

MASSACHUSETTS FINAL GRADING ANALYSIS

OVERALL SCORE: **440.25/700 POINTS (62.8%)**
LETTER GRADE: **D**

I. OVERSIGHT BODY: **48/100 POINTS**

A. IS THERE A STATUTORILY CREATED OVERSIGHT BODY THAT IS PUBLICLY ACCOUNTABLE? **40/60 POINTS**

| Element | Points | Points Type 1 | Points Type 2 | Total Points |
|---|--------|---------------|---------------|--------------|
| 1. Oversight body is a multi-member board, commission, or panel created by statute | 10 | 10 | 0 | 5 |
| 2. Oversight body was statutorily created specifically to oversee private postsecondary institutions | 10 | 0 | 5 | 2.5 |
| 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 | 0 | 5 |
| 4. Oversight body can engage in rulemaking | 10 | 10 | 10 | 10 |
| 5. Oversight body's meetings must be open to the public | 5 | 5 | 2.5 | 3.75 |
| 6. Oversight body's meetings must allow public comment | 5 | 5 | 2.5 | 3.75 |
| 7. Oversight body can initiate investigations | 5 | 5 | 5 | 5 |
| 8. Oversight body can impose penalties for violations | 5 | 5 | 5 | 5 |
| Total Points | 60 | 50 | 30 | 40 |

Explanation:

Massachusetts distinguishes between degree-granting and non-degree-granting private for-profit postsecondary educational institutions in their oversight.

Type 1: Independent degree-granting institutions. Massachusetts has not created a board specifically to oversee private postsecondary institutions; however, the Massachusetts Board of Higher Education is a multi-member public board created to oversee all postsecondary institutions, including private postsecondary institutions. (M.G.L. 15A § 4.) The Board is authorized to engage in rulemaking, initiate investigations, and impose penalties on private postsecondary institutions. (610 CMR 2.07(4)(c); M.G.L. 69 §30A.) Board meetings must be open to the public, and the Board must allow an opportunity for public comment. (M.G.L. 30A § 20.)

Type 2: Private non-degree granting occupational schools. Massachusetts’ Division of Professional Licensure is responsible for the oversight of private occupational schools in the state. The Division was not created specifically to oversee occupational schools, but is designated to oversee private occupational schools. The Division is under the supervision of a commissioner (Director), who is appointed by the governor. (M.G.L.A. 13 § 8.) Within the Division is the Office of Private Occupational School Education, which is responsible for assisting the commissioner in carrying out the powers, duties and responsibilities. Additionally, there is an advisory council on private occupational schools within the Division. (M.G.L.A. 112 § 263.) Some members of the advisory council are designated by the commissioner and others are state officials or their designees.

It is the responsibility of the Division to administer and enforce laws governing private occupational schools; adopt rules and regulations governing the licensure and the operation of private occupational schools; grant licenses to qualified applicants; approve the curriculum, instructors and staff; investigate complaints, conduct inspections, review billing and student records and to review the criminal offender record information of principals, administrators, employees and other individuals related to private occupational schools for purposes of licensure and reviewing complaints. (M.G.L. 112 § 263(b).)

Meetings of the advisory council are open to the public. However, the advisory council is not ultimately responsible for making decisions. The Division head is ultimately responsible for the oversight. Therefore, Massachusetts receives partial credit for this element. There is opportunity for public input and there is some transparency. (M.G.L. 30A § 20.) However, public accountability should be improved.

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 | 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: Independent degree-granting institutions. The Board has 13 voting members. One member is the Secretary of Education, ex officio, or her designee. Of the nine members appointed by the Governor based on geographic location, one must represent organized labor, one must represent the business community, and one must be appointed from a group of students in public, higher education that are nominated by the Student Advisory Committee. The remaining three members represent public institutions of higher education (one member must be from the University of Massachusetts board of trustees, one member must be from the board of trustees from the state university system, and one member shall be from community college board of trustees).

