
ALABAMA

OVERALL SCORE:
264.5 / 700 POINTS
38%
LETTER GRADE: **F**

I. OVERSIGHT BODY: **50 / 100 POINTS**

A. IS THERE A STATUTORILY CREATED OVERSIGHT BODY THAT IS PUBLICLY ACCOUNTABLE?

45 / 60 POINTS

Element	Points Available	Points Awarded
Multi-Member Panel / Board created by statute	10	10
Board/Panel was statutorily created specifically to oversee private postsecondary institutions	10	0
Board is the decision-maker (<i>NOT</i> 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 (Subject to Alabama's Open Meetings Act 2005 Al. Pub. Act 40)	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	45

Explanation:

The oversight body responsible for Alabama's private postsecondary institutions is the Alabama Education Board. The board was not statutorily created specifically to oversee private postsecondary institutions; it was created with a much broader mandate. The Board is the final decision-maker. The Chancellor may make some decisions, but these decisions are subject to approval by the board. Meetings of the board must be public, but the board is not required to provide an opportunity for public comment at meetings. The Department of Postsecondary

Education is tasked with initiating investigations and investigating complaints, and the Department of Postsecondary education is directly responsible to the Board of Education.

Alabama loses points in two important areas. (1) There is no board created for the express purpose of oversight of private postsecondary institutions. (2) The board is not mandated to allow public comment at meetings.

B. STATUTE-SPECIFIED MEMBERSHIP:

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

0/ 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:

Members of Education board are elected in a general election so they are publicly accountable and this discourages a for-profit majority interest – however, the Department of Postsecondary Education is **required to have an advisory committee, which can review any action the board takes and offer recommendations. The advisory committee is comprised of owners or operators of private postsecondary institutions and others with knowledge.** The advisory board has no power to regulate – and the Board of Education is the publicly accountable decision maker.



There is a danger with the structure in Alabama. An advisory committee consisting of a majority of for-profit interests is concerning. The advisory board must not have too much power here. The ability to review and offer recommendations must be just that. The Board of Education cannot simply rubber stamp everything the advisory board recommends, and should proceed with caution. While it is certainly advisable to hear from industry insiders, the composition of this advisory committee may lead such a committee to recommend policy that is good for industry profitability, while being detrimental to the protection and education of the students that industry serves.

Ala. Code § 16-46-7 requires the Chancellor of the Department of Postsecondary Education in Alabama to appoint an advisory committee consisting of owners or operators of private postsecondary institutions, however, it does not similarly specify inclusion of a consumer advocate on the committee, only “others with knowledge.” Alabama’s students would be better protected and its Board of Education and Department of Postsecondary Education would be more well-informed and advised if the advisory committee were required to include at least one consumer advocate.

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

0/10 POINTS

Yes	No
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10 Points	0 Points
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Explanation:

The Board is elected and there are no requirements related to the mandatory inclusion of a consumer advocate. Notably, the advisory committee, which reviews any action the board takes and offers recommendation does *not* specify the inclusion of a consumer advocate. The advisory committee does, however, specify the inclusion of owners or operators of private postsecondary institutions.

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

5/5 POINTS

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

Explanation:

The Board of Education is ultimately responsible for oversight and regulation – they are publicly elected – thus, answerable directly to the people in the state.

II. STATE OVERSIGHT – EFFICACY: **12/100 POINTS**

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

0/10 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 Point	3 Points	0 Points

Explanation:

There is no requirement in Alabama that the Board conduct onsite visits as part of the review process.

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

0/ 5 POINTS

Required Unannounced Visits	Discretion to do Unannounced Visits	No indication
5 Points	3 Points	0 Points

Explanation:

There is no indication in the law or the regulations that any onsite inspections, if they do occur, must be unannounced.

