

**ELIGIBILITY STATEMENT**

Kutztown University (the "University" or "KU") is part of a group of universities affiliated under the Pennsylvania State System of Higher Education ("PASSHE"). PASSHE includes a total of 10 nonprofit public universities with 14 campuses spread throughout the Commonwealth of Pennsylvania, each intended to serve a separate area of the Commonwealth. In other words, KU is an instrumentality of the government of the Commonwealth.<sup>1</sup> While KU draws students from many other states and countries, it predominantly serves the east-central region of Pennsylvania.

As described in more detail in the Established Distinct Community Presence Exhibit to this application, KU traces its origin to September 15, 1866, when the Keystone Normal School was established on what is now the site of the Old Main Building on the University's Kutztown, Pennsylvania campus.

KU has a student body of more than 7,400 and over 400 faculty members. It offers undergraduate and graduate degrees in over 130 different disciplines including Cinema, Television and Media Production, Commercial Music, Criminal Justice, Education, Communications, Music Business, Music Performance, Psychology, Public Relations and Social Media Theory and Strategy, to name just a few. The Cinema, Television and Media Production degree program comprises approximately 260 students and provides professional preparation for careers in the radio and television broadcasting and cable television industries. Courses include Audio Production, Media Theory, Copyright/Intellectual Property, as well as a series of experiential practicums, among many others.

The University is accredited by the Middle States Association of Colleges and Secondary Schools, the Pennsylvania Department of Education, and several other bodies.

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<sup>1</sup> A copy of the legislation designating the University as a member institution of PASSHE effective July 1, 1983 is attached (see page 6 therein).

KU's proposed LPFM station will be managed and operated on a day-to-day basis by KU students, under the overall supervision of the University's Council of Trustees. Specifically, the station's staff will consist of a student team of trained student on-air talent, student producers, student programmers, student writers, student donation promoters and student managers, as well as a campus and community program advisory board inclusive of students. The station's main studio will be located on KU's campus. The station will advance the University's educational purposes by providing an opportunity for student hands-on-training in broadcasting and the electronic media, and thus provide a clinical experience to its undergraduate and graduate degree programs in Cinema, Television and Media Production. The LPFM station will afford an opportunity for a much-improved educational experience over the Part 15 radio station which the University has utilized for media training.<sup>2</sup>

While finalization of the program schedule must await FCC action on this application, it is planned that the LPFM's programming will include broadcast of performing arts events at the University; multicultural programming including issues regarding women and senior citizens; sport competitions in which KU's teams are competing; music and news (including emergency bulletins); and public affairs programming for the Kutztown area. Instructional programming on astronomy, weather, and psychology are also planned. A weekly, live, community-interest interview and talk radio program is planned that will feature guests important to the community including local Kutztown elected government officials, the police chief, and non-profit organizations. Other public affairs programming is planned to highlight local social services, economic development in the Kutztown area and youth development, among other topics. Members of the student team have conducted local personal appearance programming on the Part 15 station, and are planning to continue doing so on the LPFM station. The proposed LPFM station is planned to originate at least eight hours per day of such locally-produced programming, six days per week.

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<sup>2</sup> If awarded a license by the Commission for the proposed low power FM station, the University will terminate the Part 15 operation prior to the commencement of operations by the LPFM.



# **PASSHE**

Pennsylvania State System  
of Higher Education

## **Act 188 of 1982**

as amended  
Enabling Legislation for the  
Pennsylvania State System of Higher Education

### **Commonwealth of Pennsylvania**

Bloomsburg ■ California ■ Cheyney ■ Clarion ■ East Stroudsburg ■ Edinboro ■ Indiana ■ Kutztown  
Lock Haven ■ Mansfield ■ Millersville ■ Shippensburg ■ Slippery Rock ■ West Chester





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### **Section 20-2001-A. Definitions**

The following words and phrases when used in this article shall, for the purpose of this article, have the following meanings, respectively, except in those instances where the context clearly indicates a different meaning:

- (1) "Board" shall mean the Board of Governors of the State System of Higher Education.
- (2) "Chancellor" shall mean the chief executive officer of the State System of Higher Education.
- (3) "Coalition bargaining" shall mean two (2) or more employers bargaining jointly with all of their employees in a particular category or bargaining unit so that one collective process would determine the conditions of employment for all employers in the appropriate units involved.
- (4) "Commission" shall mean the presidents of the several institutions.
- (5) "Council" shall mean the council of trustees of the individual institutions.
- (6) "Deferment" shall mean any authorized delay in the payment by a student of all or part of his tuition fee, charges for room and board, application fee, student activity fee, or any other charge or fee.
- (7) "Employer" shall mean the Board of Governors of the State System of Higher Education as the successor employer to the Commonwealth of Pennsylvania.
- (8) "Graduate assistant" means a graduate student appointed by the president and assigned to a faculty or staff member to assist in research, instruction, and other related professional duties.
- (9) "Higher education" shall include any organized program of instruction, research, or service primarily concerned with a field of organized knowledge, related theory, and associated practice or application of skills, and which leads to a degree; that is, the work is creditable towards a degree.
- (10) "Institution" shall mean each of the state-owned colleges and university on the effective date hereof, or hereafter created, and including its personnel, and its physical plant, instructional equipment, records, and all other property thereof.
- (11) "Professional employee" for the purposes of this act, professional
  - (i) is predominately intellectual and varied in character;
  - (ii) requires consistent exercise of discretion and judgment;
  - (iii) requires knowledge of an advanced nature in the field of science or learning customarily acquired by specialized study in an institution of higher learning or its equivalent; and
  - (iv) is of such character that the output or result accomplished cannot be standardized in relation to a given period of time.