A representative from an independent institution may be appointed. But if appointed, the representative may not be involved in a matter, as a board member, that affects the financial interest of the independent institution. The representative’s affiliation must be recorded in the meeting minutes. (M.G.L. 15A § 4.)

Type 2: Private non-degree granting occupational schools. The governor appoints the commissioner who is charged with oversight of the Division. The commissioner appoints employees to the Office of Private Occupational School Education. The 12 Members of the advisory council are designated as follows: the state auditor, or a designee; the secretary of education, or a designee, the secretary of labor and workforce development, or a designee the undersecretary of the office of consumer affairs and business regulation, or a designee; 8 persons to be appointed by the commissioner of the division, 1 of whom shall be the president of the Massachusetts association of private career schools, or a designee, 1 of whom shall be a president of a non-profit private occupational school and 6 of whom shall have knowledge and understanding of the fiscal, educational, workforce development and consumer protection issues relating to post-secondary education. (M.G.L. 112 § 263(r).) The secretary of education, the secretary of labor and workforce development, the undersecretary of the office of consumer affairs and business regulation are all appointed to those positions by the governor. There is nothing that prohibits or discourages private for-profit postsecondary educational institutions’ interests from dominating the division’s decision-making process.

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

0/10 POINTS

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

Explanation:

Type 1: Independent degree-granting institutions. Massachusetts law does not mandate a consumer advocate position on the Board.

Type 2: Private non-degree granting occupational schools. Massachusetts law does not require the commissioner (Director) or any employees appointed to the office of private occupational school education to be a consumer advocate. Massachusetts requires 6 of the members appointed to the advisory council on private occupational schools to “have knowledge and understanding of the fiscal, educational, workforce development and consumer protection issues relating to post-secondary education,” but does not specifically require a consumer advocate to be appointed to that advisory body. (M.G.L. 112 § 263(r).)

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

3/5 POINTS

| | 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: Independent degree-granting institutions. All board members consist of elected officials or individuals appointed by the Governor. (M.G.L. 15A § 4.)

Type 2: Private non-degree granting occupational schools. As noted above, the commissioner (Director) is appointed by the governor. Ultimately, the commissioner responsible for oversight of the division is responsible for the oversight of private occupational schools. The commissioner is accountable to the governor, who is a publicly accountable official. The employees of the office for private occupational schools are appointed by the commissioner, and only 4 members of the advisory council for private occupational schools are appointed by the governor.

**II. STATE OVERSIGHT—EFFICACY:
32.75/100 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 review specified |
| Type 1 | 10 Points | 8 Points | 5 Points | 3 Points | 0 Points |
| Type 2 | 10 Points | 8 Points | 5 Points | 3 Points | 0 Points |

Explanation:

Type 1: Independent degree-granting institutions. Each proprietary institution shall be subject to review by the Board every 5 years. A visiting committee is appointed to review the institution, but Massachusetts law does not require the committee to perform an onsite review. When a review or inspection is necessary, the Board, in consultation with the applicant institution, may select and appoint a visiting committee to participate in the evaluation. The visiting committee will review the materials submitted by the institution, may visit the institution, and will submit a report to the Board containing recommendations regarding the requested authorization. (610 CMR 2.05(5); M.G.L. 69, § 30; 610 CMR 2.06(2).)

Type 2: Private non-degree granting occupational schools. The division has discretion to conduct onsite reviews. The division may observe and inspect any location used for instructional purpose by a School at any time. These locations include, but are not limited to, the premises of a School and the site of any clinical training or on-site job training. (230 CMR 15.01(12).) Additionally, any person or entity desiring to operate a private occupational school within Massachusetts must submit relevant financial information to the state auditor. The auditor is authorized to review the full records of the school and may carry out on-site reviews of the school.

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

0/5 POINTS

| | 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: Independent degree-granting institutions. Massachusetts law does not require onsite visits to be unannounced and makes provisions for scheduling visits. (610 CMR 2.06(1)(b)(2).)

