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Overview of Higher Education Restructuring in New Jersey

The Higher Education Restructuring Act, signed into law by Governor Christine Todd Whitman in June 1994, dramatically restructured higher education governance in New Jersey. The legislation, which became effective on July 1, 1994, established the governance structure outlined below.

I. Public institutional governing boards have the general powers and duties to:

- develop an institutional plan and determine programs and offerings consistent with this plan and the institution's programmatic mission;
- supervise and operate the institution, including oversight of fiscal affairs, employment and compensation of staff who are not classified members of the civil service system, and capital improvements in accordance with law;
- set tuition and fees after a public hearing;
- establish admission standards and requirements for granting diplomas, certificates, and degrees; recommend individuals for appointment by the Governor to the institution's governing board;
- serve as the final authority in controversies and disputes concerning tenure, personnel matters of unclassified civil service employees, and other issues arising under Title 18A of the NJ Statutes involving higher education (**NOTE**: the final administrative decision of a governing board may be appealed to the courts);
- invest institutional funds (**NOTE**: public institutions that invest their funds through the director of the Division of Investment in the Department of Treasury must continue to do so unless the Treasurer annually waives this requirement);
- retain independent legal counsel (**NOTE**: with respect to tort claims, each state institution had to elect within 75 days of the restructuring act's effective date whether it, and its employees, would be represented in all such matters by the Attorney General (AG). Institutions electing not to be represented by the AG must provide employees with defense and indemnification that would otherwise be sought from the AG);
- prepare and make available to the public an annual report that provides all required data and information on the condition of the institution;
- be accountable to the public for fulfillment of its mission, statewide goals, and for effective institutional management;
- submit an annual request for state support to the Department of Treasury and to the Commission on Higher Education; and
- prepare and make available to the public an annual financial statement, a statement regarding expenditures for government relations, public relations and legal costs, and an independent financial audit.

II. The act establishes the Commission on Higher Education. It is a lay body consisting initially of 15 members: 10 public members appointed by the Governor with the advice and consent of the Senate (six of whom must be current members of a governing board of a New Jersey higher education institution); four public members appointed by the Governor, two recommended by the Senate President and two recommended by the Assembly Speaker; and the chair of the Presidents' Council (ex officio). In addition, two student members, appointed by the Governor from recommendations by student government associations, serve one-year terms on the Commission as nonvoting members. The Executive Director of the Commission also serves as an ex officio, nonvoting member. Beginning on July 1, 1998, the Commission will consist of nine members: six public members appointed by the Governor with the advice and consent of the Senate; two public members appointed by the Governor, one recommended by the Senate President and one recommended by the Assembly Speaker; and the chair of the Presidents' Council (ex officio). The student members and Executive Director will continue to serve as nonvoting members.

Public members of the Commission serve six-year terms, although initial appointees who are not governing board members have staggered terms. The Governor appointed the first chair of the Commission for a two-year term from among those public members not serving as governing board members. Succeeding chairs are elected for two-year terms by the Commission.

NOTE: Subsequent amendments to the Restructuring Act, most recently in March 1999, have changed the membership of the Commission to the following:

The New Jersey Commission on Higher Education consists of 11 members: six public members, appointed by the Governor with the advice and consent of the Senate without regard for political affiliation; two public members appointed by the Governor, one upon the recommendation of the President of the Senate and one upon the recommendation of the Speaker of the General Assembly; the chairperson of the New Jersey Presidents' Council, ex officio; one faculty

member from an institution of higher education to be appointed by the Governor with the advice and consent of the Senate; and the chairperson of the Board of the Higher Education Student Assistance Authority, ex officio, or a designee from the public members of the authority. The public members shall reflect the diversity of the State.

The executive director of the commission shall be an ex officio, non-voting member of the commission. In addition, the Governor shall appoint two students in attendance at public or independent institutions of higher education in the State from recommendations submitted by student government associations of New Jersey colleges and universities, who shall serve for a one-year term on the commission as voting members.

