

# WASHINGTON

## FINAL GRADING ANALYSIS

OVERALL SCORE: **410.75/700 POINTS (58.7%)**  
 LETTER GRADE: **F**

### I. OVERSIGHT BODY: **66.5/100 POINTS**

A. IS THERE A STATUTORILY CREATED OVERSIGHT BODY  
 THAT IS PUBLICLY ACCOUNTABLE?  
**47.5/60 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	0	0	0
3. Multi-member board, commission, or panel is the ultimate decision maker (as opposed to a single person, like the head of a department or director)	10	10	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	2.5	2.5	2.5
7. Oversight body can initiate investigations	5	5	5	5
8. Oversight body can impose penalties for violations	5	5	5	5
<b>Total Points</b>	60	47.5	47.5	<b>47.5</b>

**Explanation:**

Washington divides oversight and regulation of private postsecondary educational institutions between two entities: the Student Achievement Council is responsible for the oversight and regulation of degree-granting private postsecondary institutions (Type 1) and the Workforce Training and Education Coordinating Board is responsible for the oversight and regulation of private vocational schools (Type 2).

*Type 1: Degree-granting private postsecondary institutions.* Among its duties related to monitoring and oversight of higher education, the Washington Student Achievement Council has authority to oversee and regulate degree-granting private postsecondary educational institutions in Washington. The Council has

authority to authorize degree-granting private postsecondary institutions, promulgate rules, investigate any entity it reasonably believes to be subject to its jurisdiction, and impose penalties. (Rev. Code Wash. (RCW) § 28B.85.020; Rev. Code Wash. (RCW) § 28B.85.030; Rev. Code Wash. (RCW) § 28B.85.100.)

Meetings of the Council are subject to Washington’s Open Public Meetings Act and must be open to the public. (Rev. Code Wash. (RCW) § 42.30.010 et seq.) Partial credit is awarded for #6 above because Washington requires agencies to solicit comments from the public on subjects of possible rulemaking. (RCW § 34.05.310.)

**Type 2: Private vocational schools.** As a part of its broader duties and responsibilities in the area of workforce development, the Workforce Education and Training Board has authority to oversee and regulate private vocational schools. The Board has authority to promulgate rules, investigate non-degree-granting institutions it reasonably believes to be under its jurisdiction and coordinates with the Council to regulate degree-granting private vocational schools with respect to degree and non-degree programs. (Rev. Code Wash. (RCW) § 28C.18.060; Rev. Code Wash. (RCW) § 28C.10.030.)

Meetings of the Board are subject to Washington’s Open Public Meetings Act and must be open to the public. (Rev. Code Wash. (RCW) § 42.30.010 et seq.) The Act does not mandate that the public bodies it governs provide an opportunity for public comment during the course of meetings, however partial credit is awarded for #6 above because Washington requires agencies to solicit comments from the public on subjects of possible rulemaking. (RCW § 34.05.310.)

**B. STATUTE-SPECIFIED MEMBERSHIP:**

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

**15/25 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
<b>Type 1</b>	25 Points	20 Points	<b>10 Points</b>	0 Points	-5 points
<b>Type 2</b>	25 Points	<b>20 Points</b>	10 Points	0 Points	-5 Points

**Explanation:**

**Type 1: Degree-granting private postsecondary institutions.** There are nine members of the Council. Five are appointed by the governor from the general public, these five members are appointed based on their knowledge of or experience in higher education, and one must be a student. Any or all of these five members may be an individual affiliated with for-profit postsecondary education interests, but there is no mandate that the governor appoint a representative of a for-profit institution. The other four members are as follows: a representative of an independent nonprofit higher education institution, a representative of the four-year institutions of higher education as defined in RCW 28B.10.016 (state colleges, state universities and regional universities), a representative of the state’s community and technical college

system, a representative of the state’s K–12 education system, and a representative of the state’s community and technical college system. (Rev. Code Wash. (RCW) § 28B.77.005.)

Washington law does not mandate inclusion of any representatives of private for-profit educational institutions and the state has noted that the current Board membership does not include any for-profit members. For-profits do not, and likely will not dominate the Board, however, the points for this element are based on what the law would allow.