Type 2: Private non-degree granting occupational schools. Massachusetts law does not require onsite visits to be unannounced and does not indicate that there is discretion to do so. (230 CMR 15.01(12).)

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

17.5/20 POINTS

| | Mandatory | | | Discretionary | None |
|--------|-----------------------|-----------------|--------------|-------------------------------|---------------------|
| | Every 2 years or less | 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: Independent degree-granting institutions. Institutions must submit an annual report to the Board each year. The Board reviews institutions' reports every five years. (610 CMR 2.05(5).)

Type 2: Private non-degree granting occupational schools. Licenses must be renewed every 2 years. (230 CMR 13.05.)

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

9.75/20 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 |
|--------|-----------|-------------|-----------|-------------|-----------|------------|----------|------------|----------|
| 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 Points | 7.5 Points | 5 Points | 2.5 Points | 0 Points |

| Element | Type 1 | Type 2 |
|--------------------------------------|--------|--------|
| Admission requirements | D | |
| Graduation requirements | D | M |
| Placement rate | M | D |
| Completion rate (or graduation rate) | M | D |
| Advertising practices | D | |
| Cohort default rate | | D |

| | | |
|------------------------|---|---|
| Accreditation status | M | M |
| Financial aid policies | D | |

M=Mandatory D=Discretionary

Explanation:

Type 1: Independent degree-granting institutions. When an investigation is undertaken to make a periodic inspection of an institution, the Board may require the institution to provide some or all of the information described in 610 CMR 2.07. (610 CMR 2.09.) Review of admission requirements, graduation requirements, advertising practices, and financial aid policies may be included in the review. There are also several additional requirements specifically related to proprietary institutions. Each year the proprietary institution is required to submit a report in two copies to the Board, reviewing the status of the institution's degree-granting programs. This report, to be titled "annual report," should evaluate the general quality of curricula, the faculty and the student body. It should provide statistical information on the number of students completing the requirements for the degree, job placement and/or transfer statistics, the financial status of the institution, operating costs and revenues. (610 CMR 2.07(4)(b).)

Type 2: Private non-degree granting occupational schools. The division requires private occupational schools to submit several documents for renewal of license. Among these documents, schools must submit a program/course approval form. Program and course approval information includes program completion requirements. Schools must also submit information related to accreditation status. (230 CMR 13.02; 230 CMR 13.04; Massachusetts Division of Professional Licensure Office of Private Occupational School Education: Initial and Renewal License Application and Checklist; Program Course Approval Form: Attachment M). Massachusetts receives partial credit for requiring review of placement rate, completion rate, and cohort default rate because while these are not required as a part of the renewal application or process, Massachusetts requires each school to submit this information to the state annually, so it has provisions in place to monitor these measures (230 CMR 15.05(4).)



Notable Provision:

Massachusetts requires private occupational schools applying for licensure or renewal to submit a certification from the State Auditor that the applicant is financially qualified to operate a School. (230 CMR 13.02.) Each licensee shall be reviewed by the auditor at least once every 3 years. (M.G.L. 112 § 263.) Massachusetts' focus on monitoring the fiscal wellbeing of private occupational schools is something other states should explore and consider modeling.

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

2.5/15 POINTS

| | 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: Independent degree-granting institutions. Although Massachusetts law lays out guidelines that are applicable to all degree-granting postsecondary institutions, it also applies some special additional criteria to for-profit (proprietary) institutions in some circumstances. (610 CMR 2.07(4)(b).)

Type 2: Private non-degree granting occupational schools. Massachusetts does not distinguish between for-profit and non-profit private occupational schools. (M.G.L. 112 § 263(a).)

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 |
|---------------|----------------|----------------------------|--------------------|--------------------------------|-----------------|
| 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: Independent degree-granting institutions. Though Massachusetts monitors the performance of proprietary schools, there is no specific provision requiring increased oversight or scrutiny for schools that perform poorly or for schools that exhibit a pattern of poor performance as reflected in the annual report.

