State Constitutional Provisions and Higher Education Governance

Policy Report
State Constitutional Provisions and Higher Education Governance

A central challenge in public policy for higher education is to ensure that colleges and universities serve the public interest while providing institutions with sufficient autonomy to control their operations (Berda hl & McConnell, 2011). Policymakers have attempted to address this challenge in various ways, including the use of constitutional provisions and specific forms of governance. This report provides an overview of constitutional provisions for higher education and state approaches to higher education governance across the nation. Detailed summaries are then presented for the MHEC states.

State Constitutional Provisions for Higher Education

While most states define the terms of higher education governance through statutes, some use constitutional provisions. Most prominently, constitutional provisions have been used to establish the constitutional autonomy of public colleges and universities to limit governmental interference in institutional operations. Constitutional autonomy has been defined as “a legal principle that makes a state university a separate department of government, not merely an agency of the executive or legislative branch. A university with this status is subject to judicial review and to the legislature’s policy power and appropriations power. However, its governing board has a significant degree of independent control over many university functions” (Hutchens, 2010, p. 2). Table 1 provides a categorization of states according to the degree to which the constitutional autonomy of public colleges and universities has been judicially recognized.

Table 1. Constitutional Autonomy of Public Colleges and Universities

<table>
<thead>
<tr>
<th>Substantial Recognition, Extensive Constitutional Autonomy</th>
<th>Moderate-Limited Recognition, Varying Degrees of Constitutional Autonomy</th>
<th>Judicial Recognition, Constitutional Autonomy</th>
<th>Judicial Rejection of Constitutional Autonomy</th>
<th>Ambiguous Recognition</th>
<th>No Judicial Recognition/Recognition Doubtful</th>
</tr>
</thead>
<tbody>
<tr>
<td>California, Michigan, Minnesota</td>
<td>Idaho, Louisiana, Montana, Nevada, New Mexico</td>
<td>Nebraska, South Dakota</td>
<td>Arizona, Colorado, Missouri, Utah</td>
<td>Florida, Georgia</td>
<td>Alabama, Alaska, Hawaii, Mississippi</td>
</tr>
</tbody>
</table>

State Approaches to Higher Education Governance

The structure of higher education governance in most states can be characterized as (a) a consolidated governing board, (b) a coordinating board, or (c) a statutory or constitutional planning agency (e.g., Fowles, 2007; McGuinness, 2011). A consolidated governing board has coordinating functions as well as day-to-day management of public institutions as determined by legislative statutes and/or governing board policy. This management includes institutional finances, degrees, personnel, and property. They have complete authority over a state’s system of public higher education. Twenty-three states use consolidated governing boards, where nine states have one board overseeing all public institutions and 14 states have two boards to split authority between two- and four-year institutions (see Figure 1).

A coordinating board works alongside institutional boards (e.g., Trustees, Regents) to advance state interests and agendas without governing individual institutions. These boards frequently promote statewide priorities by facilitating credit transfer and reducing program duplication across institutions. Moreover, some states have regulatory coordinating boards, which control the approval of institutional programs and occasionally the budgeting process. Regulatory boards can be distinguished as either strong or weak. Strong regulatory boards directly submit budget requests to the legislature and thus have ultimate control over institutional budgets. In contrast, weak regulatory boards simply review and make recommendations on budget requests. Generally, states with coordinating boards have separate governing boards for each institution whose members are either elected or appointed by the governor.

As indicated in Figure 1, 24 states currently have coordinating boards; seven states have both a coordinating board and a consolidated governing board. Figure 2 shows that 22 of these states have regulatory coordinating boards with approval authority for academic programs. Whereas one state coordinating board plays no role in the budgetary process, 15 state boards have significant budgetary authority and six boards have limited budgetary authority as well as program approval authority. Two states have advisory boards with only the authority to review and recommend budgets.

Statutory or constitutional planning agencies facilitate coordination among institutions, either formally or informally. Since this structure does not carry authority beyond institutional self-interest, only three states use it (see Figure 1). However, four states have these agencies in addition to their governing boards. Historically, more states employed this method but then established the formal governing boards seen today.
MHEC State Constitutional Provisions and Governance Structures

This section summarizes constitutional provisions and descriptions of higher education governance structures in MHEC states. Each state’s constitution was examined to identify provisions associated with higher education. As indicated in Table 2, all state constitutions contain provisions for higher education with the exception of Illinois and Indiana. Provisions associated with governance structures or functions appeared in over half of the state constitutions. Four state constitutions specified a dedicated fund to support a state university, and four state constitutions explicitly identify the state universities under consideration. Other provisions were observed with less frequency, including the guarantee of educational loan repayment, making adequate financial appropriations, and the location of institutions.

Following the summary of constitutional provisions, a description is provided of state-level coordinating and/or governing agencies, system/institutional governing boards, and statutory advisory committees. These descriptions were initially generated with the Education Commission of the States StateNotes Database. Revisions were subsequently adopted to incorporate feedback from MHEC commissioners of three states.

Table 2.

<table>
<thead>
<tr>
<th>MHEC State</th>
<th>Dedicated Fund</th>
<th>Educational Loan Guarantees</th>
<th>Governance Structure</th>
<th>Legislature is Required to Make Adequate Appropriations</th>
<th>Location Specific Institution(s) Mentioned</th>
<th>None Identified</th>
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</thead>
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<td>Wisconsin</td>
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<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>

| Total      | 4              | 1                           | 7                    | 1                                                        | 3                                          | 4              |
| Percent    | 33%            | 8%                          | 58%                  | 8%                                                       | 25%                                        | 33%            |

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MHEC cannot guarantee the accuracy of the ECS information. Readers are encouraged to send requested revisions to MHEC’s research staff.