- (12) "Refund" shall mean any return payment, or remission, by an institution to a student of all or part of any sum he has paid for tuition, room and board, application or student activity fee, or any other charge or fee.
- (13) "Secretary" shall mean the Secretary of Education of the Commonwealth of Pennsylvania or such person as the secretary may designate to act on behalf of the secretary with regard to any of the duties and prerogatives imposed by this act.
- (14) "State board" shall mean the State Board of Education.
- (15) "Student" shall mean a person who is enrolled in a course of study in any institution which is subject to the provisions hereof.
- (16) "Student association" shall mean the officially recognized representative body of the student population of each institution.
- (17) "System" shall mean the State System of Higher Education.
- (18) "Waiver" shall mean any release from initial payment by a student of all or part of his tuition, charge for room and board, application or student activity fee, or any other charge or fee.
- (19) "Maintenance projects" shall mean those activities, materials, labor, and contracts necessary to replace, restore, refurbish or enhance real property which do not alter the architectural or engineering characteristics of the structure, as follows: painting; window repair and replacement; roof repair and replacement; repointing and masonry repair; downspout and gutters; landscaping; roadways, parking facilities, track and athletic court resurfacing and reconstruction; sidewalk and curbing reconstruction and replacement; asbestos abatement (in accordance with all state and federal statutes and regulations); caulking and insulation; and replacement, reconstruction, and construction of non-load bearing interior walls. No such project shall affect the structural integrity of any existing facility or utility system.
- (20) "Campus police" shall mean all law enforcement personnel employed by the system who have successfully completed a campus police course of training approved under 53 Pa.C.S. Ch. 21 Subch. D (relating to municipal police education and training).
- (21) "Grounds" shall mean all lands and buildings owned, controlled, leased or managed by the system.

### **Section 20-2002-A. Establishment of the State System of Higher Education and Its Institutions**

- (a) Subject to the regulatory powers conferred by law upon the State Board of Education, there is hereby established a body corporate and politic constituting a public corporation and government instrumentality which shall be known as the State System of Higher Education, independent of the Department of Education, hereinafter referred to as the System, which shall consist of the following institutions, and such other institutions, presently existing or newly created, as may hereafter be admitted by the Board in concurrence with other agencies as required by law:

- (1) Bloomsburg State College;
- (2) California State College;
- (3) Cheyney State College;
- (4) Clarion State College;
- (5) East Stroudsburg State College;
- (6) Edinboro State College;
- (7) Indiana University of Pennsylvania;
- (8) Kutztown State College;
- (9) Lock Haven State College;
- (10) Mansfield State College;
- (11) Millersville State College;
- (12) Shippensburg State College;
- (13) Slippery Rock State College; and
- (14) West Chester State College.

- (b) Each of the said institutions shall hereafter be known as the (Name) University of Pennsylvania of the State System of Higher Education, except for Indiana University of Pennsylvania, which shall retain its name. As successor institutions to the State Normal Schools, appropriations for their operation are ordinary expenses of government, requiring only a majority vote of each house of the General Assembly. The State System of Higher Education shall have the same preferred status for appropriations as is enjoyed by its constituent institutions. State funds appropriated to the System shall be allocated to the individual institutions on a formula based on, but not limited to, such factors as enrollments, degrees granted, and programs.

### **Section 20-2003-A. Purposes and General Powers**

- (a) The State System of Higher Education shall be part of the Commonwealth's system of higher education. Its purpose shall be to provide high quality education at the lowest possible cost to the students. The primary mission of the System is the provision of instruction for undergraduate and graduate students to and beyond the master's degree in the liberal arts and sciences and in applied fields, including the teaching profession.



Graduate instruction at the doctoral level, except for doctoral programs provided for in the act of December 16, 1965 (P.L. 1113, No.430), known as the "Indiana University of Pennsylvania Act," only may be offered jointly with Indiana University or an institution chartered to offer work at the doctoral level. Programs of research and service may be provided which are approved by the Board of Governors, and which are consistent with the primary mission of the System. Each institution shall provide appropriate educational facilities, student living facilities, and such other facilities as deemed necessary by the Board.

- (b) The System is hereby granted and shall have and may exercise all the powers necessary or convenient for the carrying out of the aforesaid purposes, including, but without limiting the generality of the foregoing, the following rights and powers:
  - (1) To have perpetual existence as a corporation.
  - (2) To adopt, use and alter at will a corporate seal.
  - (3) To acquire, purchase, hold, lease as lessee and use any property, real, personal or mixed, tangible or intangible, or any interest therein, lease as lessor any property, real, personal or mixed, tangible or intangible, necessary or desirable for carrying out the purposes of the System, and to sell, transfer and dispose of any property acquired by gift, grant, devise or bequest, whether the property is real, personal or mixed, tangible or intangible, or any interest therein; to take, demand, receive, and possess all moneys, real property and goods which shall be appropriated, given or granted to for the use of the System and to apply the same according to the will of the donors; to sell, transfer and dispose of real property acquired by and titled to the System upon approval by the General Assembly as provided in Section 20 18-A; and by gift, purchase or devise to receive, possess, enjoy and retain forever any and all real and personal estate and funds, of whatsoever kind, nature or quality the same may be, in special trust and confidence that the same, and the profits thereof, shall be applied to and for the use and purpose of endowing the System, and shall have power to receive donations from any source whatever, to be exclusively devoted to the purposes of the System or according to the terms of donation: Provided, however, that the System shall have no power at any time or in any manner, to pledge the credit or taxing power of the Commonwealth, nor shall any of its obligations or debts be deemed to be obligations of the Commonwealth, nor shall the Commonwealth be liable for the payment of principal or interest on such obligations. Nothing herein shall empower the Board of Governors or the chancellor to take or receive any moneys, goods or other property, real or personal, which is given or granted to specific institutions.
- (c) Collective bargaining agreements in force at the time of enactment of this act shall remain in force for the term of the contract. New collective bargaining agreements with

professional employees shall be negotiated on behalf of the System by the chancellor. The Board shall make a coalition bargaining arrangement with the Commonwealth for the negotiation of new collective bargaining agreements with noninstructional employees.

