen members appointed by the Governor. The citizen members must be confirmed by the Senate and the House of Representatives, and the Commissioner of Education serves as a nonvoting ex officio member. Citizen council members are selected from a list of nominees provided to the Governor under a nominating process. (KRS § 164.011(1).) The nominating committee is explicitly prohibited from having any conflicts of interests as defined in KRS § 45A.340. The explicit prohibition by incorporation of KRS § 45A.340 is notably absent from the statute related to membership on the Council. However, the conflicts provision may have some applicability to membership on the Council, so Kentucky is given partial credit here for discouraging a for-profit majority.

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

0/10 POINTS*

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

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

Explanation:

Type 1: Proprietary institutions. Kentucky law does not mandate that the Kentucky Commission on Proprietary Education include any consumer advocates.

Type 2: Degree-granting institutions. Kentucky law does not mandate that the Kentucky Council on Postsecondary Education include any consumer advocates.

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

4/5 POINTS*

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

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

Explanation:

Type 1: Proprietary institutions. The majority of the members of the members of the Kentucky Commission on Proprietary Education are appointed by the Governor. (KRS § 165A.340.)

Type 2: Degree-granting institutions. All of the voting members of the Kentucky Council on Postsecondary Education are appointed by the Governor and confirmed by the Senate and the House of Representatives. (KRS § 164.011(1).) The Commissioner of Education is a nonvoting ex officio member.

II. STATE OVERSIGHT—EFFICACY: **49/100 POINTS**

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

4.5/10 POINTS*

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

	Mandatory onsite reviews			Discretionary	None
	Every 2 years or less	Every 3-5 years	Over 5 years	Discretion to conduct onsite reviews	No review specified
Type 1	10 Points	8 Points	5 6 Points	3 Points	0 Points
Type 2	10 Points	8 Points	5 Points	3 Points	0 Points

Explanation:

Type 1: Proprietary institutions. The only physical inspection of a proprietary school’s premises that is mandatory at a set time under Kentucky law occurs during the initial determination for a new proprietary school. (KSA §165A.370(1).) Kentucky receives one point here, because there is a set mandatory onsite review; regular physical inspections are mandatory as well, however, these reviews are not required with any specified regularity (“from time to time”). (KSA §165A.370(2).)

Type 2: Degree-granting institutions. The President of the Council may conduct or have conducted a site visit within ninety working days of the receipt of a full and complete application for a license, a supplementary application, or Application for Annual Maintenance of License or for Renewal of License. (13 KAR 1:020, Section 4.)

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

4/5 POINTS*

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

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

Explanation:

Type 1: Proprietary institutions. The Commission is required conduct unannounced inspections “from time to time” at reasonable times and places without prior notice. (KRS §165A.370(2).)

Type 2: Degree-granting institutions. The President may conduct, or may have conducted, an announced or unannounced site visit of a licensed college during reasonable business hours to inspect the files, facilities, and equipment as well as conduct interviews to determine the college’s compliance with governing regulations. (13 KAR 1:020, Section 4.)

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

20/20 POINTS*

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

	Mandatory			Discretionary	None
	Under 3 years	Every 3-5 years	Over 5 years	Discretion to conduct reviews	No review specified
Type 1	20 Points	15 Points	10 Points	5 Points	0 Points
Type 2	20 Points	15 Points	10 Points	5 Points	0 Points

Explanation:

Type 1: Proprietary institutions. A certificate of approval is good for one school year, and must be renewed each year. (KRS § 165A.360(8); 165A.370(4).)

Type 2: Degree-granting institutions. A college shall submit an Application for Annual Maintenance of License or for Renewal of License by April 1 of each year. (13 KAR 1:020, Section 10.)

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

8/20 POINTS*

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

	8 of 8	7 of 8	6 of 8	5 of 8	4 of 8	3 of 8	2 of 8	1 of 8	0 of 8
Type 1	20 Points	17.5 Points	15 Points	12.5 Points	10 Points	7.5 Points	5 Points	2.5 Points	0 Points
Type 2	20 Points	17.5 Points	15 Points	12.5 Points	10 11 Points	7.5 Points	5 Points	2.5 Points	0 Points

Elements:	Type 1	Type 2
Admission requirements		M
Graduation requirements		M
Placement rate	M	
Completion rate (or graduation rate)		D
Advertising practices	M	
Cohort default rate		
Accreditation status		M
Financial aid policies		M

M=Mandatory and D=Discretionary

Type 1: Proprietary institutions. Proprietary institutions must comply with minimum standards to be issued a certificate: it must not utilize advertising of any type which is untrue, deceptive, or misleading and it must be able to document all advertised claims. (KRS § 165A.370(1)(m).) Further, each institution must publicly disclose information about the job placement rates of graduates in the field of study. Thus, while Kentucky does not specifically require the review of job placement rates as part of the

Commission’s review, the rates are available in the materials the schools are required to provide (minimum requirements), which the Commission does review; as such the Commission has access to review these rates. However, there is no mandate that the Commission review them and there are no penalties stated for a proprietary school’s failure to maintain a reasonable job placement rate. (KRS §165A.340(6)(b).)

