ALASKA: FINAL GRADING ANALYSIS

OVERALL SCORE: 384/ 700 POINTS 55% LETTER GRADE: F

I. OVERSIGHT BODY: 63 /100 POINTS

A. IS THERE A STATUTORILY CREATED OVERSIGHT BODY THAT IS PUBLICLY ACCOUNTABLE? 50/60 POINTS

Element	Points Available	Points Awarded
Multi-Member Panel / Board created by statute:	10	10
Board statutorily created specifically to oversee private postsecondary institutions	10	5
Board is the decision-maker (<u>NOT</u> a single person – like the head of the department or director)	10	10
Board can engage in rule-making	10	10
Meetings must be open to the public	5	5
Must allow public comment	5	0
Board can initiate investigations	5	5
Board can impose penalties for violations	5	5
Total Points	60	50

Explanation:

Alaska Stat. § 14.48.040 establishes the Alaska Commission on Postsecondary Education, **Alaska Stat. § 14.48.050** specifies its powers and duties, **Alaska Stat. § 14.42.015** specifies membership requirements. Alaska's public meetings law applies and can be found at **Alaska Stat. § 44.62.310**.

For this element, Alaska lost points in two areas. First, "Board statutorily created specifically to oversee private postsecondary institutions" Alaska received only partial credit here because the Commission was created specifically to oversee postsecondary institutions – but not <u>private</u>

postsecondary institutions. Second, it is not clear whether public meetings and specifically whether meetings of the Alaska Commission on Postsecondary Education are required to hear public comment, thus there were no points awarded in the area of public comment.

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

10/25 POINTS

Explicit Prohibition on For-Profit majority + 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
25 Points	20 Points	10 Points	0 Points	-5 points

Explanation:

Alaska has no explicit prohibition on a for-profit majority-dominated Commission. However, the requirements for Commission composition would make for-profit domination unlikely and thus discourages for-profit interest domination of the Commission.

The Commission is required to consist of 14 members as follows: two members of the Board of Regents of the University of Alaska (designated by the members of that body), one person representing private non-profit higher education in the state (appointed by the governor), one person representing the Department of Education and Early Development (selected by the state Board of Education and Early Development), four persons broadly and equitably representative of the general public (appointed by the governor), one member of the Alaska Workforce Investment Board (designated by the members of that body), one person from the members of the local community college advisory councils (appointed by the governor), two members from the legislature, (one of whom shall be appointed by the president of the senate and one by the speaker of the house of representatives), one person who is a full-time student (public member appointed by governor), and one administrator (appointed by the governor) from a proprietary institution of postsecondary education. **Alaska Stat. § 14.42.015**

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

0/10 POINTS

Yes	No
10 Points	0 Points

Explanation:

There is no indication that Alaska requires the oversight body to include a consumer advocate (an individual with expertise and experience in the area of consumer advocacy). **Alaska Stat. § 14.42.015**

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

3/5 POINTS

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

Explanation:

14 members: two members of the Board of Regents of the University of Alaska (designated by the members of that body), one person representing private non-profit higher education in the state (appointed by the governor), one person representing the Department of Education and Early Development (selected by the state Board of Education and Early Development), four persons broadly and equitably representative of the general public (appointed by the governor), one member of the Alaska Workforce Investment Board (designated by the members of that body), one person from the members of the local community college advisory councils (appointed by the governor), two members from the legislature, (one of whom shall be appointed by the president of the senate and one by the speaker of the house of representatives), one person who is a full-time student (public member appointed by governor), and one administrator (appointed by the governor) from a proprietary institution of postsecondary education. Alaska Stat. § 14.42.015

II. STATE OVERSIGHT – EFFICACY: 43/100 POINTS

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

3/10 POINTS

Mandatory On-Site Reviews			Discretionary	None
Every 2 years or less	Every 3-5 years	Over 5 years	Discretion to Conduct On-Site Reviews	No On-Site Review Specified
10 Points	8 Points	5 Points	3 Points	0 Points

Explanation:

During the applicant status period, the commission will establish, *as considered necessary*, a date for on-site visitation and evaluation of the applicant institution. **20 AAC §17.020(e)** – Initial authorization valid for not more than 2 years. The state receives points for discretionary on-site review every five years.