May 2013
Illinois

Constitution of the State of Illinois

“ARTICLE X - EDUCATION,” of the Illinois state constitution does not contain any particular statements about higher education.

http://www.ilga.gov/commission/lrb/conmain.htm

Governance

State-level coordinating and/or governing agency.

The Illinois Board of Higher Education (IBHE) functions as a coordinating agency for public and private postsecondary education in Illinois. Established in 1961, IBHE’s structure and responsibilities have been amended periodically, most recently in 1995. IBHE consists of 15 members: 10 public members appointed by the governor with the consent of the Senate for six-year terms; a member representing public university governing boards and a member representing independent college and university trustees, both appointed by the governor for one-year terms; the chair of the Illinois Community College Board and the chair of the Illinois Student Assistance Commission, both of whom serve as ex-officio voting members by virtue of the office that they hold and serve at the pleasure of the governor; and a student board member who serves a one-year term.

Legislation enacted in 1995 reduced the membership of the board from 17 to 15 members, eliminating the chairs of the then four public university governing boards and adding two members, representing independent colleges and university boards of trustees. This same legislation abolished two of the four public university governing boards, the Board of Governors and the Board of Regents; transferred one of their campuses to the governance of the University of Illinois; and established individual institutional governing boards for the remaining seven institutions, formerly governed by the Board of Governors and Board of Regents.

IBHE has responsibility for planning and coordination of public universities, public community colleges, independent not-for-profit colleges and universities, and degree-granting proprietary institutions. Additionally, IBHE has statutory responsibilities for the state-level planning function, program review and approval, and development of budget recommendations for all public universities and community colleges. Statutory authority to grant operating and degree-granting authority to independent and out-of-state institutions also falls within IBHE’s responsibilities. IBHE is designated to administer a number of state and federal grant programs, and further, to establish and maintain a college and university information system.

IBHE is not a cabinet department, and Illinois does not have a secretary of education. The executive officer of the Board is appointed by and serves at the IBHE's pleasure.

The Illinois Community College Board serves as the coordinating board for 39 public community college districts that have a combined total of 48 campuses. Each public community
college district is governed by a locally elected board of trustees. There are nine public university
governing boards; seven govern a single campus and two govern multiple campuses.

**System/institutional governing boards.**

Each public university and community college has a governing board of trustees made up of
seven members. The public university governing boards were established in January 1996 and
are responsible for adopting budgets, setting institutional policies, establishing tuition and fees,
personnel and student admissions.

**Statutory advisory committee.**

None.

**Indiana**

**Constitution of the State of Indiana**

“ARTICLE 8. Education,” does not contain any particular statements about higher education.

[http://www.law.indiana.edu/uslawdocs/inconst.html](http://www.law.indiana.edu/uslawdocs/inconst.html)

**Governance**

**State-level coordinating and/or governing agency.**

Established in 1971, the Commission of Higher Education (CHE) functions as the statutory
coordinating agency for postsecondary education in the state. The commission has 14 members,
12 of whom are appointed by the governor for four-year terms and represent the general public;
one student and one faculty member serve two-year terms. CHE is charged with seven major
responsibilities by statute: 1) long-range planning for postsecondary education in Indiana; 2)
defining institutional roles; 3) approving new campuses or extension sites; 4) approving new
program requests; 5) reviewing existing programs; 6) reviewing budget requests and
recommending consolidated requests to the executive and legislative branches of state
government; and 7) recommending nonbinding tuition and mandatory fee increase targets.
Indiana does not have an office of secretary of education and the coordinating agency is not a
cabinet department. The executive officer of CHE is appointed by CHE and serves at its
pleasure.

**System/institutional governing boards.**

Indiana has seven public institutional governing boards: 1) Ball State University Board of
Trustees; 2) Indiana State University Board of Trustees; 3) Ivy Tech State College Board of
Trustees with authority over 22 campuses and centers and the newly created Community College
of Indiana in partnership with Vincennes University; 4) Indiana University Board of Trustees
with authority over seven campuses; 5) Purdue University Board of Trustees responsible for four
campuses; 6) Vincennes University Board of Trustees with jurisdiction over the newly created Community College of Indiana in partnership with Ivy Tech State College; and 7) University of Southern Indiana Board of Trustees.

**Statutory advisory committee.**

In 2000, the Indiana Commission for Higher Education created the Statewide Transfer and Articulation Committee (STAC), which is the focus of activity for improving transfer and articulation options statewide and includes representation from all public institutions and the independent sector. In 2003, the General Assembly codified STAC, and during the 2005 session, mandated the establishment of a Core Transfer Library (CTL) and statewide articulation of degree programs in 12 key areas. The CTL presently consists of 73 courses, all of which transfer among all state two- and four-year campuses. The 12 statewide program articulations will be completed October 2013. Beyond the legislatively mandated CTL and 12 program articulations, a number of other course equivalencies and program articulations that have been developed.

STAC has also developed a set of principles to guide transfer and articulation in Indiana, and will shortly unveil a statewide transfer website, which include, within the year, degree audit capabilities for all public institutions and any independent institution that wants to participate.

**Iowa**

**Constitution of the State of Iowa**

“ARTICLE IX. - Education and School Lands,” contains particular statements about higher education.

*State university.* Section 11. The State University shall be established at one place without branches at any other place, and the University fund shall be applied to that Institution and no other. (See Laws of the Board of Education, Act 10, December 25, 1858, which provides for the management of the state University by a Board of Trustees appointed by the Board of Education.)

*Seat of government established-state university.* Section 8. The seat of Government is hereby permanently established, as now fixed by law, at the City of Des Moines, in the County of Polk; and the State University, at Iowa City, in the County of Johnson.