**Type 2: Private vocational schools.** While Washington law does not explicitly prohibit a for-profit majority on the Board, the structure of the Board, statutorily, is such that it would be impossible for a majority of Board seats to be filled by individuals affiliated with private for-profit educational institutions. There are checks and balances built into the statute to ensure diversity of perspectives, population groups, geography, and sectors. The Board is tri-partite, with equal voting membership from business, labor, and government (3 members from each sector). The government members are ex officio, the business and labor members are each appointed by the Governor from a slate of candidates selected by the state’s largest employer association and the state’s largest labor organization. The two organizations must act to ensure diverse representation on the Workforce Board. (Rev. Code Wash. (RCW) § 28C.18.020((2)(a).) The structure of the statute has the effect of imposing a prohibition on for-profit membership that would result in domination of the Board by for-profit interests.

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

**0/10 POINTS\***

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

	<b>Yes</b>	<b>No</b>
<b>Type 1</b>	10 Points	<b>0 Points</b>
<b>Type 2</b>	10 Points	<b>0 Points</b>

**Explanation:**

**Type 1: Degree-granting private postsecondary institutions.** Washington law requires the Council to include a student member, but does not require the Council to include an individual with expertise and experience in the area of consumer advocacy.

The state notes that the Board is heavily focused on consumer advocacy and all members of the oversight body are charged with ensuring that this priority is met. (Response from Sam Lofton, Associate Director for Consumer Protection, Washington State.) However, this element requires the inclusion of a consumer advocate—a person with expertise and experience in the area of consumer advocacy—because of the value such an informed perspective can contribute to the important issues the Board must consider related to for-profit postsecondary educational institutions. The mandatory inclusion of a consumer advocate would help to inform and further Washington’s intent to focus on consumer advocacy and protection.

**Type 2: Private vocational schools.** Washington law does not require the Board to include an individual with expertise and experience in the area of consumer advocacy.

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
<b>Type 1</b>	5 Points	<b>3 Points</b>	2.5 Points	1 Point	0 Points
<b>Type 2</b>	<b>5 Points</b>	3 Points	2.5 Points	1 Point	0 Points

**Type 1: Degree-granting private postsecondary institutions.** The majority of the members (5) are appointed by the governor with the advice and consent of the senate. (Rev. Code Wash. (RCW) § 28B.77.005(2)(a).) The remaining 4 members are selected as follows: a representative of an independent nonprofit higher education institution, selected by an association of independent nonprofit baccalaureate degree-granting institutions; a representative of the four-year institutions of higher education, selected by the presidents of those institutions; a representative of the state’s community and technical college system, selected by the state board for community and technical colleges; and a representative of the state’s K–12 education system, selected by the superintendent of public instruction. (Rev. Code Wash. (RCW) § 28B.77.005(2)(b)-(c).)

**Type 2: Private vocational schools.** All nine members of the Board are appointed by the governor with the consent of the senate. (Rev. Code Wash. (RCW) § 28C.18.020(2)(a).)



Note that the business representatives on the Board are selected from among nominations provided by a statewide business organization representing a cross-section of industries. This could result in one or more nominees from a private for-profit postsecondary institution.

**II. STATE OVERSIGHT—EFFICACY: 42.5/100 POINTS**

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

**1.5/10 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
<b>Type 1</b>	10 Points	8 Points	5 Points	<b>3 Points</b>	0 Points
<b>Type 2</b>	10 Points	8 Points	5 Points	3 Points	<b>0 Points</b>

**Explanation:**

**Type 1: Degree-granting private postsecondary institutions.** The Council has discretion to conduct onsite visits to verify or supplement the information provided in an institution’s application.

This discretion to conduct on onsite visit may be exercised any time a concern arises. (Response from Sam Lofton, Associate Director for Consumer Protection, Washington State.)

**Type 2: Private vocational schools.** Washington law does not require the Board to conduct onsite inspections of private vocational schools as a condition of licensure.

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

**0/5 POINTS\***

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

	<b>Required unannounced visits</b>	<b>Discretion to do unannounced visits</b>	<b>No indication</b>
<b>Type 1</b>	5 Points	3 Points	<b>0 Points</b>
<b>Type 2</b>	5 Points	3 Points	<b>0 Points</b>

**Explanation:**

**Type 1: Degree-granting private postsecondary institutions.** Washington law does not mandate, authorize, or prohibit unannounced Council visits to inspect degree-granting private postsecondary institutions. Although Washington’s response indicates that the absence of a prohibition has the effect of allowing the state discretion to conduct unannounced visits, this element is graded on what the law expressly requires or authorizes with regard to unannounced visits.