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

0 / 5 POINTS

Required Unannounced	Discretion to do	No indication
Visits	Unannounced Visits	No marcation

5 Points	3 Points	0 Points
0 1 011100	0 1 011100	0 1 011100

Explanation:

Schools must be reviewed prior to reauthorization, but there is NO indication that an on-site visit is required (announced or unannounced).

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

15/20 POINTS

	Mandatory			None
Every 2 years or less	Every 3-5 years	Over 5 years	Discretion to Conduct On-Site Reviews	No On-Site Review Specified
20 Points	15 Points	10 Points	5 Points	0 Points

Explanation:

Initial authorization valid for not more than 2 years, reauthorizations valid for not more than 5 years.

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

10/20 POINTS

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

Element	
Admission Requirements	
Graduation Requirements	
Placement Rate	M
Completion Rate (or Graduation Rate)	M
Advertising Practices	M
Cohort Default Rate	
Accreditation Status	M
Financial Aid Policies	

M = *Mandatory*; *D* = *Discretionary*

Explanation:

The requirements for review clearly defined in **20 Alaska Admin. Code 17.062** and **Alaska Stat. § 14.48.060** include review of placement rate, completion (graduation) rate, advertising practices, and accreditation status.

E. DOES THE STATE'S OVERSIGHT DISTINGUISH BETWEEN FOR-PROFITS AND NON-PROFITS?

10/15 POINTS

Yes, strongly distinguished	Yes, moderately distinguished	Yes, Slightly Distinguished	Not distinguished
15 Points	10 Points	5 Points	0 Points

Explanation:

"non-profit postsecondary educational institutions offering undergraduate or graduate educational programs, from a facility in this state, that are acceptable for credit toward an associate, bachelor's, or graduate degree;" may be exempt "from some or all of the provisions of this chapter" **Alaska Stat. §14.48.030(b)(3)**

F. DOES THE STATE REQUIRE INCREASED OVERSIGHT/SCRUTINY OF PRIVATE POSTSECONDARY INSTITUTIONS BASED ON POOR PERFORMANCE? 5/10 POINTS

	Yes, Mandatory	Yes, Mandatory but Limited	Yes, Discretionary	Yes, Discretionary but Limited	No
I	10 Points	7.5 Points	5 Points	2.5 Points	0 Points

Explanation:

There is no mandatory oversight based on performance. The Commission may grant initial authorization for "up to two years" and subsequent authorization for "up to five years" (..."The term for which an initial authorization is given may not exceed two years, and may be issued for a lesser period of time. A subsequent authorization may be issued for a period up to five years." Alaska Stat. § 14.48.070(d)). Additionally, 20 AAC § 17.062 lays out postsecondary institutions' reporting requirements. Finally, Alaska Stat. § 14.48.50 states that the Commission may "exercise other necessary powers and duties in conformity with the provisions of this chapter that, in the judgment of the commission, are necessary to carry out the provisions of this chapter." These statutes and regulations, taken together, give the Commission some necessary information and discretion to subject poorly performing schools to additional inspections and scrutiny. However, heightened scrutiny for poorly performing institutions and /or programs is not <u>mandated</u> anywhere in the law or regulations.

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

0/20 POINTS

Yes	No
10	0

STATE OVERSIGHT - SCOPE & INCLUSION: **50 /100** POINTS III.

A. ARE EXEMPTIONS TO STATE OVERSIGHT COVERAGE LIMITED? **50/100 POINTS**

No Exemptions	Few Exemptions	Moderate Exemptions	Heavy Exemptions
100	75	50	0

Explanation:

Alaska allows for moderate exemptions. Accreditation by national or regional accrediting agencies recognized by the Commission may be accepted by the Commission as evidence of compliance with the minimum standards (criteria for authorization to operate) established under Alaska Stat. § 14.48.060 as authorized in Alaska Stat. § 14.48.050(1). *However*, the commission may require further evidence and make further investigation as may be necessary. Accreditation by a recognized, specialized accrediting agency may be accepted as evidence of compliance only as to the portion or program of an institution accredited by the accrediting agency if the institution as a whole is not accredited. Alaska Stat. § 14.48.060(c) Thus, there is limitation in that it is within the discretion of the Commission whether to accept accreditation as evidence of compliance. If it were mandatory, Alaska would not receive any points here. Otherwise, exemptions are few and reasonable: Alaska Stat. §14.48.030. Exemptions. (a) The following educational programs, and institutions providing only the following educational programs, are exempt from the provisions of this chapter:(1) instruction provided at a level from preschool through grade 12, including preparation for general equivalency diploma examinations;(2) a program operated by the United States; (3) a program that does not offer educational credentials and is provided only to prepare individuals to take graduate examinations; and (4) a program that does not offer educational credentials and is only avocational or recreational in nature.

