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January 5, 2001

Mrs. Sandra Larsen
Special Assistant to the President
Ulster County Community College
Stone Ridge, New York 12484

Fax #: 687-5292

Re: Article 126 Education Law

Dear Sandy:

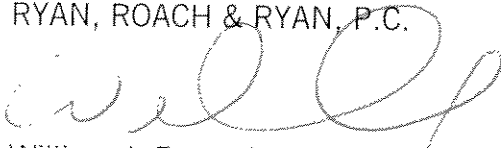
A couple of months ago I provided updated copies of the New York State Education Department regulations as they applied to community colleges. The updated copies replaced the outdated versions of the regulations contained as an appendix to the Board Policy Handbook.

I have now obtained an up-to-date copy of Education Law Article 126, the New York State Education Law as it applies to community colleges. Would you please circulate copies of the enclosed copy of Article 126 to Board members and others who have copies of the Board Policy Handbook. Please ask them to discard the old Article 126 contained as an appendix in the back of the their handbook and replace it with the new version.

Thanks for your help.

Very truly yours,

RYAN, ROACH & RYAN, P.C.


William J. Ryan, Jr.

WJR,jr/imp
Enclosure

New York State Consolidated Laws

Education

ARTICLE 126

COMMUNITY COLLEGES AND STATE-AIDED FOUR-YEAR COLLEGES

- Section 6301. Definitions.
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§ 6301. Definitions. As used in this article, unless the context shall otherwise require, the following terms shall mean:

1. "State university trustees." Board of trustees of the state university.
 2. "Community colleges." Colleges established and operated pursuant to the provisions of this article, either individually or jointly, by counties, cities, intermediate school districts, school districts approved by the state university trustees, or individually by community college regions approved by the state university trustees, and providing two-year post secondary programs pursuant to regulations prescribed by the state university trustees and receiving financial assistance from the state therefor.
 3. "Local sponsor." Any city, county, intermediate school district, school district approved by the state university trustees, or community college region approved by the state university trustees, sponsoring or participating in the establishment or operation of a community college.
 4. "Community college region." A community college local sponsor composed of two or more contiguous counties, cities or school districts, or any combination thereof, which are eligible to appoint members to a community college regional board of trustees.
 5. "Resident." A person who has resided in the state for a period of at least one year and in the county, city, town, intermediate school district, school district or community college region, as the case may be, for a period of at least six months, both immediately preceding the date of such person's registration in a community college or, for the purposes of section sixty-three hundred five of this chapter, his application for a certificate of residence.
- In the event that a person qualified as above for state residence, but has been a resident of two or more counties in the state during the six months immediately preceding his application for a certificate of residence pursuant to section sixty-three hundred five of this chapter, the charges to the counties of residence shall be allocated among the several counties proportional to the number of months, or major fraction thereof, of residence in each county.

§ 6302. Authorization to establish community colleges. 1. Any local sponsor, other than a community college region, acting through its local legislative body or board, or other appropriate governing agency, which in the case of the city of New York acting as a local sponsor shall be

the mayor of that city, may by local law, resolution, order or ordinance, and pursuant to the master plan, standards and regulations prescribed by the state university trustees and with the approval of said trustees:

- a. Establish a community college.
- b. Elect to participate in and pay an appropriate share of the expenses involved in the community college program of any other local sponsor consenting to such arrangement.
- c. Combine with one or more other local sponsors for the joint establishment and operation of a community college.

2. Pursuant to section sixty-three hundred ten of this article, any eligible county, city or school district acting through its local legislative body or board, may by local law or resolution, and pursuant to the master plan, standards and regulations prescribed by the state university trustees, and with the approval of said trustees, combine with one or more contiguous counties, cities or school districts, or any combination thereof, to constitute a community college region for the purpose of operating, as local sponsor, an existing community college which is currently sponsored by a city or school district other than a school district located in a city with a population of one million or more.

3. In the city of New York, the board of education, with the approval of the state university trustees, may act as a local sponsor in the establishment and operation, as a community college, of a post secondary technical vocational training institution which is partly supported by such board of education and partly supported by an educational foundation for an industry chartered by the board of regents. In addition to the community college programs and curricula authorized by this article, the institution may offer such baccalaureate, masters degree programs and curricula in support of its mission, in accordance with standards and regulations prescribed by the state university trustees, as may be authorized pursuant to the provisions of the master plan. Notwithstanding any other provision of law, the institution shall be financed and administered in the manner provided for community colleges.

4. Community colleges so established and operated shall be eligible to receive financial assistance from the state as hereinafter provided, which shall be paid to the local sponsor or sponsors, provided, however, that in the case of any local sponsor which shall have assigned such financial assistance to the dormitory authority, such payment shall be made to the commissioner of taxation and finance for deposit in the community college tuition and instructional income fund.

5. Whenever a plan for a community college, other than a plan for participation in a community college region, shall have been formulated by a county board of supervisors and approved as provided in this section, the board of supervisors may submit the question of the establishment of the community college contemplated by such plan to a referendum at any general election at which all the voters of the county may vote. The form of the proposition shall be determined by the board of supervisors and shall include an estimate of the county's share of the initial capital cost and an estimate of the county's share of the annual cost of maintenance and operation. If the majority of the voters voting on such proposition shall approve the establishment of the community college, such college shall be deemed established and the board of supervisors shall proceed forthwith to exercise the powers and authority conferred upon it in this article.

§ 6303. Programs and curricula of community colleges. 1. Community colleges shall provide two-year programs of post high school nature combining general education with technical education relating to the occupational needs of the community, area or community college region in which the college is located and those of the state and the nation generally. Special courses and extension work may be provided for part-time students.

2. Training for certain occupational skills may be limited to selected community colleges by the state university trustees in order to avoid unnecessary duplication or overlapping of facilities and programs.