**Type 2: Private vocational schools.** Washington law does not mandate, authorize, or prohibit unannounced Board visits to inspect private vocational schools.

**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*

	<b>Mandatory</b>			<b>Discretionary</b>	<b>None</b>
	Every 2 years or less	Every 3-5 years	Over 5 years	Discretion to conduct reviews	No review specified
<b>Type 1</b>	<b>20 Points</b>	15 Points	10 Points	5 Points	0 Points
<b>Type 2</b>	<b>20 Points</b>	15 Points	10 Points	5 Points	0 Points

**Explanation:**

**Type 1: Degree-granting private postsecondary institutions.** Washington law requires degree-granting private postsecondary institutions to renew authorization every two years. (WAC § 250-61-170(2)(a).)

**Type 2: Private vocational schools.** Washington law requires private vocational schools to file a license renewal application annually. (Rev. Code Wash. (RCW) § 28C.10.060; WAC § 490-105-041.)

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

**9.75/20 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
<b>Type 1</b>	20 Points	17.5 Points	15 Points	<b>12.5 Points</b>	10 Points	7.5 Points	5 Points	2.5 Points	0 Points
<b>Type 2</b>	20 Points	17.5 Points	15 Points	12.5 Points	10 Points	7.5 Points	<b>5.7 Points</b>	2.5 Points	0 Points

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

*M=Mandatory; D=Discretionary*

**Explanation:**

***Type 1: Degree-granting private postsecondary institutions.*** The Council reviews admission requirements, graduation requirements (degree requirements), accreditation status, and financial aid policies, among other authorization standards related to accreditation, administrative requirements, academic requirements, student services, catalog, cancellation and refund, application, and complaint procedures. (WAC § 250-61-100; WAC § 250-61-085; WAC § 250-61-110(1)(b).)

The Student Achievement Council is tasked with coordinating with the educational data center in Washington to collect data for the state’s accountability monitoring and reporting system. The system tracks several areas of performance for institutions of higher education in Washington. However, there is no specific mandate either in statute or regulation that the Council regularly collect and review these data from the private postsecondary educational institutions under its authority.

***Type 2: Private vocational schools.*** The Board reviews admissions standards (WAC § 490-105-140) and a description of programs (which would include graduation requirements). (WAC § 490-105-041(10).) The Board reviews the school catalog, which is required to include information on the school’s financial aid policies. (WAC § 490-105-042(19).) Therefore, while the Board does not specifically review the school’s financial aid policies, the policies must be available in the catalog and the Board has access during the review process to these policies as a result. The Board also requires private vocational schools to report data on each student. The required data includes information from which the Board could extrapolate graduation rates; therefore, the state receives partial credit for reviewing graduation rates. (WAC § 490-105-160.)

Notably, the Board requires private vocational schools to annually report the veteran status of each student, in addition to various other data. (WAC § 490-105-160(11).)

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

**0/15 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
<b>Type 1</b>	15 Points	10 Points	5 Points	<b>0 Points</b>
<b>Type 2</b>	15 Points	10 Points	5 Points	<b>0 Points</b>

**Explanation:**

**Type 1: Degree-granting private postsecondary institutions.** Washington law does not distinguish in any substantial sense between nonprofit and for-profit degree-granting private postsecondary educational institutions for the purposes of oversight and regulation.

A Washington official has noted that this distinction is becoming increasingly irrelevant because some for-profit institutions have transitioned into and/or spun off into nonprofit entities, in various ways.

**Type 2: Private vocational schools.** Washington law does not distinguish in any substantial sense between nonprofit and for-profit private vocational schools for the purposes of oversight and regulation.

As mentioned above, there is a trend for some for-profit schools operating in multiple states to change to nonprofit status in various ways. Nonprofit schools are not subject to the gainful employment rule requirements.