### **Section 20-2003-A.I. Project Contracts**

- (a) The State System of Higher Education is hereby authorized to execute and administer contracts for construction, repair, renovation and maintenance projects within the meaning of Section 2401.1 of the act of April 9, 1929 (P.L. 177, No. 175), known as "The Administrative Code of 1929," including all aspects of project management, design and construction and legal and administrative, services related to and necessary for the completion of such projects, except capital projects which are funded by Commonwealth general obligation bonds, capital appropriations or pursuant to Article XVI-B of the act of April 9, 1929 (P.L. 343, No.176), known as "The Fiscal Code," unless delegated by the Department of General Services to the System.
  
- (b) The System shall review the work, experience and qualifications of architects and engineers seeking contracts from the System under this section, and on the basis of merit, select and appoint architects and engineers for the design, contract administration and at the System's discretion, inspection of a project authorized by this section. The Board shall give public notice in the manner provided by law of projects which require the services of architects and engineers. The Board shall include, but not be limited to, consideration of the following factors in the selection of architects and engineers:
  - (1) equitable distribution of contracts among qualified architects and engineers;
  - (2) capability to perform the design and construction services for the contract being considered;
  - (3) geographic proximity of the architect or engineer to the proposed facility;
  - (4) ability of the architect or engineer to furnish the necessary available manpower to perform the services required by the project; and
  - (5) any other related circumstances peculiar to the proposed contract.
  
- (c) All contracts, other than contracts for the retention of architects and engineers, authorized by this section which exceed ten thousand dollars (\$10,000) shall be advertised in the manner provided by law and competitively bid and awarded to the lowest responsible bidder. In case of emergencies and notwithstanding any other provision of this section to the contrary, the chancellor may make or authorize others to make an emergency



procurement whenever a threat exists to public health, welfare or safety or circumstances outside the control of the State System and creates an urgency of need which does not permit the delay involved in using more formal competitive methods. Whenever practical, in the case of a procurement of a supply, at least two (2) bids shall be solicited. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file.

- (d) The power and authority granted by this section shall not be exercised by the System, the Board or an institution for a project to modify, repair or renovate any facility erected by the Department of General Services unless prior written notice setting forth the nature, scope, extent and description of such project has been given to the Department of General Services.
- (e) Nothing in this section shall be construed as amending, repealing, or otherwise modifying the provisions of the act of May 1, 1913 (P.L.155. No.104), entitled "An act regulating the letting of certain contracts for the erection, construction, and alteration of public buildings," or the act of August 15, 1961 (P.L. 987, No.442), known as the "Pennsylvania Prevailing Wage Act."
- (f) The System is authorized to transfer and convey any easements or licenses necessitated by any construction project which has been previously authorized by the Board.

#### **Section 20-2004-A. Board of Governors**

- (a) The System shall be governed and all of its corporate powers exercised by the Board of Governors, which shall consist of twenty (20) members to be appointed as follows:
  - (1) The Governor, or his designee.
  - (2) The Secretary of Education, or his designee.
  - (3) One (1) senator appointed by the President Pro Tempore of the Senate.
  - (4) One (1) senator appointed by the minority leader of the Senate.
  - (5) One (1) representative appointed by the Speaker of the House of Representatives.
  - (6) One (1) representative appointed by the minority leader of the House of Representatives.
  - (7) Fourteen (14) members shall be appointed by the Governor with the advice and consent of the Senate of which initially six (6) shall be selected from the citizens of the Commonwealth. Three (3) members of the fourteen (14) shall be students whose terms

shall expire upon graduation, separation, or failure to maintain good academic standards at their institution and five (5) of the fourteen (14) shall be trustees of constituent institutions. However, no more than one trustee representing a constituent institution. The student members shall be selected from the presidents of the local campus student government associations, or their local equivalent.

- (b) All members of the Board appointed by the Governor, except for the students, shall serve for terms of four (4) years. The Governor and Secretary of Education shall serve so long as they continue in office. Members of the Board appointed from the General Assembly shall serve a term of office concurrent with their respective elective terms as members of the General Assembly.
- (c)
  - (1) The Governor or his designee, and the Secretary of Education or his designee, and the members of the General Assembly shall be members of the board and shall be entitled to attend all meetings of the board and shall have the right to speak on all matters before the board, and to vote, but shall not be elected as an officer of the board.
  - (2) A member of the General Assembly appointed under subsection (a) may designate an official representative to attend any meetings of the board, the executive committee of the board and any committee to which the member of the General Assembly is assigned. Such official representative shall have the right to speak on all matters before the board, the executive committee and any committee to which the member of the General Assembly is assigned but shall not have the right to vote on behalf of the member of the General Assembly.
- (d) The Board shall elect one (1) of its members to serve as its chairperson at the pleasure of the Board. Members shall receive no compensation for their services but shall be reimbursed for the expenses necessarily incurred by them in the performance of their duties. The Board shall meet quarterly and additionally at the call of the chairperson, or upon request of six (6) members of the Board.
- (e) The chancellor shall be the chief executive officer of the Board and shall have the right to speak on all matters before the Board, but not to vote.