3. The curricula in community colleges shall be designed to serve the needs of students who seek two years of post secondary education and whose needs would not ordinarily be met by the usual four-year college curriculum. However, such colleges shall nevertheless provide sufficient general education to enable qualified students who so desire to transfer after completion of the community college program to institutions providing regular four-year courses except that the provision of such general education sufficient for transfer to institutions providing regular four-year courses shall be at the option of the local sponsor in any of the community colleges established upon discontinuance of a state institute of applied arts and sciences and upon discontinuance of the veterans vocational school at Troy pursuant to the provisions of section fifty-nine hundred nine of former article one hundred nineteen of this chapter.

4. The curricula of the community colleges shall be developed with the assistance and guidance of the state university trustees and shall be subject to their approval, and such modifications, amendments and revisions as they may from time to time prescribe.

5. Notwithstanding the provisions of any other general, special or local law, rule or regulation, community colleges may permit persons sixty years of age or over to audit courses given therein without tuition, examination, grading or credit therefor upon a space available basis, subject to the provisions of section sixty-three hundred four of this chapter, as determined by the president of each such institution, provided that such audit attendance does not deny course attendance at a community college by an individual who is otherwise qualified under the regulations and the provisions of section sixty-three hundred four of this chapter. The provisions of this paragraph shall not affect any state aid to community colleges granted pursuant to article one hundred twenty-six of this chapter.

§ 6304. Financing of community colleges. 1. The master plan, standards and regulations prescribed by the state university trustees shall include provisions for financing the capital costs and operating costs of such colleges in the following manner:

a. State financial aid shall be one-third of the amount of operating costs, as approved by the state university trustees. Operating costs shall not include any payment of debt service or rentals or other payments by a local sponsor to the dormitory authority pursuant to any lease, sublease or other agreement entered into between the dormitory authority and a local sponsor. Such aid for a college shall, however, be for two-fifths of operating costs for any fiscal year of the college during which it is implementing a program of full opportunity provided a plan has been approved by the state university trustees. Such plan, which shall be submitted by the college only after approval by the board of trustees and the local sponsor or sponsors, shall

(i) establish a policy of offering acceptance in an appropriate program of the college to all applicants residing in the sponsorship area who graduated from high school within the prior year and to applicants who are high school graduates and who were released from active duty with the armed forces of the United States within the prior year;

(ii) provide for full implementation of such policy by the fall semester of nineteen hundred seventy or, if the college demonstrates to the state university trustees that full implementation by such time would not be feasible and in the best interests of the college, provide for a timetable to achieve such full implementation within five years which provides for substantial growth in registration each year;

(iii) make provision for and contain adequate assurances of the expenditure of funds by the sponsor or sponsors at a level pursuant to state university regulations, at least that necessary to implement the

plan;

(iv) provide for adequate programs of remediation, instruction and counselling to meet the needs of all students to be served by the college. The trustees may require periodic reports or certifications from colleges which have submitted plans which have been approved and may, in appropriate cases, revoke such approval in case a college is in default of implementing its plan.

8. (i) Operating costs shall not include any payment of debt service or rentals or other payments by a local sponsor to the dormitory authority pursuant to any lease, sublease or other agreement entered into between the dormitory authority and a local sponsor. Such operating costs shall be subject to such maximum limitations and joint regulations as shall be prescribed by both the city university trustees and the state university trustees with the approval of the director of the budget. Such limitations shall be based upon maximum allowances per student for each student in attendance in the case of operating costs, or in accordance with such other factors as may be deemed appropriate. Operating costs shall include courses offered for the purpose of providing occupational training or assistance to business for the creation and retention of job opportunities and for the improvement of productivity, through contracts or arrangements between a community college and a business, labor organization, or not-for-profit corporations or other nongovernmental organizations, including labor-management committees composed of labor, business and community leaders organized to promote labor-management relations, productivity, the quality of working life, industrial development, and retention of business in the community.

(ii) By December thirty-first, nineteen hundred seventy-three, the state university trustees shall develop a new formula for the financing of the operating costs of community colleges. Such formula may include maximum limitations, regulations, and incentives to achieve compliance with the code of standards and procedures for community colleges.

The state university trustees shall present to the governor proposed legislation incorporating such formula into law for consideration during the nineteen hundred seventy-four regular session of the legislature. The state university trustees shall also present a detailed analysis of the fiscal impact of such a formula on the state and on each community college within the state.

Such formula or the amended version thereof, upon enactment into law, shall replace any limitations and regulations then in existence concerning the financing of community colleges promulgated pursuant to this section.

(iii) The state university trustees shall, on or before December thirty-first in each year, make a report to the governor and legislature as to the status of community college programs and curricula provided for in article one hundred twenty-six of this chapter. Such report shall also contain recommendations for any revision or alteration in the formula for financing the operating costs of community colleges.

(iv) The state university trustees shall promulgate regulations, effective the first day of July, nineteen hundred seventy-four, which shall include a code of standards and procedures for the administration and operation of community colleges. Such code of standards and procedures, may include, but not be limited to, minimum and maximum standards for academic curricula, minimum and maximum qualitative and quantitative standards for facilities, and standard administrative procedures, which may include schedules and formats for the preparation and submission of annual budgets by the boards of trustees and the local sponsors to the state university trustees, schedules for local sponsors' disbursements to the community colleges of their provided shares of operating costs and systems of accounts for use by the boards of trustees and the local sponsors of the community colleges. Such regulations may supplement, replace or amend any limitations and regulations then in existence promulgated pursuant to this section.

c. The local sponsor or sponsors shall provide one-half of the amount

of the capital costs, or so much as may be necessary, and one-third or, in the case of a college implementing a program of full opportunity for local residents, four-fifteenths of the operating costs, or so much as may be necessary, by appropriations from general revenues or from funds derived from special tax levies earmarked in part or whole for such purposes, by the use of gifts of money or, with the consent of the state university trustees, by the use of property, gifts of property or by the furnishing of services or, where a community college region is the local sponsor, in the manner provided by section sixty-three hundred ten of this chapter. Where the local sponsor or sponsors provide all or a portion of its or their share of capital or operating costs in real or personal property or in services, the valuation of such property and services for the purpose of determining the amount of state aid shall be made by the state university trustees with the approval of the director of the budget. Local sponsors and, in the case of community college regions, any county, city or school district which has appointed members to a community college regional board of trustees may authorize the issuance of bonds or notes pursuant to the provisions of the local finance law to provide any portion or all of its requisite share of such costs for which a period of probable usefulness has been established in the local finance law. Where a county or city is the local sponsor of a community college, or appoints members to a community college regional board of trustees, the expenditures of the county or city for the college, or community college region, shall be a purpose of the county or city provided, however, that taxes to pay the local sponsor's share of operating costs, or the operating shares of the community college region charged to the county, may be charged back to the cities and towns in the county in proportion to the number of students attending the community college each term who were residents of each such city or town at the beginning of such term.

d. Tuition and fees charged students shall be fixed so as not to exceed in the aggregate more than one-third of the amount of operating costs of the community college.