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

**6.25/10 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
<b>Type 1</b>	10 Points	7.5 Points	<b>5 Points</b>	2.5 Points	0 Points
<b>Type 2</b>	10 Points	<b>7.5 Points</b>	5 Points	2.5 Points	0 Points

**Explanation:**

**Type 1: Degree-granting private postsecondary institutions.** Washington law has recently been amended to allow the Council to identify “at-risk institutions” based on an adverse action or other findings that indicate a heightened potential of closure or other negative impacts on students. An institution designated by the Council as at-risk will be notified of deficiencies and may be subject to additional and/or more frequent reporting requirements as specified by the Council. The Council may also impose restrictions on the offering of new programs, and it may increase security requirements consistent with the risk assessed. Also, the Council may suspend or withdraw authorization. (WAC § 250-61-155.)

**Type 2: Private vocational schools.** The Board may determine that a licensed private vocational school or a particular program of a private vocational school is at risk of closure or termination if there is a pattern

or history of substantiated student complaints filed with the Board. (Rev. Code Wash. (RCW) § 28C.10.050(4)(a).) The Board is authorized to deny, revoke, or suspend the license of any school found to have engaged in a substantial number of unfair business practices or significant unfair business practices. (WAC § 490-105-170(6).) A private vocational school will be deemed to be “at risk” in specified circumstances, such as if financial benchmarks are not met, there are a substantial number of student complaints, or the school has engaged in a pattern of misrepresentation. None of the circumstances specified in Washington’s regulation specifically enumerate performance standards such as low graduation rates, high default rates, or low exam passage rates as triggers for a vocational school’s being deemed “at risk,” however, these performance indicators would likely have an impact on the enumerated factors the Board does consider when determining a school to be “at risk.” When the Board determines that a school or program is at risk, it shall require the school to take corrective action. (Rev. Code Wash. (RCW) § 28C.10.050(5)) and will place it on probation and required to meet specified requirements to demonstrate improvement or the Board will take action to suspend or revoke its license. (WAC § 490-105-175.) The state receives partial credit for this (it would receive full credit if it expressly included performance standards such as graduation rates and cohort default rates, at minimum, as triggers).

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

**5/20 POINTS\***

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

	Yes	No
<b>Type 1</b>	20 Points	<b>0 Points</b>
<b>Type 2</b>	20 Points	<b>10 Points</b>

**Explanation:**

***Type 1: Degree-granting private postsecondary institutions.*** Washington law does not have any protections in place specifically for veterans who attend private postsecondary educational institutions.

As provided by federal law (38 U.S.C. § 3675), Washington has a state approving agency tasked with determining courses of study that may be approved for the enrollment of veterans and which inspects institutions to ensure they are complying with certain established standards. (WAC § 250-50-020.) However, this element is looking for state provisions that require increased scrutiny over private for-profit postsecondary institutions that enroll a large percentage of students from the veteran community, for example, and that go beyond the standard rules put in place for veteran’s educational benefits.

***Type 2: Private vocational schools.*** Washington law does not have any protections in place specifically for veterans who attend private vocational schools. However, the state receives partial credit for this element because it requires private vocational schools to report data related to the veteran status of students. This is a good first step in recognizing if there are a disproportionate number of veterans attending troubled schools.



### 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
<b>Type 1</b>	100 Points	75 Points	<b>50 Points</b>	0 Points
<b>Type 2</b>	<b>100 Points</b>	75 Points	50 Points	0 Points

**Explanation:**

**Type 1: Degree-granting private postsecondary institutions.** Washington exempts public institutions, institutions that grant honorary degrees, some religious institutions that offer only programs devoted to religious or theological objectives, and institutions that offer only credit-bearing seminars or workshops that last no longer than 3 days. Significantly, Washington exempts institutions that are accredited by an accrediting association recognized by the Council if those institutions meet minimum exemption standards adopted by the Council, and if an institution, branch, extension, or facility operating within Washington which is affiliated with an institution operating in another state is a separately accredited member institution of any such accrediting association. (Rev. Code Wash. (RCW) § 28B.85.040(3).) The statute specifies that no exemptions are permanent, and requires the Council to periodically review exempted degree-granting institutions and degree-granting institutions granted a waiver, and continue exemptions or waivers only if an institution meets the statutory or Council requirements for exemption or waiver in effect on the date of the review. (Rev. Code Wash. (RCW) § 28B.85.040(2).)