[http://publications.iowa.gov/135/1/history/7-7.html](http://publications.iowa.gov/135/1/history/7-7.html)

**Governance**

*State-level coordinating and/or governing agency.*

The State Board of Regents, established in 1909, serves as the statutory governing body for all public senior postsecondary education in the state. These institutions are University of Iowa, Iowa State University and Northern Iowa University. The Board is composed of nine members
appointed by the governor with the consent of the Senate; eight represent the general public and one student representative completes the Board, all of whom serve six-year terms. Additionally, the Board has statutory governing authority including program approval, planning and coordination, review and approval of institutional budgets, and recommendations for a consolidated budget.

The State Board of Education's Bureau of Community Colleges and Workforce Preparation has jurisdiction over the community colleges in Iowa. Community Colleges are governed by locally elected boards of directors. The State Board of Education, which has statutory oversight authority, is also made up of nine members appointed by the governor and confirmed by the Senate to serve six-year terms.

Iowa does not have an office of secretary of education, and the agency is not a cabinet department within the state. The executive officer of the Board of Regents is appointed by the Board and serves at its pleasure. The state director of education serves at the governor's pleasure.

System/institutional governing boards.

The State Board of Regents serves as the statutory governing body for all public postsecondary education in the state and the State Board of Education's Bureau of Community Colleges and Workforce Preparation has jurisdiction over the community colleges in Iowa.

For additional information, see the State-Level Coordinating and/or Governing Agency section.

Statutory advisory committee.

None.

Kansas

Constitution of the State of Kansas

“Article 6.—Education,” contains particular statements about higher education.

§ 2: State board of education and state board of regents.

(a) The legislature shall provide for a state board of education which shall have general supervision of public schools, educational institutions and all the educational interests of the state, except educational functions delegated by law to the state board of regents. The state board of education shall perform such other duties as may be provided by law.

(b) The legislature shall provide for a state board of regents and for its control and supervision of public institutions of higher education. Public institutions of higher education shall include universities and colleges granting baccalaureate or postbaccalaureate degrees and such other institutions and educational interests as may be provided by law. The state board of regents shall perform such other duties as may be prescribed by law.
(c) Any municipal university shall be operated, supervised and controlled as provided by law.”

§ 6: Finance.

(a) The legislature may levy a permanent tax for the use and benefit of state institutions of higher education and apportion among and appropriate the same to the several institutions, which levy, apportionment and appropriation shall continue until changed by statute. Further appropriation and other provision for finance of institutions of higher education may be made by the legislature. (b) The legislature shall make suitable provision for finance of the educational interests of the state. No tuition shall be charged for attendance at any public school to pupils required by law to attend such school, except such fees or supplemental charges as may be authorized by law.

The legislature may authorize the state board of regents to establish tuition, fees, and charges at institutions under its supervision.

(c) No religious sect or sects shall control any part of the public educational funds.


Governance

State-level coordinating and/or governing agency.

Kansas employs a combined consolidated governing board for universities and a coordinating board for community colleges. The State Board of Regents, established in 1925, functions as the constitutional governing agency for six public universities in the state. The State Board of Regents has coordinating responsibility for the municipal university, as well as all other public postsecondary institutions in respect to budget requests and academic program approval. The structure and responsibilities of the agency were amended in 1966, 1970, 1975, 1976, 1978, 1991, and 1999. The nine members of the board, appointed by the governor subject to Senate confirmation, represent the general public and serve four-year terms. Nineteen community colleges are under individual governing boards that are supervised by the State Board of Regents. Six technical colleges and one Institute of Technology are under individual governing boards and are also supervised by the State Board of Regents. One municipal university has its own governing board. The Board of Regents also regulates private and out-of-state postsecondary institutions operating in the state.

The Board of Regents has statutory responsibility for planning and coordination, program approval, and institutional budget review, including consolidated budget recommendations for all public institutions. The agency does not serve as a cabinet department, and the director of the Board of Regents is appointed by and serves at the Board's pleasure.

The Legislative Education Planning Committee (LEPC), created in 1974, is a joint committee of the House and Senate. Its statutory charge is to "plan for postsecondary education in Kansas,
including both public and private institutions and vocational education." The committee considers specific legislative proposals, oversees data collection activities and conducts studies of postsecondary education issues. Study topics also may be assigned to the committee by the Legislative Coordinating Council (LCC). The LCC appoints the committee's membership, which consists of six members from the House of Representatives and five from the Senate.

**System/institutional governing boards.**

(See State-Level Coordinating and/or Governing Agency.)

**Statutory advisory committee.**

A statutory student advisory committee to the regents was established in 1975. The committee consists of the student-body president from each state university and serves in a policy advisory capacity to the Board of Regents.

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**Michigan**

**Constitution of the State of Michigan**

“Article VIII Education,” contains particular statements about higher education.

§ 3 State board of education; duties.

Sec. 3. Leadership and general supervision over all public education, including adult education and instructional programs in state institutions, except as to institutions of higher education granting baccalaureate degrees, is vested in a state board of education. It shall serve as the general planning and coordinating body for all public education, including higher education, and shall advise the legislature as to the financial requirements in connection therewith.

*Superintendent of public instruction; appointment, powers, duties.*

The state board of education shall appoint a superintendent of public instruction whose term of office shall be determined by the board. He shall be the chairman of the board without the right to vote, and shall be responsible for the execution of its policies. He shall be the principal executive officer of a state department of education which shall have powers and duties provided by law.

*State board of education; members, nomination, election, term.*

The state board of education shall consist of eight members who shall be nominated by party conventions and elected at large for terms of eight years as prescribed by law. The governor shall fill any vacancy by appointment for the unexpired term. The governor shall be ex-officio a member of the state board of education without the right to vote.
Boards of institutions of higher education, limitation.
The power of the boards of institutions of higher education provided in this constitution to supervise their respective institutions and control and direct the expenditure of the institutions' funds shall not be limited by this section.

§ 4 Higher education institutions; appropriations, accounting, public sessions of boards.