The Commission is responsible for:

- statewide planning including research on higher education issues and the development of a comprehensive master plan;
- advocacy on behalf of higher education;
- making recommendations to the Governor and Legislature on higher education initiatives and incentive programs;
- licensing institutions and granting university status;
- adopting a code of ethics for higher education;
- rendering final administrative decisions on: new academic programs that go beyond the programmatic mission of an institution; new academic programs referred to the Commission by the Presidents' Council because they are unduly expensive or duplicative; or a change in the programmatic mission of an institution (**NOTE:** programmatic mission means all program offerings of the institution within those levels of degrees or certificates authorized by the former State Board of Higher Education or the Commission on Higher Education);
- reviewing budget requests from the institutions in relation to their missions and statewide goals and proposing a coordinated budget policy statement to the Governor and Legislature;
- communicating with the State Board of Education and Commissioner of Education to advance public education at all levels;
- applying for and accepting grants from the federal government and acting as the lead agency for communication with the federal government regarding higher education;
- approving capital projects financed by the New Jersey Higher Education and Building Construction Bond Act of 1971, the New Jersey Medical Education Facilities Bond Act of 1977, the Jobs, Science and Technology Bond Act of 1984, the Jobs, Education and Competitiveness Bond Act of 1988, the Higher Education Equipment Leasing Fund Act, and the Higher Education Facilities Trust Fund Act;
- establishing the form and content of annual institutional reports to the public on the condition of each institution;
- within its first year, conducting studies and making recommendations to the Governor and Legislature regarding: collective bargaining and civil service at the state colleges, the administration of student assistance, articulation between higher education and K through 12, and long-term funding of higher education including tuition establishment;
- within its first year, amending, continuing, or repealing all regulations pertaining to licensure of institutions, code of ethics and outside employment of agency and public institution employees, residency requirements for tuition purposes, personnel policies, tenure and multi-year contracts, rights and procedures for reductions in force, student trustee policies, length of academic year, and early retirement policies; and
- reporting to the Governor and Legislature in 1996 and 1999 on the effectiveness of the restructuring of higher education; the final report shall also include a variety of required data for each public institution.

The chair of the Commission has the power of visitation at public institutions at the request of the Governor.

The Educational Opportunity Fund program retains its form and functions, and reports to the Commission on Higher Education. The program may, however, use the services of the Office of Student Assistance to distribute grants.

III. The act establishes a Presidents' Council consisting of the president of each New Jersey institution of higher education that receives direct state support, as well as four presidents representing the 11 other degree-granting institutions. The Presidents' Council is an advisory, self-funded body. A 14-member executive board performs duties as specified by the Council. The executive board consists of the presidents of: Rutgers University, the University of Medicine and Dentistry of New Jersey, New Jersey Institute of Technology, three state colleges and universities, five county colleges, and three independent institutions. The chair of the executive board is rotated among one of the presidents of Rutgers University, New Jersey Institute of Technology, and the University of Medicine and Dentistry of New Jersey; a state college president; a county college president; and a president of an independent college or university. The chair of the executive board serves a two-year term.

NOTE: Subsequent amendments to the Restructuring Act have changed the membership of the Presidents' Council to the following:

Each president of a public institution of higher education in the State and of an independent institution which receives direct State aid shall be a member of the council and shall serve ex officio. The presidents of the two proprietary schools which enroll the largest numbers of pupils

in State licensed degree programs shall also serve as members of the council, ex officio, to represent the interests of all such schools. The presidents of the two institutions primarily involved in the preparation of professional persons in the field of religion which enroll the largest number of pupils in State licensed degree programs shall also serve as members of the council, ex officio, to represent the interests of all such schools.

The Presidents' Council is responsible for:

- providing public information and research on higher education issues;
- reviewing and making recommendations to the Commission on Higher Education concerning new programs which exceed an institution's programmatic mission or which require significant added resources or raise significant issues of duplication;
- reviewing and making recommendations to the Commission concerning changes in the programmatic mission of an institution;
- encouraging the formation of regional and cooperative programs among institutions and developing criteria for "full faith and credit" transfer agreements between county colleges and other institutions of higher education;
- advising and assisting the Commission in developing and updating a statewide plan for higher education;
- providing policy recommendations on statewide higher education issues;
- making recommendations regarding state aid levels, higher education issues, and student aid;
- upon referral from the Commission, providing recommendations concerning institutional licensure and university status;
- appointing subcommittees made up of presidents of various sectors to decide matters within the authority of the Council. With respect to requests for state aid, the presidents of the independent institutions will develop a unified request for state support, as will the presidents of the county colleges; and
- consulting with other higher education institutions that do not receive state aid when actions of the Council directly affect such institutions.

IV. Student assistance programs are administered by the Office of Student Assistance. The programs established under the Student Assistance Board and the Higher Education Assistance Authority are administered by the Office of Student Assistance. The Executive Director of Student Assistance Programs supervises the Office of Student Assistance and the Higher Education Assistance Authority. The executive director consults regularly with the Commission on Higher Education.

NOTE: Legislation enacted in March 1999 established the New Jersey Higher Education Student Assistance Authority which replaces the Office of Student Assistance. The chairperson of the Board of the New Jersey Higher Education Student Assistance Authority is an *ex officio* member of the New Jersey Commission on Higher Education.



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