Type 2: Degree-granting institutions. Postsecondary institutions are required to submit information on their accreditation status. They are not explicitly required to submit admission requirements or graduation requirements for review with their Application for Annual Maintenance of License or for Renewal, but they are required to submit detailed program information and a copy of their catalog, both of which would include admission and graduation requirements. There is no explicit requirement that colleges submit information on their financial aid policies for review, but these policies are in the institutional catalog and would be available for review. There is no requirement that colleges disclose completion or graduation rates for review by the Council, but there is a broad requirement for colleges to submit student attendance and performance data; because performance data would likely include completion/graduation rates, so Kentucky receives partial credit for this element.

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

7.5/15 POINTS*

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

	Yes, strongly distinguished	Yes, moderately distinguished	Yes, slightly distinguished	Not distinguished
Type 1	15 Points	10 Points	5 Points	0 Points
Type 2	15 Points	10 Points	5 Points	0 Points

Explanation:

Type 1: Proprietary institutions. The Kentucky statute that governs proprietary schools is intended to apply to and regulate for-profit proprietary schools, including but not limited to traditional, Web-based, distance learning, or correspondence schools, which are operated as or are organized for profit, whether profit is ever realized. It does not apply to nonprofit postsecondary institutions. (KRS § 165A.320.)

Type 2: Degree-granting institutions. The only distinction between for-profits and nonprofits is an exemption provided so certain nonprofit religious postsecondary institutions. (13 KAR 1:020, Section 2 (7)(a).)

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

5/10 POINTS*

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

	Yes, mandatory	Yes, mandatory but limited	Yes, discretionary	Yes, discretionary but Limited	No
Type 1	10 Points	7.5 Points	5 Points	2.5 Points	0 Points
Type 2	10 Points	7.5 Points	5 Points	2.5 Points	0 Points

Explanation:

Type 1: Proprietary institutions. The Commission may deny the issuance of a certificate or may establish conditions in conformity with these provisions which shall be met by the school prior to issuance of a certificate. The Commission may issue a conditional license for up to a nine month period of time.

Type 2: Degree-granting institutions. The President of the Council has the option to issue a conditional license for up to two years for a college which has not met all of the standards for licensure at the time the application for maintenance or renewal of license is filed; if the college provides a written business plan to the president demonstrating it will meet the standards for licensure within a period not to exceed one year. (13 KAR 1:020, Section 10 (3)(e).)

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

0/20 POINTS

Yes	No
20 Points	0 Points

Explanation:

Kentucky does not have any special protections in place for veterans who attend private postsecondary institutions, whether those institutions are private for-profit proprietary institutions or private degree-granting institutions.

III. STATE OVERSIGHT—SCOPE AND INCLUSION:

75/100 POINTS

A. ARE EXEMPTIONS TO STATE OVERSIGHT COVERAGE LIMITED?

75/100 POINTS

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

	No exemptions	Few exemptions	Moderate exemptions	Broad Exemptions
Type 1	100 Points	75 Points	50 Points	0 Points
Type 2	100 Points	75 Points	50 Points	0 Points

Explanation:

Type 1: Proprietary institutions. The provisions related to proprietary schools in Kentucky exempt any institution offering a four (4) year bachelor’s degree recognized by the Council on Postsecondary Education. It also exempts any religious or nonprofit institution exempt from taxation under the laws of this state. (KRS 165A.320.)

Type 2: Degree-granting institutions. The provisions of Kentucky law which govern private degree-granting schools exempt certain religious schools (13 KAR 1:020, Section 7); this is the only exemption noted.

Taken together, the laws and regulations covering institutions under the authority of the Kentucky Commission on Proprietary Education and those covering institutions under the authority of the Kentucky Council on Postsecondary Education exempt only nonprofit and religious institutions; thus, Kentucky receives credit for having “few exemptions.”

IV. DISCLOSURE REQUIREMENTS: **31.25/100 POINTS**

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

10/20 POINTS*

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

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

Explanation:

Type 1: Proprietary institutions. A copy of the course outline and a schedule of all tuition and fees, program completion rates, and program placement rates of the school's graduates for the preceding 12 months must be furnished to each student applicant prior to enrollment. (KRS § 165A.370(1)(f).)

Type 2: Degree-granting institutions. There is no indication that these colleges are required to disclose information on institutional performance to students. Schools are required to disclose information to the state and to the federal Department of Education, but not directly to the students.