Sec. 4. The legislature shall appropriate moneys to maintain the University of Michigan, Michigan State University, Wayne State University, Eastern Michigan University, Michigan College of Science and Technology, Central Michigan University, Northern Michigan University, Western Michigan University, Ferris Institute, Grand Valley State College, by whatever names such institutions may hereafter be known, and other institutions of higher education established by law. The legislature shall be given an annual accounting of all income and expenditures by each of these educational institutions. Formal sessions of governing boards of such institutions shall be open to the public. History: Const. 1963, Art. VIII, § 4, Eff. Jan. 1, 1964. Former constitution: See Const. 1908, Art. XI, § 10.

§ 5 University of Michigan, Michigan State University, Wayne State University; controlling boards.

Sec. 5. The regents of the University of Michigan and their successors in office shall constitute a body corporate known as the Regents of the University of Michigan; the trustees of Michigan State University and their successors in office shall constitute a body corporate known as the Board of Trustees of Michigan State University; the governors of Wayne State University and their successors in office shall constitute a body corporate known as the Board of Governors of Wayne State University. Each board shall have general supervision of its institution and the control and direction of all expenditures from the institution's funds. Each board shall, as often as necessary, elect a president of the institution under its supervision. He shall be the principal executive officer of the institution and be ex-officio a member of the board without the right to vote and preside at meetings of the board. The board of each institution shall consist of eight members who shall hold office for terms of eight years and who shall be elected as provided by law. The governor shall fill board vacancies by appointment. Each appointee shall hold office until a successor has been nominated and elected as provided by law. History: Const. 1963, Art. VIII, § 5, Eff. Jan. 1, 1964. Former constitution: See Const. 1908, Art. XI, §§ 3, 4, 5, 7, 8, 16.

§ 6 Other institutions of higher education, controlling boards.

Sec. 6. Other institutions of higher education established by law having authority to grant baccalaureate degrees shall each be governed by a board of control which shall be a body corporate. The board shall have general supervision of the institution and the control and direction of all expenditures from the institution's funds. It shall, as often as necessary, elect a president of the institution under its supervision. He shall be the principal executive officer of the institution and be ex-officio a member of the board without the right to vote. The board may elect one of its members or may designate the president, to preside at board meetings. Each board of control shall consist of eight members who shall hold office for terms of
eight years, not more than two of which shall expire in the same year, and who shall be appointed by the governor by and with the advice and consent of the senate. Vacancies shall be filled in like manner.

§ 7 Community and junior colleges; state board, members, terms, vacancies.

Sec. 7. The legislature shall provide by law for the establishment and financial support of public community and junior colleges which shall be supervised and controlled by locally elected boards. The legislature shall provide by law for a state board for public community and junior colleges which shall advise the state board of education concerning general supervision and planning for such colleges and requests for annual appropriations for their support. The board shall consist of eight members who shall hold office for terms of eight years, not more than two of which shall expire in the same year, and who shall be appointed by the secretary of education. Vacancies shall be filled in like manner. The superintendent of public instruction shall be ex-officio a member of this board without the right to vote.

http://www.legislature.mi.gov/(S(uerlb1ijvuen2c45ab0ipe55))/documents/mcl/pdf/mcl-Constitution.pdf

Governance

State-level coordinating and/or governing agency.

Michigan lacks an organized state-level coordinating or governing agency for postsecondary education. Under the 1963 state constitution, very limited state postsecondary coordinating functions are assigned to the State Board of Education, which has primary responsibility for elementary and secondary education. The Board's responsibilities are limited to: the coordination of services for public two-year and four-year colleges and universities through policy recommendations to the Legislature with regard to budgetary and programmatic matters; licensing authority for vocational and proprietary institutions; and charter approval and reimbursement authorization for private colleges awarding certain degrees.

System/institutional governing boards.

All governance is undertaken by separate institutional governing boards which include: 1) Ten boards of control of trustees appointed by the governor for four-year public colleges and universities, each responsible for a single institution; 2) the elected Board of Regents of the University of Michigan, a constitutional board governing three branches of the university; 3) the elected Board of Governors of Wayne State University and the Board of Trustees of Michigan State University, both constitutional boards responsible for a single senior public institution. Additionally, the 29 public two-year community colleges each have regionally elected governing boards.
Statutory advisory committee.

The State Board of Education regularly seeks input from a broad range of advisory committees on matters between the secondary and postsecondary sectors, although no present committees are specifically constituted for articulation purposes.

Minnesota

Constitution of the State of Minnesota

“Article VIII MISCELLANEOUS SUBJECTS,” contains a particular statement about higher education.

“Sec. 3. University of Minnesota. All the rights, immunities, franchises and endowments heretofore granted or conferred upon the University of Minnesota are perpetuated unto the university.”

https://www.revisor.leg.state.mn.us/constitution/MN-Constitution.pdf

Note: the University’s powers are outlined in Territorial Laws 1851, Chapter 3. Some main provisions include:

Sec. 2. The proceeds of all land that may hereafter be granted by the United States to the Territory for the support of a University, shall be and remain a perpetual fund, to be called the “University Fund,” the interest of which shall be appropriated to the support of a University, and no sectarian instruction shall be allowed in such a University.

Sec. 4. The government of this University shall be vested in a Board of twelve Regents, who shall be elected by the Legislature as hereinafter provided.

http://www1.umn.edu/regents/polchart.html

Governance

State-level coordinating and/or governing agency.

