
ARIZONA: FINAL GRADING ANALYSIS

OVERALL SCORE:
369 / 700 POINTS
52.7%
LETTER GRADE: **F**

I. OVERSIGHT BODY: **65/100 POINTS**

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

60 / 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	10
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	5	5
Must allow public comment	5	5
Board can initiate investigations	5	5
Board can impose penalties for violations.	5	5
Total Points	60	60

Explanation:

Arizona has established the state board for private postsecondary education, which is tasked with oversight of private postsecondary institutions in Arizona. **A.R.S. § 32-3002; A.R.S. § 32-3003** the board engages in rule-making, can initiate investigations, and can impose penalties for violations (**A.R.S. § 32-3003**). Board meetings must be open to the public, and Arizona's Public Meetings Law *requires* these meetings to provide an opportunity for the public to comment. **A.R.S. § 38-431.01**. The board is charged with the licensing and oversight of both vocational and degree programs.

B. STATUTE-SPECIFIED MEMBERSHIP:

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

0/ 25 POINTS

Explicit Prohibition + 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:

The state board for private postsecondary education is statutorily mandated to include in its membership the following: seven members: Two members who hold executive or managerial positions in a private educational institution offering private vocational programs; One member who holds an executive or managerial position in a private educational institution offering an associate degree; Two members who hold executive or managerial positions in a private educational institution offering a baccalaureate or higher degree, or both and Two members who are citizens of this state and have been occupied in commerce or industry in this state for at least three years.

! Though a *for-profit* interested majority is not mandated, it is certainly possible, if not probable that the industry that is regulated by this board will dominate the board given the mandated construction of the board. **A.R.S. § 32-3002**

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

0/10 POINTS

Yes	No
10 Points	0 Points

Explanation:

Arizona does not require that the state board on private postsecondary education include a consumer advocate (an individual with expertise and experience in the area of consumer advocacy) in its membership.

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 Points	0 Points

Explanation:

Every member of the state board on private postsecondary education is appointed by the governor and confirmed by the senate. **A.R.S. § 32-3002; A.R.S. § 38-211**

II. STATE OVERSIGHT – EFFICACY: 43/100 POINTS

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

1/10 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
Type 1:	10 Points	8 Points	5 Points	3 Points	0 Points

Explanation:

Arizona requires an onsite visit to verify that a private postsecondary institution meets the requirements in place for licensure. **A.R.S. § 32-3021(C)** The board has discretion to do an on-site visit if problems arise or if there are concerns, but there is no specified requirement for an on-site review beyond an administrative review after the initial review.

B. DOES THE STATE REQUIRE UNANNOUNCED INSPECTIONS FOR ON-SITE REVIEWS?

0/ 5 POINTS

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

Explanation:

Arizona does not require the board to conduct unannounced inspections for onsite reviews.

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

20/20 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 Point	5 Points	0 Points

Explanation:

Licenses are effective for a 12-month period from the date of issuance. **A.A.C. § R4-39-102** Private

postsecondary institutions must, therefore, submit a renewal application each year and must demonstrate compliance with the applicable standards and regulations.

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

17/ 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 (+2 points)	12.5 Points	10 Points	7.5 Points	5 Points	2.5 Points	0 Points

Note: one point added for each discretionary element.

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

M=Mandatory; D=Discretionary

Explanation:

Arizona requires postsecondary institutions to provide information about their program and graduation requirements, accreditation status, and financial aid policies as a part of a license application (including renewal). **A.A.C. § R4-39-103(D)** Arizona law further requires attestation by the individual signing the application that the applicant complies and will continue to comply with all United States Department of Education requirements governing federal student financial aid programs in which the applicant is eligible to participate. **A.A.C. § R4-39-103(D)** Arizona is awarded two points because it allows for the discretionary review of two elements: cohort default rates and completion rates.

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

0/15 POINTS

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

Explanation:

Arizona does not distinguish between for-profits and nonprofits.

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
10 Points	7.5 Points	5 Points	2.5 Points	0 Points

Explanation:

If an institution is having financial difficulty, it is required to have a bond and or submit to quarterly reporting. If outcomes and retention rates do not meet accrediting standards, an institution may be placed on “reporting,” which means that the institution is required to submit quarterly reports to the board for review rather than annual reports that are otherwise required. If there are issues with an institution’s accrediting agency or with the U.S. Department of Education, an institution may be placed on reporting or required to undergo additional review. **Information from Teri Stanfill, Executive Director, Arizona State Board for Private Postsecondary Education. (February 2015)**

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 Arizona statute or regulations regarding any special treatment or assistance to protect veterans from abuses by private postsecondary institutions in the state.

