

Appendix I

Governor's New Jersey Higher Education Task Force Recommendations vs. P.L. 2009, c. 308 (Senate 1609)

(Note: The NJ Higher Education Task Force recommendations are in italics and P.L. 2009, c. 308 is below each recommendation.)

*The Commission on Higher Education should be eliminated and replaced with a new structure empowered to succeed. A Secretary of Higher Education and a new advisory Governor's Higher Education Council should stand at the center of the new structure. The Governor's Higher Education Council should have **limited power of review, including veto authority**, over actions by the Presidents' Council. The various statutory duties of the Commission on Higher Education must be reviewed and, where appropriate and feasible, assigned to the Secretary of Higher Education and/or the Governor's Higher Education Council.*

C.18A:3B-14 Responsibilities of commission.

14. 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 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 60 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 and 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;
- m. consulting with the Higher Education Student Assistance Authority on student assistance matters;
- n. advising and making recommendations for consideration to the Governor and the governing board of a public research university or a State college for members of that governing board appointed by the Governor; and
- o. examining and recommending to institutions of higher education opportunities for joint purchasing and other joint arrangements that would be advantageous to the institutions.

The Council should be composed of five citizen members of high distinction and great experience, non-partisan and independent, and with no more than three members being registered voters from any one political party. The governor should appoint its members to five-year terms, which should be staggered. The governor should designate the chair and vice chair. The Council should meet not less than quarterly.

C.18A:3B-13 New Jersey Commission on Higher Education.

13. a. There is established the New Jersey Commission on Higher Education which shall consist of 15 members: 10 public members, to be appointed by the Governor with the advice and consent of the Senate without regard for political affiliation; two public members to be appointed by the Governor, one upon the recommendation of the President of the Senate and one upon the recommendation of the Speaker of the General Assembly; the chairperson of the New Jersey Presidents' Council, ex officio; one faculty member from an institution of higher education to be appointed by the Governor with the advice and consent of the Senate; and the chairperson of the Board of Higher Education Student Assistance Authority, ex officio, or a designee from the public members of the authority. The public members shall reflect the diversity of the State. (*Note: The Task Force recommendation on the composition of a Council does not reflect the diversity of the State as is required for the current Commission which has many more members.*)

The secretary should be appointed by and report directly to the governor, with Senate confirmation. The Secretary of Higher Education should not be a formal member of the governor's cabinet, but should have cabinet rank. The Secretary of Higher Education should have the authority to demand the board of trustees of a college or university in New Jersey to take immediate corrective action when an institution either fails or is at risk of failing because of such serious situations as financial difficulty, fraud, or gross mismanagement. This authority should be used sparingly and when authorized by the governor. The Secretary shall have additional authority to investigate, audit, or remediate the situation.

C.18A:3B-47 Secretary of Higher Education.

2. The Governor shall appoint, with the advice and consent of the Senate, a Secretary of Higher Education who shall serve at the pleasure of the Governor during the Governor's term of office and until a successor is appointed and qualified. The appointment shall be made after consultation with and recommendations from the New Jersey Commission on Higher Education and the New Jersey Presidents' Council except that the person holding the office of executive director of the Commission on the effective date of this act shall be the initial Secretary of Higher Education. **The secretary shall hold cabinet-level rank** and shall serve as executive director of the commission.

C.18A:3B-34 Powers of Secretary of Higher Education.

a. The Secretary of Higher Education, with the concurrence of the Governor, shall have authority to visit public institutions of higher education to examine their manner of conducting their affairs and to enforce an observance of the laws of the State.

b. The Secretary, with the concurrence of the Governor, may administer oaths and examine witnesses under oath in any part of the State with regard to any matter pertaining to higher education, and may cause the examination to be reduced to writing. Any person willfully giving false testimony upon being sworn or affirmed to tell the truth shall be guilty of a misdemeanor.

c. The secretary, with the concurrence of the Governor, may issue subpoenas pursuant to this section compelling the attendance of witnesses and the production of books and papers in any part of the State. Any person who shall neglect or refuse to obey the command of the subpoena or who, after appearing, shall refuse to be sworn and testify, unless such refusal is on grounds recognized by law, shall in either event be subject to a penalty of \$1,000.00 for each offense to be recovered in a civil action. Such penalty when recovered shall be paid into the State Treasury.

Except for Rutgers, which is governed by the 1956 Compact, the governing boards of the senior public colleges and universities should initiate the trustee nomination process by reviewing candidates and presenting them to the governor. The governor should be required to nominate or reject nominees recommended by the governing boards. If the nominee is rejected, the board should be allowed to submit another nominee. Ultimately, the governor should have the prerogative to appoint a nominee of his or her choice, but in all cases should give the board of trustees' notice of such an appointment, allowing the board to advise and consult with the governor about the proposed nominee. Cooperative consultation between the governor and his or her designees on the one hand and the governing boards on the other is critical to the success of the trustee appointment process and ensuring the steady stewardship of New Jersey's public colleges and universities.

27. N.J.S.18A:64-3 - Board of trustees.

18A:64-3. The composition and size of the board of trustees shall be determined by the board; however, each board shall have not less than seven nor more than 15 members. The members shall be appointed by the Governor **with the advice and consent of the Senate**. Each board of trustees shall recommend potential new members to the Governor. The terms of office of appointed members shall be for six years beginning on July 1 and ending on June 30. Each member shall serve until his successor shall have been appointed and qualified and vacancies shall be filled in the same manner as the original

appointments for the remainders of the unexpired terms. Any member of a board of trustees may be removed by the Governor for cause upon notice and opportunity to be heard.

All boards of trustees not covered under P.L. 2009, c. 308 should, if they have not already done so, take the following actions to ensure the transparency and accountability of their actions: establish an audit committee, appoint an internal auditor, and conduct an annual audit by an outside auditor.

It is unclear whether or not boards of trustees are currently complying with P.L. 2009, c. 308. The Task Force has remained silent on the requirement of an independent outside auditor and the submission of the audit to commission. Furthermore, all of the other committees and their respective duties as required in the law. (Executive Committee, Compensation Committee and a Nominations and Governance Committee.)

The State should dedicate more resources toward the collection and analysis of higher education data, and the proposed Secretary of Higher Education should oversee this task. Under current data collection efforts, it is difficult to gain a comprehensive perspective on the performance of higher education in New Jersey. Creating a single source of data collection would improve governance efforts, policymaking, and statewide performance. The Secretary would determine statewide quality performance preferences, especially outcomes linked to preparation for professions (such as national teacher exam pass rates and nursing board pass rates) and workforce development initiatives.

C.18A:3B-35 Annual report by institution of higher education.

305. Each public institution of higher education shall prepare and make available to the public an annual report on the condition of the institution which shall include, but need not be limited to a profile of the student body including graduation rates, SAT or other test scores, the percentage of New Jersey residents in the student body, the number of scholarship students and the number of Educational Opportunity Fund students in attendance; a profile of the faculty including the ratio of full to part-time faculty members, and major research and public service activities; a profile of the trustees or governors as applicable; and, a profile of the institution, including degree and certificate programs, status of accreditation, major capital projects, any new collaborative undertakings or partnerships, any new programs or initiatives designed to respond to specific State needs, an accounting of demonstrable efficiency and quality improvements, and any other information which the commission and the institution deem appropriate. The form and general content of the report shall be established by the Commission on Higher Education.