**Type 2: Private vocational schools.** Exemptions to Board oversight are extremely narrow and include programs regulated by occupational boards, avocational programs, religious institutions which offer only programs religious in nature, continuing education programs, programs certified by the federal aviation administration, and others. (Rev. Code Wash. (RCW) § 28C.10.030.)

### IV. DISCLOSURE REQUIREMENTS: **17.5/100 POINTS**

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

**0/20 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 documents given to students upon request:	No fact sheet required
<b>Type 1</b>	20 Points	10 Points	<b>0 Points</b>
<b>Type 2</b>	20 Points	10 Points	<b>0 Points</b>

**Explanation:**

**Type 1: Degree-granting private postsecondary institutions.** Washington law does not require degree-granting private postsecondary institutions to disclose performance standards (graduation rates, placement rates, cohort default rates, etc.) to potential students.

**Type 2: Private vocational schools.** Washington law does not require private vocational schools to disclose performance standards (graduation rates, placement rates, cohort default rates, etc.) to potential students.

Washington notes that while institutions are not required to disclose performance measures, Washington (like all states) is required by the U.S. Department of Labor to maintain an active Eligible Training Provider List, which includes qualifying education programs. This list is limited to education programs that have met minimum performance thresholds for completion, employment, and earnings. The thresholds are determined by individual states. Only programs that meet minimum thresholds are allowed on the state’s Eligible Training Provider List, and can then qualify for federal training funds or certain state-funded training dollars (this differs from eligibility for federal financial aid in the form of federal loans, for example).

The Workforce Board sets and enforces these standards, and pushes out information on individual program performance results through a public-facing website ([www.CareerBridge.wa.gov](http://www.CareerBridge.wa.gov)). This website is used every day by job counselors and customers in the state’s WorkSource career center system. Career Bridge is also widely used by job counselors and consumers in Washington’s WorkSource career center system as well as by middle and high school students in Washington.

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

**0/60 POINTS\***

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

**Type 1: Degree-granting private postsecondary institutions**

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

**Explanation:**

Washington law does not require degree-granting private postsecondary institutions to disclose performance standards (graduation rates, placement rates, cohort default rates, etc.) to students prior to enrollment.

*Type 2: Private vocational 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:**

Washington law does not require private vocational schools to disclose performance standards (graduation rates, placement rates, cohort default rates, etc.) to students prior to enrollment.

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\***

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

*Type 1: Degree-granting private postsecondary 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:**

Washington law requires that a degree-granting private postsecondary institution's enrollment contract contain a section directly above the student's signature where the student acknowledges that the institution discussed all terms and provisions of the contract with him/her and that the student understands all financial obligations and responsibilities. (WAC § 250-61-100(4).) It further requires each institution to publish its cancellation and refund policies in clear language that can be easily understood by prospective students. No student shall be enrolled without having received the explanatory materials. (WAC § 250-61-130(1).) It also requires a statement explaining the transferability of credits from the institution to other institutions and a complete curriculum, which would indicate the program's length.

*Type 2: Private vocational 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:**

Private vocational schools must disclose specified information, in some combination of a catalog,

brochure, or other written material and furnish the information to each prospective student prior to completing an enrollment agreement. The information must include, among other requirements, the total cost of the program, refund information, and information about the average length of time required for successful completion of programs. (WAC § 490-105-042.) Refund information and total cost must be disclosed in the enrollment agreement as well. (Rev. Code Wash. (RCW) § 28C.10.050; WAC § 490-105-043(d).)



**Notable Provision.** In addition to various other disclosures, Washington law requires private vocational schools to “[d]iscuss with each potential student the potential student’s obligations in signing any enrollment contract and/or incurring any debt for educational purposes. The discussion shall include the inadvisability of acquiring an excessive educational debt burden that will be difficult to repay given employment opportunities and average starting salaries in the potential student’s chosen occupation.” (Rev. Code Wash. (RCW) § 28C.10.050(h).) This would necessarily include a discussion of the total cost of the program. In addition, state law requires institutions to include on each enrollment contract an attachment signed by both the school and the student which stipulates that the school has complied with this requirement and that the student understands and accepts his or her responsibilities in signing any enrollment contract or debt application. (Rev. Code Wash. (RCW) § 28C.10.050 (i).) In 2016, Washington passed a new law further requiring institutions to disclose to an enrolled student who has applied for student financial aid information about student loans, including an estimate of the total amount of student education loans taken out by the student; potential total payoff amount of the student education loans incurred or a range of the total payoff amount, including principal and interest; the monthly repayment amount that the student may incur for the amount of student education loans the student has taken out, based on the federal loan repayment plan borrowers are automatically enrolled in if they do not select an alternative repayment plan; the percentage of the aggregate federal direct loan borrowing limit applicable to the student’s program of study the student has reached at the time the information is sent to the student; and consumer information about the differences between private student loans and federal student loans, including the availability of income-based repayment plans and loan forgiveness programs for federal loans.