There are currently two statewide, multi-campus governing boards in Minnesota: 1) the legislature-appointed, 12-member Board of Regents of the University of Minnesota with constitutional authority for the four public senior universities and 2) the statutorily governor-appointed, 15-member Board of Trustees of the Minnesota State Colleges and Universities (MnSCU). As of 1995, the former technical colleges, community colleges and state universities were consolidated under the newly merged MnSCU system. Both boards have responsibility for planning and coordination, institutional budget review and recommendation, and program approval.
In 1995 the Minnesota legislature abolished the Minnesota Higher Education Coordinating Board, which existed for 30 years and transferred many of its key duties to the new Minnesota Higher Education Services Office, since renamed the Minnesota Office of Higher Education. Functions of the new office include: administration of student financial aid programs; approval, registration and licensure of private collegiate and career schools; negotiation and administration of interstate tuition reciprocity programs; administration of the Minnesota Education Telecommunications Council; library planning; collection and maintenance of data on postsecondary education programs; information on students and parents; and administration of federal postsecondary education programs. In 2004, the Minnesota Office of Higher Education became a cabinet level agency with its director appointed by the governor.

System/institutional governing boards.

The Board of Regents of the University of Minnesota and the Board of Trustees of the Minnesota State Colleges and Universities (MnSCU) serve as the institutional governing boards in the state.

Statutory advisory committee.

MINN. STAT. §136A.031 Subd. 2 established the Higher Education Advisory Council (HEAC), composed of the president and senior vice-president for academic affairs of the University of Minnesota; the chancellor of the Minnesota State Colleges and Universities; the associate vice chancellors of the state universities, community colleges and technical colleges; the Commissioner of the Department of Education; the president of the Private College Council; and a representative from the Minnesota Career College Association. The council is charged with bringing to the attention of the Higher Education Services Council any matters deemed necessary and reviewing and commenting upon matters before the council.

§136A.031 Subd. 3 established a Student Advisory Council (SAC), comprised of a cross-section of students attending public and private universities, community colleges and public and private vocational-technical schools. The SAC reports quarterly to the HESC, bringing to attention any matter the SAC deems important. The HESC informs the SAC of all matters related to student issues and refers all proposals to the SAC before taking action.

Both the HESC and the SAC sunset every two-years and require legislative approval to continue operations.

Missouri

Constitution of the State of Missouri

“Article IV EXECUTIVE DEPARTMENT Section 52,” contains a particular statement about higher education.

HIGHER EDUCATION

Higher education, department of established--coordinating board for higher education established, members, terms, qualifications.
Section 52. There shall be established a department of higher education. A "Coordinating Board for Higher Education" which shall consist of nine members appointed by the governor by and with the advice and consent of the senate shall be established within the department. The qualifications and terms of the members of the board shall be fixed by law, but not more than five of its members shall be of the same political party. The coordinating board shall succeed the commission on higher education with all its powers and duties and shall have such other powers and duties as may be prescribed by law.

http://www.moga.mo.gov/const/moconstn.htm

Governance

State-level coordinating and/or governing agency

The Coordinating Board for Higher Education (CBHE), staffed by the Department of Higher Education, was established in 1963 and functions as the constitutional coordinating agency for postsecondary education in the state. The board has nine members appointed by the governor with the consent of the senate. All nine members represent the general public and serve six-year terms of office. CBHE is a cabinet-level agency and its executive officer, the Commissioner of Higher Education, is appointed by CBHE and serves at its pleasure.

CBHE has statutory responsibility for planning and coordination of the state's system of postsecondary education, including public four-year institutions, community colleges and independent and proprietary schools, colleges and universities. Responsibilities include: conducting studies of population and enrollment trends affecting institutions of higher education in the state; identifying higher education needs in the state in terms of the requirements and potential of the young people and labor force requirements (commerce and industry) and of professional and public services; developing more effective and economical specialization among institutions in types of education programs offered and students served and for more effective coordination and mutual support in the utilization of facilities, faculty and other resources; coordinating reciprocal agreements with out-of-state institutions/entities; approval of new state-supported senior colleges or residence centers; establishing admission guidelines to facilitate transfer of students between institutions of postsecondary education in Missouri; institutional budget review and recommendations; and program approval for all public institutions, data collection and research. CBHE also administers the state's grant and scholarship programs and is the designated guaranty agency for the Federal Family Education Loan Program.

System/institutional governing boards.

Institutional governing boards in the state are: 1) the Board of Curators of the University of Missouri comprised of nine members, established in 1839, with constitutional authority for four campuses; (2) the statutory Board of Curators of Lincoln University comprised of nine members, established in 1929 though Lincoln University was founded in 1879; (3) seven Boards of Regents of state colleges and universities, exercising authority over four public regional universities and three public state colleges, generally founded in 1939, with six or seven member
boards; (4) the Board of Governors of Truman State University (formerly Northeast Missouri State University) comprised of 10 members, established in 1879; (5) the Board of Regents of Linn State Technical College comprised of eight members, established in 1995; and (6) twelve locally elected Boards of Trustees for the state's 12 community college districts. The Boards of Trustees for the community college districts have six members serving on each of the boards and were generally established in 1963.

**Statutory advisory committee.**

There are five statutory advisory committees in Missouri: the Proprietary School Advisory Committee, the Presidential Advisory Committee, the Missouri Advisory Council of Certification for Educators, the Video Advisory Committee, and the International Economic Development Exchange Program Advisory Committee. Information detailing who serves on these committees, who appoints members to the committees, the focus of the committees' work, the permanency of the committee, and the specific statute citation can be found in the Additional Information section.

**Nebraska**

**Constitution of the State of Nebraska**

“Article VII-10,” contains a particular statement about higher education.

VII-10. University of Nebraska; government; Board of Regents; election; student membership; terms.

The general government of the University of Nebraska shall, under the direction of the Legislature, be vested in a board of not less than six nor more than eight regents to be designated the Board of Regents of the University of Nebraska, who shall be elected from and by districts as herein provided and three students of the University of Nebraska who shall serve as nonvoting members. Such nonvoting student members shall consist of the student body president of the University of Nebraska at Lincoln, the student body president of the University of Nebraska at Omaha, and the student body president of the University of Nebraska Medical Center. The terms of office of elected members shall be for six years each. The terms of office of student members shall be for the period of service as student body president. Their duties and powers shall be prescribed by law; and they shall receive no compensation, but may be reimbursed their actual expenses incurred in the discharge of their duties.

