

**New Jersey
State College/University Trustees'
Reference Guide**
(Sixth Edition)



**New Jersey Association of
State Colleges and Universities**
150 West State Street, Trenton, New Jersey 08608

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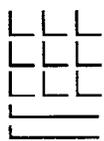
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To the Trustees of New Jersey's State Colleges and Universities

Dear Colleagues:

During the mid-1980s, enactment of the State College Autonomy Laws broadened and deepened the role of what were then the nine state colleges in order to better meet the need for higher education in the state. The laws placed greater authority and responsibility on institutional trustee boards. To assist trustees in their newly expanded roles, the New Jersey Association of State Colleges and Universities (ASCU), formerly the New Jersey State College Governing Boards Association, developed the *New Jersey State College/University Trustee's Reference Guide*. First published in 1987, the *Guide* offers trustees ready access to information on the traditions, laws and governmental structures affecting their stewardship.

Now in its sixth edition, the *Guide* continues to provide national and local perspectives on trustees' duties and responsibilities, along with information on how the work of trustee boards is affected by various state government entities. The *Guide* is updated this year to reflect legislation and executive orders enacted between 1999 and 2006 that amended the State College Contracts Law, allowed out-of-state alumni to serve as trustees, added new health and safety requirements on college and university campuses and required additional ethics disclosures from trustees. The latest *Guide* is intended to serve as a handy and useful tool for trustees adapting to the evolving higher education environment. In addition to ASCU, trustees should keep in mind that the Association of Governing Boards of Universities & Colleges (AGB), based in Washington, D.C., is the leading national resource regarding trusteeship.

It is our pleasure to present you with this copy of the *New Jersey State College/University Trustees' Reference Guide, 6th edition*. We hope that this publication will continue to answer many of your questions concerning the duties and responsibilities of state college/university trustees, and we welcome constructive input on how it might be made even more helpful.

Henry A. Coleman, Chair
New Jersey Association of
State Colleges and Universities

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Preface

Over the past two decades, from the 1986 State College Autonomy Laws through statutory changes in 2006, a transformation has taken place in which higher education governance in New Jersey has become increasingly decentralized. Within the past twenty years, authority for decision-making — in such areas as personnel, budget execution, program development, purchasing and contracting — has shifted significantly from state government to state college/university trustee boards. As a result, campus trustee boards are now held more accountable by the public and by state lawmakers for the performance of their institutions.

State college trustee boards must have a working knowledge of their responsibilities under the Autonomy Laws, the 1994 and 1999 restructuring laws, and other statutes and regulations governing trustee board actions. This ***Reference Guide*** provides governing board members with a broad view of their duties and responsibilities within the context of campus-based and state-level policy, legislative processes and collective bargaining. The document is designed as a practical resource for trustees.

This ***Guide*** is not an encyclopedic treatment of all of the information and complex processes that trustees must come to understand in order to exercise their important role as stewards of the institutions. It is not a legal treatise to which trustees may turn for definitive counsel when difficult decisions arise. *It does aspire to be a useful reference point for trustees as they learn and exercise their important duties.*

The ***New Jersey State College/University Trustees' Reference Guide*** is periodically updated to assist trustees in understanding current statutes, regulations and state policies. Accordingly, this latest edition of the ***Guide*** is published to inform trustees of recent changes in state-level higher education relationships.

I wish to thank the members of the New Jersey Association of State Colleges and Universities, both past and present, who have contributed in the preparation of this ***Reference Guide*** over the years.

Darryl G. Greer, Executive Director/CEO
New Jersey Association of
State Colleges and Universities

SECTION I: General Responsibilities of State College/University Trustees as Reflected in National Literature

State College/University Governance

While most of New Jersey's state colleges and universities, having been established prior to 1930, enjoy a rich educational tradition, the governance of these institutions by lay trustees is a historically recent phenomenon. Under statutes which preceded the Higher Education Act of 1966, the state teachers' colleges were excluded from the laws governing higher education. Instead, the colleges were governed by a chapter of the New Jersey Statutes Annotated (NJSA) concerning primary and secondary education, entitled "Particular State Schools." Like elementary and secondary schools, management of the schools was entrusted to the Commissioner of Education, whose authority extended even to prescribing courses of study.

Since the mid-1960s, state college/university trustee boards have refined their role as governing bodies. With the enactment of the Higher Education Act of 1966, coupled with the State College Autonomy Laws of 1986, the Higher Education Restructuring Act of 1994, and further restructuring in 1999, New Jersey's teachers' colleges have been transformed into colleges and universities with a high degree of self-governance, maintained for the purposes of providing higher education in the liberal arts and sciences and various professional areas, including the science of education and the art of teaching. The Higher Education Student Assistance Law of 1999 refined earlier restructuring efforts and consolidated three agencies into the Higher Education Student Assistance Authority. Today, the governance, control, conduct and management of the state colleges and universities remain vested in each institution's board of trustees.

The discussion below concerns the general responsibilities of trustees, cited in national literature, regarding trusteeship. Specific powers and duties granted by New Jersey statute and regulation to state college/university trustees are covered in **Section II** of this manual.

As the cornerstone of the institution's governance structure, the trustee board has policymaking authority over the institution's programs, operations, facilities, finances, faculty, staff and students. The board typically delegates responsibility for implementation of its policy to the college/university president. The president and administrative staff are accountable to the board, and are charged with the responsibility for accomplishing policy set by the board, and for effective academic and fiscal management of the campus.

Trustees' General Responsibilities

While trustee responsibilities may vary from one state college/university campus to another, some responsibilities (frequently mentioned in national literature on trusteeship) which are common to all campuses include:

1. Appointing, Supporting and Assessing the President

Perhaps the most important responsibility of trustees is the selection and appointment of the president. While the participation of many campus constituencies may be essential to ensure full support for the newly appointed president, decisions on timing, on the search and selection process, on qualifications, on the term of appointment, and on assessment are all properly the responsibility of the board of trustees.

Given the substantial investment that trustee boards make in selecting the president, trustees should support and encourage the president who, as chief executive officer, must be concerned with the well-being of the institution as a whole.

2. Establishing and Implementing the Institution's Mission

Determining and implementing the institution's mission is a combined enterprise of trustees, administration and faculty. Nevertheless, the trustee board, in cooperation with the president, has ultimate responsibility for the institution's educational integrity. The board must understand the institution's mission and be prepared to make major decisions affecting it, both financially and educationally.

3. Ensuring Financial Solvency

Trustees have a special obligation to make certain that institutional assets are well managed, since they, as fiduciaries, hold these assets in trust for the public. A major responsibility, thus, is to review and endorse the institution's financial needs and to approve the institution's annual budget, upon recommendation by the president.

4. Approving Long-Range Plans

A crucial trustee board responsibility is to review and endorse long-term, strategic plans prepared by the president, critical to achieving the institution's mission. The role of the trustee is to ensure that the long-term plans are consistent with the institution's mission and policies.

5. Approving Educational Programs

Trustees also have an important role in the academic affairs of the institution. It is their responsibility to review and approve degree programs, and to make certain that academic programs are consistent with the institution's mission and long-range plan. While faculty and administrators are charged with determining the specific content of the curriculum, the trustees have the responsibility to ensure that the entire educational enterprise meets institutional educational goals and academic standards.

6. Maintaining the Physical Plant

The physical plant is an important educational asset and, since trustees are legally obligated to protect assets, they must be concerned with the institution's structural resources. By insisting on prudent and long-term policies affecting physical plant soundness and by monitoring progress on plans, trustees can ensure that the physical facility is in good repair and adequate for conducting the educational enterprise.

7. Preserving Institutional Autonomy

The privilege of self-governance was not easily achieved, and it cannot be maintained without vigorous efforts by trustees. Beyond protecting their independent authorities over campus academic and fiscal policies, trustees should actively attempt to preserve self-governance of their respective institutions.

8. Enhancing the Institution's Public Image

Just as the board of trustees must interpret the campus to the community, so too must they interpret the community to the campus. Trustees represent the community at-large, and often strengthen the institution by lending their names to it as active supporters. When called upon to defend the institution publicly, trustees should not hesitate to offer their public support.

9. Staying Informed and Assessing Board Performance

In the fulfillment of the previous eight responsibilities, it is imperative that trustees be well informed. Trustees need to understand not only the institution's particular educational mission, but also prospective challenges and opportunities related to fulfilling that mission. Staying informed in a constantly changing environment requires an active effort.

SECTION II: Statutory and Regulatory Powers and Duties of State College/University Trustees

The State College Autonomy Laws of 1986

By enacting the State College Autonomy Laws (P.L.1986, c.42, 43), the legislature emphasized that it is in the best interest of the state for state colleges/universities to be given a high degree of self-governance. The legislature found that the decentralization of authority and decision-making — from state government to state college/university boards of trustees and administrators — would enhance the concept of accountability and ensure that the conduct of the institutions would remain free of political partisanship.

Accordingly, the implementation of autonomy signaled a significant shift of operational and administrative authorities, previously under state purview, to local trustee boards. By law, the complete transfer of these authorities to local boards occurred over a three-year (1986-1989) transitional phase.

The autonomy statutes gave significant and meaningful fiscal freedom from state rules and regulations. Provided that actions were consistent with the state's appropriations law and applicable Board of Higher Education regulation and policy, the state colleges/universities could administer their own budgets and funds. Institutions could also accept grants and contributions, manage their own property, invest institutional funds, and retain unexpended balances at fiscal year's end for use in subsequent years. Further, the law accentuated each institution's degree of autonomy in establishing academic programs and departments, fixing tuition and fees, and naming the institution.

The nine state colleges and universities are affected by many state statutes; however, NJSA Title18A provides for specific trustee authorities for governing the institutions.

The Higher Education Restructuring Act of 1994

The Higher Education Restructuring Act (P.L.1994, c.48) represents a further shift in New Jersey higher education coordination away from a centralized, bureaucratic model of decision-making towards a more decentralized, collaborative approach. The effective date of the Act (July 1, 1994) saw the elimination of the state Department and Board of Higher Education, along with the creation of a less-regulatory Commission on Higher Education and Presidents' Council. As significantly, the Act increased the authority and responsibilities of institutional trustee governing boards.