## V. REGULATION OF RECRUITING PRACTICES:

**62.5/100 POINTS**

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

**62.5/100 POINTS\***

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

	<b>Yes, strong regulation</b>	<b>Yes, moderate regulation</b>	<b>Yes, weak regulation</b>	<b>No list of prohibited acts</b>
<b>Type 1</b>	100 Points	75 Points	<b>50 Points</b>	0 Points
<b>Type 2</b>	100 Points	<b>75 Points</b>	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)		X
Promise of employment		X
Compensation for enrollment		/
Compensation or “bounty” to recruiters		
Deception (broad prohibition)	X	X
Misrepresentation (broad prohibition)	X	X
Misleading representations re: accreditation	X	X

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

**Explanation:**

**Type 1: Degree-granting private postsecondary institutions.** All publications relating to the institution, including advertisements, catalogs, and other communications shall be accurate and not misleading. (WAC § 250-61-110(7).) This serves a purpose substantially similar to a broad prohibition on deception and misrepresentation. Further, institutions are prohibited from advertising or publicizing that they are approved, recommended, accredited, or otherwise endorsed by the Council. (WAC § 250-61-110(7).)

**Type 2: Private vocational schools.** Washington law prohibits unfair business practices including deception, misrepresentation, or misleading statements or representations regarding the size, qualifications, or affiliations of a school, employment opportunities, or accreditation. Schools cannot use financial aid as an inducement, which is not necessarily offering compensation for enrollment, but it is similar in nature to compensation as an inducement. Further, state law prohibits schools from designating or referring to sales representatives as “counselors,” “advisors,” or similar terms which have the tendency to mislead or deceive prospective students or the public regarding the authority or qualifications of the sales representatives, and from attempting to recruit students in or within forty feet of a building that contains a welfare or unemployment office (although this prohibition does not include leaving or distributing flyers or brochures at these locations). (Rev. Code Wash. (RCW) § 28C.10.110.)

**VI. COMPLAINT PROCESS AND RELIEF FOR STUDENTS:**

**69.25/100 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: Degree-granting private postsecondary institutions.** Washington law requires degree-granting

private postsecondary institutions to have an original surety bond or other acceptable security in lieu of a bond on file with the Council. (Rev. Code Wash. (RCW) § 28B.85.070; WAC § 250-61-140.)

**Type 2: Private vocational schools.** Washington law requires private vocational schools to make cash deposits on behalf of the school into a Tuition Recovery Trust Fund (TRTF) as a condition of obtaining a license and remaining licensed. (Rev. Code Wash. (RCW) § 28C.10.082 & Rev. Code Wash. § 28C.10.084.) The TRTF serves to protect students in the event of a school closure.

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

**10/20 POINTS\***

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

	<b>Yes, full refund</b>	<b>Yes, partial refund</b>	<b>No refund required</b>
<b>Type 1</b>	20 Points	10 Points	<b>0 10 Points</b>
<b>Type 2</b>	20 Points	10 Points	<b>0 10 Points</b>

**Explanation:**

**Type 1: Degree-granting private postsecondary institutions.** It is possible for a student to receive a refund if the student enrolls as the result of misrepresentation. Washington law provides that a person claiming loss of tuition or fees as a result of an unfair business practice may file a complaint with the Council. The complaint shall set forth the alleged violation and shall contain information required by the Council. A complaint may also be filed with the council by an authorized staff member of the Council or by the attorney general. (Rev. Code Wash. (RCW) § 28B.85.090.) The law further provides that if the Council finds that the complainant has suffered loss as a result of the act or practice, it may order full or partial restitution for the loss.” (Rev. Code Wash. (RCW) § 28B.85.090.)