**Section 20-2005-A. The Chancellor**

The chief executive officer of the System shall be a chancellor, who shall be employed by the Board in accordance with clause (1) of Section 2006-A. In addition to those prescribed by the Board, the chancellor shall have the following duties:

- (1) The chancellor shall be responsible for the administration of the System under policies prescribed by the Board.
- (2) The chancellor shall advise the Board on the formulation of policies, shall see that the Board's policies are carried out, and shall supervise the Board's studies.
- (3) The chancellor shall recommend to the Board the System's overall budget and shall review and recommend undergraduate and graduate academic programs to meet the needs of the System's student population.
- (4) The chancellor shall assist the Board in its appointment of the presidents for the constituent institutions by submitting to the Board the name or names of individuals recommended by the council of trustees of the appropriate constituent institution who shall involve students, faculty, and alumni in the interview and selection process used to formulate their recommendation. The chancellor shall submit to the Board the recommended salary and other proposed terms of each such appointment. The Board shall have the right to refuse the recommendation of the local council and to request that additional recommendations be submitted by the council.
- (5) The chancellor shall prepare an evaluation procedure for adoption by the Board. The chancellor shall forward the results of the evaluation conducted by the local council of trustees with his comments to the Board.
- (6) The chancellor is empowered to employ central office professional and staff employees appropriate for the efficient discharge of the chancellor's duties.
- (7) The chancellor shall be responsible for the administration of the central office, System-wide business procedures, and for the overall organization of maintenance of the physical plants and security at all institutions.
- (8) The chancellor shall conduct comprehensive planning in consultation with representatives of the trustees, presidents, faculties, students, and alumni, and within the policies established by the Board to establish priorities and procedures for the operation and development among the institutions, with respect to the role and scope of each institution, instructional programs, research programs, and public service programs.

- (9) The chancellor shall have the right to require of the presidents any and all information necessary for the performance of his duties. The chancellor shall perform such other duties as the Board may designate.
- (10) The chancellor shall serve as an ex officio member of the council of each institution in the System.
- (11) The chancellor shall negotiate or cause to be negotiated on behalf of, the Board and subject to its final approval collective bargaining agreements pursuant to the act of July 23, 1970 (P.L. 563, No.195), known as the "Public Employee Relations Act," in accordance with Section 2003-A of this act.
- (12) To enter into multi-party contractual relationships, in accordance with the procurement code or direct negotiation, with businesses, industries, organizations, state and local governments and the federal government to provide economic and workforce development.

#### **Section 20-2006-A. Powers and Duties of the Board of Governors**

- (a) The Board of Governors shall have overall responsibility for planning and coordinating the development and operation of the System. The powers and duties of the Board of Governors shall be:
  - (1) To employ the chancellor to serve at the Board's pleasure under fixed term or contract of fixed duration of not longer than five (5) years; to fix his salary; to prescribe and delineate his duties and responsibilities; prior to the renewal of such term or contract, the Board shall conduct an evaluation of the chancellor's service to determine whether such term or contract should be renewed and for what period of time.
  - (2) To appoint from the list submitted by the chancellor, pursuant to Section 2005-A(4), presidents of the constituent institutions to serve at the Board's pleasure under fixed terms or contracts of fixed duration, to fix the salaries and other terms of appointment of each president, and prior to renewal of such term or contract consider the results of the evaluation of each president's service submitted by the chancellor.
  - (3) To establish policies and procedures to be applied by the chancellor, the Board, and each local council in evaluating the president and recommending the selection, retention, and dismissal of the president of its respective institution.
  - (4) To establish broad fiscal, personnel, and educational policies under which the institutions of the System shall operate.



- (5) To create new undergraduate and graduate degree programs, which shall not be subject to the rules and regulations of the State Board of Education; to approve extension campuses and new external degree programs subject to the rules and regulations of the State Board of Education; to promote cooperation among institutions, including the development of consortia within the System and other educational institutions and agencies.
- (6) To establish general policies for the admission of students and to assure procedural protection for the discipline and expulsion of students. The actual admission of students shall remain the province of the individual institutions.
- (7) To coordinate, review, amend, and approve the annual capital budget requirements of the System, the annual operating budgets of the individual institutions, and the operating budget of the chancellor and the Board. The Board shall present these annual budgets with comments to the secretary for presentation to the State board. The State board shall return such budget requests, recommending approval or disapproval with comments, if any, to the secretary prior to their submission to the Secretary of Budget and Administration. The Board may also submit its budget recommendations and findings to the General Assembly subsequent to the submission of the Governor's budget to the General Assembly. For the purpose of administration, the System shall be subject to Article VI of the act of April 9, 1929 (P.L. 177, No.175), known as "The Administrative Code of 1929," except for section 615.
- (8) To establish general personnel policies under which the institutions shall operate consistent with merit principles; to determine equivalent degree and teaching experience qualifications for appointment or promotion of faculty employees within the classifications enumerated in the act of January 18, 1952 (1951 P.L. 2111, No.600), referred to as the State College Faculty Compensation Law, to include, but not be limited to, the Degrees of Juris Doctor and Master of Fine Arts; and to enter into collective bargaining agreements pursuant to the act of July 23, 1970 (P.L. 563, No.195), known as the "Public Employee Relations Act," in accordance with Section 2003-A of this act.
- (9) To recommend approval or disapproval of all System building projects to the Secretary of the Budget which are not within the contracting authority of the System under, section 2003-A.I.
- (10) To represent the System before the General Assembly, the Governor and the State board.