Trustees should become familiar with the new and ongoing laws which govern board organizational matters, including the composition of board membership, structure and meeting requirements. The following summary provides trustees with an overview of statutory matters

relating to membership and board structure. The statutes can be accessed online through the New Jersey legislature’s website: <http://www.njleg.state.nj.us>, under “Laws and Constitution.”

Statutory Requirements for Board Membership and Structure

1. Membership Generally

A state college/university trustee board shall consist of the following members: seven to fifteen lay citizens (the exact number to be determined by each board), two students from the institution, and the college/university president. [NJSA 18A:64-3 and NJSA 18A:64-3.1.]

Lay Member Representation

Lay members must be citizens of the state, except for up to three alumni who are not New Jersey citizens. Appointments shall be made by the governor with the advice and consent of the state Senate. Each board of trustees shall recommend potential new members to the governor. [NJSA 18A:64-3.] Recommendations shall be made with regard to the mission of the institution and the diversity of the community served. [NJSA 18A:3B-6.e.]

Student Representation

Each state college/university trustee board has two student members (one voting and one non-voting). The student trustees must be full-time, regularly enrolled students in good academic standing, and serve for two consecutive one-year terms. [NJSA 18A:64-3.1.]

College/University President Representation

The state college/university president is an *ex officio* member of the board of trustees without a vote. [NJSA 18A:64-6.g.]

2. Organization

Trustee boards meet and organize annually at a regular meeting held during the second week in September. At this meeting, a chair, vice chair and any other officers deemed necessary by the board are elected. [NJSA 18A:64-4.]

3. Meetings

A state college/university trustee board is constituted as a public body organized under New Jersey law and collectively empowered as a voting body to perform a public governmental function affecting citizen rights and to expend public funds. As such, trustee meetings are governed by the Open Public Meetings Act. [NJSA 10:4-6 *et seq.*]

4. Oath of Allegiance

All members appointed to state college/university trustee boards are required to take an oath of allegiance to the United States and New Jersey constitutions and the governments of the United States and New Jersey. [NJSA 41:1-1 *et seq.*]

5. Term of Office

Duly appointed lay board members serve for six-year terms beginning on July 1 and ending on June 30. There are no statutory limitations on the number of terms a trustee may serve. Each member serves until a qualified successor is appointed, and vacancies are filled for the remainder of any unexpired term. Any trustee board member may be removed by the governor “for cause upon notice and opportunity to be heard.” [NJSA 18A:64-3.]

6. Trustee Member Compensation

Board members serve without compensation but are entitled to reimbursement for all reasonable and necessary expenses. [NJSA 18A:64-5.]

7. Trustee Defense and Indemnification

Traditionally, the state’s Attorney General (AG) has served as counsel to the state colleges and universities. However, provisions in the restructuring legislation allowed campus trustee boards to hire outside counsel, with the stipulation that boards electing not to utilize the Attorney General’s office for tort claims cases must so decided by mid-September 1994 [NJSA 18A:3B-6.h.]. In a prior legal opinion, the AG declared that state college/university trustees are entitled to representation and indemnification from the state’s Tort Claims Fund for money judgments entered against them for actions taken in the “course of performance” of their statutory responsibilities. [NJSA 59:1-1 *et seq.*, NJSA 59:12-1 *et seq.*]

8. Financial Disclosure Requirements

Executive Order Nos. 1 and 9 (Governor Florio), Governor Whitman’s Executive Order No. 2, and Governor Corzine’s Executive Order No. 1 require state college/university presidents, among other “public employees” and “public officers,” to file financial disclosure statements with both the governor’s office and the State Ethics Commission.

9. Conflicts of Interest

State college/university trustees must annually file a conflicts of interest form, under Executive Order No. 14 (Governor Corzine). The executive order prohibits trustees and members of their immediate families from doing business with, or receiving any benefit from, the institution. The executive order also prohibits board members from owning more than one percent of the profits or assets of an entity that does business with their institution.

Institutional Organization and Planning

Significant authority is vested in state college/university trustee boards by statute and regulation. The board delegates much of its authority to the president and staff for implementation. Such authority can be categorized into four major areas: organization and planning, budget and finance, personnel matters, and academic and student-related matters.

1. Naming the College/University

The name of the state college/university may be designated by the board of trustees subject to regulations of the Commission on Higher Education regarding university status. [NJSA 18A:64-1.]

2. Corporate Seal

The trustee board may adopt and use a corporate seal. [NJSA 18A:64-6.a.]

3. Institutional Organization

The trustee board determines policies for the organization, administration and development of the college/university. [NJSA 18A:64-6.c.]

4. Institutional Bylaws

After consultation with the president and faculty, the trustee board may adopt bylaws with appropriate rules, regulations and guidelines necessary for the administration and operation of the college/university. [NJSA 18A:64-6.m.]

5. Institutional Plan

Upon recommendation of the president, the trustee board formulates the college/university's institutional plan. [NJSA 18A:3B-6.a.]

6. Accountability

Generally, the trustee board is accountable to the public for fulfilling the institution's mission and statewide goals, and for effective management of the institution. [NJSA 18A:3B-6.i.]

Budget and Financial Matters

Each state college/university trustee board studies the educational and financial needs of the institution. More importantly, the trustee board reviews the institution's operating budget, and endorses the institution's annual budget request to the State Treasury.

The following discussion summarizes specific powers and duties associated with budget and fiscal responsibilities of state college/university trustees.

1. Budget Preparation

The trustee board reviews and approves the institution's operating budget and presents its annual budget request to the state Treasury Department's Division of Budget and Accounting. In addition, requests are shared with the Commission on Higher Education for its review in order to recommend a coordinated budget policy statement for all of higher education. [NJSA 18A:3B-6.j and NJSA 18A:64-6.d.]

2. Expenditure of Funds

In accordance with the provisions of the state's budget and Appropriations Act, the trustee board controls the disbursement of funds appropriated to the institution by the legislature and funds received from tuition, fees, auxiliary services and other sources. [NJSA 18A:64-6.e.]

3. Financial Statements and Audits

Trustee boards must make available to the public an annual financial statement, setting forth moneys expended for government relations, public relations, and legal costs. [NJSA 18A:3B-6.k] In addition, trustee boards must have annual financial audits available for public review, along with any related management letters. [NJSA 18A:3B-6.l.]

4. Transfer of Budget Funds

Consistent with the provisions of the state's budget and Appropriations Act, the trustee board may direct and control expenditures and transfers of state appropriations and tuition revenue. The board reports the transfer of specific funds to the Department of the Treasury. The trustee board directs and controls expenditures of funds received from other sources in accordance with the terms of any applicable trust, gift or bequest. [NJSA 18A:64-6.f.]

5. Contractual Agreements

Under the State College Contract Law [NJSA 18A:64-52 *et seq.*], the trustee board may enter into contracts and agreements for the purchase of lands, buildings, equipment, and services deemed necessary for the effective operation of the college/university. The law establishes procedures by which state colleges/universities may purchase or contract for any work, materials or supplies. [NJSA 18A:64-6.k.]

The State Colleges Contracts Law allows boards of trustees to enter contracts without public advertising for bids for contracts that fall below a specified threshold (\$26,200 in 2006), which is adjusted for inflation every two years. Contracts exceeding the threshold must be publicly bid, or awarded without public bid by resolution of the board, if the contract is for particular goods or services specified in the State Contracts Law.

Under the State College Contract Law, the trustee board may award contracts and agreements for construction work or materials or supplies to the lowest bidder whose bid will be most advantageous to the institution. [NJSA 18A:64-6.w.]

The trustee board may employ architects and secure bids for the construction of buildings and equipment, make contracts for construction and supervise the work. [NJSA 18A:64-6.r.]

6. Eminent Domain

As necessary and appropriate, the trustee board may take and condemn land and other property for a public purpose, as provided by the Eminent Domain Act of 1971 [NJSA 20:3-1 *et seq.*], whenever authorized by law to purchase land or other property. [NJSA 18A:64-6.l.]

7. Room and Board Fees

The trustee board may establish fees for room and board sufficient for the operation, maintenance, and rental of student housing and food service facilities. [NJSA 18A:64-6.n.]

8. Tuition and Other Fees

Upon recommendation of the president and following a required public hearing on the topic, the trustee board may fix and determine tuition rates and other fees to be paid by students. [NJSA 18A:64-6.o and NJSA 18A:3B-6.c.]

9. Grants and Contributions

The trustee board may accept from any government or governmental department, agency or other public or private body, or from any other source, grants or contributions of money or property which the board may use as necessary for the effective operation of the institution. [NJSA 18A:64-6.p.]

10. College/University Property

The trustee board may acquire by gift, purchase, condemnation or otherwise, and may own, lease, dispose of, use or operate real or personal property, as necessary for the effective operation of the institution [NJSA 18A:64-6.q.]

11. Property Management and Maintenance

The trustee board may set policy to manage, maintain and provide for the payment of all charges and expenses of college/university property. [NJSA 18A:64-6.s.]

12. Borrow Money

The trustee board may borrow money for the institution's needs as necessary. Money borrowed is not considered a debt or liability of the state. [NJSA 18A:64-6.t.]

13. Out-of-State Tuition and Tuition Waivers

The trustee board is authorized to charge higher tuition to students from out of state. The trustee board may waive student tuition payments to accomplish mission-related or institutional policy goals. [NJSA 18A:64-13.]

14. Retention of All Fees

The trustee board must retain in a separate account all revenues derived by the institution from housing, food service, student union, parking and other fees, and expend such moneys as necessary for the operation, maintenance and rental of such facilities. [NJSA 18A:64-18.a.]

15. Transfer of State Funds to the College/University

All funds appropriated by the state for the operation of the institution must be paid to the college/university in twelve equal installments on the first day of each month. Funds appropriated to Thomas Edison State College must be paid on a quarterly installment basis. The trustee board may retain any unexpended balance at fiscal year's end, and may expend these funds in subsequent fiscal years. [NJSA 18A:64-18.1.]

16. Investments

The trustee board may invest or reinvest institutional funds, subject to the provisions of the state law. The purchase, sale or exchange of any investments or securities must be performed by the director of the Division of Investment unless an annual waiver is requested and obtained from the state Treasurer. Before the Division of Investment may invest, reinvest, sell or exchange institutional funds, the board of trustees must review and approve the investment proposal.