Defining the Coordinating Commission for Postsecondary Education:

Coordination shall mean:
(1) Authority to adopt, and revise as needed, a comprehensive statewide plan for postsecondary education which shall include (a) definitions of the role and mission of each public postsecondary educational institution within any general assignments of role and mission as may be prescribed by the Legislature and (b) plans for facilities which utilize tax funds designated by the Legislature.
Governance

State-level coordinating and/or governing agency.

In November 1990, the people of Nebraska voted to amend their constitution, assigning comprehensive statewide planning for postsecondary education to a Coordinating Commission for Postsecondary Education (CCPE). CCPE replaced a previous coordinating commission, which lacked the actual authority to truly coordinate postsecondary education. The new CCPE, became effective January 1, 1991, and has statutory responsibility to review and recommend modification of public institutions' budgets to the Legislature and governor, and to review and approve capital construction projects and new academic programs at public postsecondary institutions. Other functions of CCPE include administering state student financial aid programs, coordinating the higher education portion of the Eisenhower Professional Development program, administering the Integrated Postsecondary Education Data System (IPEDS), and approving new two- and four-year postsecondary institutions.

CCPE is comprised of 11 members appointed by the governor from the general public. Six of the commissioners represent districts of the state and five are appointed at-large. Each serves a six-year term. The executive officer is appointed by and serves at the CCPE’s pleasure. Nebraska does not have a secretary of education, and CCPE does not serve as a cabinet department.

System/institutional governing boards.

Two constitutional governing boards for public institutions exist in the state: the Board of Regents of the University of Nebraska responsible for general governance of four public senior colleges, including a medical center, and the Board of Trustees of Nebraska State Colleges responsible for general governance of three public senior institutions. The Board of Regents of the University of Nebraska is comprised of eight regents and was established in 1875. The Board of Trustees of Nebraska State Colleges is comprised of seven trustees and was established in 1920. There are six community college areas, each governed by a locally elected board of 11 members.

Statutory advisory committee

None.

North Dakota

Constitution of the State of North Dakota

“ARTICLE VIII - EDUCATION,” contains particular statements about higher education.

Section 6.
1. A board of higher education, to be officially known as the state board of higher education, is hereby created for the control and administration of the following state educational institutions, to wit:
   a. The state university and school of mines, at Grand Forks, with their substations.
   b. The state agricultural college and experiment station, at Fargo, with their substations.
   c. The school of science, at Wahpeton.
   d. The state normal schools and teachers colleges, at Valley City, Mayville, Minot, and Dickinson.
   e. The school of forestry, at Bottineau.
   f. And such other state institutions of higher education as may hereafter be established.

2. a. The state board of higher education consists of eight members. The governor shall appoint seven members who are qualified electors and taxpayers of the state, and who have resided in this state for not less than five years immediately preceding their appointments. These seven appointments are subject to confirmation by the senate. The governor shall appoint as the eighth member of the board a full-time resident student in good academic standing at an institution under the jurisdiction of the state board. Except for the student member, no more than two persons holding a bachelor's degree from a particular institution under the jurisdiction of the state board of higher education may serve on the board at any one time. Except for the student member, no person employed by any institution under the control of the board shall serve as a member of the board and no employee of any such institution may be eligible for membership on the state board of higher education for a period of two years following the termination of employment.

The governor shall nominate from a list of three names for each position, selected by action of four of the following five persons: the president of the North Dakota education association, the chief justice of the supreme court, the superintendent of public instruction, the president pro tempore of the senate, and the speaker of the house of representatives and, with the consent of a majority of the members-elect of the senate, shall appoint from the list to the state board of higher education seven members. The governor shall ensure that the board membership is maintained in a balanced and representative manner. The term of office of members appointed to fill vacancies at the expiration of said terms shall be for four years, and in the case of vacancies otherwise arising, appointments shall be made only for the balance of the term of the members whose places are to be filled. A member may not be appointed to serve for more than two terms. If a member is appointed to fill a vacancy and serves two or more years of that term, the member is deemed to have served one full term.

b. In the event any nomination made by the governor is not consented to and confirmed by the senate, the governor shall again nominate a candidate selected from a new list. The nomination shall be submitted to the senate for confirmation and the proceedings shall continue until an appointee has been confirmed by the senate or the session of the legislature has adjourned.

c. If a term expires or a vacancy occurs when the legislature is not in session, the governor may appoint from a list selected as provided, a member who shall serve until the opening of
the next session of the legislature, at which time the appointment must be certified to the
council for confirmation. If the appointee is not confirmed by the thirtieth legislative day of the
session, the office shall be deemed vacant and the governor shall nominate another candidate
for the office. The same proceedings shall be followed as are set forth in this section. If the
council is in session at any time within six months prior to the date of the expiration of the
term of any member, the governor shall nominate a successor from a list selected as above set
forth, within the first thirty days of the session and upon confirmation by the council the
successor shall take office at the expiration of the incumbent's term. No person who has been
nominated and whose nomination the council has failed to confirm is eligible for an interim
appointment. On or before July first of each year, beginning in 1995, the governor shall
appoint a student member from a list of names recommended by the executive board of the
North Dakota student association for a term of one year, beginning on July first. A student
member may not serve more than two consecutive terms.

3. The members of the state board of higher education may only be removed by impeachment for
the offenses and in the manner and according to the procedure provided for the removal of the
governor by impeachment proceedings.

4. Each appointive member of the state board of higher education, except the student member,
shall receive compensation set by the legislative council for the time actually spent devoted to
the duties of the member's office. All members shall receive necessary expenses in the same
manner and amounts as other state officials for attending meetings and performing other
functions of their office.