IV. DISCLOSURE REQUIREMENTS: 47.5/100 POINTS

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

10 /20 POINTS

Yes, Mandatory	Yes, Discretionary	None
Fact sheet or equivalent required to be given to students:	Fact sheet or documents given to students upon request:	No fact sheet required
20 Points	10 Points	0 Points

Explanation:

Alaska Stat. § 14.48.060(b)(4) requires institutions to provide a catalog or brochure containing

information describing the programs offered, program objectives, length of program, schedule of tuition, fees, and all other charges and expenses necessary for completion of the course of study, cancellation and refund policies, and <u>other material facts concerning the institution and the program or course of instruction that are reasonably likely to affect the decision of the student to enroll, together with any other disclosures specified by the commission by regulation; and that this information is provided to prospective students before enrollment. However, nowhere is it specified whether cohort default rate (CDR), graduation rates, employment rates, or exam passage rates are considered to be "material facts concerning the institution and the program or course of instruction that are reasonably likely to affect the decision of the student to enroll."</u>

More specific disclosures are required, but only to the Commission. 20 AAC § 17.062 (a) states that an institution shall submit with its request for renewal of authorization to operate under 20 AAC § 17.025, a report for each vocational education program offered, of the number of students who started the program; successfully completed the program; discontinued the program; were employed in the field of study within three months of completing the program; reported on the institution's exit survey that the program met expectations, and that they were satisfied overall with the institution. 20 AAC §17.070(h) States that "if a postsecondary educational institution represents that it offers a placement service to its graduates or will otherwise secure or assist them to find employment, a detailed and explicit description of the extent and nature of this service or assistance must be contained in its catalog, including the most recently completed placement rate calculated under (j) of this section." NOTE, however that 20 AAC § 17.062(d) specifies that an institution shall provide reports prepared under (a) of this section to prospective students upon request. Therefore, Alaska recieves partial credit for this element for providing some of the information upon request.

B. WHICH INSTITUTIONAL PERFORMANCE DISCLOSURES ARE REQUIRED TO BE GIVEN TO STUDENTS PRIOR TO ENROLLMENT? 20/60 POINTS

Disclosures	Mandatory	Discretionary	Not Specified
Cohort Default Rate (CDR)	10 Points	5 Points	0 Points
Graduation / Completion Rates	10 Points	5 Points	0 Points
Placement Rates	10 Points	5 Points	0 Points
Wage Information	10 Points	5 Points	0 Points
License Exam Passage Rates	10 Points	5 Points	0 Points
Methods & Sources used to Calculate	10 Points	5 Points	0 Points

Explanation:

See explanation for previous element.

Because disclosures related to completion rates, license exam passage rates, and employment are required to be provided to the Commission, but are only provided to students upon request, these elements are discretionary and the state receives 5 points for each of these elements. **20 AAC § 17.062** specifies the data postsecondary institutions are required to provide and requires substantiating documentation, and also receives partial credit for "methods and sources" used.

Because the "other material facts" required to be provided in the catalog or brochure prior to enrollment are not specified, the state receives no further points.

C. DOES THE STATE REQUIRE SCHOOLS TO INCLUDE ELEMENTS ESSENTIAL FOR STUDENTS TO MAKE AN INFORMED DECISION IN THE ENROLLMENT CONTRACT?

17.5/20 POINTS

Element Description	Mandatory	Discretionary	Not Specified
Total Cost of Program	5 Points	2.5 Points	0 Points
Refund Information	5 Points	2.5 Points	0 Points
Transferability of Credits	5 Points	2.5 Points	0 Points
Length of Program	5 Points	2.5 Points	0 Points

Explanation:

20 AAC §17.085 Contains requirements related to disclosures about refund information, tuition and fees to be included in the enrollment contract – but not about transferability of credits. Information about transferability of credits can be found in the student catalog, but is not required in the enrollment contract or otherwise to be provided prior to enrollment. **20 AAC §17.075(20)** The catalog may be provided prior to enrollment, so the state receives partial credit for providing information about transferability of credits because the information is required in the catalog.