[NJSA 18A:64-18.2 *et seq.*, and NJSA 18A:3B-6.g.]

Personnel Matters

State college/university trustee boards act on institutional personnel matters. State law removes the faculty, non-teaching professional staff and unclassified managerial staff from the authority once vested with the Department of Personnel (formerly Department of Civil Service).

The governor, through the Office of Employee Relations (OER), serves as the “public employer” with respect to all matters of collective bargaining and labor negotiations. (See also **Section III.**)

The following section provides a brief summary of powers and duties of trustees related to personnel matters.

1. Presidential Appointment

In accordance with the provisions of the state's budget and Appropriations Act, the trustee board may appoint and set the compensation level of the college/university president. [NJSA 18A:64-6.g.] Language in recent appropriations acts specifically exempts the presidents of the state colleges/universities, Rutgers University, the University of Medicine and Dentistry (UMDNJ), and the New Jersey Institute of Technology (NJIT) from state salary directives established by the State Treasurer, the Personnel Commissioner, and the Director of the Division of Budget and Accounting. It is anticipated that this exemption will continue in future fiscal years.

2. Appointments of Faculty and Campus Administrative Staff

Upon the nomination of the president, the board may appoint a treasurer, deans, and other professional members of the academic, administrative and teaching staffs of the institution. [NJSA 18A:64-6.h.]

3. Appointment of Other Officers and Employees

Upon the nomination of the president, the trustee board may appoint, remove, promote and transfer such other institutional officers, agents or employees as may be required to implement the institution’s purpose. Furthermore, upon recommendation by the president, the trustee board may assign duties, determine salaries and prescribe qualifications for all positions, in accordance with prevailing civil service statute and regulations. As a practical matter, however, the board often delegates these statutory functions to the president. [NJSA 18A:64-6.i.]

4. Labor Negotiations

Regarding labor negotiations matters, the governor serves as the “public employer” under the New Jersey Employer-Employee Relations Act [NJSA 34:13A-1 *et seq.*] and, through the Office of Employee Relations, serves as the chief spokesperson for matters under negotiation. The 1994 Restructuring Act placed a representative of the state college/university sector, upon designation by the governor and upon recommendation by the state colleges/universities, on the state’s negotiating team. [NJSA 18A:64-21.1]

5. Grievance Procedures

Campus trustee boards have the final authority to determine controversies and disputes concerning tenure, personnel matters for nonclassified employees, and other matters arising under Title 18A of the New Jersey statutes. Cases involving the dismissal of tenured employees shall first be assigned to the Office of Administrative Law for a hearing and initial decision; final decisions shall be made by the full trustee board. Decisions of governing boards may be appealed to the Appellate Division. [NJSA 18A:3B-6.f.]

Academic and Student Life Matters

Important authority relating to academic and student life matters is vested in the boards of trustees of the state colleges/universities. These powers and duties include the authority to establish admission standards, determine educational curriculum, and grant diplomas and degrees. Additionally, the trustee board may authorize any new program, educational department or school as deemed necessary to the institution's mission. Typically, such actions are taken only after thoughtful consideration by faculty and academic administrators, and upon the president's recommendation. The following summary outlines these powers and duties.

1. Admissions

The trustee board has the authority to establish admission standards and requirements. [NJSA 18A:3B-6.d.]

2. Educational Curriculum

The trustee board may determine the institution's educational curriculum and program consistent with the programmatic mission (*i.e.*, degree-granting authority) of the institution or approved by the Commission on Higher Education. [NJSA 18A:64-6.b.]

3. Degrees

The board may establish standards for and grant diplomas, certificates and degrees. [NJSA 18A:3B-6.d and NJSA 18A:64-6.j.]

4. New Programs

Trustee boards have the final authority to approve new academic programs, educational departments or schools which are consistent with the institution's programmatic mission, or which are approved by the Commission on Higher Education. [NJSA 18A:64-6.u.]

If an institution wishes to offer programs beyond its current programmatic mission, requests will be considered by the Presidents' Council and the Commission. [NJSA 18A:3B-8.b and NJSA 18A:3B-14.f.] For proposed programs which are within an institution's programmatic mission, but considered to be unduly expensive or duplicative by the Council, the Commission has 60 days to disapprove the proposal. [NJSA 18A:3B-8.c.]

5. Student Life Policies

Statutes governing the state colleges/universities do not establish student life policies. However, the trustee board typically reviews and approves policies governing rights and responsibilities of resident students and administrators.

The Appointment Process for State College/University Trustees

The cornerstone of any institution of higher education's governance structure is its board of trustees. These boards have policymaking authority over the institution's programs, operations, facilities, finances, faculty and students. Several public policy initiatives, including the State College Autonomy Law, with its concomitant transfer of significant fiscal and operational authority to campus trustees and administrators; the addition of student trustees to state

college/university boards; and the Higher Education Restructuring Act, have contributed directly to the overall improvement in the governance structure of New Jersey state colleges/universities.

The need to secure as state college/university trustees the very best citizens the state has to offer is more important today than ever before, if New Jersey state colleges/universities are to fulfill the challenge of becoming this nation's premier public undergraduate institutions.

Impact of the Higher Education Restructuring Act

Prior to July 1, 1994, state college/university trustees were appointed by the state Board of Higher Education, subject to the governor's approval. Consequently, past editions of this reference guide contained a detailed discussion of the trustee recruitment and appointment process, based on guidelines and practices developed over the years.

Enactment of the Higher Education Restructuring Act, however, ushered in a new era in the appointment of state college/university trustees. With the elimination of the Board of Higher Education, state college/university trustees are now appointed by the governor, with the advice and consent of the state Senate. Trustees are now also given an expanded role in the trustee appointment process, as state college/university boards are required by the Restructuring Act to make recommendations to the governor regarding potential appointees.

The governor's appointments counsel or director, who coordinates all of the governor's appointments on commissions, authorities and boards, is an important resource during a trustee's selection process.

Student Trustees

In 1986, New Jersey became one of the first states in the nation to enact legislation giving student representatives voting rights on state college/university boards of trustees. The original legislation, Assembly Bill No. 1803, was signed into law by Governor Kean (October 1986) as Chapter 136 of the Public Laws of 1986. [NJSA 18A:64-3.1]

The law provides for the inclusion of two student representatives on each state college/university trustee board, and specifies eligibility requirements and the manner of selection (see below) of student trustees at the traditional state colleges/universities. Also, the law allows the governing board at Thomas Edison State College to establish special eligibility requirements and selection procedures for student trustees at that institution.

Manner of Selection

According to statute, the board of trustees at each traditional state college/university schedules a public hearing on the question of student election to the trustee board. After the public hearing, the board meets to determine whether students should be elected by the student body at-large or by the members of the student government association. In the first elections held under the statute, one student was elected for a one-year term as a full voting member and one was elected for a two-year term, serving as a nonvoting alternate in the first year and a voting member in the second year. In each subsequent election, one student trustee is elected for a two-year term, serving as a non-voting alternate in the first year and a voting member in the second year.

Vacancies are filled by the student governing body for unexpired terms only.

Standards for Eligibility

Two students serve on each state college/university board of trustees: one as a voting member, the other as a nonvoting alternate. To qualify for service as a student representative on a state college/university board of trustees, the person must be:

- * a full-time regularly matriculated student;
- * in good academic standing;
- * 18 years of age or older; and
- * a U.S. citizen.

The standards for eligibility for student representatives on the board of trustees shall be the same as those required of other student government officers.

Participation on State College/University Boards

According to statute, elected student trustees participate fully in trustee board matters, with some exceptions. Student trustees may ***not*** participate in:

1. Any matter involving the employment, appointment, termination of employment, terms and conditions of employment, evaluation of the performance of, promotion or disciplining of any specific prospective or current officer or employee employed or appointed by the board, unless all the individual employees or appointees whose rights could be adversely affected request in writing that the matter or matters be discussed in a public meeting.
2. Any matter involving the purchase, lease, acquisition or sale of real property with public funds, the setting of banking rates or investment of public funds, where it could adversely affect the public interest if discussion of these matters were disclosed.
3. Any pending or anticipated litigation in which the board is, or may become, a party, where it could adversely affect the public interest if discussion of these matters were disclosed, or any matters falling within the attorney-client privilege, to the extent that confidentiality is required in order for the attorney to exercise his/her ethical duties as a lawyer.

Upon assuming office, student trustees must adhere to standards of responsibility and confidentiality established by the board of trustees.

Immunity from Liability and Indemnification

The trustee board is responsible for guiding the institution, consistent with its mission, toward the goal of educational excellence that best serves the community. Consequently, trustees have wide-ranging responsibilities, including the selection and appointment of the president; the approval of long-range plans; and the approval of a budget to ensure fiscal solvency of the institution. Individual trustees have no legal standing to act on an institution's behalf. The majority vote of the board is the only official basis for trustee action. This basis for action can also be the basis for civil liability. Civil liability is based on the law of torts. A tort is a civil wrong for which a court of law will afford a remedy in the form of an action for damages.

Tort Liability and State College/University Trustees

Tort actions fall into two categories: intentional torts and negligence. An intentional tort occurs when an injurious, intentional action causes harm. The most frequent intentional torts occurring in the campus setting are assault, battery and defamation. Negligence occurs when an

unintentional, injurious action causes harm, which could have been prevented through the exercise of reasonable care and proper foresight. Negligence liability may also occur when a “special relationship” exists between two parties, and there is failure to exercise reasonable care.

Immunity is a defense to liability for tortious conduct. Immunity protects public institutions and their employees and officers from civil liability in certain instances.

The New Jersey Tort Claims Act

In New Jersey, state college/university trustees, as officers of public institutions, are immune from civil liability and, in certain instances, receive indemnification under the New Jersey Tort Claims Act and the New Jersey Tort Claims Fund. [NJSA 59:1-1 *et seq.*; NJSA 59:10-1 *et seq.*; NJSA 59:12-1 *et seq.*] The law provides immunity from civil liability when public employees act “within the scope of employment.” However, public entities and employees are liable for their tortious conduct when they act “outside the scope of employment,” commit a crime, or engage in actual fraud, actual malice or willful misconduct.