5. The council shall provide adequate funds for the proper carrying out of the functions and
duties of the state board of higher education.

6. a. The state board of higher education shall hold its first meeting at the office of the state
board of administration at Bismarck, on the 6th day of July, 1939, and shall organize and elect
one of its members as president of such board for a term of one year. It shall also at said
meeting, or as soon thereafter as may be practicable, elect a competent person as secretary,
who shall reside during his term of office in the city of Bismarck, North Dakota. Said
secretary shall hold office at the will of the board. As soon as said board is established and
organized, it shall assume all the powers and perform all the duties now conferred by law
upon the board of administration in connection with the several institutions hereinbefore
mentioned, and the said board of administration shall immediately upon the organization of
said state board of higher education, surrender and transfer to said state board of higher
education all duties, rights, and powers granted to it under the existing laws of this state
concerning the institutions hereinbefore mentioned, together with all property, deeds, records,
reports, and appurtenances of every kind belonging or appertaining to said institutions.

b. The said state board of higher education shall have full authority over the institutions under
its control with the right, among its other powers, to prescribe, limit, or modify the courses
offered at the several institutions. In furtherance of its powers, the state board of higher
education shall have the power to delegate to its employees details of the administration of the
institutions under its control.
The said state board of higher education shall have full authority to organize or reorganize within constitutional and statutory limitations, the work of each institution under its control, and do each and everything necessary and proper for the efficient and economic administration of said state educational institutions.

c. Said board shall prescribe for all of said institutions standard systems of accounts and records and shall biennially, and within six (6) months immediately preceding the regular session of the legislature, make a report to the governor, covering in detail the operations of the educational institutions under its control.

d. It shall be the duty of the heads of the several state institutions hereinbefore mentioned, to submit the budget requests for the biennial appropriations for said institutions to said state board of higher education; and said state board of higher education shall consider said budgets and shall revise the same as in its judgment shall be for the best interests of the educational system of the state; and thereafter the state board of higher education shall prepare and present to the state budget board and to the legislature a single unified budget covering the needs of all the institutions under its control. "Said budget shall be prepared and presented by the board of administration until the state board of higher education organizes as provided in subsection 6a." The appropriations for all of said institutions shall be contained in one legislative measure. The budgets and appropriation measures for the agricultural experiment stations and their substations and the extension division of the North Dakota state university of agriculture and applied science may be separate from those of state educational institutions.

e. The said state board of higher education shall have the control of the expenditure of the funds belonging to, and allocated to such institutions and also those appropriated by the legislature, for the institutions of higher education in this state; provided, however, that funds appropriated by the legislature and specifically designated for any one or more of such institutions, shall not be used for any other institution.

7. a. The state board of higher education shall, as soon as practicable, appoint for a term of not to exceed three (3) years, a state commissioner of higher education, whose principal office shall be at the state capitol, in the city of Bismarck. Said commissioner of higher education shall be responsible to the state board of higher education and shall be removable by said board for cause.

b. The state commissioner of higher education shall be a graduate of some reputable college or university, and who by training and experience is familiar with the problems peculiar to higher education.

c. Such commissioner of higher education shall be the chief executive officer of said state board of higher education, and shall perform such duties as shall be prescribed by the board.

8. This constitutional provision shall be self-executing and shall become effective without the necessity of legislative action.”
Governance

**State-level coordinating and/or governing agency.**

The State Board of Higher Education (SBHE) was established in 1939 and functions as the constitutional governing body and the policy-setting body for North Dakota's six publicly supported universities, and five two-year colleges. In 1990, the SBHE created the North Dakota University System (NDUS) whereby all 11 institutions are accountable to a chancellor appointed by the SBHE. The chancellor is the chief executive officer of the North Dakota University System. The NDUS central office is responsible for recommending policy changes and ensuring that the policies set forth by the Board are carried out by the institutions.

SBHE consists of seven members appointed by the governor with the consent of the Senate; each serves four year terms. A voting student member was provided by statute in 1995. The voting student member is appointed by the governor and serves a one-year term. A non-voting faculty advisor is selected by the Council of College Faculties, and the NDUS Staff Senate selects the board's non-voting staff advisor.

**System/institutional governing boards.**

SBHE functions as the constitutional governing body for North Dakota's six publicly supported universities and five two-year colleges.

**Statutory advisory committee**

None.

**Ohio**

**Constitution of the State of Ohio**

“ARTICLE VI: EDUCATION,” contains a particular statement about higher education.

*Loans for higher education.*

§5 To increase opportunities to the residents of the state for higher education, it is hereby determined to be in the public interest and a proper public purpose for the state to guarantee the repayment of loans made to residents of this state to assist them in meeting the expenses of attending an institution of higher education. Laws may be passed to carry into effect such purpose including the payment, when required, of any such guarantee from moneys available for such payment after first providing the moneys necessary to meet the requirements of any bonds or other obligations heretofore or hereafter authorized by any section of the constitution. Such laws and guarantees shall not be subject to the limitations or requirements of Article VIII or of Section 11 of Article XII of the constitution. Amended Substitute House Bill No. 618 enacted by the General Assembly on July 11, 1961, and Amended Senate Bill No. 284 enacted by the General Assembly on May 23, 1963, and all appropriations of moneys made for the purpose of
such enactments, are hereby validated, ratified, confirmed, and approved in all respects, and they
shall be in full force and effect from and after the effective date of this section, as laws of this
state until amended or repealed by law.

http://www.legislature.state.oh.us/constitution.pdf

Governance

State-level coordinating and/or governing agency.

The Ohio Board of Regents, established in 1963, serves as the statutory coordinating agency in
the state. The Board consists of nine members serving nine-year terms representing the general
public and appointed by the governor with the consent of the Senate and two ex-officio members
(chairpersons of the house and senate education committees) who serve by virtue of the elected
office that they hold. The Board serves as an advisory entity to the Chancellor,. The Governor,
with the advice and consent of the Senate, appoints members of the Board of Regents.