Because Washington law allows (but does not require) a full refund in cases in which a student enrolls as the result of misrepresentation, the state receives partial credit.

**Type 2: Private vocational schools.** Washington law does not specifically mandate a full refund to students who enroll in a private vocational school as the result of misrepresentation. However, student claims may be made to the Tuition Recovery Trust Fund (TRTF) in the event of a school closure and there is not a suitable option for a teach-out at another institution, and to settle claims adjudicated under Rev. Code Wash. (RCW) § 28C.10.120 for claims resulting in an unfair business practice or violation of minimum standards, if the student suffered a financial loss as a result of the act. Unfair business practices are defined at Rev. Code Wash. (RCW) § 28C.10.110, and would include instances of enrollment as a result of misrepresentation. TRTF claims may be partial (prepaid unearned) or full restitution of monies lost to include tuition, books and materials, living expenses and any other reasonable expenses incurred. If a school fails to pay restitution to a student as order by the Workforce Board, the TRTF reimburses the student, and the funds disbursed are recovered by making demand on the school owner, including but not limited to asserting claims as a creditor in a bankruptcy proceeding.

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

**15/20 POINTS\***

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

	Yes, full refund	Yes, partial refund	Yes, refund in limited circumstances	No refund required
<b>Type 1</b>	20 Points	<b>15 Points</b>	10 Points	0 Points
<b>Type 2</b>	20 Points	<b>15 Points</b>	10 Points	0 Points

**Explanation:**

**Type 1: Degree-granting private postsecondary institutions.** The Council requires degree-granting private postsecondary institutions to furnish enrolled students with a written notice explaining the reasons for closure and what procedures they are to follow to secure refunds and their official records, and what arrangements have been made for providing continuing instruction at other institutions. (WAC § 250-61-160(2)(b).) The Council does not require a full refund and there is no mandate that institutions provide a refund, but it does require that institutions provide information about how students are to secure refunds.

**Type 2: Private vocational schools.** Washington law has established a tuition relief fund to reimburse students who are Washington state residents, or agencies or businesses that pay tuition and fees on behalf of Washington students for purposes including but not limited to the settlement of claims related to school closures. (Rev. Code Wash. (RCW) § 28C.10.082; Rev. Code Wash. (RCW) § 28C.10.084.) Private vocational schools must provide students a pro rata refund or must arrange for comparable training at another institution (students can accept or reject the comparable training offered in writing) if the school discontinues training or closes. (WAC § 490-105-130(6)(a); WAC § 490-105-210(5).)

According to the Washington response, since the establishment of the TRTF, all verified claims made on the TRTF have resulted in 100% reimbursement of monies to which the student was entitled under state law.

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

**5/10 POINTS\***

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

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

**Explanation:**

**Type 1: Degree-granting private postsecondary institutions.** Any complaints must be filed within two years after the student’s last recorded date of attendance in order to be considered by the Council, unless a school has discontinued all Washington operations, in which case, complaints must be filed within one year of discontinuance of all Washington operations. (WAC § 250-61-190(4).)

**Type 2: Private vocational schools.** Complaints may be filed only by a current student or exiter of a program or training affected by an unfair business practice. (Rev. Code Wash. (RCW) § 28C.10.120(1).) A complaint must be filed no more than one calendar year following a resident student’s last recorded date of attendance; or the date a distance education school received a student’s last completed lesson; or sixty calendar days from the date a school ceases to provide educational services. (WAC § 490-105-180.)

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

**10/20 POINTS\***

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

**Type 1: Degree-granting private postsecondary institutions**

Medium	Mandatory	Discretionary	Not specified
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:**

Washington law does not require degree-granting private postsecondary institutions to disclose to students information about filing a complaint against an institution on any of the above-listed media.