- (11) To fix the levels of tuition fees, except student activity fees. Tuition fees shall include a differential for such charges between students who are residents of the Commonwealth and students who are nonresidents.
- (12) To adopt general policies with regard to student activity fees and to provide for student participation in the formulation of these policies.
- (13) To establish policies regarding waiver, deferment, and refund of tuition fees and other charges and fees.
- (13.1) To set the amounts for fines for violations of rules respecting the use, parking and operation of motor vehicles on system facilities, which may be established to exceed the amounts which municipalities are authorized to assess for such offenses under 75 Pa.C.S. (relating to vehicles).
- (14) To make all reasonable rules and regulations necessary to carry out the purposes of this article and the duties of the Board.
- (15) To do and perform generally all of those things necessary and required to accomplish the role and objectives of the System.
- (b) The Board of Governors shall provide for the holding of regular and special meetings. Eleven (11) governors attending shall constitute a quorum for the transaction of any business and, unless a greater number is required by the bylaws of the Board, the act of a majority of the governors present at any meeting shall be deemed the act of the Board.

#### **Section 20-2007-A. Commission of Presidents**

The Commission of Presidents of the System shall consist of the presidents of the several institutions who shall annually select one (1) of their members as chair-person. The commission shall recommend policies for the institutions and shall act in an advisory capacity to the chancellor and the governors. The commission shall meet quarterly and additionally at the call of its chairperson or the chancellor. A majority of the presidents shall constitute a quorum.

#### **Section 20-2008-A. Councils of Trustees**

- (a) The council of each of the institutions shall consist of eleven (11) members who, except for student members, shall be nominated and appointed by the Governor with the advice and consent of the Senate. At least two (2) members of the eleven (11) member council of trustees shall be alumni of the institution.
- (b) Ten (10) members of each council shall serve terms of six (6) years, respectively, and until their respective successors are duly appointed and qualified. One (1) member of each council shall be a full-time undergraduate student in good academic standing, other than



freshman, enrolled for at least twelve (12) semester hours at the institution of which he is a trustee. The student member shall serve a term of four (4) years or for so long as he is a full-time undergraduate student in attendance at the institution of which he is a trustee, whichever period is shorter, and is in good academic standing. Vacancies occurring before the expiration of the term of any member shall be filled in like manner for the unexpired term. Student members of the council of trustees shall be appointed by the Governor and shall not be subject to Senate confirmation. If a student member is temporarily unable, for medical or valid academic reasons, to fulfill the responsibilities of office, the Council of Trustees may request that the Governor appoint an otherwise qualified student to serve as an alternate until the return of the student member.

- (c) The members of each board of trustees of a former state college or university serving in such capacity on the effective date of this act shall continue to serve for the balance of their respective terms.
- (d) Six (6) members of a council shall constitute a quorum. Each council shall select from its members a chairperson and a secretary to serve at the pleasure of the council. Each council shall meet at least quarterly, and additionally at the call of the president, or its chairperson, or upon request of three (3) of its members.

#### **Section 20-2009-A. Powers and Duties of Councils of Trustees**

In accordance with the rules and regulations adopted by the Board, the council of each institution shall have the power and its duty shall be:

- (1) To make recommendations to the chancellor for the appointment, retention, or dismissal of the president following consultation with students, faculty, and alumni.
- (2) To assist the president in developing proper relations and understanding between the institution and its programs and the public, in order to serve the interests and needs of both.
- (3) To review and approve the recommendations of the president as to standards for the admission, discipline and expulsion of students.
- (4) To review and approve the recommendations of the president pertaining to policies and procedures governing the use of institutional facilities and property.
- (5) To approve schools and academic programs.
- (6) To review and approve the recommendations of the president pertaining to annual operating and capital budget requirements for forwarding to the Board.

- (7) To review and approve charges for room and board and other fees except student activity fees.
- (8) To conduct an annual physical inspection of facilities and make recommendations regarding maintenance and construction to the Board.
- (9) To review and approve all contracts and purchases negotiated or awarded by the president with or without competitive bidding and all contracts for consultative services entered by the president.
- (10) To represent the institution at official functions of the Commonwealth.
- (11) To take such other action as may be necessary to effectuate the powers and duties herein delegated.
- (12) In accordance with the evaluation procedure established by the Board, each council shall conduct an evaluation of the president and forward the results of that evaluation with recommendation to the chancellor for submission to the Board.
- (13) By resolution adopted by the council to authorize campus police who have completed firearms training in accordance with 53 Pa.C.S. § 2167(a) (relating to police training) to carry firearms in the course of duty for any institution whose campus police are authorized to carry firearms on the effective date of this paragraph, the authority to carry firearms shall remain in effect unless the council by resolution dissolves such authority.

#### **Section 20-2010-A. Power and Duties of Institution Presidents**

The president of each institution shall be appointed by the Board. The president shall be the chief executive officer of that institution. He shall have the right to attend all meetings of the council of that institution and shall have the right to speak on all matters before the council but not to vote. Subject to the stated authority of the Board and the council, each president shall have the following powers and duties:

- (1) Except insofar as such matters are governed by collective bargaining agreements entered pursuant to the act of July 23, 1970 (P.L. 563, No.195), known as the "Public Employee Relations Act," and subject to the policies of the Board, to appoint such employees, professional and noninstructional, graduate assistants, etc. as necessary, to fix the salaries and benefits of employees, professional and noninstructional, and to establish policies and procedures governing employment rights, promotion, dismissal, tenure, leaves of absence, grievances, and salary schedules.