III. STATE OVERSIGHT - SCOPE & INCLUSION: 75/100 POINTS

A. ARE EXEMPTIONS TO STATE OVERSIGHT COVERAGE LIMITED?

75/100 POINTS

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

Explanation:

Arizona law includes several common exemptions for schools that provide avocational training, training offered by employers for their employees, programs offered by trade association for

members, and so on. **A.R.S. § 32-3021(F)** Additionally, however, institutions accredited by a regional or specialized accrediting agency recognized by the United States department of education are exempt from requirements associated with the student tuition recovery fund. **A.R.S. § 32-3072(D)** This exemption applies to assessments only.

IV. DISCLOSURE REQUIREMENTS: **40/100 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 Performance Fact Sheet Required
20 Points	10 Points	0 Points

Explanation:

Arizona requires schools to provide information on institutional performance to students upon request. Schools are required to “make specific information concerning educational programs, including statements of purpose, objectives, course of study, policies, fees and other pertinent information, available to prospective students and the general public.” **A.R.S. § 32-3021** Arizona requires the that schools make available information required by federal law: cohort default rates, completion rates, financial aid information, upon request.

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

15/60 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
Debt to Income Ratios	10 Points	5 Points	0 Points
Methods & Sources used to Calculate	10 Points	5 Points	0 Points

Explanation:

Schools are required to keep records with regard to graduation, salary information, and placement rates (where placement is offered), but are not required to disclose the information absent a student request. **A.A.C. § R4-39-307, § R4-39-401** Additionally, schools must make available to students the information that is federally required (see **20 U.S.C. § 1092**), upon request.

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

15/ 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:

Arizona requires enrollment agreements to include: Name and address of student; commencement date of the program; title of the course or courses within the program; *total clock and credit hours of the program; payment schedule and total cost to the student; refund policy of the institution; a statement indicating that the individual signing the agreement has read and understands all aspects of the agreement; the holder in due course rule; a disclaimer by the institution that "job placement" is not guaranteed to graduates upon completion of this training or upon graduation; student grievance procedures, if not printed in a catalog, bulletin, or other document provided each prospective student; and a cancellation notice in accordance with Federal Trade Commission (FTC) regulations. A.A.C. § R4-39-401(A)(1).* Per Arizona officials, proposed rules require the institution to state that credit transfer is at the discretion of the transferring institution. The state receives credit here for addressing the element.

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 Affiliations (re: military, public institution, business establishments...)	/
Promise Employment	
Compensation for enrollment	
Compensation or "bounty" to recruiters	
Deception (Broad prohibition)	X
Misrepresentation (Broad Prohibition)	X

Explanation:

The board may take disciplinary action for any one or a combination of several reasons, including engaging in fraudulent advertising, and engaging in false or misleading advertising, solicitation, or recruitment practices. **A.R.S. § 32-3051** These broad prohibitions would likely include deception and misrepresentation. The state receives partial credit for 3 additional elements: (1) “misleading representations using the word “college” or “university”, (2) misleading institution name and (3) misleading representations re: accreditation because “engaging in misleading advertising, solicitation, or recruitment” would likely encompass these practices.

VI. COMPLAINT PROCESS & RELIEF FOR STUDENTS:

76/100 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:

The board may require letter of credit, a surety bond in a form acceptable to the board or a cash deposit pursuant to this section if the program or institution is not accredited. **A.R.S. § 32-3023;**

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:

Arizona does not explicitly require a refund of tuition if a student enrolls as the result of misrepresentation. However, Arizona receives partial credit here because there are statutes in **Title 44 of Arizona’s Revised Statutes**, addressing issues of consumer protection, which may address this issue.

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

15/20 POINTS

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

Explanation:

The Student tuition recovery fund is established pursuant to **A.R.S. §32-3072** and students may recover “an amount not to exceed actual damages sustained” if they are injured when a private postsecondary institution ceases operation. *Institutions accredited by a regional or specialized accrediting agency recognized by the United States department of education are exempt from this section.* **A.R.S. §32-3072(D)** However, an Arizona official clarified; if an institution closes the institution must provide a refund. The exemption applies only to assessments. There is no indication that institutions are required to provide a full refund of tuition.