According to statute [59:10A-1 *et seq.*], the Attorney General is required to defend actions against current and former state employees for acts or omissions in the scope of employment. This includes state college/university trustees, officers and employees. (The Higher Education Restructuring Act did provide campus trustee boards with the option of employing outside counsel for cases of a tortious nature; however, a decision not to utilize the Attorney General’s office for such matters had to be made by mid-September 1994, and no state college/university chose this option.) Moreover, the Tort Claims Act requires the State Treasurer to pay any tort claim against or claim for indemnification by a state employee or entity, except for punitive or exemplary damages. [NJSA 59:10-1 *et seq.*] Indemnification is a general dispensation from punishment for protected acts.

Trustees and their institutions are further protected from liability by other laws. The New Jersey Contractual Liability Act [NJSA 59:13-1 *et. seq.*] provides defenses for the state colleges/universities against claims of breach of contract. The Charitable Immunity Act [NJSA 2A:53A-7 *et. seq.*] protects the institutions and their trustees from negligence claims brought by students and others who benefit from the works of the institution.

Ethics Compliance

In response to several high-profile ethics incidents in state government and higher education between 2004 and 2005, the governor and legislature took significant steps to strengthen New Jersey’s ethics laws pertaining to public employees and public officials. Under P.L. 2005, c.382, the Executive Commission on Ethical Standards was renamed the State Ethics Commission and was given broader authority to investigate and penalize violations of the state’s ethics laws. The commission must also develop a uniform ethics code for the Executive Branch, and prepare a plain-language ethics guide for Executive Branch employees, both of which would supplement the ethics code adopted by each state college and university. The uniform code, due in late 2006, will address issues such as nepotism, acceptance of gifts, and restrictions on employment after service in the Executive Branch.

The State Ethics Commission also has the authority to enforce executive orders. Executive Order No. 14 (Governor Corzine) prohibits state college/university trustees and members of their immediate families from doing business with their institution and from receiving

any benefit from the institution. The executive order also prohibits board members from owning more than one percent of the profits or assets of an entity that does business with their institution.

The executive order requires trustees to file a conflicts of interest form annually with the State Ethics Commission. The form asks, among other questions:

- Do you or any immediate family member do business with your university or college?
- Are you or any member of your immediate family employed by, or do you receive or derive any compensation or benefit, financial or otherwise, from any firm, association or partnership that does business with your university or college?
- Do you own or control more than one percent of the profits or assets of any firm, association or partnership that does business with your university or college?

The form defines “do business with” to mean providing or receiving any goods or services or otherwise engaging in a transaction involving the exchange of anything of value. The form defines “member of immediate family” to mean spouse, domestic partner, or child, parent, or sibling residing in your household.

Executive Order No. 14 requires each state college and university to complete a list of vendors and companies that do business with, or provide services to, the institution. The institution must submit the list to the State Ethics Commission and to all board members no later than February 15 of each calendar year. The vendor lists allow the State Ethics Commission to evaluate conflicts of interests, and they help board members identify and avoid conflicts and to prepare their conflicts of interests forms.

State colleges and universities must update their vendor lists quarterly and provide copies to the State Ethics Commission and to individual board members. The institutions must also provide newly appointed trustees with vendor lists when they join the board.

SECTION III: The Effect of State Government Processes on State College/University Trusteeship

In New Jersey, higher education includes 57 colleges and universities, and 400,000 students, and is arrayed in various segments. They are:

- The state college/university group – The College of New Jersey, Kean University, Montclair State University, New Jersey City University, Ramapo College of New Jersey, The Richard Stockton College of New Jersey, Rowan University, Thomas Edison State College, and William Paterson University;
- Three public research universities – Rutgers University, the University of Medicine and Dentistry of New Jersey (UMDNJ) and the New Jersey Institute of Technology (NJIT);
- Nineteen community colleges;
- Fourteen independent colleges and universities;
- Several proprietary institutions; and
- Several special-purpose religious institutions.

As previously noted, the 1986 Autonomy Laws, the 1994 Higher Education Restructuring Act, and other laws governing state colleges/universities grant to local trustee boards a significant degree of fiscal and operational independence from state government. Nevertheless, the institutions and their respective trustee boards continue to interact with a number of entities, including:

- the Commission on Higher Education and the Presidents' Council (state-level coordination of higher education);
- the New Jersey Association of State Colleges and Universities (advocacy and joint agreements);
- the Office of Employee Relations within the governor's office (collective negotiations, contract implementation and conflict resolution);
- the state Department of the Treasury (budget and fiscal policy); and
- the office of the Attorney General (legal representation).

Various processes, such as the state's budget process, the state's legislative process and labor contract negotiations, influence the manner with which trustees perform their responsibilities.

The following section on state processes provides trustees with background information on the major state entities and processes which affect their duties and responsibilities, and acquaints trustees with the policy arena within which they function as stewards and fiduciaries of their academic enterprises.

The New Jersey Commission on Higher Education

Established by the Higher Education Restructuring Act, the New Jersey Commission on Higher Education, along with the New Jersey Presidents' Council, has authority for coordination of higher education in New Jersey. The Commission is composed of eleven members, as follows:

- six members appointed by the governor with the advice and consent of the Senate;
- two members appointed by the governor upon recommendations from the Senate president and the Assembly speaker (one each);
- the chair of the Presidents' Council (*ex officio*);
- one faculty member from an institution of higher education, appointed by the governor with the advice and consent of the Senate; and
- the chair of the board of the Higher Education Student Assistance Authority (*ex officio*), or a designee from the public members of the authority.

In addition, the governor appoints two students who attend public or independent institutions of higher education in New Jersey from recommendations submitted by student government associations of New Jersey colleges and universities. Student members serve a one-year term on the commission as non-voting members.

The commission has long-term responsibilities for improving New Jersey higher education, including statewide planning and advocacy. As prescribed in law [NJSA 18A:3B-14], quoted here verbatim, the commission shall be responsible for:

- a. Statewide planning for higher education including research on higher education issues and the development of a comprehensive master plan, including, but not limited to, the establishment of new institutions, closure of existing institutions, and consolidation of institutions, which plan shall be long-range in nature and regularly revised and updated. The [Presidents'] council may request the commission to conduct a study of a particular issue. The commission may require from institutions of higher education such reports or other information as may be necessary to enable the commission to perform its duties;
- b. Advocacy on behalf of higher education including informing the public of the needs and accomplishments of higher education in New Jersey;
- c. Making recommendations to the governor and legislature on higher education initiatives and incentive programs of statewide significance;
- d. Final administrative decisions over institutional licensure and university status giving due consideration to the accreditation status of the institution. The commission shall furnish the Presidents' Council with any pertinent information compiled on behalf of the subject institution and the council shall then make recommendations to the commission concerning the licensure of the institution or university status within sixty days of receipt of the information;
- e. Adopting a code of ethics applicable to institutions of higher education;
- f. Final administrative decisions over new academic programs that go beyond the programmatic mission of the institution and final administrative decisions over a change in the programmatic mission of an institution. In addition, within sixty days of referral of a proposed new program determined to be unduly expensive or duplicative by the council, the commission may deny approval of programs which do not exceed the programmatic mission

- of the institution, but which are determined by the New Jersey Presidents' Council to be unduly duplicative or expensive;
- g. Reviewing requests for State support from the institutions in relation to the mission of the institution and statewide goals and proposing a coordinated budget policy statement to the governor and legislature;
 - h. Communicating with the State Board of Education and Commissioner of Education to advance public education at all levels including articulation between the public schools and higher education community;
 - i. Applying for and accepting grants from the federal government, or any agency thereof, or grants, gifts or other contributions from any foundation, corporation, association or individual, and complying with the terms, conditions and limitations thereof, for the purpose of advancing higher education. Any money so received may be expended by the commission upon warrant of the director of the Office of Management and Budget in the Department of the Treasury on vouchers certified by the executive director of the commission;
 - j. Acting as the lead agency of communication with the federal government concerning higher education issues, except that the Higher Education Student Assistance Authority shall act, in cooperation with the commission, as the lead agency on issues of student assistance;
 - k. Exercising all of the powers and duties previously exercised by the Board of Higher Education, the Department of Higher Education, and the Chancellor of Higher Education, under the "New Jersey Higher Education Building Construction Bond Act of 1971," [P.L.1971, c.164]; the "New Jersey Medical Education Facilities Bond Act of 1977," [P.L.1977, c.235]; the "Jobs, Science and Technology Bond Act of 1984," [P.L.1984, c.99]; the "Jobs, Education and Competitiveness Bond Act of 1988," [P.L.1988, c.78]; the "Higher Education Equipment Leasing Fund Act," [P.L.1993, c.136]; and the "Higher Education Facilities Trust Fund Act," [P.L.1993, c.375];
 - l. Exercising any other power or responsibility necessary in order to carry out the provisions of this act; and
 - m. Consulting with the Higher Education Student Assistance Authority on student assistance matters.

The New Jersey Presidents' Council

The Presidents' Council assists the commission in providing statewide coordination for New Jersey higher education, and is similarly established in law under the Higher Education Restructuring Act of 1994. Each president of a public institution of higher education in the state, each president of an independent institution which receives direct state aid, each president of a proprietary school licensed before June 26, 2003, and each president of the two theological institutions with the largest enrollments serves as an *ex officio* member of the council. The 1994 Restructuring Act also established the council's Executive Board, whose members include the presidents of Rutgers, NJIT, and UMDNJ; three state college/university presidents; five county college presidents; three independent college presidents, and one president of the proprietary schools who are members of the council. The Executive Board is expected to perform much of the council's business, as determined by the full council.