V. REGULATION OF RECRUITING PRACTICES: 75 /100 POINTS

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

75/100 POINTS

Yes, strong regulation	Yes, Moderate Regulation	Yes, weak regulation	No list of prohibited acts
100 Points	75 Points	50 Points	0 Points

PROHIBITED ACTS

Included in list of Prohibited Acts	
Misleading representations using the word "college" or "university"	
Misleading Institution Affiliations	Х
(re: military, pubic institution, business establishments)	
Promise Employment	Х
Compensation for enrollment	/
Compensation or "bounty" to recruiters	

Deception	X
Misrepresentation	X
Misleading representations re: accreditation	Х

Explanation:

20 AAC §17.070: Contains a long list of prohibited acts related to recruiting / advertising / soliciting. While it does not prohibit compensation for enrollment, it does put limits on it, so the state receives partial credit because it is regulating the practice. The regulations do not however include a prohibition on payment (to agents) based on number of enrollments. Additionally, a general prohibition is found at **Alaska Stat. §14.48.060(b)(9)** ("neither the institution nor its agents engage in advertising, sales, collection, credit, or other practices which are false, deceptive, misleading, or unfair"). **20 AAC §17.120**

VI. COMPLAINT PROCESS & RELIEF FOR STUDENTS:

65.5/100 POINTS

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

20/20 POINTS

Yes	No
20 Points	0 Points

Explanation:

Alaska requires a bond as a condition of authorization. 20 AAC § 17.045

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

10/20 POINTS

Yes, Full Refund	Yes, Partial Refund	No Refund Required
20 Points	10 Points	0 Points

Explanation:

There are provisions in Alaska's law that allow for indemnification, but nothing that mandates a full refund in cases in which students enroll as a result of misrepresentation. Recovery may be limited. See **Alaska Stat §14.48.100(a)** "...The bond shall be executed by the applicant as principal and by a surety company qualified and authorized to do business in this state and shall be conditioned to provide *indemnification to any student or enrollee, or the student's or enrollee's parent or guardian, or class thereof, determined to have suffered loss or damage as a result of an act or practice which is a violation of this chapter by the postsecondary educational institution* and that the bonding company shall pay a final non-appealable order of the commission or judgment of a court of this state having jurisdiction, upon receipt of written notification of the order or judgment. The aggregate liability of

the surety for the bond of the institution or agent involved in the order or judgment *may not, in any event, exceed the amount of the bond.*"

C. DOES THE STATE REQUIRE INSTITUTIONS TO REFUND TUITION IN THE EVENT OF CLOSURE? 15/20 POINTS

Yes, Full Refund	Yes, but refund is limited in some way	Maybe. Provisions in place for a refund in very limited circumstances	No Refund Required
20 Points	15 Points	10 Points	0 Points

Explanation:

20 AAC §17.117(b): No later than 30 days after an institution closes or ceases offering a program in which a student is enrolled, the institution shall provide full refunds of all tuition and other expenses paid to the institution by the student or other funding source on behalf of the student, *unless* it is able to provide a student with an alternative program, approved by commission staff, that is substantially equivalent as to program content; quality of instruction and equipment; period of program; accreditation status; credentials; accessibility; placement assistance; facility; and location, as compared to the location of the student's current institution. It is not clear whether or not the student has an option to accept the alternate arrangements as opposed to the refund.

D. DOES THE STATE ALLOW STUDENTS AMPLE TIME TO MAKE A COMPLAINT? 1/10 POINTS

2 years or more (or no deadline)	Up to 1 year	Less than 1 year	Not Applicable
10 Points	5 Points	1 Point	0 Points

Explanation:

20 AAC §17.140"(a) The commission will file for the record, but will not take action on complaints that (1) are filed more than six months after the end of the enrollment period to which the complaint refers, more than six months after the date an institution ceases operations, or more than six months after the complainant ceases to attend an institution, whichever date is earliest;"

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

12.5/20 POINTS

Medium	Yes	Discretionary	No
Catalog	10 Points	5 Points	0 Points

Website	5 Points	2.5 Points	0 Points
Enrollment Contract	5 Points	2.5 Points	0 Points

Explanation:

20 AAC §17.075 (19) requires student catalog to include "a grievance procedure that includes the availability of appeal to the commission" Since it is common practice for schools to post their catalogs or information similar to that in their catalogs on the school website, the state gets partial credit for requiring the information on an institution's website.