Type 2: Private non-degree granting occupational schools. The division requires private occupational schools to report specified performance measures annually, so it monitors school performance. There is no specific provision requiring increased oversight or scrutiny for schools that perform poorly or for schools that exhibit a pattern of poor performance.

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

0/20 POINTS

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

Explanation:

Type 1: Independent degree-granting institutions. Massachusetts law has no special provisions in place for veterans who attend for-profit independent degree-granting schools.

Type 2: Private non-degree granting occupational schools. Massachusetts law has no special provisions in place for veterans who attend private for-profit occupational schools.

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 |
|---------------|---------------|------------------|---------------------|------------------|
| Type 1 | 100 Points | 75 Points | 50 Points | 0 Points |
| Type 2 | 100 Points | 75 Points | 50 Points | 0 Points |

Explanation:

Type 1: Independent degree-granting institutions. Massachusetts has one minor, but important exemption to Board oversight related to inspections. The law requires the Board to consider an institution’s participation in and/or review of New England Association of Schools and Colleges accreditation visits or reports to constitute periodic inspection of an institution. (610 CMR 2.09). In other instances, states that exempt institutions from oversight due to accreditation receive zero points for this element. Massachusetts receives 75 points because the language that creates this exemption is very narrow. It is tailored in two important ways (1) it is limited to periodic inspections and (2) it is limited to one specific accrediting agency, it does not include, for example, “any nationally recognized accrediting agency”.

Type 2: Private non-degree granting occupational schools. Massachusetts law provides for a few exemptions, such as for “a school providing distance learning or online correspondence services having no place of business in the commonwealth.” (M.G.L. 112 § 263(c)(iv).)

IV. DISCLOSURE REQUIREMENTS: **72.5/100 POINTS**

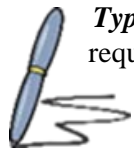
A. ARE INSTITUTIONS REQUIRED TO DISCLOSE INSTITUTIONAL PERFORMANCE MEASURES TO POTENTIAL STUDENTS?

20/20 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 |
| Type 1 | 20 Points | 10 Points | 0 Points |
| Type 2 | 20 Points | 10 Points | 0 Points |

Explanation:

Notable Provisions:



Type 1: Independent degree-granting institutions. Independent degree-granting institutions are required to make specified performance related disclosures at least 72 hours prior to entering into an enrollment agreement with a consumer or prospective student.

Type 2: Private non-degree granting occupational schools. Effective beginning in January 2018, Massachusetts law requires private occupational schools to disclose to current students and, prior to enrollment, prospective students specified performance information in a form acceptable to the division. (230 CMR 15.05(2).)

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

37.5/60 POINTS

Type 1: Independent 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:

Massachusetts requires independent degree-granting institutions to disclose default rates, graduation rates, and placement rates to students at least **72 hours prior** to entering an enrollment agreement. (940 CMR 31.05.) Massachusetts does not require this type of disclosure for license exam passage rates, but it does specify if a school offers or requires students to take an examination, certification examination, or similar test of the students' competence to enter, continue with, or graduate from a program, or to be certified in a particular occupational field, and the examination or test is available directly from an outside vendor, it is an unfair or deceptive act or practice for a school to fail to disclose the actual cost of such examination or test prior to the time of enrollment.

Type 2: Private non-degree granting occupational schools

| 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:

Effective beginning in January 2018, Massachusetts law requires private occupational schools to disclose to current and potential students prior to enrollment, information about cohort default rate, graduation / completion rates, and license exam passage rates (success rates of graduates in obtaining a professional license where applicable). The state further requires relevant employment statistics if the school is required to maintain such information in order to receive federal or state funding or if the school refers to employment prospects or job placement in advertising. (230 CMR 15.05(2).)

Occupational schools are required to disclose placement rates to potential students at least **72 hours prior** to entering into an enrollment agreement. (940 CMR 31.05(4).)