The following are the statutory responsibilities [NJSA 18A:3B-8] of the Presidents' Council, quoted here verbatim:

- a. Provide public information and research on higher education issues;
- b. Review and make recommendations to the commission concerning proposals for new programs that exceed the programmatic mission of an institution or that change the programmatic mission of an institution;
- c. Review and comment on proposals for new programs that demand significant added resources or raise significant issues of duplication but do not exceed the programmatic mission of the institution or require a change in the programmatic mission. If the council determines that a proposed new program is unduly expensive or unduly duplicative, the council shall refer that proposal to the commission for review; however, unless the commission disapproves of that program within sixty days of its referral, the program shall be deemed approved;
- d. Encourage the formation of regional or other alliances among institutions including interinstitutional transfers, program articulation, cooperative programs, and shared resources and develop criteria for "full faith and credit" transfer agreements between county colleges and other institution of higher education;
- e. Advise and assist the commission in developing and updating a plan for higher education in the state including, but not limited to, the establishment of new institutions, closure of existing institutions, and consolidation of institutions;
- f. Provide policy recommendations on statewide higher education issues;
- g. Recommend to the governor, legislature and commission on policy and overall levels of funding for student aid programs necessary to ensure accessibility to higher education;
- h. Transmit to the governor, legislature and commission a general budget policy statement regarding overall state funding levels;
- i. Upon referral from the commission pursuant to this act provide recommendations concerning institution licensure and university status;
- j. Appoint subcommittees consisting of the presidents of the institutions of the various higher education sectors to decide matters, within the authority of the council. The presidents of the independent institutions shall develop a unified request for State support under chapter 72B of Title 18A of the New Jersey Statutes. The presidents of the county college sector shall develop a unified request for State support under chapter 64A of Title 18A of the New Jersey Statutes; and
- k. Consult with the Higher Education Student Assistance Authority concerning student assistance matters.

Sector Advocates

Three sectors of higher education have associations that represent their interests in Trenton. In addition to the state colleges/universities' representation by the New Jersey Association of State Colleges and Universities, the county colleges are represented by the New Jersey Council of

County Colleges, and the private colleges and universities are served by the Association of Independent Colleges and Universities of New Jersey.

The research sector does not have an association. Each institution, established under its own enabling statute, has its own government affairs office and other means of advocating public policy.

Among the sector organizations, the Association of Independent Colleges and Universities of New Jersey was established first, in 1966. The New Jersey Council of County Colleges was created in 1989 by statute, similar to ASCU's 1985 enabling law.

Both the Commission on Higher Education and the Presidents' Council rely on the sector organizations to assist their operations. The sector organizations help to share information, secure participation on committees, and coordinate joint efforts, such as testimony before legislative budget committees.

The Budget Process in New Jersey

New Jersey's state colleges/universities are governed by a budget process well established in the state's constitution, which requires that appropriations (to state entities) be made by law before any money can be withdrawn from the State Treasury. The legislature cannot appropriate funds in excess of the total amount of available or anticipated revenue as certified by the governor. This constitutional provision for a balanced budget enables the state government to maintain a fiscally responsible posture and the highest possible credit rating.

The state government operates on a fiscal year from July 1 of one year to June 30 of the following year. As part of the state's budget process, state departments begin work on a budget more than a year before it takes effect. Working in cooperation with the Department of the Treasury, state departments and agencies develop early in the process preliminary budget targets and planning documents that prioritize budget needs.

State college/university trustee boards are vested with statutory authority to study the financial needs of the institution and are required to submit annual budget requests to the Division of Budget and Accounting (commonly referred to as the Office of Management and Budget) in the Department of the Treasury. Institutional funding requests must also be submitted to the Commission on Higher Education, so that the commission can prepare a general budget policy statement.

During the final months of the calendar year, Treasury reviews the budgets of all state departments and agencies of government and makes its budget recommendations to the governor, who has ultimate authority for submitting the administration's final annual budget proposal to the legislature. The governor's budget message, representing his or her recommendations on revenue allocation, must be delivered to the legislature by the fourth Tuesday in February of each year.

The legislature must enact the state's budget into law. Under the auspices of the Senate Budget and Appropriations Committee and the Assembly Budget Committee, public hearings on the governor's recommended budget for higher education are held with representatives from the commission, institutional representatives and other members of the higher education community. During this period of legislative review, the governor's budget is modified to reflect legislative budget priorities. In June, the budget committees in both houses prepare the Appropriations Act for operating state government in the next fiscal year. Both houses of the legislature must pass the

Appropriations Act, which is sent to the governor for final approval. The governor may line-item veto certain budget items in the Act, but may not add any further budget items not already approved by the legislature.

The state's constitution requires both that the governor sign the Appropriations Act into law by July 1, and that the fiscal year's projected total revenue is sufficient to cover appropriated funds. Once the budget is signed into law, appropriated funds are provided to the various agencies of state government.

All state colleges/universities receive state funds appropriated for each institution's operation in twelve equal installments on the first day of each month, except Thomas Edison State College, which receives its appropriation on a quarterly installment basis. [NJSA 18A:64-18.1.]

The Legislative Process in New Jersey

New Jersey state government, like that of the United States, is divided among three equal branches: the legislative, the executive, and the judicial. The principal function of the legislature is to enact the state's laws and to appropriate public funds. The executive branch (governor and state departments and agencies) implements and enforces the programs established by law. The judiciary (the state's system of courts) settles legal disputes, punishes violators of the law and acts as final authority on the meaning and constitutionality of laws.

Legislators and Legislative Districts

The legislature consists of a 40-member Senate and an 80-member General Assembly. Legislators are elected from 40 legislative districts of substantially equal population. The voters in each district elect one Senator and two members of the General Assembly. The Senate and Assembly chambers are located in the State House, Trenton.

Senators must be at least 30 years of age and residents of the state for four years prior to election; members of the Assembly must be at least 21 years of age and state residents for two years. Legislators must live in the districts that they represent.

While legislators spend a substantial amount of their time on legislative matters, service in the legislature is considered to be part-time, and most legislators also hold other employment.

Every ten years, after the federal census, the boundaries of the 40 districts are redrawn to maintain an equal population in each district. This reapportionment of districts is performed by a 10-member bipartisan apportionment commission, whose members are appointed by the state chairs of the two major political parties. In case of a tie vote, the chief justice of the New Jersey Supreme Court appoints an eleventh member to the commission, which must then complete its work within one month.

Legislative Elections

Legislative elections are held in November of each odd-numbered year. Members of the Assembly serve two-year terms; members of the Senate serve four-year terms, except that at the beginning of each decade the Senate term is only two years. This 2-4-4 cycle allows for elections from new districts as soon as possible after each reapportionment.

If a legislative seat becomes vacant, the members of the county committee of the political party of which the incumbent was the nominee fills the vacancy within 35 days. A special election then generally determines who fills the unexpired term.

Legislative Sessions

Each legislature is in session for two years, beginning on the second Tuesday in January of each even-numbered year. All business conducted during the first year may be continued in the second year.

At the end of the second year, all unfinished business expires.

Each house sets its own meeting schedule. In recent years, each house has held an average of 40 sessions yearly, usually on Mondays and Thursdays. The Senate and General Assembly occasionally meet in joint session for an address by the governor, typically the State of the State address and the budget message.

A typical session day consists of committee meetings in the morning, party conferences around midday, and floor (voting) sessions in the afternoon and early evening. Committee meetings and floor sessions are open to the public. No advance arrangements are necessary to gain admission to the meeting rooms or the public galleries.

Legislative Organization

Each house elects a presiding officer from among its members. These officers — the President of the Senate and the Speaker of the General Assembly — are respectively first and second in line of succession to the governorship, and serve as acting governor when the governor is out of the state.

The line of succession will change, and the need for an acting governor will be eliminated, in 2010. Under a constitutional amendment approved in 2005, New Jersey voters will elect the state's first lieutenant governor in 2009. Candidates for the offices of governor and lieutenant governor will be elected as joint candidates in the general election.

The President and the Speaker have broad powers within their houses. They decide the meeting schedules and the calendar of bills for consideration, preside over the sessions, appoint the chairs and members of the committees, refer bills to committees and direct the business of their houses.

Each party in each house also chooses party leaders: the Majority Leader, the Minority Leader, assistant leaders and whips. The party leaders help develop party policy on the issues before the legislature.

Each house establishes a number of standing reference committees to review legislation. Much of the discussion on the merits of a bill takes place in committee sessions. Representatives of interest groups and members of the public are generally given the opportunity to present their views at committee meetings. The committees that most often act on issues affecting higher education are the Senate Budget and Appropriations Committee; the Senate Education Committee; the Assembly Budget Committee; the Assembly Appropriations Committee; and the Assembly Higher Education Committee.

The Office of Legislative Services (OLS) is a nonpartisan administrative agency that provides staffing and technical assistance to members of the legislature, the general public and

other units of state government on legislative matters. OLS offers a wide range of services to the legislature which include: budget and finance, legislative counsel, public information, data management and state auditing.

Trustees, as members of the public, may obtain assistance from OLS relative to the status of legislation, schedules for house sessions and meeting dates for committee hearings.

Legislative Powers

The primary function and, indeed, the power of the legislature is its authority to enact state laws. A proposal to make a new law, or to change or repeal an existing law, is presented to the legislature as a bill. To become law, a bill must pass both houses by majority vote and be approved by the governor.

Another important power of the legislature is its authority to propose amendments to the state's constitution for submission to the voters. A proposed constitutional amendment must pass by a vote of three-fifths of the members of each house (24 votes in the Senate and 48 votes in the Assembly). No action by the governor is required. If passed, the proposed amendment is placed on the ballot in November for a public vote. A constitutional amendment may also be presented to the voters if the legislature passes it in two consecutive years by a majority vote.

Other powers of the legislature include authority of the Senate to approve the governor's appointments of judges and other state officials, including trustees of the senior public colleges and universities. The legislature also ratifies amendments to the United States Constitution, appoints the state auditor, judges the elections and qualifications of its members, and has the authority to conduct impeachment proceedings against state officials.

The Labor Relations Process in New Jersey

Labor relations, together with matters of collective negotiations at the state colleges/universities, fall within the jurisdiction of the governor who represents the state as public employer under the New Jersey Employer-Employee Relations Act. [NJSA 34:13A-1 *et seq.*] Enacted primarily to foster labor peace between public employers and employees, the 1968 Act, in concert with subsequent administrative agency and judicial decisions, has established the framework of public sector collective negotiations in New Jersey.

The New Jersey Employer-Employee Relations Act

The following section provides a summary of the major provisions of the state's Employer-Employee Relations Act. New Jersey Supreme Court decisions, which have interpreted the Act, help form the basis for fully understanding it.

The basic elements of the Act provide that:

1. Public employees have the right, freely and without fear of penalty or reprisal, to form, join and assist any employee organization (or union) or to refrain from any such activity.
2. A union designated by a majority of employees in an appropriate statewide unit is the exclusive representative for collective negotiation concerning the negotiable terms and conditions of employment of those employees.
3. A union is entitled to act for and to negotiate agreements covering all employees in the unit.