**Type 2: Private vocational schools**

Medium	Mandatory	Discretionary	Not specified
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: Notable Provision:**



The Board requires private vocational schools to provide the school grievance procedure along with the contact information necessary to file a complaint with the Board in the school catalog, or brochure, or other written material prior to enrollment. (WAC § 490-105-042(9).) Private vocational schools are further required to include this information in the enrollment agreement. Washington recently improved its regulations to ensure that students are aware of the complaint process in place at private vocational schools. WAC § 490-105-043(7) requires private vocational schools to provide and include with the enrollment agreement written disclosure to the students on how to file a complaint with the Workforce Board. The document shows students the process and procedures related to how to file a contact the Workforce Board and how to file a complaint. During the enrollment process, the school is required to discuss the complaint / grievance policy listed in the school catalog. Students and school representatives are required to sign the complaint disclosure addendum included with the enrollment agreement.

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

**9.25/10 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 Points	2 Points	3 Points	3 Points	0
Type 2	2 Points	2 Points	3 Points	3 1.5 Points	0



**Explanation:**

**Type 1: Degree-granting private postsecondary institutions.** The Council maintains a webpage with information about the complaint process and with which entity a student should file a complaint on different issues. The page contains an address and phone number for the Council, an email address specific to complaints and an electronic web form that can be completed and submitted online.

**Type 2: Private vocational schools.** The Board maintains a webpage with information about the complaint process. The page contains a link to a form, in word, and the form provides a mailing address, phone number, a fax number and an email address specific to complaints. Because the form cannot be completed and submitted online, only partial credit is awarded.

**VII. ENFORCEMENT: 77.5/100 POINTS**

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

**7.5/30 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:**

**Type 1: Degree-granting private postsecondary institutions.** Washington law does not explicitly mandate any loss of state aid for degree-granting private postsecondary institutions that repeatedly produce substandard graduation rates, job placement rates, and/or cohort default rates.

**Type 2: Private vocational schools.** When a school is determined to be “at risk” (see explanation at II.F, above), the Board will place it on probation and the school must then meet specified requirements to demonstrate improvement or the Board will take action to suspend or revoke its license. (WAC § 490-105-175.) If the school does not meet the requirements, it will lose its license and as a result, it will lose aid. The state receives partial credit because, while repeated production of poor performance measure would likely contribute to an “at risk” status, no performance measures (graduation rates, default rates, etc.) are specifically enumerated as triggers. The Board has discretion some discretion where these actions are concerned.

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?

**30/30 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: Degree-granting private postsecondary institutions.** Washington law allows students to bring a private right of action against institutions that have violated the laws in place to govern them under Wash. Rev. Code Ann. (RCW) § 19.86.090. The law allows, in some circumstances, for the court to award treble damages.

**Type 2: Private vocational schools.** Washington law allows students to bring a private right of action against institutions that have violated the laws in place to govern them under Wash. Rev. Code Ann. (RCW) § 19.86.090. The law allows, in some circumstances, for the court to award treble damages. In addition, the state specifies that remedies and penalties provided for in Rev. Code Wash. (RCW) § 28C.10.010 et seq. are nonexclusive and cumulative and do not affect any other actions or proceedings. (Rev. Code Wash. (RCW) § 28C.10.220.)

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

**20/20 POINTS\***

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*\*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:**

**Type 1: Degree-granting private postsecondary institutions.** Washington law explicitly allows attorney fee awards for students who prevail in litigation against degree-granting private postsecondary institutions that have violated the laws in place to govern them. (Wash. Rev. Code Ann. § 19.86.090.)

**Type 2: Private vocational schools.** Washington law explicitly allows attorney fee awards for students who prevail in litigation against degree-granting private postsecondary institutions that have violated the laws in place to govern them. (Wash. Rev. Code Ann. § 19.86.090.)

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

**20/20 POINTS\***

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*\*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: Degree-granting private postsecondary institutions.*** Washington law explicitly authorizes attorney general involvement in enforcing the laws in place to govern degree-granting private postsecondary institutions. (Rev. Code Wash. (RCW) § 28B.85.030; Rev. Code Wash. (RCW) § 28B.85.160; Rev. Code Wash. (RCW) § 28B.85.090.)

***Type 2: Private vocational schools.*** Washington law explicitly authorizes attorney general involvement in enforcing the laws in place to govern degree-granting private postsecondary institutions. (Rev. Code Wash. (RCW) § 28C.10.140; Rev. Code Wash. (RCW) § 28C.10.190.)

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## BONUS POINTS:

Washington does not receive any bonus points.



### ILLUMINATING INFORMATION



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## RECIPROCITY AGREEMENTS

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

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

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>.