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

5 / 20 POINTS

Mandatory			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
20 Points	15 Points	10 Points	5 points	0 Points

Explanation:

“...A **bi-annual** review of each school licensed under the Code of Alabama Title 16, Chapter 46 (1975) **may** be made at the time of license renewal to determine whether operating conditions meet the requirements for continued operation.” **Alabama Dept. of Education: Guidelines for Policy 720.01: Private School Licensure in Alabama.**

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

2 / 20 POINTS

All 8 Required	7 of 8	6 of 8	5 of 8	4 of 8	3 of 8	2 of 8	1 of 8	0 of 8
20 Points	17.5 Points	15 Points	12.5 Points	10 Points	7.5 Points	5 Points	2.5 Points	0* Points (+ 2 points)

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

M=Mandatory; D=Discretionary

Explanation: Two elements are discretionary for licensure, because review is discretionary, Alabama receives only partial credit for each element.

E. DOES THE STATE’S OVERSIGHT DISTINGUISH BETWEEN FOR-PROFITS AND NONPROFITS?

5 / 15 POINTS

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

Explanation:

There are some narrowly tailored exemptions for nonprofits, but beyond that, there is no significant distinction in the regulation between for-profits and nonprofits.

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

0/10 POINTS

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

Explanation:

There is no mention in Alabama statute or regulations about increased scrutiny or increased oversight (either mandatory or discretionary) for poorly performing private post-secondary institutions.

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

0/20 POINTS

Yes	No
20 Points	0 Points

Explanation:

There is no mention in Alabama statute or regulations regarding any special protections in place for veterans who attend or who are potential students at private postsecondary institutions in the state.

III. STATE OVERSIGHT - SCOPE & INCLUSION:

50 / 100 POINTS

A. ARE EXEMPTIONS TO STATE OVERSIGHT COVERAGE LIMITED?

50 / 100 POINTS

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

Explanation:

Some for-profit (private) schools are exempt from state oversight – notably “Any private school conducting resident courses whose principal base of operation is within the State of Alabama which has been in continuous operation for 20 years or more as of July 1, 2004, and that held accreditation as of that date by an accrediting agency recognized by the United States Department of Education”and – “Any private postsecondary institution conducting resident courses that has been in operation within Alabama for at least five years as of July 1, 2004, and that is accredited by an accrediting agency recognized by the United States Department of Education ... Upon proof of such accreditation, ...shall be issued a license and representative permits after required fees are paid to the Alabama Department of Postsecondary Education.

IV. DISCLOSURE REQUIREMENTS: 15 / 100 POINTS:

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

0/20 POINTS

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

Explanation:

Alabama is required to produce an annual report card. However, the report card is difficult for the general public to locate and access. The report card must reflect institutional performance.

Guidelines for policy 720.01 However, there are no requirements that Alabama provide students with a fact sheet, either mandatorily or by request, and as mentioned above, the report card is not easily accessible.

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

5/60 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:

As previously discussed, there are requirements in place with regard to a report card. There are, however, no requirements in place to ensure institutional disclosure of the report card to students. There are requirements in place for graduation rates to be reported. (**Guidelines for Policy 901.01: Institutional Effectiveness**), but again, there are no requirements in place to ensure disclosure to students. The law is not clear with regard to disclosure of cohort default rates, placement rates, wage information, debt-to-income ratios or methods and sources used to calculate.

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

10/20 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
Amount of classes / time required to complete program	5 Points	2.5 Points	0 Points

Explanation:

Institutions are required to disclose conditions for enrollment in and completion of courses of instruction, itemized costs, terms of payment, and other conditions the school may desire to establish as well as terms of payment and the total amount paid in the enrollment contract. Policies related to course cancellation, tuition fees, and refund must be clearly stated in each private school catalog, bulletin, or brochure – but are not required in the enrollment agreement. There is no indication about if or where disclosures about transferability of credits is required. **Code of Ala. § 16-46-5(i)(6) and Guidelines for Policy 720.01**