4. A union is responsible for representing the interests of all unit employees without discrimination and without regard to union membership.
5. Unions and the state must meet at reasonable times and negotiate in good faith with respect to grievances and terms and conditions of employment of employees.
6. When a union and the state reach agreement on terms and conditions of employment, those terms and conditions are placed in a signed contract by the parties. A copy of the appropriate contract is available to each state employee.

PURPOSE

The principal purpose of the New Jersey Employer-Employee Relations Act is to foster labor peace between public employers and employees. The Act provides that nonmanagerial and nonconfidential public employees, organized under a community of interest, may unite for the purpose of negotiating terms and conditions of employment with their public employer. The Act also provides a framework for negotiations and establishes a mechanism to resolve disputes which cannot be resolved by negotiation.

DEFINITION OF TERMS

The term “public employer” includes the State of New Jersey and any subdivision thereof, including counties and municipalities, school districts, authorities, boards and commissions. The state colleges and universities, by virtue of their boards of trustees, are included under this definition. The State of New Jersey, as represented by the governor, is the public employer of state college/university personnel. Labor negotiations for these employees are conducted by the governor’s Office of Employee Relations (OER) on behalf of the state colleges and universities. Furthermore, all contract disputes before the Public Employment Relations Commission (PERC) are conducted by the Attorney General’s office and OER on behalf of the state colleges and universities.

The term “public employee” is quite broad and includes each person in the service of a public employer, except elected officials, members of boards and commissions, managerial executives and confidential employees. A “managerial employee” is defined as one who formulates management policies and practices or directs the effectuation of such policies and practices. A “confidential employee” is one who has access to information involved in the collective negotiations process, such that it would be inappropriate for that individual to be a member of a negotiations unit. Managerial and confidential employees have no guaranteed right to join or participate in employee organizations under the Act.

Negotiations Units within the State Colleges/Universities

Under the Act, public employees at the state colleges/universities are members of statewide “negotiations units.” These negotiations units are represented by the following unions:

- the International Federation of Professional and Technical Engineers (IFPTE), which represents employees in the Operations, Maintenance, Service and Crafts units, and the Inspection and Security Unit;
- the American Federation of State, County and Municipal Employees (AFSCME), which represents employees in the Health Care and Rehabilitation Services Unit;

- the Police Benevolent Association (PBA), which represents employees in the Law Enforcement Unit (campus police), the Primary Level Supervisory Law Enforcement Unit (sergeants), and the Superior Officer Law Enforcement Unit (lieutenants); and
- the Communication Workers of America (CWA), which represents employees in the Administrative and Clerical Unit, the Primary-Level Supervisors Unit, the Higher-Level Supervisors Unit, and the Professional Unit.

These unions collectively negotiate agreements with the state. Additionally, two separate negotiations units, represented by the Council of New Jersey State College Locals AFT, AFL-CIO (hereafter referred to as AFT) and covering only employees at the state colleges/universities, have been established for state college/university faculty and nonteaching staff, and for adjunct faculty.

Terms and Conditions of Employment

The New Jersey Employer-Employee Relations Act provides for collective negotiations with representatives of an employee organization (union) only with respect to “terms and conditions of employment.” The New Jersey Supreme Court has interpreted the Act as providing only two categories of subjects in public employment negotiation: mandatorily negotiable terms and conditions of employment, and non-negotiable matters of governmental policy (*Ridgefield Park Education Association v. Ridgefield Park Board of Education*, 78 NJ 144, 162 (1978)). (However, the Act provides that those defined as "public police and fire" who are subject to interest arbitration have a third category of **subjects in public** negotiation, which is called permissive.) The Court applies a three-pronged test, determined in three cases decided in 1973, in determining the negotiability of a subject:

1. It must intimately and directly affect the work and welfare of public employees;
2. It must not be fully or partially preempted by statute or regulation; and
3. A negotiated agreement would not significantly interfere with the determination of governmental policy.

To decide under the third prong of the test whether a negotiated agreement would significantly interfere with the determination of governmental policy, it is necessary to balance the interests of the public employees and the public employer. When the dominant concern is the government’s managerial prerogative to determine policy, a subject may not be included in collective negotiations even though it may intimately affect employees’ working conditions.

Mandatory subjects of negotiations include: salary and benefits, work load, procedures for transfer and reassignment, grievance procedures, discipline procedures, and promotion procedures. Non-negotiable subjects include: areas preempted by statute, such as affirmative action and equal opportunity of employment; and management prerogatives, such as the right to subcontract and to set the academic calendar.

The Grievance Procedure

The Act provides that the negotiated agreements may establish a dispute resolution mechanism known as a grievance procedure. The procedure is designed to allow a timely process to decide issues raised under the union contract. Normally, the process allows for the appeal of a decision through levels of management, until the issue is presented to an arbitrator for a decision. If either party believes that the arbitrator’s decision is illegal, the matter is resolved by the courts. Each of the union contracts involving employees at the state colleges/universities contains a grievance procedure clause.

Public Employment Relations Commission

The Public Employment Relations Commission (PERC) is an administrative agency established under the Act to make policy and promulgate regulations designed to implement the provisions of the Act. The commission's seven members are appointed by the governor with the advice and consent of the Senate: two members are representatives of public employers, two members are representatives of public employee organizations, and three members are representatives of the general public, including the appointee who is designated as the chairperson.

PERC exercises authority in four major areas:

1. **Unfair Practices:** to hear and determine charges filed by unions, public employers or individual public employees, that certain prescribed rights granted under the Act have been violated.
2. **Representation:** to determine which employees should be grouped together for inclusion in the appropriate negotiations unit for collective negotiations. Certain public employees are excluded by the Act from a negotiations unit, such as managerial executives and confidential employees. PERC also holds elections to determine which union, if any, employees have chosen as their negotiations agent.
3. **Scope of Negotiations:** to determine whether a topic is legally subject to negotiation (a mandatory topic) or is non-negotiable.
4. **Impasse Procedures:** to provide neutral mediators or fact finders to help public employers and unions arrive at voluntary negotiated settlements.

Unfair Labor Practices

Essentially an employer commits unfair labor practices by:

1. interfering with, restraining or coercing an employee in the exercise of his or her rights under the Act;
2. interfering with the formation, existence, or administration of a union;
3. terminating or discriminating against an employee for his or her union activity, or for taking action under the Act;
4. refusing to negotiate in good faith with the union over terms and conditions of employment, or refusing to process grievances; or
5. refusing to reduce a negotiated agreement to writing and to sign such agreement.

An employee representative commits an unfair practice if he or she:

1. interferes with, restrains or coerces employees in the exercise of rights that exist under the Act;
2. interferes, restrains or coerces an employer in its selection of a negotiations representative;
3. refuses to negotiate in good faith; or
4. refuses to reduce a negotiated agreement to writing and to sign such agreement.

Strike and Job Action

The Act does not give to public employees the right to strike, which is a work stoppage, or the right to engage in a job action, which is a work slow-down or other interference designed to deny the employer necessary manpower. Legal decisions from the state Supreme Court hold that any strike or concerted job action is illegal, and may be enjoined.

The Contract Negotiations Process

The state, as “public employer” under the New Jersey Employer-Employee Relations Act, is represented by the governor. The governor’s Office of Employee Relations (OER) is authorized to negotiate all labor contracts with the various unions representing public employees. OER is also responsible for the administration and policy interpretations of labor agreements.

The Higher Education Restructuring Act of 1994 provides for formal state college/university representation on the negotiations team. Accordingly, one representative recommended by the state colleges/universities is designated by the governor as a member of the negotiating team.

Typically, the contract between the state and the AFT is negotiated every three or four years. The current contract expires on June 30, 2007. The state college/university management team minimally includes a state college/university representative and an OER representative. The OER representative serves as chief spokesperson for the management team. The faculty union’s team consists primarily of the AFT president and staff, in addition to local campus union presidents representing faculty, non-teaching professionals and librarians, and adjuncts in a separate unit. The AFT president serves as the union’s chief spokesperson.

The negotiations process formally commences with each team preparing its proposals for initial presentation and consideration by the other party well in advance of the contract’s termination date. Generally, the first negotiations meeting involves the establishment and agreement of ground rules which govern the actual negotiations process. Ensuing preliminary meetings entail an exchange of proposals, with appropriate explanation and clarification by each team. The remainder of the bargaining sessions consists of more analytical examination of the parties’ proposals to determine priority items requiring negotiations and agreement. These meetings consist of across-the-table questions and answers between the teams (through the chief spokesperson) and caucuses. In the caucus, each team meets alone to discuss among its members its response to the other team’s proposal. During this period, tentative agreement is reached on most noneconomic proposals.

The economic package (wages and benefits) is generally the final item for negotiation and agreement. Continuous consultations through caucuses, meetings and negotiations sessions among and between the negotiations teams ultimately lead to a final agreement. Once a final agreement is reached on all outstanding proposals, a draft contract is prepared for final review by both parties and ratification by the AFT. The contract is signed, printed by the state, and the union distributes it to unit members.

Policies for State College/University Personnel

History

In 1986, at the signing of the State College Autonomy Laws, no substitute structure existed to perform the tasks then falling within the authority of the Department of Personnel (formerly the Department of Civil Service) with respect to those persons at the state colleges/universities who were to be removed from the purview of the department. Later that year, a task force was commissioned to develop a new personnel structure for nonaligned, unclassified, and professional employees, and employees in the State Colleges Unit, transferring authority from the Department of Personnel to the Department of Higher Education. The task force prepared regulations to create

the personnel system, and the proposed regulations were distributed to the state colleges and universities, the governor's office, the Office of the Attorney General, the Office of Employee Relations, the American Federation of Teachers and other interested groups. After receiving public comment, the Board of Higher Education adopted the State College Personnel System regulations in 1987, later readopting the Personnel System regulations in 1993.

