

OVERVIEW OF NEW JERSEY STATE COLLEGES AUTONOMY EVOLUTION

Report of the Commission on the Future of the State Colleges

In the early 1980s, the Board of Higher Education, at the urging of the Council of State Colleges, created the Commission on the Future of the State Colleges. Among other things, the commission was directed to “identify those financing and governance systems which have shown themselves to be effective in promoting academic excellence in other states so that they might be studied for application to New Jersey” (The Report of the Commission on the Future of the State Colleges, 1984, p. 29). In February of 1984 the Commission issued a report that examined some of the problems existing with the current governance system in the state. The report cited the following examples as the “deleterious effects of this lack of autonomy”:

- With money in hand, working through State purchasing offices, all of the colleges sought to replace one computer system with another, more efficient one. The process took 48 months, and resulted in a system that did not meet the original specifications and that is unsuitable for academic use.
- On September 16, one college submitted to the State Purchasing Department an order for a multiplexor, with an explanation that the purchase would save \$2,000 per month. The order was not placed until May 20, wasting \$16,000 in the process.
- The average lag time between submission of the requisition to Treasury and the receipt of a formal purchase order averages four months. When vendor delivery time is added, it is not unusual for a given purchase to take six months.
- Small printing jobs, such as those for a pamphlet or brochure, which could be done locally in a week, routinely take three to six months when handled through the Purchase Bureau.
- During FY 1982, one college processed 375 orders through Treasury, ranging in value from \$1.00 to \$20.00. The handling cost for each processing cycle is conservatively estimated at \$25.
- Travel vouchers are particularly suspect by Treasury. A frivolous intent is assumed, and clerks frequently exercise independent judgment on how a given college’s travel budget may be used. Matters came to an extreme point recently when a Trenton functionary instructed a college president that he must do all of his faculty recruitment without traveling out of state.

The following snapshot of financial support for higher education in New Jersey in 1984, included in The Report of the Commission on the Future of the State Colleges, is also relevant:

- Appropriations per capita – 48th
- Appropriations per \$1,000 of personal income – 49th
- 10-year change in funding (adjusted for inflation) – 48th

During the decade (1972-82) that the national average of state appropriations for higher education increased 23%, New Jersey’s appropriations decreased by 9% (corrected for inflation). In the 1977-82 period, the State’s appropriations for the nine State Colleges decreased by 17% (corrected for inflation) (The Report of the Commission on the Future of the State Colleges, 1984, p. 24).

Legislative Action Deregulating State Colleges and Universities

1986-

Governor Thomas H. Kean signed Assembly Bills 1173 and 1177 (P.L. 1986, Chapter 42, 43) that created the State College Autonomy Act. This Act was the first step in the deregulation of New Jersey's public colleges and universities. It shifted operational control of public institutions from the Department of Higher Education to the public colleges and universities themselves. This included control over their missions, selection of their Presidents, establishment of admissions policies and degree requirements, and some control over their financial affairs including tuition, fees and endowments. (<http://www.njefa.com/njefa/about/history>)

1994-

Governor Whitman signed Senate Bill 1113 (P.L. 1994, Chapter 48) that created the Higher Education Restructuring Act. The Act eliminated the Department of Higher Education and in its place created a non-cabinet level Commission of Higher Education whose primary role was one of advocacy and industry-wide planning and development. It also created the New Jersey Presidents Council to serve in an advisory capacity to the Commission and moved the Authority from being in, but not of, the Department of Higher Education to being in, but not of, the Department of Treasury. (<http://www.njefa.com/njefa/about/history>)

Collectively, these laws granted a high degree of self-governance to the state's colleges and universities, allowing individual institutions the ability and freedom to make decisions relevant to the needs of their campus community in areas including:

- Mission determination
- Establishing academic programs
- Program development/degree requirements
- Establishment of admissions policies
- Budget execution
- Personnel
- Setting tuition and fees
- Purchasing
- Contracting
- Accepting grants and contributions from private donors
- Overseeing the investment of endowments
- Managing property