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

15/20 POINTS

Type 1: Independent 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:

Massachusetts law requires disclosure of all education costs and refund information. (610 CMR 2.07(3)(g)(1)(f).) Credit transferability and amount of classes and time required to complete a program need not be disclosed by law.

Note that while there is no requirement that independent degree-granting schools disclose information about the transferability of credits to students prior to enrollment, it is an unfair or deceptive act or practice for a school to represent to a student or prospective student or to any other person that its credits are or may be transferable to another educational institution without: identifying the school(s) with which it has written agreements or other documentation verifying that credits can be transferred to said school(s); and indicating it is aware of no other schools that accept the transfer of its credits. (940 CMR 31.05(7).)

Type 2: Private non-degree granting occupational schools

| 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:

The division requires private occupational schools to provide a written disclosure to students prior to enrollment which includes disclosures related to the cost of the program, notably including financial education disclosures as prescribed by the division for Programs exceeding \$2,000 in total cost. The disclosures must also include refund information, and the length of the program. (230 CMR 15.05(1).)

Note that while there is no requirement that a private occupational school disclose information about the transferability of credits to students prior to enrollment, it is an unfair or deceptive act or practice for a school to represent to a student or prospective student or to any other person that its credits are or may be transferable to another educational institution without: identifying the school(s) with which it has written agreements or other documentation verifying that credits can be transferred to said school(s); and indicating it is aware of no other schools that accept the transfer of its credits. (940 CMR 31.05(7).)



Also notable, the division requires private occupational schools to include in all prerequisites for Program completion and employment in the occupation, including but not limited to whether certification or licensure is required and the conditions to obtain such certification or licensure.

V. REGULATION OF RECRUITING PRACTICES:

87.5/100 POINTS

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

87.5/100

| | 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 |
|--|--------|--------|
| Deceptive or misleading representations using the word “college” or “university” | X | X |
| Misleading institution affiliations (e.g., military, public institution, businesses) | / | X |
| Promise of employment | X | X |
| Compensation for enrollment | | |
| Compensation or “bounty” to recruiters | | X |
| Deception | X | X |
| Misrepresentation | X | X |
| Deceptive or misleading representations re: accreditation | X | X |

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

Explanation:

Type 1: Independent degree-granting institutions. Institutions and their agents are forbidden from engaging in any advertising, recruiting, sales, collection, financial credit, or other practices of any type that are false, deceptive, misleading, or unfair. (610 CMR 2.07(3)(g)(2).) In addition, Massachusetts has several provisions that deal specifically with the precise definition of “university” and “junior college,” and require proprietary institutions to meet very specific criteria in order to use either title in their institution name. (610 CMR 2.07(4).) Massachusetts receives partial credit for prohibiting institution names that misleadingly indicate an institution is affiliated with the military or a public institution because the law prohibits postsecondary institutions from engaging in advertising, recruiting, sales, etc. that is misleading; however, because this is a common abuse, the state should address it more precisely.

Type 2: Private non-degree granting occupational schools. Private occupational schools in Massachusetts are prohibited from representing themselves as a college or university. There are several prohibitions in place related to misleading affiliations, deception, misrepresentation, and deceptive or misleading representations related to accreditation. Finally, there are specific prohibitions on promises of employment and on providing any commission, bonus, or other incentive payment based in any part, directly or indirectly, upon success in securing enrollments or the award of financial aid, to any person or entity who is engaged in any student recruitment or admission activity. (230 CMR 15.01(5); 230 CMR 15.06.)



Notable Provision:

Sales representatives representing private occupational schools in Massachusetts must be licensed, as a condition of licensure, they must complete a division approved training in ethics and they must post a \$1,000 bond. (230 CMR 13.04.)