- (2) To make and implement specific campus policies pertaining to instructional programs, research programs, and public service programs and academic standards in accordance with policies of the Board following consultation with council, faculty, and students.
- (3) To develop and implement policies and procedures for the administration of the institution. To develop and implement, in conjunction with the local campus student government association, policies and procedures by which student organizations may be created and operated.
- (4) To establish policies and procedures for the admission, discipline, and expulsion of students which shall be consistent with policies of the Board and the local council.
- (5) To establish policies and procedures governing the use of institutional facilities and property in accordance with guidelines established by the local council.
- (6) In cooperation with the student association, to fix student activity fees and supervise the collection, retention, and expenditure thereof.
- (7) To waive, defer, and refund tuition fees and other charges and fees consistent with policies established by the Board.
- (8) To prepare and, after review and action by the council, submit to the chancellor the annual operating and capital budget requirements for the institution.
- (9) To determine from appropriations, tuition fees, charges and other fees, and other available funds with the exception of student activity fees, the expenditures to be made for instructional, extracurricular, administrative, custodial and maintenance services, equipment and supplies, and for furniture for instructional, extracurricular, administrative and service facilities and to reallocate such sums among the various expenditure classifications as may be necessary for the effective management of the institution: Provided, that no such reallocation shall exceed the total allocations of the institution.
- (10) Within the limitations of the operating budget and other available funds in accordance with the procedures established by the Board and with the approval of the local council, to negotiate and award all contracts for equipment, services, and supplies in excess of a cost of ten thousand dollars (\$10,000) on a competitive bid basis and to purchase instructional, educational, extracurricular, technical, administrative, custodial and maintenance equipment and supplies not in excess of a cost of ten thousand dollars (\$10,000) without competitive bidding, except that such items shall not be bought in series to avoid the dollar ceiling.
- (11) To cooperate with and accept grants and assistance from federal and state agencies, local governments or other political subdivisions, foundations, corporations, or any other source

for any of the lawful purposes of the institution. Each institution shall have the power to bank and use such grants as directed by the grantor and subject to the limitations of this act, except that grants and assistance from sources other than state agencies, local governments, or other political subdivisions shall not be subject to the provisions of clause (10). All moneys received from sources authorized by this section are hereby appropriated to each of the several institutions granted such moneys. All such moneys shall be subject to audit by the Auditor General.

- (12) To authorize personnel to travel within or without the Commonwealth at institutional expense in accordance with regulations of the council.
- (13) Within the limitations of the operating budget and other available funds, to enter into contracts for consultative service not to exceed five thousand dollars (\$5,000) per contract.
- (14) To enter into contracts in accordance with policies of the council, to enable students to engage in student teaching or other training in order to obtain experience in a particular field.
- (15) To employ or contract for the necessary institutional services consistent with policies and procedures established by the Board.
- (16) Consistent with the policies of the Board to do and perform all of those other things necessary and required for the orderly operation of the institution.

#### **Section 20-2011-A. Rental Fees and Other Charges**

- (a) In addition to rental fees fixed, charged, and collected in the manner provided by law from each student residing in state-owned or state- leased residential facilities at an institution for the maintenance and operation of such facilities, a sum shall be fixed by the president with approval of the council of trustees and charged and collected from each such person as an additional rental fee. Such additional rental fees shall be credited to a reserve fund for contingencies and capital replacements.
- (b) In addition to the other fees from time to time fixed, charged, and collected in the manner provided by law, a fee often dollars (\$10) per semester of eighteen (18) weeks and a proportionate fee for each trimester, quarter, term and summer sessions of six (6) weeks or three (3) weeks shall be fixed, charged, and collected from each student while in attendance at a university for which the General State Authority has taken title to a student community building, which fee shall be credited to the Department of General Services and shall be fixed by the council of trustees in amounts sufficient to meet rentals due to the General State Authority, pursuant to contracts to lease student community buildings constructed by the said authority for the use of the System universities.



### **Section 20-2012-A. Diplomas and Certificates**

The Board shall prescribe minimum standards for graduation from the System. Each graduate shall receive such diploma as the Board shall prescribe. The System shall be authorized to grant baccalaureate, master's and doctoral degrees as limited by Section 2003-A for successful completion of prescribed courses of study and such other certificates and degrees as the Board may authorize.

### **Section 20-2013-A. Teachers' and Employees' Retirement Plans**

Pursuant to the provisions of 24 Pa.C.S. Section 8301 (relating to mandatory and optional membership), all professional and other employees of the system and its institutions shall be accorded the right to elect participation in the Pennsylvania Public School Employees' Retirement System or the State Employees' Retirement System. Alternatively, eligible employees shall have the right to elect participation in the Teachers' Insurance and Annuity Association of America—College Retirement Equities Fund (TIAA-CREF) retirement plan or in an alternative retirement plan or plans offered by any insurance company authorized to issue annuity contracts in this Commonwealth or mutual fund company with investment options meeting the requirements of a qualified plan under the Internal Revenue Code of 1986. The alternative retirement plans shall be selected by the system pursuant to the request-for-proposal process.

### **Section 20-2014-A. Nondiscrimination Policy**

No person shall be denied matriculation at any System institution or a position as a governor, trustee, faculty member, or employee of the System, or the opportunity to contract with the System or its constituent institutions because of race, color, religion, age, sex, national origin, handicap or political affiliation. The Board shall develop and promulgate by regulation a plan assuring equal opportunity in educational access, employment and contracting. The plan shall provide for nondiscrimination and compliance with respect to contracting practices for the System, its constituent institutions and their contractors, subcontractors, assignees, lessees, agents, vendors and suppliers.