Until the mid 1980s, New Jersey's nine state colleges were constrained to operate under a system of state-level control that had been characterized as among the tightest in the nation (Matsler, 1985). Presidents and boards of trustees spent considerable energy in seeking to maneuver through a cumbersome state bureaucracy that required approval of the Treasury and Civil Service Departments for most of their fiscal and personnel transactions, some of which also required the approval of the Department of Higher Education. Their lack of fiscal and operational autonomy made it difficult for them to achieve their goals of distinction and education excellence, placing them at a major disadvantage in comparison with the rest of New Jersey's colleges and universities, public and independent, as they sought to compete effectively for good students and good faculty members, as well as for outside grants (Marcus, Pratt & Stevens, 1997, p.94).

In 1986, new statutes were enacted to provide them with a large measure of autonomy from the state government for specific administrative, fiscal, and personnel matters, with boards of trustees assuming much of the responsibility and authority that was formerly lodged in several state agencies (Marcus, Pratt & Stevens, 1997, p.92).

At the request of the DHS [Department of Higher Education], a formal review of the effect of autonomy on education excellence was undertaken by the ECS [Education Commission of the States] (1991). Its report, based on documentary evidence, noted that the statutes had three effects critical to educational quality: strengthened institutional leadership; productivity in pursuit of highly distinctive missions; and increased prestige, self confidence, and aspiration for and momentum toward excellence at each college. The result was “an extraordinary turn-around in how these colleges are perceived” (p.11), both nationally and within each college (Marcus, Pratt & Stevens, 1997, p.107).

Summary of the 1994 Restructuring Act

The Department and Board of Higher Education were eliminated. With their dissolution, a level of bureaucratic review was removed. Under the new, entrepreneurial management paradigm, institutional governing boards have responsibility for planning, student tuition and fees, admission standards, degree requirements, investment of institutional funds, legal affairs, and a budget request for state support. In addition, institutional governing boards have authority for the academic program, personnel decisions, and initiatives for improvements in the physical plant. To document outcomes, the Commission on Higher Education approved a format for institutional accountability reporting.

The New Jersey Commission on Higher Education was created to provide general coordination, planning, and policy development in cooperation with the Presidents' Council. The Commission has responsibility for higher education master planning and advocacy. It recommends higher education initiatives and incentive programs to the Governor and Legislature. The Commission has administrative responsibility for proposed changes in programmatic mission, institutional licensure, university status, and new degree programs referred by the Presidents' Council. The Commission also reviews institutional budget requests and submits an annual coordinated budget policy statement to the Governor and Legislature. In addition, it maintains a liaison with the State Board of Education and Commissioner of Education as well as the federal government, and approves some higher education capital and equipment projects.

A Presidents' Council, composed of the presidents of all New Jersey institutions receiving direct state aid, also was created by the 1994 Act. The Act was revised in 1996 to include representatives of proprietary and religious institutions on the Council. The Council has responsibility for new program review, formation of regional and cooperative programs among institutions, and recommendations to the Governor, Legislature, and Commission on higher education policy issues. The Council has an advisory role regarding programmatic mission changes, new degree proposals which exceed mission or are unduly duplicative or expensive, and, upon referral by the Commission on Higher Education, provide recommendations concerning institutional licensure. The Council also assists and advises the Commission on statewide master planning and other policy initiatives. Much of the work of the Council is performed by its Executive Committee, which the Act also created.

Finally, the Act created the Office of Student Assistance to administer the student assistance programs established under the Student Assistance Board and Higher Education Assistance Authority as well as other student assistance programs, with policy advice from the Commission in several areas.

- An Interim Report to the Governor and New Jersey Legislature. Adopted by the New Jersey Commission on Higher Education and the New Jersey Presidents' Council; July 1996.