1-b. For the purpose of budgeting and expending funds and for the purpose of determining eligibility for state financial aid for operating costs pursuant to subdivision one of this section, subject to rules and regulations of the state university trustees and the approval of the director of the budget, the community colleges in the city of New York sponsored by the board of higher education or by the city of New York where the board of higher education has been designated as the trustees of such colleges, shall be treated as a single community college.

3. Community colleges shall be empowered and authorized through their boards of trustees, to accept gifts, grants, bequests and devise absolutely or in trust for such purposes as may be appropriate or proper for effectuating the programs and objectives of such colleges.

4. Nothing herein contained shall be construed to prevent any local sponsor or sponsors from creating and operating community colleges which exceed maximum cost limitations or allowances prescribed by the state university trustees, provided however, that the excess costs over such prescribed limits or allowances shall be borne and paid for or otherwise made available to or by such sponsors.

4. Where two or more local sponsors jointly establish and operate a community college, the local share of the capital costs shall be apportioned among them according to their respective equalized assessed valuations or such other factors or bases as may be provided or prescribed in the plans, standards and regulations prescribed by the state university trustees. The local share of the operating expenses shall be apportioned among such joint sponsors in accordance with the number of students who are residents of their respective areas, or such other factors as may be prescribed in the plans, standards and regulations by the state university trustees.

5. Any community college may, with the consent and approval of its local legislative body or board, community college regional board of trustees, or other appropriate governing agency, and the state

university trustees, require lesser tuition charges or fees from persons who are residents of the sponsoring community, communities or community college region than the amount necessary in the aggregate to provide one-third of the operating costs, or provide tuition to such persons without charge, provided that the local legislative body or board, community college regional board of trustees or other appropriate governing agency appropriates sufficient funds, or sufficient funds are made available from other sources to provide the amount which would normally be provided by such tuition and fees. Each community college shall provide that upon request by a student who is an eligible veteran the payment of tuition and fees, less the amounts payable for such purposes from scholarships or other financial assistance awarded said veteran pursuant to article thirteen of this chapter, article one hundred thirty of this chapter or any other community college, state or federal financial aid program, shall be deferred in such amounts and until such times as the several payments of veterans' benefits under the Veterans' Readjustment Benefit Act of 1966, as amended, are received by the veteran, provided that the veteran has filed a claim for such benefits and presents to the community college proof of eligibility, extent of entitlement to benefits and the need for deferral until the receipt of such benefits.

5-a. Notwithstanding the provisions of any general, special or local law to the contrary, the fiscal year of a community college other than in the city of New York and other than one sponsored by a school district, shall begin with the first day of September and end with the thirty-first day of August in each year. All of the provisions of law fixing times or dates within which or by which certain acts shall be performed in relation to the preparation and adoption of the budget of a city or a county, including but not limited to submission of a budget estimate, filing of a tentative budget, public hearing and adoption of a budget, shall apply to the budget of a community college sponsored by such city or county but shall be correspondingly changed, as to time, to relate to the commencement of the fiscal year of the community college; provided, however, that after the budget for the community college shall have been adopted, the local legislative body or board or other appropriate governing body shall provide for the raising of taxes required by such budget, without any decrease in amount, in the same manner and at the same time prescribed by law for the annual levy of taxes by or for the city or county. All of the provisions of law fixing times and dates within which or by which certain acts shall be performed in relation to the preparation and adoption of the budget of a school district shall apply to the budget of a community college sponsored by a school district. The provisions of this subdivision shall not apply to community college regions.

5-b. Moneys raised by taxation for maintenance of a community college and moneys received from all other sources for purposes of the community college, other than in the city of New York, shall be kept separate and distinct from any other moneys of the sponsor or sponsors and shall not be used for any other purpose. The amount of taxes levied for maintenance of a community college shall be credited thereto and made available therefor within the fiscal year of such community college. The provisions of this subdivision shall not apply to community college regions.

6. The local legislative body or board, or other appropriate governing agency, other than a community college regional board of trustees, shall provide the local sponsor's share of the community college operating and capital costs in conformance with such sponsor's annual budgetary appropriation, and shall direct that payment of all appropriations for maintenance of the college be made to the board of trustees of the college for expenditure by the board, subject to the terms and conditions of such appropriations appearing in such budget and to such regulations regarding the custody, deposit, audit and payment thereof as such local legislative body or board, or other appropriate governing agency, may deem proper to carry out the terms of the budget; provided

that any local sponsor which, as of January first, nineteen hundred eighty-eight, provided for audit and payment of charges against the community college in the same manner as it provides for other charges against the local sponsor, may continue to do so for a period not to extend beyond September first, nineteen hundred eighty-nine.

Such local legislative body or board, or other appropriate governing agency, shall authorize the board of trustees of the college to elect a treasurer, establish a bank account or accounts in the name of the college and deposit therein moneys received or collected by the college, including moneys appropriated and paid by the local sponsor, moneys received from tuition, fees, charges, sales of products and services, and from all other sources. The board of trustees of the college shall, subject to the requirements specified in or imposed pursuant to this subdivision, authorize the treasurer to pay all proper bills and accounts of the college, including salaries and wages, from funds in its custody. The treasurer shall execute a bond or official undertaking to the board of trustees of the college in such sum and with such sureties as that board shall require, the expense of which shall be a college charge.