Responsibilities of the Board include, developing an independent annual report on the Condition
of Higher Education in Ohio and issuing an annual performance review of the Chancellor. The
Board is also responsible for advising the Chancellor on issues of statewide importance affecting
higher education. The Chancellor of the Board is appointed by the governor and serves on the
governor’s cabinet.

System/institutional governing boards.

The statutory institutional governing boards in the state are as follows: the Board of Trustees of
Bowling Green State University; the Boards of Trustees of the University of Akron and Wright
State University, each governing one public branch and one senior university; the Boards of
Trustees of Central State University, Cleveland State University, Shawnee State University, the
University of Toledo and Youngstown State University, each governing a single senior public
institution; the Boards of Trustees of Ohio University and Ohio State University, each
responsible for one senior institution and five public branches; the Board of Trustees of Kent
State University with seven public branches and a single public senior institution; and the Boards
of Trustees of the University of Cincinnati and Miami University with two public branches and a
single public senior institution. The number of members of the institutions' governing boards
varies. Six community colleges are governed by boards representing the state and county, and
eight technical colleges are governed by boards representing the state-appointed boards of
trustees. The Medical College of Ohio at Toledo is an independent institution with a separate
governing board and the Northeastern Ohio Universities College of Medicine has a nine-member
board of trustees reflecting its consortia nature.

The functions of the individual boards for each institutions and/or type of institutions are spelled
out in Ohio Revised Code: ORC 3335-3362.
**Statutory advisory committee.**

None.

**South Dakota**

**Constitution of the State of South Dakota**

“Article XIV State Institutions,” contains a particular statement about higher education.

§7. Perpetual trust fund from proceeds of grants and gifts.

All lands, money, or other property donated, granted, or received from the United States or any other source for a university, agricultural college, normal schools, or other educational or charitable institution or purpose, and the proceeds of all such lands and other property so received from any source, shall be and remain perpetual funds, the interest and income of which, together with the rents of all such lands as may remain unsold, shall be inviolably appropriated and applied to the specific objects of the original grants or gifts. The principal of every such fund may be increased, but shall never be diverted by legislative enactment for any other purpose, and the interest and income only shall be used. Every such fund shall be deemed a trust fund held by the state, and the state shall make good all losses that may occur through any unconstitutional act or where required under the Enabling Act.

§3. Board to govern state educational institutions.

The state university, the agriculture college, the school of mines and technology, the normal schools, a school for the deaf, a school for the blind, and all other educational institutions that may be sustained either wholly or in part by the state shall be under the control of a board of five members appointed by the Governor and confirmed by the senate under such rules and restrictions as the Legislature shall provide. The Legislature may increase the number of members to nine.”


**Governance**

**State-level coordinating and/or governing agency.**

The South Dakota Board of Regents serves as the constitutional governing body for the six public universities, a school for the deaf, and a school for the blind and visually impaired. The Board, expanded by statute to nine voting members, appointed by the governor with Senate confirmation serves six-year office terms, including one student representative who serves a two-year term. There are no public junior colleges in the state. The executive officer of the Board of Regents is appointed by and serves at the Board's pleasure.
System/institutional governing boards.

The Board of Regents serves as the constitutional governing body for the six public universities, a school for the deaf, and a school for the blind and visually impaired. See the State-Level Coordinating and/or Governing Agency section for additional information.

Statutory advisory committee.

None.

Wisconsin

Constitution of the State of Wisconsin

“ARTICLE X. EDUCATION,” contains a particular statement about higher education.

State university; support. Section 6. Provision shall be made by law for the establishment of a state university at or near the seat of state government, and for connecting with the same, from time to time, such colleges in different parts of the state as the interests of education may require. The proceeds of all lands that have been or may hereafter be granted by the United States to the state for the support of a university shall be and remain a perpetual fund to be called "the university fund," the interest of which shall be appropriated to the support of the state university, and no sectarian instruction shall be allowed in such university. Vocational education is not exclusively a state function. West Milwaukee v. Area Board of Vocational, Technical and Adult Education, 51 Wis. 2d 356, 187 N.W.2d 387.


Governance

State-level coordinating and/or governing agency.

The Board of Regents of the University of Wisconsin System was established in 1971 and serves as the statutory governing agency for the state's 13 public four-year universities and 13 freshman-sophomore university centers and university extension. The Board consists of 17 members: 14 appointed by the governor for seven-year terms, subject to Senate confirmation; two serve as ex-officio members (the superintendent of the department of public instruction and a representative of the Wisconsin Technical College System Board) by virtue of the office that they hold; and one student regent, appointed by the governor and confirmed by the Senate, serves a two-year term.

The Wisconsin Technical College System Board was also established in 1971 and is composed of 13 members. The governor appoints three employers, three employees, and three members-at-large for six-year terms, subject to Senate confirmation. A student member, appointed by the governor and confirmed by the Senate, serves a two-year term. The president of the Board of Regents, the superintendent of the Department of Public Instruction and the secretary of the
Department of Industry, Labor and Human Relations serve as ex-officio members by virtue of the offices that each holds. The state is divided into 16 technical college districts operating 42 campuses, with three offering a lower-division, college-level liberal arts program. The agency is charged with the statutory mission of providing programs in vocational, technical and short-term, and apprenticeship programs. The Board has statutory responsibility for program planning, coordinating, approval and evaluation, and accountability for the use of state and federal funds.

**System/institutional governing boards.**

The Board of Regents of the University of Wisconsin System governs the state's 13 public four-year universities, 13 freshman-sophomore university centers and university extension. The Wisconsin Technical College System Board functions as the governing board for 16 technical college districts operating 42 campuses. Each technical college also has a local district board.

**Statutory advisory committee.**

None.
References


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