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

10/60 POINTS

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

Type 1: Proprietary institutions:

Disclosures	Mandatory	Discretionary	Not specified
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:

A copy of the course outline and a schedule of all tuition and fees, program completion rates, and program placement rates of the school’s graduates for the preceding 12 months must be furnished to each student applicant prior to enrollment. (KRS § 165A.370(1)(f).)

Type 2: Degree-granting institutions:

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

Explanation:

There is no indication that these colleges are required to disclose information on institutional performance to students. They are required to disclose information to the state and federal governments, but not directly to the students.

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

11.25/20 POINTS*

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

Type 1: Proprietary institutions:

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

Explanation:

Kentucky requires proprietary schools to provide students with copy of the course outline and a schedule of all tuition and fees, program completion rates, and program placement rates of the school’s graduates for the preceding twelve (12) months be furnished each student applicant prior to enrollment. (KRS § 165A.370(1)(f).) Further, the state requires proprietary schools to adhere to a tuition refund schedule as presented in published form prior to enrollment if the student shall discontinue the training or be excluded therefrom. (KRS § 165A.370(1)(o).)

Type 2: Degree-granting institutions:

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

Explanation:

Colleges that are under the authority of the Council are required to furnish students with the college’s policies on grades, attendance, and conduct; a description of the instructional program; a detailed schedule of all charges, rentals, and deposits; the schedule of refunds of all charges, rentals, and deposits; and the student enrollment application, contract, or agreement prior to enrollment. Kentucky receives full credit for the elements “total cost of program” and “refund information” because it requires a detailed schedule of all charges, and it requires the schedule of refunds. (13 KAR 1:020, Section 8 (12).) Kentucky receives partial credit for “Length of Program” because while the state does not specify that this must be disclosed, it does require a description of the instructional program which might include information on the time required to complete the program. There is nothing in Kentucky law or regulation that requires schools to disclose information about the transferability of credits. While it is true that schools are generally required to provide courses for which credits are transferable among accredited colleges where the program is at a corresponding degree level, there are some exceptions, and all colleges should be required to disclose this information.

V. REGULATION OF RECRUITING PRACTICES:

50/100 POINTS

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

50/100*

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

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

PROHIBITED ACTS

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

1-3=Weak; 3.5-6=Moderate; 6.5-8=Strong

Type 1: Proprietary institutions. Proprietary schools are prohibited from advertising of any type which is untrue, deceptive, or misleading and the school must be able to document all advertised claims. (KRS §165A.370(m).) Credit is given for broad prohibition on “misrepresentation” because the broad prohibitions on any type of untrue and misleading advertising achieve the same purpose.

Type 2: Degree-granting institutions. “Advertisements, announcements, or promotional material of any kind which are distributed in Kentucky shall not contain any statements that are untrue, deceptive, or misleading with respect to the college, its personnel, its services, or the content, accreditation status, or transferability of its courses or degree programs.” (13 KAR 1:020, Section 8 (11).)

**VI. COMPLAINT PROCESS AND RELIEF FOR STUDENTS:
66/100 POINTS**

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

20/20 POINTS*

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

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

Explanation:

Type 1: Proprietary institutions. No proprietary school shall be issued a certificate unless its application is accompanied by a fee as established by the Commission and a good and sufficient surety bond or other collateral in a penal sum of not less than \$20,000. (KRS 165A.360(2).)

Type 2: Degree-granting institutions. Schools under the authority of the Council are required to secure and maintain a surety bond, and to maintain an unrestricted cash reserve equal to or in excess of the largest amount of unearned tuition held by the college at any time during the most recently completed fiscal year, or provide a letter of credit equal to or in excess of the largest amount of unearned tuition held by the college at any time during the most recently completed fiscal year. (13 KAR 1:020, Section 8.)

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

10/20 POINTS*

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

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

Type 1: Proprietary institutions. The surety bond or other collateral required is in place to provide indemnification to any student or enrollee or his parent or guardian who suffers loss or damage as a result of fraud or misrepresentation to the student or enrollee in procuring his enrollment in a course or courses of instruction or study offered or maintained by the proprietary school. (KRS §165.350(4)(a); KRS § 165.360(3)(a).)

Type 2: Degree-granting institutions. No refund for enrollment as the result of misrepresentation is specified. The aggrieved party must attempt to resolve the issue with the college in question, if a

resolution cannot be reached, the aggrieved party may submit a complaint to the President of the Council, who will attempt to facilitate a solution, but shall not take legal action on behalf of either of the parties. (13 KAR 1:020, Section 13.)