The board of trustees of the college similarly shall authorize the treasurer to establish and maintain petty cash funds, not in excess of two hundred dollars each, for specified college purposes or undertakings, from which may be paid, in advance of audit, properly itemized and verified or certified bills for materials, supplies or services furnished to the college for the conduct of its affairs and upon terms calling for the payment of cash to the vendor upon the delivery of any such materials or supplies or the rendering of any such services. Lists of all expenditures made from such petty cash funds shall be presented to the board of trustees at each regular meeting thereof, together with the bills supporting such expenditures, for audit and the board shall direct reimbursement of such petty cash funds from the appropriate budgetary item or items in an amount equal to the total of such bills which it shall so audit and allow. Any of such bills or any portion of any of such bills as shall be disallowed upon audit shall be the personal responsibility of the treasurer and such official shall forthwith reimburse such petty cash fund in the amount of such disallowances.

The board of trustees of the college shall provide for periodic audits of all accounts maintained at its direction and render such reports respecting any and all receipts and expenditures of the college as the local legislative body or board, or other appropriate governing agency, may direct.

The board of trustees of the college, or the community college regional board of trustees may require any bank or banker in which community college moneys are on deposit or are to be deposited to file with the board a surety bond payable to the college executed by a surety company authorized to transact business in this state and securing to the college the payment of such deposits and the agreed interest thereon, if any. In lieu of a surety bond, the board may require any such bank or banker to deposit with it outstanding unmatured obligations of the United States of America, the state of New York, or of any municipality or college of the state of New York, as security for such moneys so deposited; but such obligations shall be subject to the approval of the board and shall be deposited in such place and held under such conditions as the board may determine. Every depository of college moneys is hereby authorized and empowered to secure deposits of such moneys as provided in this subdivision.

3. a. The state shall, in addition to any other funds that may be appropriated for assistance to community colleges, annually appropriate and pay

(1) to the local sponsor of each community college, except a community college where the local sponsor has entered into an agreement with the authority authority to finance and construct a community college facility, an amount equal to the aggregate of all rentals and all

payments due and payable to the dormitory authority pursuant to any lease, sublease, or other agreement entered into between the dormitory authority and such local sponsor, whether or not such local sponsor shall be liable therefor, for each twelve-month period beginning on the next succeeding July first, and

(ii) to the local sponsor of each community college where the local sponsor has entered into an agreement with the dormitory authority to finance and construct a community college facility, an amount equal to one-half of all rentals and all payments due and payable to the dormitory authority pursuant to any lease, sublease, or other agreement entered into between the dormitory authority and such local sponsor, whether or not such local sponsor shall be liable therefor, for each twelve-month period beginning on the next succeeding July first, provided, however, if such a local sponsor shall thereafter agree to finance the costs of providing all or part of a community college facility the state shall, instead, annually appropriate and pay to such local sponsor an amount equal to that portion of all rentals and all payments due and payable to the dormitory authority during the twelve-month period beginning on the next succeeding July first pursuant to any lease, sublease or other agreement providing for such financing which portion represents the state's share (one-half) of the cost of each facility being financed, whether or not the local sponsor shall be liable to pay such rentals and payments, and

(iii) to the local sponsor of each community college which has financed the entire capital cost of constructing a community college facility, an amount equal to one-half of the annual debt service on obligations issued by such local sponsor for the purpose of constructing such facility. No local sponsor of a community college shall be eligible for assistance pursuant to the provisions of this paragraph unless: (a) a first instance appropriation has been enacted into state law prior to the commencement of construction; and (b) the state comptroller has approved the interest rate of any and all obligations issued by such local sponsor after July twenty-fourth, nineteen hundred seventy-six to finance the cost of such facility prior to the issuance of such obligations; and (c) all contracts for the construction of such facility entered into by such local sponsor after July twenty-fourth, nineteen hundred seventy-six have been approved by the director of the budget prior to the awarding of such contracts.

b. For the purposes of this subdivision, all references to the local sponsor of a community college shall be deemed, in the case of community college regions, to refer to those counties, cities or school districts which have appointed members to a community college regional board of trustees.

9. a. Where construction of a community college facility has commenced pursuant to the provisions of a lease, sublease or other agreement with the dormitory authority or prior to July twenty-fourth, nineteen hundred seventy-six, the local sponsor of such community college may elect to finance the entire capital cost of constructing such facility pursuant to the provisions of subdivision ten of this section, provided, however, that the proceeds of obligations issued by such local sponsor to finance the capital cost of constructing such facility may be paid to the dormitory authority to the extent of amounts owing under a lease, sublease or other agreement with the dormitory authority entered into by such local sponsor with respect to such facility, and provided further that any such local sponsor which elected to refinance the entire capital cost of constructing a community college facility pursuant to the provisions of this subdivision, may, at the time it enters into permanent financing of such facility, elect to do so pursuant to the provisions of the dormitory authority act or subdivision ten of this section.

b. For the purposes of this subdivision, all references to the local sponsor of a community college shall be deemed, in the case of community college regions, to refer to those counties, cities or school districts which have appointed members to a community college regional board of

trustees.

10. a. Each local sponsor of a community college shall have full power and authority to finance all or a portion of the capital costs of a community college facility pursuant to the provisions of the local finance law and to expend the proceeds therefrom to pay such costs.

b. For the purposes of this subdivision, the reference to the local sponsor of a community college shall be deemed, in the case of community college regions, to refer to those counties, cities or school districts which have appointed members to a community college regional board of trustees.

§ 6304-A. Reports to local sponsors. The commissioner shall provide the local sponsor or sponsors with a copy of each program review report of the sponsored community college prepared by the department pursuant to this chapter. The comptroller shall provide the local sponsor or sponsors with a copy of each final audit or final report on the sponsored community college prepared by the department of audit and control. The president of the higher education services corporation shall provide the local sponsor or sponsors with a copy of each report of a financial aid program review of the sponsored community college.

§ 6305. Non-resident and out-of-state students. 1. In addition to admitting residents of its own local sponsor or sponsors, each community college shall, within the quota and under the conditions prescribed by the state university trustees, admit non-resident students and out-of-state students.