VI. COMPLAINT PROCESS AND RELIEF FOR STUDENTS:

42/100 POINTS

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

10/20 POINTS

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

Explanation:

Type 1: Independent degree-granting institutions. Massachusetts law does not require a bond or fund as a condition of authorization. Institutions are required to submit an application to the Board (610 CMR 2.07(1), disclose information regarding their financial stability to the Board, and safeguard the needs of students in the event of a closure or merger. (610 CMR 2.07(3)(f).)

Type 2: Private non-degree granting occupational schools. Private occupational schools in Massachusetts must submit a surety in the amount determined by the State Auditor. (230 CMR 13.02(d).)

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 |
|--------|------------------|---------------------|--------------------|
| Type 1 | 20 Points | 10 Points | 0 Points |
| Type 2 | 20 Points | 10 Points | 0 Points |

Explanation:

Type 1: Independent degree-granting institutions. Although Massachusetts law prohibits educational institution from engaging in untrue and misleading advertisements and specifies several types of misleading information are unfair or deceptive acts (610 CMR 2.07(3)(g)(2), 940 CMR 31.04.), it does not specifically require a refund when a student enrolls due to a misrepresentation. Students may file a claim if the institution engaged in an unfair act or practice (see below)

Type 2: Private non-degree granting occupational schools. Although Massachusetts law prohibits educational institution from engaging in untrue and misleading advertisements and specifies several types of misleading information are unfair or deceptive acts (610 CMR 2.07(3)(g)(2), 940 CMR 31.04.), it does not specifically require a refund when a student enrolls due to a misrepresentation. A student may file a claim if the institution engaged in an unfair act or practice. (see below)

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

0/20 POINTS

| | Yes, full refund | Yes, partial 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: Independent degree-granting institutions. In the event of a closure or merger, institutions must notify the Board and safeguard students' needs, which include arranging for transfers and preserving student records. (610 CMR 2.07(3)(f).) The state requires schools to have refund policies which are fair, equitable, and available publicly. (610 CMR 2.07(3)(e)(4).) There are guidelines for the refund policy, but nothing that requires a refund upon closure.

Type 2: Private non-degree granting occupational schools. The division has a policy related to how private occupational schools are required to handle student records upon closure. The state also requires schools to follow specified refund guidelines when a student stops attending or withdraws from a program. There is no specific law or policy that requires a refund upon school closure.

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: Independent degree-granting institutions. Massachusetts law does specify a mandatory timeline for students to file complaints. However, institutions are required to create a general process for handling complaints. (610 CMR 2.07(3)(g)(1)(h).) In addition, when the Board receives a complaint regarding an institution, it forwards the complaint to the institution for resolution. If the institution's response does not satisfy the Board, then the matter is forwarded to the Attorney General's Office. (610 CMR 2.11(1).)

Type 2: Private non-degree granting occupational schools. Massachusetts law does not specify a timeframe for students to file complaints.

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

15/20 POINTS

Type 1: Independent 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:

Institutions must disclose their procedures for handling student complaints prior to student enrollment by

means of the institutions' catalog. Catalogs are commonly available online. (610 CMR 2.07(3)(g)(1).)

Type 2: Private non-degree granting occupational schools

| 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 division requires private occupational schools to establish a written procedure for resolving student complaints. The division requires the procedure to be made available to students at the time of enrollment and upon request, and to be published in the School catalog. Catalogs are commonly available online, the state receives partial credit for the element. (230 CMR 15.07)

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 |
|--------|-------------------|-------------------|-------------------------|---------------------------|----------|
| Type 1 | 2 Points | 2 Points | 3 Points | 3 Points | 0 Points |
| Type 2 | 2 Points | 2 Points | 3 Points | 3 Points | 0 Points |

Explanation:

Type 1: Independent degree-granting institutions. The Board's website has an electronic form, and downloadable forms that have the Board's address, phone number, and email address.

Type 2: Private non-degree granting occupational schools. There is a link to a complaint form online. Students must print the complaint form and mail it.