V. REGULATION OF RECRUITING PRACTICES:

50 /100 POINTS

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

50/100

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 (re: military, public institution, business establishments...)	
Promise Employment	X
Compensation for enrollment	
Compensation or “bounty” to recruiters	
Deception	X
Misrepresentation	X
Misleading representations re: accreditation	

Explanation:

See prohibitions in **Code of Ala. § 16-46-4**

VI. COMPLAINT PROCESS & RELIEF FOR STUDENTS:
77.5 / 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:

Alabama requires a surety **Code of Ala. § 16-46-5 (e)**

B. DOES THE STATE REQUIRE A REFUND OF TUITION IF A STUDENT ENROLLS AS THE RESULT OF MISREPRESENTATION?
20 / 20 POINTS

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

Explanation:

Alabama requires a full refund for Academic Fraud (defined as “Courses offered are insufficient in quality, content or administration to achieve the stated or implied educational objective. Persons offering such courses who know or reasonably should know that said courses cannot achieve the stated or implied educational objective shall be considered to be involved in academic fraud.”)

Cites: Code of Ala. § 16-46-5 (e), Alabama Department of Education: Policies Guidelines for Policy 720.01: Private School Licensure in Alabama. I. 2 d.

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

15 /20 POINTS

Yes, Full Refund	Yes, Partial Refund	Yes, refund <i>in limited circumstances</i>	No Refund Required
20 Points	15 Points	10 Points	0 Points

Explanation:

There are refunds available to students in the event of closure, but nothing in Alabama’s law indicates that a full refund is required.

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

10/10 POINTS

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

Explanation:

Alabama law does not specify a deadline for filing a student complaint.

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:

Alabama requires private Schools to publish a grievance policy in its catalog, bulletin, or brochure. There is no explicit requirement for these policies to be on an institution’s website, but because it is common practice for institutions to include catalogs or similar information on the institutional website, Alabama gets partial credit (discretionary) here. There is no requirement that the grievance policy is published in the enrollment contract.

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

0 /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:

There is a link for complaints and a complaint form on the website, but it does not lead to a complaint form, rather, it leads to a screen requiring log-in information for “PSL” (Private School Licensure). There is no other contact information on the complaints page.

VII. ENFORCEMENT: **10/ 100 POINTS**

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

0 /30 POINTS

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 no indication in Alabama law or regulations that an institution will lose any state aid if it repeatedly produces the substandard outcomes described above.

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

0 /30 POINTS

Yes	Limited Circumstances	No
30 Points	15 Points	0 Points

Explanation:

There is no private right of action in Alabama, but there is the opportunity to seek judicial review after exhausting administrative proceedings.

C. DOES STATE LAW EXPLICITLY ALLOW ATTORNEY FEE AWARDS FOR STUDENTS WHO PREVAIL IN LITIGATION AGAINST SUCH INSTITUTIONS?

0/20 POINTS

Yes	Limited	No
20 Points	15 Points	0 Points

Explanation:

There are no provisions in Alabama law which explicitly allow attorney's fees for students filing suit against private postsecondary institutions.

D. DOES THE STATE EXPLICITLY AUTHORIZE ATTORNEY GENERAL INVOLVEMENT?

10/20 POINTS

Yes	Limited Circumstances	No
20 Points	10 Points	0 Points

Explanation:

The Department of Postsecondary Education can call upon the Attorney General to represent it on appeal in the state appellate courts **Code of Ala. § 16-46-8** – The Attorney General is notified when a school is found to be operating without a license. **Guidelines for Policy 720.01**

BONUS POINTS

Alabama does not receive any bonus points.



ILLUMINATING INFORMATION



PENDING LEGISLATION

No relevant pending legislation as of September 2015.

RECIPROCITY AGREEMENTS

Alabama is a member of the National Council on State Authorization Reciprocity Agreements (NC-SARA a.k.a. SARA). <http://nc-sara.org/states/alabama>

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

For more 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>