2. Any community college may, with the approval of the state university trustees, charge non-resident students sufficient tuition and fees to cover an allocable portion of the local sponsor's share of the operating costs of such community college in addition to regular tuition and fees. Such community college may elect to charge to and collect from each county within the state which has issued a certificate or certificates of residence pursuant to subdivision three of this section on the basis of which such non-resident students are attending such community college, an allocable portion of the local sponsor's share of the operating costs of such community college attributable to such non-resident students, computed on a per student basis, together with a further sum of not to exceed three hundred dollars each year to be determined and approved by the state university trustees for each such non-resident student on account of the local sponsor's share of the capital costs incurred to provide facilities in which such non-resident students can be accommodated; or, where such non-resident students come from communities which have elected to participate in and pay an appropriate share of the expenses involved in the local sponsor's community college program, such allocable portion of operating expenses and such further sum not to exceed three hundred dollars per student for capital costs on account of their residents attending such community college shall be determined and approved by the state university trustees, and be charged to and collected from such communities.

3. The chief fiscal officer of each county, as defined in section 2.00 of the local finance law, shall, upon application and submission to him of satisfactory evidence, issue to any person desiring to enroll in a community college as a non-resident student, a certificate of residence showing that said person is a resident of said county. If the chief fiscal officer of a county refuses to issue such a certificate on the ground that the person applying therefor is not a resident of such county, the person applying may appeal to the chancellor of the state university. The chancellor of the state university shall make a determination after a hearing, upon ten days' notice to such chief fiscal officer of the county, and such determination shall be final and binding on the county. Such person shall, upon his registration for each college year, file with the college such a certificate of residence issued not earlier than two months prior thereto, and such certificate of residence shall be valid for a period of one year from the date of

insurance.

4. If, pursuant to subdivision two of this section, a community college elects to charge to and collect an allocable portion of the operating costs and a further sum on account of capital costs of such college from each county which has issued a certificate or certificates of residence pursuant to subdivision three of this section, on the basis of which non-resident students are attending such community college, the president of such community college shall, within forty-five days after the commencement of each college term or program, submit to the chief fiscal officer of each county a list of non-resident students attending such college on the basis of such certificates of residence and a voucher for the amount payable by each county for these students. Such list and voucher shall be determined on the basis of non-resident students enrolled in the program as of the end (or last day) of the third week of the commencement for a program scheduled for one semester, the end of the second for a program scheduled for an academic quarter and the end of the first week for any program scheduled to be completed in thirty days or less. The chancellor of the state university, or such officers or employees thereof as shall be designated by the chancellor in the manner authorized by the state university trustees, shall notify the chief fiscal officers of each county of the approved annual operating and capital charge-back rate for each community college. The amount billed to the chief fiscal officer of each county by the president of such community college as a charge for the allocable portion of the operating costs and a further sum on account of capital costs of such college for non-resident students shall be paid to the chief fiscal officer of such college by the billed county no later than sixty days after the county receives said billing.

5. Amounts payable to such colleges by a county pursuant to this section shall be a general county charge; provided, however, that with respect to the amounts allocable to each community college a county may charge back such amounts in whole or in part to the cities and towns in the county in proportion to the number of students who, on the basis of certificates of residence issued by such county, were attending each such college as non-residents of the local sponsors thereof during the terms for which the county has been charged, and who were residents of each such city or town at the beginning of such terms.

7. In the case of counties comprising the city of New York, references in this section to a county shall mean the city of New York and references in this section to the chief fiscal officer of a county shall mean the comptroller of the city of New York.

8. Part-time and out-of-state students shall be charged such tuition and fees as may be approved by the state university trustees. Any student attending a community college who is a member or the spouse or the dependent of a member of the armed forces of the United States on full-time active duty and stationed in this state, whether or not a resident of this state, shall be charged the tuition rate for residents as approved by the state university trustees.

9. A community college may expend moneys collected as capital charges received from counties of nonresident students for up to one-half the purchase price of equipment. A community college may include up to one-half the purchase price of equipment in calculating capital charges collected from counties of nonresident students. Such expenditures shall be made pursuant to guidelines promulgated in rules and regulations of the board of trustees of the state university. In no event shall such expenditures qualify for state aid as capital costs.

10. On or before March thirty-first, nineteen hundred ninety-five and every year thereafter, the state shall reimburse each county which has issued a certificate of residence for any non-resident student in attendance at the fashion institute of technology during the nineteen hundred ninety-three--ninety-four academic year and every year thereafter an amount equal to fifty percent of the actual amount paid by such county on behalf of such students and on or before June first, nineteen hundred ninety-five and every year thereafter, the state shall

reimburse each county for the remaining fifty percent of the actual amount paid by each such county on behalf of such students.

§ 106. Administration of community colleges--boards or trustees. 1. Each community college, except in the city of New York, shall be administered by a board of trustees of ten members, nine of whom shall be appointed for terms of nine years in annual rotation, and one member elected as herein provided, except that initial appointments shall be made for terms of one to nine years respectively. Five members shall be appointed by the local legislative body or board, or other appropriate governing agency, one of whom may be a member of such local legislative body or board, or other appropriate governing agency, four, from among persons residing in the sponsoring community, by the governor and one member elected by and from among the students of the college who shall serve as a member of the board for a one-year term, provided, however, that the term of the student member first elected shall be nine months commencing October first, nineteen hundred seventy-five. The student member shall be afforded the same parliamentary privileges as are conferred upon voting members, including but not limited to the right to make and second motions and to place items on the agenda. Such student member shall be subject to every provision of any general, special or local law, ordinance, charter, code, rule or regulation applying to the members of such board with respect to the discharge of their duties including, but not limited to, those provisions setting forth codes of ethics, disclosure requirements and prohibiting business and professional activities. The election of the student member shall be conducted in accordance with rules and regulations promulgated by the respective representative campus student association in accordance with guidelines established by the state university trustees. In the event that the student member ceases to be a student at the institution, he shall be required to resign. The governor's initial appointments shall be for terms of two, four, six and eight years respectively and those by local authorities for terms of one, three, five, seven and nine years respectively. Vacancies shall be filled for unexpired terms in the same manner as original selections by the authority responsible for the original selection. The board shall select its own chairman from among its voting membership. Where two or more local sponsors join in the establishment of a community college, the apportionment of the appointments among them shall be made by the state university trustees. Trustees shall receive no compensation for their services but shall be reimbursed for their expenses actually and necessarily incurred by them in the performance of their duties under this article. Members initially appointed or elected under this subdivision to the board of trustees of any community college hereafter established shall take office immediately upon their selection and qualification, but for purposes of determining the expiration of their respective terms and the commencement of the terms of their successors, the term of office of each such initial member shall be deemed to have commenced on the first day of July of the year in which such college was established. The terms of office of all members of the boards of trustees of community colleges heretofore established, appointed or elected as provided in this subdivision, shall terminate on the thirtieth day of June of the calendar year within which such terms expire under the provisions of this subdivision as hereby amended. For the purpose of determining such year all initial terms of office of appointed members of the boards of trustees of community colleges heretofore established shall be deemed to have commenced on the first day of July of the year in which such colleges were established and the terms of their successors for full terms, if any, shall be deemed to have commenced upon the expiration of the number of years from such date for which such initial appointments were made.