While the Higher Education Restructuring Act of 1994 eliminated both the Department and Board of Higher Education, effective July 1, 1994, all regulations previously adopted by the Board regarding personnel matters were maintained for one year, providing the new Commission on Higher Education time to review state policy in this area. The Commission allowed the State College Personnel System regulations to expire in 1996. Generally, the personnel regulations concerned classification of positions, compensation of managerial employees, leaves (including sick and vacation), criteria for promotion and reappointment qualifications for rank, layoff procedures, as well as standards of conduct and equal employment opportunity and affirmative action. These issues are now governed by three documents:

1. The contracts with the AFT, which cover terms and conditions of employment;
2. Policies developed by each board of trustees, which cover non-negotiable matters for employees under contract, and all matters for managers and employees not covered by a contract; and
3. Agreements between each college/university and each local AFT, which cover campus-specific issues.

New Jersey Higher Education Student Assistance Authority

In 1999, the New Jersey legislature enacted the Higher Education Student Assistance Authority Law [NJSA 18A:71A-1 *et seq.*] This law consolidated the various student assistance functions of the Office of Student Assistance, the Student Assistance Board, and the Higher Education Assistance Authority into a new authority.

Purpose of the Higher Education Student Assistance Authority

The Higher Education Student Assistance Authority, allocated in but not of the Department of State, furthers access to postsecondary education through loans, grants, scholarships or other means.

Membership

The board of the Higher Education Student Assistance Authority consists of eighteen members: the State Treasurer *ex officio* or a designee; the chair of the Commission on Higher Education *ex officio* or a designee from among the public members of the commission; the chair of the board of directors of the Educational Opportunity Fund *ex officio* or a designee from among the public members of the board; five representatives from eligible institutions in this State, including one from Rutgers University, one from either the New Jersey Institute of Technology or the University of Medicine and Dentistry of New Jersey, one from the county colleges, one from the state colleges/universities, and one from the independent institutions of higher education in the State; two students from different collegiate institutional sectors; seven public members who are residents of this State, including one who represents a lender party to a participation agreement

with the authority; and the executive director of the authority, or designee, who shall be an *ex officio*, non-voting member of the board.

The seven public members, including the lender member, are appointed by the governor with the advice and consent of the Senate. No more than four of the public members may be members of the same political party. The institutional representatives are nominated by the respective institution in the case of Rutgers, New Jersey Institute of Technology, and University of Medicine and Dentistry of New Jersey. The remaining institutional representatives are nominated by the respective sector association. Institutional representatives are appointed by the governor with the advice and consent of the Senate.

The student members are the individuals that the Student Advisory Committee elects as its chairperson and vice-chairperson. The Student Advisory Committee shall be created by the board to include students from all collegiate institutional sectors.

Public and institutional members of the board shall serve a term of four years and until a successor is appointed and qualified. Student members shall serve a term of office not to exceed two years. Any vacancy in the membership of the board, occurring otherwise than by expiration of term, shall be filled in the same manner as the original appointment or election was made, but for the unexpired term only.

Executive Director

The executive director of the authority is appointed by the governor and serves at the pleasure of the governor during the governor's term of office and until a successor is appointed.

Student Financial Aid Programs

HESAA administers four types of student assistance: savings programs, merit-based grants, student loans, and need-based grants. The largest program is the Tuition Assistance Grant program (TAG). Established in 1978, TAG provides eligible full-time undergraduates up to 100% of the cost of tuition at public institutions, and up to 50% of the average tuition at independent institutions in New Jersey. In 2006, approximately 34% of full-time undergraduates attending college in New Jersey received a TAG award. Of these, nearly 64% came from families with adjusted gross incomes of \$22,200 or less. HESAA determines financial eligibility and the size of awards by using the New Jersey Eligibility Index (NJEI), derived from federal methodology. In recent years, over 350,000 students apply for TAG annually, but only about 61,000 students receive these grants. Language within each appropriations act since Fiscal Year 2004 has authorized TAG awards for part-time students at county colleges.

HESAA administers a number of smaller programs, including two merit-based programs designed to stem the "brain drain" by encouraging high-achieving high school graduates in New Jersey to attend college within the state. These are the Outstanding Scholar Recruitment Program (OSRP), and the New Jersey Student Tuition Assistance Reward Scholarship (NJ STARS).

OSRP provides annual scholarships ranging from \$2,500 to \$7,500 to students who achieve certain SAT and class-rank criteria and attend a four-year institution. For example, the top award of \$7,500 goes to students who score between 1500-1600 on the SAT and are in the top 5% of their class.

NJ STARS, enacted in 2004 to benefit full-time county college students, offers five semesters of county college tuition to students who graduate in the top 20% of their high school

class and then maintain a 3.0 GPA in county college. Students must first apply for all other available federal and state grant aid.

Starting in the fall of 2006, NJ STARS students who complete their associate's degree within five semesters become eligible for an NJ STARS II scholarship at a public four-year college or university in New Jersey. The state provides \$4,000 per year towards tuition and approved fees, and the participating institution covers the balance. As with the original NJ STARS program, students must first apply for all other available federal and state grant aid. Eligibility for an NJ STARS II scholarship does not guarantee admission at a four-year institution.

Educational Opportunity Fund (EOF)

The New Jersey Educational Opportunity Fund (EOF) was created in 1968 to help students from economically and educationally disadvantaged backgrounds obtain a college education. EOF provides supplemental financial aid to help cover college costs – such as books, fees, room and board – that are not covered by the state's TAG program. EOF supports an array of campus-based outreach and support services at 28 public and 13 independent institutions. In 2005, the EOF program worked through HESAA to distribute grants totaling almost \$22 million to over 13,000 eligible students.

Operating under the general supervision of the Commission on Higher Education, EOF is governed by an eight-member board of directors, who are appointed by the governor. The board sets policy, approves regulations for program operation and student eligibility, develops an annual budget request, and supports EOF programs at public and independent colleges and universities. The EOF board also supervises a small graduate grant program, as well as the C. Clyde Ferguson Law and the Martin Luther King Physician-Dentistry programs.

New Jersey Educational Facilities Authority (EFA)

Legislative History

In 1966, the New Jersey legislature enacted the New Jersey Educational Facilities Authority Law. [NJSA 18A:72A-1 *et seq.*] Enactment of the law was in response to a “serious public emergency,” which found a lack of financial commitment to the construction of dormitories and educational facilities at public and private institutions of higher education in New Jersey. Thus, state resources were necessary to meet the tremendous demand for higher educational opportunities.

Purpose of the EFA

The EFA is a public corporate body empowered to borrow money and issue bonds with which to construct educational facilities at public and private colleges and universities in New Jersey.

Membership and Term of Office

The Educational Facilities Authority (EFA) consists of seven members, including the chair of the Commission on Higher Education and the State Treasurer (or their designees), who serve *ex officio*, and five New Jersey citizens who are appointed by the governor, with the advice and consent of the Senate, for terms of five years. EFA members are eligible for reappointment.

Citizen members appointed by the governor may be removed for cause after a public hearing. Any vacancy among members appointed by the governor is filled by appointment for the unexpired term only.

Compensation and Conflict of Interest

Members serve without compensation, but are reimbursed for necessary expenses incurred in the discharge of their public duties. Trustees, directors, officers and employees of colleges and universities that participate with EFA on construction projects may serve as members. However, such persons must abstain from deliberations and votes on matters that pertain to their institution.

EFA Powers

According to statute, EFA has the power to:

1. Adopt bylaws;
2. Adopt and use an official seal;
3. Maintain an office within the state;
4. Sue and be sued in its own name;
5. Borrow money and issue bonds, notes and other obligations;
6. Acquire, lease and dispose of real and personal property;
7. Acquire land by purchase or otherwise, including by the exercise of the power of eminent domain;
8. Receive grants or loans from the federal government or other public entities;
9. Prepare plans, specifications, designs and estimates for the cost of construction and equipment of projects;
10. Enter into contracts on public projects exceeding \$25,000 and receive bids;
11. Determine the location and character of any project undertaken; construct, maintain, lease and regulate a project; designate a college/university as its agent to locate, construct, maintain, lease and regulate a project;
12. Establish rules and regulations for the use of a project or designate a college/university as its agent to establish such rules and regulations;
13. Fix, revise, charge and collect rates, rents, fees and other charges for the use of and for services furnished by a project;
14. Make investments; and
15. Enter into any lease relating to higher education equipment with a college or university.

With regard to the construction and financing of dormitories and other revenue-producing facilities, the state college/university boards of trustees (as well as the trustees of New Jersey Institute of Technology, University of Medicine and Dentistry of New Jersey, the county colleges, and Rutgers' Board of Governors) have the authority to:

1. Sell and convey title to existing dormitories and other revenue-producing facilities owned by the state to EFA;
2. Lease to EFA any land and existing dormitory for a term not to exceed 50 years; and
3. Engage in assignment of contracts, and pledge and assign revenues derived from the operation of new dormitories. [NJSA 18A:72A-26 and NJSA 18A:72A-27.1.]

Trustee boards at the state colleges/universities may also deal with EFA on non revenue-producing facilities ("educational facilities") in the following ways:

1. Enter a conveyance, lease, sublease, or other agreement with EFA regarding acquisition, construction and financing of the facility; and

2. Pledge and assign funds of the state college/university to the payment of agreements made with EFA.

Bond Funds

The EFA has issued bonds to help institutions of higher education in New Jersey pay for several different kinds of capital needs. These include:

1. **The Higher Education Equipment Leasing Fund of 1993**, which financed the purchase of scientific, engineering, technical, computer, communications and instructional equipment;
2. **The Higher Education Facilities Trust Fund of 1993**, which financed the construction, reconstruction, development, extension and improvement of instructional, laboratory, communication and research facilities;
3. **The Higher Education Technology Infrastructure Fund of 1997**, which financed the development of technology infrastructure (video, voice and data telecommunications equipment and linkages) within and among New Jersey's institutions of higher education to provide access to information, educational opportunities, and workforce training;
4. **The Higher Education Capital Improvement Fund of 1999**, which financed the renewal, renovation, improvement, expansion, construction and reconstruction of facilities and technology infrastructure; and
5. **The Dormitory Safety Trust Fund of 2000**, which provided no-interest loans to schools and institutions of higher education to install fire-suppression systems, including sprinklers.