REFERENCES

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The Higher Education Restructuring Act of 1994

Findings, declarations

The Legislature finds and declares that:

- a. the institutions of higher education are one of the most valuable and underutilized resources in the State; and
- b. the elimination of unnecessary State oversight and its accompanying bureaucracy will serve to unleash the creativity and innovation of these institutions; and
- c. the restructuring of higher education must ensure that student aid programs are not only preserved but strengthened and that the State continue to foster and encourage programs to promote diversity and accessibility; and
- d. the institutions of higher education in the State shall be responsible for achieving the Statewide goals of affordability and accessibility for all students, institutional excellence, and effectiveness in addressing the societal and economic needs of the State; and
- e. in order to provide institutions with the ability to fulfill their mission and Statewide goals, greater decision making and accountability must be placed at the institutional level and structures must be established to ensure cooperation among institutions and coordination at the State level; and
- f. the State benefits from a coordinated system of higher education that includes public and private institutions which offer a variety of programs with a range of choices and which addresses the needs of the State including its citizens and employers.

Powers, duties of governing boards of institutions of higher education

The governing board of each public institution of higher education shall have the following general powers and duties to fulfill its mission and the Statewide goals in cooperation with other institutions and the State coordinating structures:

- a. To develop an institutional plan and to determine the programs and degree levels to be offered by the institution consistent with this plan and the institution's programmatic mission;
- b. To have authority over all matters concerning the supervision and operations of the institution including fiscal affairs, the employment and compensation of staff not classified under Title 11A of the New Jersey Statutes, and capital improvements in accordance with law;
- c. To set tuition and fees; however, prior to the date of the adoption of a tuition or fee schedule or an overall institutional budget, and with reasonable notice thereof, the governing board shall conduct a public hearing at such times and places as will provide those members of the college community who wish to testify with an opportunity to be heard;
- d. To establish admission standards and requirements and standards for granting diplomas, certificates and degrees;
- e. To recommend for appointment by the Governor, members to the institution's governing board. The recommendation shall be made with regard to the mission of the institution and the diversity of the community to be served;
- f. To have final authority to determine controversies and disputes concerning tenure, personnel matters of employees not classified under Title 11A of the New Jersey Statutes, and other issues arising under Title 18A of the New Jersey Statutes involving higher education except as otherwise provided herein. Any matter arising under this subsection may be assigned to an administrative law judge, an independent hearing officer or to a subcommittee of the governing board for hearing and initial decision by the board, except for tenure hearings under N.J.S.18A:6-18. Any hearings conducted pursuant to this section shall conform to the requirements of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). The final administrative decision of a governing board of a public institution of higher education is appealable to the Superior Court, Appellate Division;
- g. To invest and reinvest the funds of the institution; however, institutions which invest the funds of the institution through the Director of the Division of Investment in the Department of the Treasury on or before the effective date of this act shall continue to do so, unless this requirement is waived by the State Treasurer on an annual basis, which waiver shall not be unreasonably withheld;
- h. To retain legal counsel of the institution's choosing. State entities may choose representation by the Attorney General; however, as to claims of a tortious nature, the institution shall elect within 75 days of the effective date of this act whether it, and its employees, shall be represented in all such matters by the Attorney General. If the institution elects not to be represented by the Attorney General, it shall be considered and its employees considered employees of a sue and be sued entity for the purposes of the "New Jersey Tort Claims Act" only. The institution shall be required in that circumstance to provide its employees with defense and indemnification consistent with the terms and conditions of the Tort Claims Act in lieu of the defense and indemnification that such employees would otherwise seek and be entitled to from the Attorney General pursuant to N.J.S.59:10-1 et seq. and P.L.1972, c.48 (C.59:10A-1 et seq.);
- i. To be accountable to the public for fulfillment of the institution's mission and Statewide goals and for effective management of the institution;

j. To submit a request for State support to the Division of Budget and Accounting in the Department of the Treasury and to the commission in accordance with the provisions of this act;

k. To have prepared and made available to the public an annual financial statement, and a statement setting forth generally the moneys expended for government relations, public relations and legal costs;

l. To have prepared an annual independent financial audit, which audit and any management letters regarding that audit shall be deemed public documents.

These powers and duties are in addition to and not a limitation of the specific powers and duties provided for the governing board of each public institution under chapters 64, 64A, 64G or 64E of Title 18A of the New Jersey Statutes. If the provisions of this section are inconsistent with these specific powers and duties, the specific powers and duties shall govern.