The one member elected by and from among the students of the college may be removed by such students in accordance with rules and regulations promulgated by the respective representative campus student association in accordance with guidelines promulgated by the state university trust-

tees. In the case of community colleges in the city of New York the year in which any such college was established for the purposes of this subdivision shall mean the year in which it was or may be determined that its board of trustees be appointed and serve in the manner provided by this subdivision.

The provisions of this subdivision shall not apply to community college regional boards of trustees.

1-a. Notwithstanding the provisions of subdivision one of this section, the term of office of a member of the board of trustees of Pockland Community College appointed by the local legislative body or board shall be five years.

2. The board of trustees of each community college shall appoint a president for the college, subject to approval by the state university trustees, and it shall appoint or delegate to the president the appointment of other members of the staff. The staff of a community college shall consist of the professional service and the non-professional service. The professional service shall include positions requiring the performance of educational functions in agriculture, home economics, liberal and applied arts and sciences, engineering, technical skills, crafts, business education, medicine, dentistry, nursing, academic administration, library service, student activities, student personnel services, and other professions required to carry on the work of the community colleges. The non-professional service shall consist of all positions not in the professional service. The board of trustees of each community college shall adopt curricula, subject to the approval of the state university trustees, prepare a budget and, with the exception of community college regional boards of trustees, submit such budget for approval by the local legislative body or board, or other appropriate governing agency and, subject to the general supervision of the state university trustees, discharge such other duties as may be appropriate or necessary for the effective operation of the college. Where the city of New York is the local sponsor of a community college, salaries fixed by the board of trustees of such college shall be in accordance with salary schedules approved by the mayor of that city.

3. In the city of New York, upon the establishment of a community college sponsored by the board of education, the sponsoring board shall be the trustees and shall be vested with the powers of a board of trustees of a community college, or upon the application of the sponsoring board, approved by the state university trustees, the board of trustees of such community college may be appointed and serve in the manner provided by subdivision one of this section; and upon the establishment and continuance of a community college sponsored by the city of New York, the local sponsor may designate the board of education in that city as the trustee to be vested with the powers of a board of trustees of a community college, or the local sponsor may provide that the board of trustees of such community college shall be appointed and serve in the manner provided by subdivision one of this section. In the event that the board of education serves as the board of trustees of a community college in the city of New York, its powers and duties in relation thereto shall be as prescribed in this article for boards of trustees of community colleges. In the city of New York, the board of trustees of the fashion institute of technology shall, under such by-laws as such board deems appropriate, provide for the eligibility for sabbatical leaves or absence to members of its permanent instructional staff; provided, however, that when such leaves are for one-half year, they shall be at full pay, and when such leaves are for one year, they shall be at half pay.

4. The board of trustees of each community college may acquire by deed, gift, devise, bequest or lease, real or personal property suitable for carrying out the program and purposes of the college, and pursuant to regulations prescribed by the state university trustees may apply any income that may be derived therefrom to the maintenance thereof; but no lands, grounds, buildings, facilities or equipment shall be purchased or leased unless an appropriation has been made, therefor, or unless other-

wise authorized by law. Title to personal property so acquired shall vest in such board of trustees in its own name and such property shall be held and used by such board for college purposes. Title to real property so acquired shall vest in and be held by the local sponsor in trust for the uses and purposes of the community college. Where a community college region is the local sponsor of a community college, title to real and personal property shall vest in the community college regional board of trustees. The use of real or personal property given to the board of trustees of any community college, or of the income therefrom, to provide any part of the local sponsor's share of capital or operating costs shall be subject to the consent of the state university trustees and such regulations as they may prescribe.

5. The board of trustees shall have the care, custody, control and management of the lands, grounds, buildings, facilities and equipment used for the purposes of such college and of all other property belonging to such college and used for carrying out its purposes, and it shall have power to protect, preserve and improve the same.

6. The board of trustees shall have such other powers and perform such other duties as may be provided by law or prescribed by the state university trustees.

7. Subject to the approval of the local sponsor acting through its local legislative body or board, or other appropriate governing agency, and pursuant to such regulations and limitations as may be established and prescribed by the state university trustees, the board of trustees of each community college may enter into any contract or agreement deemed necessary or appropriate for the effective operation of the college, (1) including contracts or agreements entered into with the federal government to enable participation in federal student loan programs, including any and all instruments required thereunder; provided, however, that the sponsor shall not be liable for any portion of any defaults which it has agreed to assume pursuant to any such agreement in an amount in excess of money appropriated or otherwise lawfully available therefor at the time the liability for payment arises, and (2) including contracts with non-profit corporations organized by officers, employees, alumni or students of the college for the furtherance of its objects and purposes. Notwithstanding the provisions of any other law, general, special or local, such contracts entered into with such non-profit corporation shall not be subject to any requirement that contracts be let to the lowest responsible bidder after advertisement for bids. Nothing contained in this subdivision shall be deemed to diminish or impair any powers or authority otherwise vested in the board of trustees of any community college. The provisions of this subdivision shall not apply to community college regional boards of trustees.