SECTION IV: The New Jersey Association of State Colleges and Universities

The New Jersey Association of State Colleges and Universities, Inc. (ASCU), based in Trenton, is a nonprofit higher educational association serving New Jersey's state college/university sector. Member institutions include: The College of New Jersey, Kean University, Montclair State University, New Jersey City University, Ramapo College of New Jersey, The Richard Stockton College of New Jersey, Rowan University, Thomas Edison State College, and William Paterson University.

Mission

Created in 1985 by the New Jersey legislature [NJSA 18A:64-45 *et seq.*], the Association's mission is to:

1. Advocate for the state colleges/universities and for their importance in meeting the educational needs of the State of New Jersey;
2. Support the common interests of the state colleges/universities through policy research, informational services and statewide forums and inter-institutional cooperative projects; and
3. Preserve the independence of state college/university trustee boards in setting policy to fulfill each institution's distinct mission.

While the Association has no administrative authority over the campuses, it has the power to encourage and aid all movements for the improvement of state college/university education and to make recommendations to the governor, the legislature, the Commission on Higher Education, and the Presidents' Council regarding the coordination of the state colleges/universities on issues of mutual interest.

Acting as an advocate for the state colleges and universities in the state capital, the Association analyzes and monitors public policy issues and legislation affecting its member institutions. In cooperation with trustees, administrators, faculty and students, the Association plays an active role in developing and proposing state higher education policy to better serve New Jersey's citizens.

Serving as a primary information resource for member institutions and the public, the Association provides original publications on the collective goals and educational offerings of the colleges and universities, as well as reports on diverse higher education policy issues. In addition to producing staff research and policy papers, the Association publishes reports based on the work of specially appointed panels and projects, such as the 1991 *ad hoc* Committee on State College Self-Governance; and the 1993-94 Advisory Commission on Investing in the State Colleges; and the NJ College Bound 2008 project, which resulted in three reports: *Fulfilling a Dream Deferred; Trust in the Future: New Strategies for College Opportunity and Affordability in New Jersey*; and *Creating a Public Agenda: Accountability and New Jersey State Colleges and Universities*.

The Association typically plays a role in labor negotiations. While the governor's Office of Employee Relations is chief negotiator for the state colleges/universities, the governor designates – upon recommendation by the state colleges and universities – one representative of the state college sector as a member of the negotiating team. The governor has traditionally designated the Association as the state colleges/universities' representative.

Governance

The Association is governed by an eighteen-member board, consisting of a trustee and the president from each of the nine institutions. The presidents serve as *ex officio*, nonvoting members of the board. Trustee members are appointed by, and serve at the pleasure of, their respective boards. The Association's board meets four times annually, with additional meetings called as needed. The Association's expenses are defrayed by membership dues, in accordance with state law and associational bylaws. (*Appendix A*)

Association Staff

Executive Director/CEO	Darryl G. Greer, Ph.D.
Director of Government Relations	Michael W. Klein, Esq.
Associate Director, Policy Research & Fiscal Affairs	Linda L. Lashley
Director, Communications	Paul R. Shelly
Executive Assistant/Office Manager	Patricia Stearman
Administrative Assistant	Charlene R. Pipher
Secretarial Assistant	Theresa M. Toth

APPENDIX: New Jersey Association of State Colleges and Universities: Bylaws

ARTICLE I: Name

This organization, a public corporation, shall be known as the New Jersey Association of State Colleges and Universities.

ARTICLE II: Object

The purpose of this Association is to engage in activities for the collective advancement of the state colleges/universities of New Jersey. The Association shall have perpetual succession and shall have the following powers and responsibilities:

1. To act as an advocate for the needs of the state colleges/universities;
2. To offer services to the state colleges/universities as may be requested from time to time;
3. To adopt an official seal and alter same at its pleasure;
4. To maintain an office at such place or places in the state as it may designate;
5. To sue and be sued in its own name;
6. To borrow money, to issue bonds or notes therefore, and to secure the same by pledge or mortgage of its real and personal property;
7. To acquire, hold and dispose of real and personal property in the exercise of its power;
8. To employ an executive director and other staff as deemed appropriate by the Association; said executive director shall serve as a secretary of the Association and shall be responsible for the administration of all Association activities, including staff services, and shall serve at the pleasure of the Association;
9. To make recommendations, when appropriate and necessary, to the governor, legislature, Commission on Higher Education, and the Presidents' Council regarding the coordination of the state colleges/universities on matters of mutual interest and concern;
10. To promote diversity of development among the several member institutions in ways which will be responsive to the particular needs of the state's diverse population and regions;
11. To act as a service to the institutional members in the development of admissions policies, academic standards, programs, financing and community relations at the several state colleges/universities;
12. To consider and make recommendations on appropriate legislation affecting the member institutions;
13. To make appointments that are representative of the state colleges/universities; and
14. To encourage and aid all efforts intended to enhance the quality of state college/university offerings.

ARTICLE III

Section 1: Members

The Association shall consist of nine (9) voting members to be appointed as follows:

One member from each of the member institutions' trustee boards. In addition, the presidents of the member institutions shall serve as *ex officio* nonvoting members.

Section 2: Alternate Membership

In the absence of an institutional voting member, an alternate member of the board may serve as a voting member.

Section 3: Association Member Compensation

Members shall serve without compensation, but shall be entitled to be reimbursed for all reasonable and necessary expenses.

Section 4: Quorum/Voting

Five (5) voting members of the Association shall constitute a quorum for the transaction of business. In the absence of an institution's voting member or trustee alternate, the president may serve as the institution's representative for the purpose of a quorum.

All questions coming before the Association shall be determined and decided by a majority vote of those voting members present at the meeting, unless otherwise stipulated in these bylaws.

ARTICLE IV: Officers

Section 1: Membership

The officers shall be the chair, vice-chair and secretary, who shall be trustee representatives of the Association, and the chair and chair-elect of the presidents' council, and such other officers as the Association shall determine. In the event of a vacancy, the chair may fill such vacancy in consultation with the Association until the next election of officers.

Section 2: Elections

The Association shall annually elect the officers of the Association. At a regular meeting, the incumbent chair shall appoint a Nominating Committee, whose duty will be the nomination of candidates for the offices to be filled annually, beginning July 1.

Section 3: Terms of Office

The officers shall be elected to one-year terms. The chair and vice-chair shall be limited to serving three (3) consecutive terms.

Section 4: Chair

The chair shall preside at all meetings of the Association and discharge the duties which ordinarily pertain to the office. Unless otherwise provided herein, or otherwise determined by the Association, the chair shall appoint all standing, special and *ad hoc* committees and shall designate the chair of such committees.

Section 5: Vice-Chair

The vice-chair shall preside over all Association meetings in the absence of the chair. In the event that the chair is unavailable, the vice-chair shall serve as acting chair until the chair resumes office.

Section 6: Secretary

The Secretary shall maintain the official seal and bylaws of the Association.

ARTICLE V: The Executive Committee

Section 1: Members

The executive committee shall consist of the five (5) current officers and the immediate past chair (*ex officio*).

Section 2: Duties

The executive committee may be authorized to take specific action or actions at the Association's request, including establishing a process for the evaluation of the executive director. Furthermore, the executive committee is authorized to act for the Association. Such actions shall be subject to ratification at the next meeting of the Association.

ARTICLE VI: Executive Director

The executive director shall serve as the chief executive officer of the Association and shall provide leadership in coordinating the professional work of the Association to enable it to fulfill its purpose as outlined in preceding articles. Additionally, the executive director shall be the chief spokesperson for the Association in articulating its mission and the common interests of its members. The duties and responsibilities of the executive director shall be outlined in a position description to be reviewed periodically by the Association.

ARTICLE VII: Committees

The Association may establish committees to carry out the purposes of the Association.

ARTICLE VIII: Meetings

Section 1: Regular Meetings

Meetings of the Association shall be held on a regular basis as determined by the Association with a minimum of fourteen (14) days' notice. Reasonable efforts shall be employed to provide an agenda as soon as possible.

Section 2: Special Meetings

Special meetings may be called by the chair or executive committee or shall be called upon written request by a majority of the Association's voting membership. Members shall receive at least twenty-four (24) hours' notice of such special meetings with the reason for the meeting. Matters voted upon at a special meeting shall be limited to those announced in the notice.

Section 3: Public Notice of Meetings

All Association meetings shall adhere to the principles embodied in New Jersey's "Open Public Meetings Act," Public Law 1975, Chapter 231.

Section 4: Parliamentary Authority

The rules contained in *Robert's Rules of Order Revised* shall govern the Association in all cases to which they are applicable, and in which they are not inconsistent with these bylaws.

ARTICLE IX: Membership Dues

For purposes of defraying the expenses of the Association, the state colleges/universities shall pay the necessary expenses incurred by the members and shall appropriate annually such sums for dues as may be assessed by the Association. The assessment shall be made only upon a two-thirds vote of the membership present at the meeting, after notice of the taking of that vote shall have been given to each state college/university in writing at least sixty (60) days before the meeting of the Association. Dues shall be assessed upon a graduated scale according to the size of each member institution.

ARTICLE X: Amendments of Bylaws

These bylaws may be amended at any regular meeting of the Association by a two-thirds vote, provided the amendment has been submitted in writing at the previous regular meeting.

ARTICLE XI: Voidable Acts

Any action taken by the board at a meeting which does not conform with the provisions of the bylaws shall be voidable in a proceeding in lieu of prerogative writ in the Superior Court, which proceeding may be brought by any person within 45 days after the action sought to be voided has been made public; provided, however, that the board may take corrective or remedial action by acting *de novo* at a public meeting held in conformity with the bylaws and other applicable laws regarding any action which may otherwise be voidable pursuant to this section; and provided further that any action for which advance public notice of at least 48 hours is provided as required by law and shall not be voidable solely for failure to conform with any notice required in the bylaws.

*Adopted June 1985
Revised June 1987
Revised April 1990
Revised January 1996*

Notes

Notes

New Jersey Association of
State Colleges & Universities



www.njascu.org

THE COLLEGE OF NEW JERSEY

KEAN UNIVERSITY

MONTCLAIR STATE UNIVERSITY

NEW JERSEY CITY UNIVERSITY

RAMAPO COLLEGE OF NEW JERSEY

RICHARD STOCKTON COLLEGE OF NEW JERSEY

ROWAN UNIVERSITY

THOMAS EDISON STATE COLLEGE

WILLIAM PATERSON UNIVERSITY