**D. DOES THE STATE ALLOW STUDENTS AMPLE TIME TO MAKE A COMPLAINT?
9/10 POINTS**

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

Explanation:

Generally, a complaint must be filed within three years of the student's last date of attendance. **A.A.C. § R4-39-403(A)**. The exception to this rule, in the event of an institution’s closing, a student has **one year** to file a claim against the tuition recovery fund. **A.R.S. § 32-3075** Arizona loses one point for this exception.

**E. DOES THE STATE REQUIRE INSTITUTIONS TO DISCLOSE INFORMATION ABOUT FILING A COMPLAINT WITH THE STATE OVERSIGHT BODY?
15/20 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:

Arizona requires schools to provide information about filing a complaint in the catalog, the state receives partial credit for requiring inclusion on the school websites because it is common practice for institutions to post the institutional catalog or information similar to that provided in the catalog on their website. **A.R.S. §32-3021(B)(9), A.A.C. § R4-39-403(D)(12)**. Arizona gives schools discretion to publish information about filing a complaint with the state oversight body in the enrollment contract. The rules are in the process of revision (see <https://ppse.az.gov/laws-and-rules>) Prior to revision, **A.A.C. §R4-39-401(B)(1)(j)** stated that the enrollment agreement must include “Student grievance procedures, if not printed in a catalog, bulletin, or other document provided each prospective student” after the revision, the **A.A.C. §R4-39-401(B)(1)(i)** will require language about arbitration, including: “Arbitration does not preclude other avenues of recourse, including but not limited to possible relief in small claims courts, unless and until the arbitration

result is made binding. Arbitration of a student grievance does not preclude the student from seeking a remedy from the Arizona Board of Private Postsecondary Education.” The state receives partial credit for including information in the enrollment agreement. The information required prior to the revisions is required only if the school has not printed it in a catalog, bulletin, or other document; in the revision, there is no requirement that the school provide information about **how** a student can file a grievance with the state board, only that the student is not precluded from seeking a remedy from the board.

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:

The complaint procedure is online, on the home page of the Board, and there is a “contact us” phone number and address on the home page and on the complaint page, and there is an electronic version of a word form which can be printed, filled out, and sent to the Board by the complainant.

<https://ppse.az.gov/>

<https://ppse.az.gov/complaint>

Note that there is a requirement that students exhaust all available grievance procedures established by the institution prior to submitting a complaint to the board. **A.A.C. § R4-39-403.**

VII. ENFORCEMENT: **20/100 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 are no provisions in Arizona law which explicitly specify that there will be a loss of state aid for schools that repeatedly produce substandard graduation rates, job placement rates and / or cohort default rates.

B. DOES THE STATE 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 explicitly enumerated private right of action in Arizona for students against institutions who have violated the laws / regulations in place to govern them. However, the state does not bar students from bringing suit against an institution in court.

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:

Arizona law does not explicitly allow attorney fee awards for students who prevail in litigation against institutions who have violated the laws / regulations in place to govern them.

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

Yes	Limited Circumstances	No
20 Points	10 Points	0 Points

Explanation:

“In addition to all other remedies, if it appears to the board, either on complaint or otherwise, that any person has engaged in or is engaging in an act, practice or transaction which violates this chapter or any rule or order of the board, the board may either:...2.Apply, through the attorney general or through the county, city or town attorney of the county, city or town in which the act, practice or transaction is alleged to have been committed, to the superior court in that county for an injunction restraining the person from engaging in the act, practice or transaction, or doing anything in furtherance of the act, practice or transaction. On a proper showing, a temporary restraining order, a preliminary injunction or a permanent injunction shall be granted without a bond. Process in the action may be served on the defendant in any county in this state where the defendant transacts business or is found.” **A.R.S. § 32-3057**



ILLUMINATING INFORMATION



PENDING LEGISLATION

As of this writing in May of 2016 the following legislation related to the regulation of private for profit educational institutions is pending:

- **AZ H.B. 2371:** would give the board discretion to issue a private vocational program license to an educational institution otherwise exempt.
- **AZ H.B. 2390:** would exempt a yoga teacher training course or program or a yoga instructional course.
- Find proposed rule revisions here: <https://ppse.az.gov/laws-and-rules>

RECIPROCITY AGREEMENTS

Arizona is a part of the National Council of State Authorization Reciprocity Agreements (NC-SARA a.k.a. SARA) 0*1/ <http://nc-sara.org/states/az>.

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

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>