8. Subject to the approval of the local sponsor acting through its local legislative body or board, or other appropriate governing agency, and pursuant to such regulations and limitations as may be established and prescribed by the state university trustees with the approval of the director of the budget, the board of trustees of each community college may participate in cooperative educational programs, services and arrangements with colleges, universities, school districts, boards of cooperative educational services, libraries, museums and join any cooperative association of such educational institutions formed as a corporation pursuant to section two hundred sixteen of this chapter. The provisions of this subdivision shall not apply to community college regional boards of trustees.

9. The board of trustees shall, on or before January first, two thousand, adopt and implement a plan providing for the investigation of any violent felony offense occurring at or on the grounds of each such institution, and providing for the investigation of a report of any missing student. Such plans shall provide for the coordination or the investigation of such crimes and reports with local law enforcement agencies. Such plans shall include, but not be limited to, written agreements with appropriate local law enforcement agencies providing for the prompt investigation of such crimes and reports.

8. As used in this subdivision, the following terms shall have the following meanings:

(i) "Local law enforcement agencies" means any agency or agencies employing police officers or police officers for the enforcement of the laws of the state, and which has or have jurisdiction under provisions of the criminal procedure law over offenses occurring at or on the grounds of any institution subject to the provisions of this subdivision.

(ii) "Missing student" means any student of an institution subject to the provisions of this subdivision, who resides in a facility owned or operated by such institution and who is reported to such institution as missing from his or her residence.

(iii) "Violent felony offense" means a violent felony offense as defined in subdivision one of section 70.02 of the penal law.

9. In the case of colleges sponsored by community college regions, references in subdivisions two, four, five, six and eight-a of this section to the board of trustees of a community college shall mean the community college regional board of trustees.

Sec. 6307. Establishment of state-aided four-year colleges.

1. Upon recommendation of the state university trustees, counties or adjoining cities not now adequately served by any four-year college programs, may be empowered singly or jointly to establish and operate four-year college programs. Such colleges shall be financed and administered in a manner similar to that provided for community colleges herein.

§ 6308. Defense and indemnification of community college trustees, officers and employees. 1. As used in this section, the term "employee" shall mean any person holding a position by appointment or employment in the service of a community college, whether or not compensated, or a volunteer expressly authorized to participate in a community college sponsored volunteer program, but shall not include an independent contractor. The term employee shall include a former employee, his estate or judicially appointed personal representative.

2. (a) Upon compliance by the employee with the provisions of subdivision four of this section, the local sponsor of a community college shall provide for the defense of the employee in any civil action or proceeding in any state or federal court arising out of any alleged act or omission which occurred or is alleged in the complaint to have occurred while the employee was acting within the scope of his public employment or duties, or which is brought to enforce a provision of section nineteen hundred eighty-one or nineteen hundred eighty-three of title forty-two of the United States code and the act or omission underlying the action occurred or is alleged in the complaint to have occurred while the employee was acting within the scope of his public employment or duties. This duty to provide for a defense shall not arise where such civil action or proceeding is brought by or on behalf of the local sponsor.

(b) Subject to the conditions set forth in paragraph (a) of this subdivision, the employee shall be entitled to be represented by the local sponsor provided, however, that the employee shall be entitled to representation by private counsel of his choice in any civil judicial proceeding whenever the local sponsor determines based upon its investigation and review of the facts and circumstances of the case that representation by the local sponsor would be inappropriate, or whenever a court of competent jurisdiction, upon appropriate motion or otherwise by a special proceeding, determines that a conflict of interest exists and that the employee is entitled to be represented by private counsel of his choice. The local sponsor shall notify the employee in writing of such determination that the employee is entitled to be represented by private counsel. The local sponsor may require, as a condition to payment of the fees and expenses of such representation, that appropriate groups of such employees be represented by the same counsel.

The local sponsor shall certify to its chief fiscal officer that the employee or group of employees is entitled to representation by private counsel under the provisions of this section. Reasonable attorneys' fees and litigation expenses shall be paid by the local sponsor to such private counsel from time to time during the pendency of the civil action or proceeding subject to certification that the employee is entitled to representation under the terms and conditions of this section by the board of trustees of the community college at which such employee is employed and upon the audit and warrant of the chief fiscal officer of the sponsor. Any dispute with respect to representation of multiple employees by a single counsel or the amount of litigation expenses or the reasonableness of attorneys' fees shall be resolved by the court upon motion or by way of a special proceeding.

2. (a) Where the employee delivers process and a request for a defense to the local sponsor as required by subdivision four of this section, the sponsor shall take the necessary steps including the retention of private counsel under the terms and conditions provided in paragraph (b) of this subdivision on behalf of the employee to avoid entry of a default judgment pending resolution of any question pertaining to the obligation to provide for a defense.

3. (a) The local sponsor shall indemnify and save harmless its employees in the amount of any judgment obtained against such employees in any state or federal court, or in the amount of any settlement of a claim, or shall pay such judgment or settlement; provided, that the act or omission from which such judgment or settlement arose occurred while the employee was acting within the scope of his public employment or duties; the duty to indemnify and save harmless or pay prescribed by this subdivision shall not arise where the injury or damage resulted from intentional wrongdoing or recklessness on the part of the employee.

(b) An employee represented by the local sponsor or by private counsel pursuant to this section shall cause to be submitted to the board of trustees of the community college at which he is employed any proposed settlement which may be subject to indemnification or payment by the local sponsor and if not inconsistent with the provisions of this section such board of trustees of the community college at which he is employed shall certify such settlement, and submit such settlement and certification to the local sponsor. The local sponsor shall review such proposed settlement as to form and amount, and shall give its approval if in its judgment the settlement is in the best interest of the local sponsor and the community college. Nothing in this subdivision shall be construed to authorize the local sponsor to indemnify and save harmless an employee with respect to a settlement or pay any such settlement not so reviewed and approved.