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

15/20 POINTS

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

	Yes, full refund	Yes, limited refund	Yes, refund in limited circumstances	No refund Required
Type 1	20 Points	15 Points	10 Points	0 Points
Type 2	20 Points	15 Points	10 Points	0 Points

Explanation:

Type 1: Proprietary institutions. Proprietary schools are required to contribute to a student protection fund which is used to pay off debts, including refunds to students enrolled or on leave of absence, incurred due to the closing of a school, discontinuance of a program, loss of license, or loss of accreditation by a school or program. (KRS § 165A.450.) Therefore, there are provisions in place to provide a refund in the event of insolvency. The amount to be refunded shall equal the actual amount of loans and cash that have been applied to tuition, books, and fees on behalf of the student’s attendance at the school. However, if the claims resulting from a school closing exceed the balance in the fund, the Commission shall provide for a pro rata distribution of the fund balance. (791 KAR 1:035, Section 3(3).)

Type 2: Degree-granting institutions. Colleges are required to guaranty the refund of any unearned tuition. (13 KAR 1:020, Section 8(3).)

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

10/10 POINTS

	2 years or more (or no deadline)	1-2 years	Under 1 year	Not applicable
Type 1	10 Points	5 Points	1 Point	0 Points
Type 2	10 Points	5 Points	1 Point	0 Points

Explanation:

Type 1: Proprietary institutions. There is no deadline specified regarding how long a student has to file a complaint with the Commission.

Type 2: Degree-granting institutions. There is no deadline specified regarding how long a student has to file a complaint with the Council.

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

5/20 POINTS*

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

Type 1: Proprietary institutions:

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

Explanation:

Schools are required to make complaint procedures available to students both in print and web-based materials, but there is no specification that the complaint procedures must be included in the catalog or in the enrollment contract, and there is no specification that an institution’s complaint procedures must include information about filing a complaint with the Commission. (KRS §165A.340.)

Type 2: Degree-granting institutions:

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

Explanation:

There is no indication that colleges must disclose information on how to file a complaint with the Council.

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

6/10 POINTS*

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

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

Explanation:

Type 1: Proprietary institutions. The Commission provides a form electronically (which must be mailed to the address on the form); the form contains a phone number and is accessible from a link on the main Commission webpage.

Type 2: Degree-granting Institutions. The Council maintains a webpage with instructions on how students can file a complaint. The webpage includes an address and an email address.

VII. ENFORCEMENT: 22.5/100 POINTS

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

0/30 POINTS*

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

	Yes, required	Yes, required but limited	Yes, discretionary	Yes, discretionary but limited	No
Type 1	30 Points	20 Points	15 Points	5 Points	0 Points
Type 2	30 Points	20 Points	15 Points	5 Points	0 Points

Explanation:

There is no indication that either proprietary or degree-granting schools which repeatedly produce substandard graduation, job placement rates, and/or cohort default rates will lose state aid as a result.

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

7.5/30 POINTS*

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

	Yes	Limited circumstances	No
Type 1	30 Points	15 Points	0 Points
Type 2	30 Points	15 Points	0 Points

Explanation:

Type 1: Proprietary institutions. “Restitution of any money paid by a student under a contract voided pursuant to this section, may be obtained through action brought by the student in either District Court or Circuit Court in the country of the student’s residence or other appropriate court, at the option of the student.” (KRS § 165A.360.)

Type 2: Degree-granting institutions. There is no explicit private right of action enumerated.

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

0/20 POINTS*

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

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

Explanation:

Kentucky does not explicitly allow attorney fee awards for students who prevail in litigation against either proprietary or degree-granting institutions.

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

15/20 POINTS*

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

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

Explanation:

Type 1: Proprietary institutions. “The Attorney General may, at the request of the Kentucky Commission on Proprietary Education or on his own motion, bring in a Circuit Court appropriate action for the enforcement of the provisions of this chapter.” (KRS § 165A.410.)

Type 2: Degree-granting institutions. Kentucky does not explicitly authorize Attorney General involvement with issues relating to degree-granting private colleges. If it is determined that the public interest requires that sanctions be imposed, the president has the option to “refer the case to other officials to appropriate legal action.” (13 KAR 1:020, Section 14 (4).) Presumably, one of these officials could be the Attorney General. The only explicit mention of any public attorney involvement is in regulation at 13 KAR 1:020, Section 9, which states that if a college which is subject to this administrative regulation fails to apply for a license, the President of the Council shall notify the college by registered mail of the requirement to obtain a license, if a license application is not then received within sixty days, the president must require the chief administrative officer to appear for a hearing, if the chief administrative officer does not appear for the hearing, “the president shall refer the case to the appropriate county attorney for enforcement.”

BONUS POINTS:

Kentucky does not receive any bonus points.



ILLUMINATING INFORMATION



RECIPROCITY AGREEMENTS

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

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

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