



# NEW JERSEY OFFICE OF THE SECRETARY OF HIGHER EDUCATION (OSHE)

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## New Jersey Statutes

### **Title 18A Higher Education**

#### **18A:3B-14 RESPONSIBILITIES OF SECRETARY OF HIGHER EDUCATION**

14. The Secretary of Higher Education 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. Within 180 days of the effective date of P.L.2015, c.91 and, at a minimum, every seven years thereafter, the secretary shall adopt a new comprehensive master plan. The council may request the secretary to conduct a study of a particular issue. The secretary may require from institutions of higher education such reports or other information as may be necessary to enable the secretary to perform his 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 secretary 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 secretary 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 by the council, the secretary may deny approval of programs proposed by institutions of higher education which do not exceed the programmatic mission of the institution, but which may be of insufficient academic quality, may lack sufficient evidence of labor market demand, may be duplicative of comparable programs of study, or may be unduly expensive to the State as determined by the New Jersey Presidents' Council according to the review standards set by the secretary ;
- 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 secretary upon warrant of the director of the Office of Management and Budget in the Department of the Treasury on vouchers certified by the secretary;
- j. acting as the lead agent of communication with the federal government concerning higher education issues, except that the Higher Education Student Assistance Authority shall act, in cooperation with the secretary, 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;

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.

L.1994, c.48, s.14; amended 1999, c.46, s.32; 2009, c.308, s.24; 2015, c.91, s.1; 2021, c.27, s.2.

#### **18A :3B-15 RULES, REGULATIONS.**

15. The secretary shall adopt rules and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to carry out the provisions of this act.

L.1994, c.48, s.15; amended 2021, c.27, s.3.

#### **18A :3B-63 PROCEDURE FOR CHANGE IN PROGRAMMATIC MISSION.**

18. a. When a public research university or a State college determines to seek a change to its programmatic mission, the university or college shall submit to the commission:

(1) a notice of the intent to seek a change to the institution's programmatic mission; and

(2) a petition for approval for a change in the programmatic mission of the institution, when such petition is ready for submission. The petition shall include information on the long-term costs of the change in programmatic mission and a cost-benefit analysis of the expected impact of the change that considers the expected needs of the State and the potential impact of the change on other academic programs of the institution.

b. The commission shall issue its response to the petition within one year of its receipt.

L.2009, c.308, s.18.

#### **18A :3B-65 PLAN FOR BRANCH CAMPUS, ADDITIONAL LOCATION; DEFINITIONS.**

20. a. Subject to the approval of the Secretary of Higher Education, the governing board of a public research university or a State college may establish a branch campus. The governing board shall submit the plan for the branch campus to the secretary for review and approval. The plan shall be developed and reviewed according to standards established by the secretary through regulations promulgated pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

b. When the governing board, after study and investigation, determines that it is advisable for the institution to establish a branch campus or additional location out-of-State or out-of-country

that will serve at least 100 students of the institution, the board shall include in the plan for the branch campus or additional location submitted to the secretary:

- (1) a description of the higher educational needs of the country or region in which the branch campus or additional location shall be located;
- (2) a description of the proposed branch campus or additional location and its proposed programs and curriculum;
- (3) an estimate of the cost of establishing and maintaining the branch campus or additional location including the cost of any planned acquisition or construction of facilities;
- (4) a commitment that the branch campus or additional location will comply with the provisions of P.L.1963, c.73 (C.47:1A-1 et seq.), commonly known as the open public records act; and
- (5) any other information or data deemed necessary by the secretary.

c. In developing a response to the plan, the secretary shall consider whether there is a need for the institution to acquire a branch campus or additional location and whether the institution has the financial capacity to support the campus or additional location.

d. The secretary may approve the establishment of an out-of-State or out-of-country branch campus or additional location if the secretary determines that the branch campus or additional location:

- (1) serves a compelling State interest;
- (2) does not impose excessive costs or reputational risk to the State;
- (3) does not impose a risk to the security interests of the State or federal government; and
- (4) does not conflict with existing State or federal laws or regulations.

In making the determination, the secretary may utilize the assistance of an external consultant team, solicit comments from interested parties including faculty and members of professional staff not holding faculty rank at the public research university or State college, and conduct a site visit at the proposed site of the branch campus or additional location.

e. The governing board of a public research university or a State college shall fix the salary of all faculty and members of the professional staff not holding faculty rank performing services at an out-of-State or out-of-country branch campus or additional location, and the faculty and members shall be paid and provided benefits in the same manner as all other employees of the

public research university or State college performing services on behalf of the public research university or State college within the State.

f. The cost for consultants utilized by the secretary and other out-of-pocket expenses incurred by the secretary for branch campus and related reviews shall be paid by the institution seeking to establish a branch campus or additional location.

g. The secretary shall adopt rules and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to carry out the provisions of this section.

h. When the governing board of an independent institution of higher education, after study and investigation, determines that it is advisable for the institution to establish a branch campus or additional location in the State that will serve at least 100 students of the institution, the board shall submit the plan for the branch campus or additional location to the secretary for review and comment. The plan shall be developed and reviewed according to standards established by the secretary through rules and regulations promulgated pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

i. As used in this section:

"Additional location" means a location, other than a branch campus, that is geographically apart from the main campus and at which the institution offers at least 50 percent of an educational program.

"Branch campus" means a physical facility located at a place other than the institution's principal campus offering one or more complete programs leading to a degree.

L.2009, c.308, s.20; amended 2021, c.27, s.4.