VII. ENFORCEMENT: 57.5/100 POINTS

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

2.5/30 POINTS

| | Yes, required | Yes, required but limited | Yes, discretionary | Yes, discretionary but limited | No |
|--------|---------------|---------------------------|--------------------|--------------------------------|----------|
| Type 1 | 30 Points | 20 Points | 10 Points | 5 Points | 0 Points |
| Type 2 | 30 Points | 20 Points | 10 Points | 5 Points | 0 Points |

Explanation:

Type 1: Independent degree-granting institutions. Massachusetts law does not require loss of state aid

for poor performance. However, the Board requires proprietary institutions to submit an annual report containing information about graduation rates, placement rates and other statistical information related to institutional performance. (610 CMR 2.07(4).) Massachusetts receives partial credit as the Board monitors institutional performance and has discretion to take action that would lead to loss of state aid.

Type 2: Private non-degree granting occupational schools. The division monitors the performance of private occupational schools, but there is no indication that there is a required loss of state aid for schools that repeatedly produce substandard graduation rates, job placement rates, and/or cohort default rates.

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

15/30 POINTS

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

Explanation:

Type 1: Independent degree-granting institutions. If an independent degree-granting institution engages in an unfair act or practice, a student may file a claim. (M.G.L. 93A, § 9; 940 CMR 31.01 *et seq.*)

Type 2: Private non-degree granting occupational schools. If an independent degree-granting institution engages in an unfair act or practice, a student may file a claim. (M.G.L. 93A, § 9; 940 CMR 31.01 *et seq.*)

Also, any pupil of a private occupational school who is misled by an officer or representative of the school or by any advertisement or circular issued by the school, which representation is false, deceptive or misleading, may recover treble damages or \$10,000, whichever is greater, plus court costs and reasonable attorney’s fees. (M.G.L. 112 § 263(n); M.G.L. 93A, § 9)

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

20/20 POINTS

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

Explanation:

Type 1: Independent degree-granting institutions. If an independent degree-granting institution engages in an unfair or deceptive act or practice, students may recover double or treble damages, costs, and attorney’s fees. (M.G.L. 93A, § 9)

Type 2: Private non-degree granting occupational schools. Any pupil of a private occupational school who is misled by an officer or representative of the school or by any advertisement or circular issued by the school, which representation is false, deceptive or misleading, may recover treble damages or \$10,000, whichever is greater, plus court costs and reasonable attorney’s fees. (M.G.L. 112 § 263(n); 93A, § 9.)

D. DOES STATE LAW EXPLICITLY AUTHORIZE
ATTORNEY GENERAL INVOLVEMENT?

20/20 POINTS

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

Explanation:

Type 1: Independent degree-granting institutions. The law expressly authorizes the involvement of the Attorney General in matters related to independent degree-granting institutions related to consumer protection. (940 CMR 31.00 *et seq.*) Additionally, the Attorney General is involved when the Board is unable to reach a satisfactory resolution with an institution regarding a consumer complaint against the institution. The Attorney General is also involved when a consumer complaint concerns an institution which does not come under the purview of the Board (610 CMR 2.11(1).)

Type 2: Private non-degree granting occupational schools. The law expressly authorizes the involvement of the Attorney General in matters related to private non-degree-granting occupational schools related to consumer protection. (940 CMR 31.00 *et seq.*) Massachusetts law further authorizes Attorney General involvement in relation to defending members of the division. (M.G.L. 112 § 263.)

BONUS POINTS:

Massachusetts receives 25 bonus points because it is not a member of the State Authorization Reciprocity Agreements (SARA). The state does not receive 50 points because it has passed enabling legislation and is in the process of drafting regulations that would allow it to join SARA in the near future.



ILLUMINATING INFORMATION



RECIPROcity AGREEMENTS

Massachusetts is not yet a member of the State Authorization Reciprocity Agreements (SARA). However the state has passed enabling legislation and is in the process of drafting regulations that would allow it to join SARA in the near future.

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

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>.