### **Section 20-2015-A. Annual Audit**

The activities of the System under this article shall be subject to the audit of the Department of the Auditor General, but the System shall not be required to pay a fee for any such audit. It shall make an annual report to the State board and to the General Assembly showing its condition at the end of the Commonwealth's fiscal year.

### **Section 20-2016-A. Continuation of Powers and Duties**

All powers, rights, privileges, duties, and obligations, statutory, contractual or otherwise, of the institutions or their predecessors and their respective council of trustees and officers, heretofore existing and not otherwise changed or repealed by this act, shall continue in full force and effect.

Section 3. Funding for the Board of Governors and chancellor shall come from all operating funds available to the state colleges and state-owned university, but shall not exceed one-half of one per centum (.5%) of such funds. For purposes of this section, the phrase "operating funds" means any federal appropriation, any state appropriation, any student tuition fees and any student fees for room and board.

Section 4. (a) The following parts of facts are hereby repealed: As much of Section 202, act of April 9, 1929 (P.L. 177, No. 175), known as "The Administrative Code of 1929," as relates to the following boards:

Board of Trustees of West Chester State College,  
 Board of Trustees of Millersville State College,  
 Board of Trustees of Kutztown State College,  
 Board of Trustees of East Stroudsburg State College,  
 Board of Trustees of Mansfield State College,  
 Board of Trustees of Bloomsburg State College,  
 Board of Trustees of Shippensburg State College,  
 Board of Trustees of Lock Haven State College,  
 Board of Trustees of California State College,  
 Board of Trustees of Slippery Rock State College,  
 Board of Trustees of Edinboro State College,  
 Board of Trustees of Clarion State College,  
 Board of Trustees of Cheyney State College,  
 Board of Trustees of Indiana University of Pennsylvania, at Indiana,  
 Board of State College and University Directors.

Section 401.1 and 1311.1 of the act of April 9, 1929 (P.L.177, No. 175), known as "The Administrative Code of 1929."

- (b) All acts or parts of acts are repealed insofar as they are inconsistent herewith.
- (c) Except as otherwise provided nothing herein contained shall be construed to repeal the act of April 9, 1929 (P.L. 177, No.175), known as "The Administrative Code of 1929," as amended, or the act of January 18, 1952 (1951 P.L. 2111, No.600), referred to as the State College Faculty Compensation Law, or the act of December 16, 1965 (P.L. 1113, No.430), known as the "Indiana University of Pennsylvania Act."

Section 5. There are hereby transferred to the Board of Governors and successor institutions as provided in Section 2002-A to be used, employed, and expended in connection with the functions, powers, and duties as established by this act, contract obligations, if any, records, files, all property, exclusive of real property, supplies, and equipment now being used or held in



connection with such functions, powers, and duties and the unexpended balances of appropriations, allocations, and other funds available or to be made available for use in connection with such functions, powers, and duties.

Section 6. All moneys accumulated pursuant to the fifth paragraph of Section 2008, act of March 10, 1949 (P.L. 30, No. 14), known as the "Public School Code of 1949," is hereby transferred to the Reserve Fund established in subsection (a) of Section 2011-A.

Section 7. Section 2004-A shall take effect immediately and the Governor shall nominate the Board within 90 days thereafter, and the Board shall employ the chancellor within six months thereafter. All other sections of this act shall take effect July 1, 1983.

### **Section 20-2017-A. Annual Report**

- (a) An annual report shall be submitted by each institution to the Governor and the Appropriations and Education Committees of the Senate and House of Representatives which shall include data for all programs of the institution. Each such report, to be submitted prior to September 1, shall cover the 12-month period beginning with the summer term of the preceding year and shall include:
  - (1) The following counts and distributions for each term during the period:
    - (i) The definitions and numbers of faculty members employed full time, of faculty members employed part time, of full-time students enrolled in graduate courses, of full-time students enrolled in undergraduate courses, of part-time students enrolled in graduate courses, and of part-time students enrolled in undergraduate courses.
    - (ii) The total numbers of undergraduate student credit hours, divided into lower division and upper division course levels, and of graduate student credit hours divided into three course levels—master's, first professional, and doctoral.
    - (iii) The number of different courses scheduled by level of instruction and the number of sections of individual instruction scheduled by level of instruction, each further subdivided by two digit Classification of Instructional Program (CIP) categories of instructional programs of higher education as defined by the National Center for Education Statistics, United States Department of Education.
    - (iv) The number of terms scheduled and the dates thereof.
  - (2) For the summer term and the following academic year in total and for each two digit CIP program category, a classification of faculty members or other professional employees by title, including: professor, associate professor, assistant professor, instructor, lecturer, research associate, librarian, and academic administrator; faculty

members or other professional employees under each title to be subdivided by type of assignment: teaching and non-teaching, and each such set of faculty members or other professional employees to be further subdivided by type of employment: full time or part time; and the following aggregates for each subdivided classification:

- (i) The number of faculty and other professional employees and their full-time equivalence in instructional and noninstructional functions.
  - (ii) The sum of credits assigned to undergraduate classroom courses and the sum of credits assigned to graduate classroom courses taught, divided into lower division, upper division, master's, first professional, and doctoral course levels.
  - (iii) The sum of credits assigned to undergraduate individual instruction courses and the sum of credits assigned to graduate individual instruction courses taught, divided into lower division, upper division, master's, first professional, and doctoral course levels.
  - (iv) The sum of undergraduate classroom student credit hours and the sum of graduate classroom student credit hours generated, divided into lower division, upper division, master's, first professional, and doctoral course levels.
  - (v) The sum of undergraduate individual instruction student credit hours and the sum of graduate individual instruction student credit hours generated, divided into lower division, upper division, master's, first professional, and doctoral course levels.
  - (vi) The total salary paid for instructional functions and for noninstructional functions and the amount of this salary paid for each of these functions from university funds, federal funds, and other funds.
- (3) For each term of the period covered for each faculty member employed full time identified by two digit CIP program category and title, the report shall contain an analysis of the average hours per week spent in university-related activities, stating specifically hours spent in undergraduate classroom contact and graduate classroom contact, hours spent in preparation, hours spent in research, and hours spent in public service.
- (b) In addition to the requirements of subsection (a), each report covering the 12-month period shall include for all programs of the institution:



- (1) Minimum number of credits required for a baccalaureate degree and for a master's degree.
- (2) Number of bachelor's degrees, master's degrees, first professional degrees, and doctoral degrees awarded in the three previous years and those estimated for that year.

**Section 20-2018-A. Method of Disposition; Consideration by the General Assembly**

- (a) Whenever the System deems that it is necessary or desirable to sell, transfer or dispose of real property acquired by and titled to it, it shall request authorization from the General Assembly to sell, transfer or dispose of said real property; and from time to time, as necessary, the System shall submit to the Chief Clerk of the House of Representatives and the Secretary of the Senate requests to sell, transfer or dispose of real property acquired by and titled to the System for consideration by the General Assembly.
- (b) Each request for authorization to sell, transfer or dispose of real property transmitted to the General Assembly shall be proposed as a resolution, and shall be placed on the calendar of each house for the next legislative day following its receipt, and shall be considered by each house within thirty calendar days of continuous session of the General Assembly.
- (c) Each request for authorization to sell, transfer or dispose of real property shall take effect if it is approved by a majority vote of the duly elected membership of each house during such thirty-day period, or may be disapproved by either house during that period by a majority vote of the duly elected membership of each house.
- (d) No resolution shall be effective:
  - (1) unless it designates the number of the request for authorization to sell, transfer or dispose of real property and the date on which it was transmitted to the General Assembly; or
  - (2) if it specifies more than one request for authorization to sell, transfer or dispose of real property except as otherwise provided by subsection (g) of this section.
- (e) The effective date of each request for authorization to sell, dispose or transfer real property shall be the date of approval of the last of the two houses to act. Upon expiration of the thirty-day period after the delivery of the request for authorization to sell, dispose or transfer real property to the two houses of the General Assembly and the failure to act as provided in subsection (c) of this section, each request for authorization to sell, dispose or transfer real property shall become effective.
- (f) For the purposes of subsection (b) of this section:

- (1) Continuity of session shall be considered as broken only by an adjournment of the General Assembly sine die.
- (2) In the computation of the thirty-day period, there shall be excluded the days on which either house is not in session because of an adjournment of more than ten days to a day certain.
- (g) Any provision of the request for authorization to sell, dispose or transfer real property may, under provisions contained therein, be made operative at a time later than the date on which the request for authorization to sell, transfer or dispose of real property otherwise takes effect.

#### **Section 20-2019-A. - Campus Police Powers and Duties**

- (a) Campus police of an institution shall have the power and their duty shall be:
  - (1) to enforce good order on the grounds and in the buildings of the institution;
  - (2) to protect the grounds and buildings of the institution;
  - (3) to exclude all disorderly persons from the grounds and buildings of the institution;
  - (4) to adopt means necessary for the performance of their duties;
  - (5) to exercise the same powers as are now or may hereafter be exercised under authority of law or ordinance by the police of the municipalities wherein the institution is located, including, but not limited to, those powers conferred pursuant to 42 Pa.C.S. Ch. 89 Subch. D (relating to municipal police jurisdiction);
- (6) to prevent crime, investigate criminal acts, apprehend, arrest and charge criminal offenders and issue summary citations for acts committed on the grounds of the institution and carry the criminal offenders before the proper district justice and prefer charges against them under the laws of this commonwealth. Except when acting pursuant to 42 Pa.C.S. Ch. 89 Subch. D, campus police shall exercise these powers and perform these duties only on the grounds of the institution. For the purposes of applying the provisions of 42 Pa.C.S. Ch. 89 Subch. D, the grounds of the institution shall constitute the primary jurisdiction of the campus police.
- (7) to order off the grounds and out of the buildings of the institution all trespassers and persons under the influence of alcohol or controlled substances and, if necessary, remove them by force and, in case of resistance, carry them before a district justice; and
- (8) to arrest any person who damages, mutilates or destroys the property of the institution or commits any other offense, including threats or acts of terrorism, on the grounds and in the buildings of the institution and carry that person before the



proper district justice and prefer charges against that person under the laws of this commonwealth.

- (b) An institution is authorized to enter into an agreement with the municipalities overlain by or abutting its campus to exercise concurrently those powers and to perform those duties conferred pursuant to a cooperative police service agreement in accordance with 42 Pa.C.S. § 8953 (relating to statewide municipal police jurisdiction). When so acting, the campus police of the institution shall have the same powers, immunities and benefits granted to police officers in 42 Pa.C.S. Ch. 89 Subch. D. All such agreements shall be consistent with the mission and purpose of the system.
- (c) When acting within the scope of the authority of this section, campus police are at all times employees of the institution and shall be entitled to all of the rights accruing therefrom.

#### **Section 20-2020-A. Articulation Agreements**

Funds appropriated for program initiatives, including performance measurement and systemwide technology initiatives, shall be contingent upon the State System of Higher Education making all articulation agreements with other higher education institutions available on its Internet website.



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