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

7/10 POINTS

Yes, w/ address	Yes, with phone #	Yes, with email address	Yes, with electronic form	No
2 Points	2 Points	3 Points	3 Points	0 Points

Explanation:

Information about the complaint process is available as required in school catalogs, but is not easily accessible online. It is not on the home page of the Alaska Commission on Postsecondary Education – a search on the site under "complaints" will bring the user to this page:

http://acpe.alaska.gov/ABOUT US/Consumer Protection which does not contain a form, but directs students to an email which can be contacted to request a complaint form. Other contact information is also provided – but no online form is readily available absent an email request.

VII. ENFORCEMENT: 40 /100 POINTS

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

5/30 POINTS

Yes, Required	Yes, Required but limited	Yes, Discretionary	Yes, Discretionary but limited	No
30 Points	20 Points	10 Points	5 Points	0 Points

Explanation:

There is nothing in Alaska's law that requires a loss of state aid if a postsecondary institution repeatedly produces substandard graduation rates, job placement rates or cohort default rates. A postsecondary institution may lose its state authorization if it is in violation of governing statutes and this would impact its receipt of state and federal aid; however none of those <u>state</u> statutes define acceptable graduation rates, job placement rates or cohort default rates.

Alaska Stat. § 14.48.50 states that the Commission may "exercise other necessary powers and duties in conformity with the provisions of this chapter that, in the judgment of the commission, are necessary to carry out the provisions of this chapter." This statute may allow the Commission some discretion in limited circumstances to revoke authorization or invoke other actions due to repeated poor performance that would result in a postsecondary institution's loss of state aid, so 5 points are awarded.

B. DOES THE STATE ALLOW STUDENTS A PRIVATE RIGHT OF ACTION AGAINST INSTITUTIONS WHO HAVE VIOLATED THE LAWS / REGULATIONS IN PLACE TO GOVERN THEM?

15/30 POINTS

Yes	Limited Circumstances	No
30 Points	15 Points	0 Points

Explanation:

Alaska receives partial credit here because while there is no explicit right private right of action, the enrollment contract *may not provide* that the student waives the right to assert against the institution, or the institution's assignee, any claim or defense the student may have against the school arising under the contract. A provision in a contract in which the student agrees to such a waiver is unenforceable.

C. IS THERE AVAILABILITY OF ATTORNEY'S FEES FOR STUDENTS? 0/20 POINTS

Yes	Limited	No
20 Points	15 Points	0 Points

Explanation:

Alaska law does not specify whether or not attorney's fees are available for postsecondary students in any circumstances.

D. DOES THE STATE ALLOW ATTORNEY GENERAL INVOLVEMENT? **20/20 POINTS**

Yes	Limited Circumstances	No
20 Points	10 Points	0 Points

Explanation:

Alaska Stat. §14.48.180(a) The Attorney General, at the request of the commission or on motion of the attorney general, may bring an action or proceeding in a court of competent jurisdiction for the enforcement of the provisions of this chapter.

BONUS POINTS

Alaska does not receive any bonus points.



PENDING LEGISLATION

Pending Legislation:

Alaska SB 3 (Introduced January 20, 2015) This bill would amend Alaska Stat. §§ 14.03.078; 14.03.115; 14.07.030; 14.07.165; 14.40.170; 14.40.600; 14.42.030; 14.45.110; 14.48.060; 23.15.580; 23.15.652; 44.35.20; 47.14.150; 47.14.400; 47.21.20...

The legislation would make changes related to the collection, storage, and handling of student data, and would not substantially impact Alaska's grade. The last action on the bill was referral to the education committee on 1/20/2015 (as of 5/5/2016).

RECIPROCITY AGREEMENTS

Alaska is a member of National Council for State Authorization Reciprocity Agreements (NC-SARA a.k.a. SARA).

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

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