### **18A :68-3 FILING OF COPY OF CERTIFICATE OF INCORPORATION; FEE SCHEDULES.**

18A :68-3. a. No corporation shall furnish instruction or learning in the arts, sciences, or professions for the purposes of admitting any person to the grade of a degree, or shall confer or participate in conferring a degree, giving to any person a diploma of graduation or of proficiency in a course of study, in learning, or in scientific arts or methods, within this State, until it shall have filed a certified copy of its certificate of incorporation with the Secretary of Higher Education and obtained from the secretary a license to carry on the business under such rules as the secretary may prescribe.

b. The secretary shall prepare a fee schedule to cover the reasonable administrative costs associated with licensing procedures and submit the initial fee schedule to the Legislature for review. The secretary shall subsequently adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the fee schedule. Fees collected shall be deposited in the State Treasury.

c. The cost for consultants utilized by the Secretary of Higher Education and other out-of-pocket expenses incurred by the secretary for licensure and related reviews shall be paid by the institution seeking a license or license renewal.

amended 1994, c.48, s.195; 1999, c.46, s.44; 2021, c.27, s.5.

#### **18A :68-4. REVOCATION OF LICENSE**

18A :68-4. Any license issued under this article may be revoked by the Commission on Higher Education.

L.1967, c.271; amended 1994,c.48,s.196.

#### **18A :68-5. RESTRAINT OF CORPORATIONS OPERATING WITHOUT LICENSE**

18A :68-5. When it shall appear that any corporation is carrying on the business of such instruction or teaching, or conferring any such degree, or giving any such diploma without such license, the Commission on Higher Education, represented by the Attorney General, may institute a civil action in the Superior Court to restrain the corporation from the transaction of any such business or the exercise of any such franchise within this State until it shall have obtained such license or the approval of the commission. The court may proceed in the action in a summary manner or otherwise. The costs in any such action, to be fixed by the court, shall be paid by the corporation before the dissolution of any injunctive order or judgment.

L.1967, c.271; amended 1994,c.48,s.197.

#### **18A :68-6. SUBMISSION AND APPROVAL AS PREREQUISITE TO CONFERRING OF DEGREES**

18A :68-6. No school, corporation, association or institution of learning conducted within this State and licensed by the Commission on Higher Education, nor any officer or member thereof, in recognition of the attainment or proficiency of any person in pursuing or graduating from any course or courses of study, arts, or learning conducted by it or another such school corporation, association or institution, shall admit any such person to the grade of a degree by conferring, or participating in conferring, any degree upon any person unless that degree program is consistent with the programmatic mission of the institution or is approved by the commission.

Nothing contained in this section shall apply to any school, corporation, association or institution of learning, or officer or member thereof, which was established and conducted within this State on April 1, 1887, and was then in the course of admitting persons to the grade of a degree by conferring the same upon them in recognition of their attainments or proficiencies, nor to any school conducted under the public school system.

L.1967, c.271; amended 1994,c.48,s.198.

#### **18A :68-7. WITHDRAWAL OF APPROVAL; RECORD OF APPROVALS AND REVOCATIONS**

18A :68-7. The approval given by the Commission on Higher Education of the basis or conditions for the admission to the grade of a degree may be revoked for proper cause by the commission after hearing upon 20 days' notice of the time and place of such hearing given to any

such school, corporation, association or institution of learning by service upon any officer or member thereof, and proof made at such hearing to the satisfaction of the commission, that the standards presented for admission to such grade of a degree or for the conferring of such degree are not being satisfactorily complied with by such school, corporation, association or institution of learning, or by the officers or members thereof. The commission shall keep a record of such approvals and revocations in a book to be provided and used solely for that purpose, which book shall be kept at its office in Trenton and may be inspected by any person upon request.

L.1967, c.271; amended 1994,c.48,s.199.

#### **18A :68-8. CONFERRING DEGREE DURING REVOCATION**

The admitting of any person to any such grade of a degree by conferring the same upon him during the continuation of the revocation of such approval shall render any such school, corporation, association or institution of learning, or any officer or member thereof, participating therein, liable to the penalty prescribed by this chapter as though no approval had been granted in the first instance.

L.1967, c.271.

#### **18A :68-9. PENALTIES; RECOVERY**

18A :68-9 An officer or member of a school, corporation, association or institution of learning who by vote or in any other manner or capacity, or a school, corporation, association or institution of learning which shall admit or participate in admitting a scholar, student, or subscriber to any grade of a degree by conferring or participating in conferring any degree upon him, contrary to the provisions of this chapter, or who shall sign any certificate or diploma as evidence of the conferring of such degree shall be liable to a penalty of not more than \$300.00 for each offense, to be enforced and collected by and in the name of the Commission on Higher Education in a summary proceeding in accordance with chapter 58 of Title 2A of the New Jersey Statutes, the penalty enforcement law. Process shall be either in the nature of a summons or warrant.

L.1967, c.271; amended 1994,c.48,s.200.

#### **18A :68-10. FAILURE TO PAY PENALTY**

18A :68-10. Upon the failure of the defendant to pay forthwith the amount of any money judgment rendered against him the defendant shall be committed to the county jail for a period not exceeding 90 days.

L.1967, c.271.

#### **18A :68-11. DISPOSITION OF MONEYS RECOVERED**

18A :68-11. All moneys recovered under the provisions of this article shall be payable to the State Treasurer.

L.1967, c.271; amended 1994,c.48,s.201.