(c) Nothing in this subdivision shall authorize the local sponsor to indemnify and save harmless an employee with respect to punitive or exemplary damages, fines or penalties, or money recovered from an employee pursuant to section fifty-one of the general municipal law; provided, however, that the local sponsor shall indemnify and save harmless its employees in the amount of any costs, attorneys' fees, damages, fines or penalties which may be imposed by reason of an adjudication that an employee, acting within the scope of his public employment or duties, has, without willfulness or intent on his part, violated a prior order, judgment, consent decree or stipulation or settlement entered in any court of this state or of the United States.

(d) Upon entry of a final judgment against the employee, or upon the settlement of the claim, the employee shall cause to be served a copy of such judgment or settlement, personally or by certified or registered mail within thirty days of the date of entry or settlement, upon the board of trustees of the community college at which he is employed; and if not inconsistent with the provisions of this section, such judgment or settlement shall be certified for payment by such board. If the local sponsor concurs in such certification, the judgment or settlement shall be paid upon the audit and warrant of the chief fiscal officer of the local sponsor.

4. The duty to defend or indemnify and save harmless prescribed by this section shall be conditioned upon (i) delivery to the local sponsor or its main business office by the employee of the original or a copy of any summons, complaint, process, notice, demand or pleading within five days after he is served with such document, and (ii) the full cooperation of the employee in the defense of such action or proceeding and in defense of any action or proceeding against the community college or local sponsor based upon the same act or omission, and in the prosecution of any appeal. Such delivery shall be deemed a request by the employee that the local sponsor provide for his defense pursuant to this section.

5. The benefits of this section shall inure only to employees as defined herein and shall not enlarge or diminish the rights of any other party nor shall any provision of this section be construed to affect, alter or repeal any provision of the workers' compensation law.

6. The provisions of this section shall not in any way affect the obligation of any claimant to give notice to the local sponsor under any provision of law.

7. The provisions of this section shall not be construed to impair, alter, limit or modify the rights and obligations of any insurer under any policy of insurance.

8. The provisions of this section shall apply to all actions and proceedings pending upon the effective date thereof or thereafter instituted.

9. Except as otherwise specifically provided in this section, the provisions of this section shall not be construed in any way to impair, alter, limit, modify, abrogate or restrict any immunity available to or conferred upon any unit, entity, officer or employee of the sponsor or any other level of government, or any right to defense and/or indemnification provided for any governmental officer or employee by, in accordance with, or by reason of, any other provision of state or federal statutory or common law.

10. If any provision of this section or the application thereof to any person or circumstance be held unconstitutional or invalid in whole or in part by any court of competent jurisdiction, such holding of unconstitutionality or invalidity shall in no way affect or impair any other provision of this section or the application of any such provision to any other person or circumstance.

11. In the case of colleges sponsored by community college regions, references in this section to the board of trustees of a community college shall mean the president of colleges sponsored by such regions.

§ 6309. Reimbursement of defense costs incurred by or on behalf of community college trustees, officers and employees. 1. As used in this section, unless the context otherwise requires, the term "employee" shall mean any person holding a position by appointment or employment in the service of a community college, whether or not compensated, or a volunteer expressly authorized to participate in a community college sponsored volunteer program, but shall not include an independent contractor. The term employee shall include a former employee, his or her estate, or judicially appointed personal representative.

2. (a) Upon compliance by the employee with the provisions of subdivision three of this section, and subject to the conditions set forth in paragraph (b) of this subdivision, it shall be the duty of the local sponsor of a community college to pay reasonable attorneys' fees and litigation expenses incurred by or on behalf of an employee in his or her defense of a criminal proceeding in a state or federal court arising out of any act which occurred while such employee was acting within the scope of his or her public employment or duties, upon his or her acquittal, or upon the dismissal of the criminal charges against him or her, or reasonable attorney's fees incurred in connection with an appearance before a grand jury which returns a true bill against the employee where such appearance was required as a result of any act which occurred while such employee was acting within the scope of his or her

public employment or duties unless such appearance occurs in the normal course of the public employment or duties of such employee.

(b) Upon the application for reimbursement of reasonable attorneys' fees or litigation expenses, or both, made by or on behalf of an employee as provided in subdivision three of this section, the local sponsor shall determine, based upon its investigation and its review of the facts and circumstances, whether such reimbursement shall be paid. The local sponsor shall notify the employee in writing of such determination. Upon determining that such reimbursement should be provided, the local sponsor shall so certify to its chief fiscal officer. Upon such certification, reimbursement shall be made for such fees or expenses, or both, upon the audit and warrant of the chief fiscal officer. Any dispute with regard to entitlement to reimbursement or the amount of litigation expenses or the reasonableness of attorneys' fees shall be resolved by a court of competent jurisdiction upon appropriate motion or by way of a special proceeding.

3. Reimbursement of reasonable attorneys' fees or litigation expenses, or both, by the local sponsor as prescribed by this section shall be conditioned upon (a) delivery to the local sponsor at its main business office by the employee of a written request for reimbursement of expenses together with, in the case of a criminal proceeding, the original or a copy of an accusatory instrument within ten days after the employee is arraigned upon such instrument or, in the case of a grand jury appearance, written documentation of evidence of such appearance and (b) the full cooperation of the employee in defense of any action or proceeding against the community college or local sponsor based upon the same act, and in the prosecution of any appeal.

4. Except as otherwise specifically provided in this section, the provisions of this section shall not be construed in any way to impair, alter, limit, modify, abrogate, or restrict any immunity available to or conferred upon any unit, entity, officer, or employee of the sponsor or any other level of government, or any right to defense and/or indemnification provided for any governmental officer or employee by, in accordance with, or by reason of, any other provisions of state or federal statutory or common law.

5. If any provision of this section or the application thereof to any person or circumstance by held unconstitutional or invalid in whole or in part by any court of competent jurisdiction, such holding of unconstitutionality or invalidity shall in no way affect or impair any other provision of this section or the application of any such provision to any other person or circumstances.

§ 6319. Community college regions - administration and finance. 1. Each community college region and community college sponsored by such region shall be administered by a single board of trustees of fourteen members, thirteen of whom shall be appointed for terms of nine years, as set forth in this subdivision, and one member elected as herein provided, except that initial appointments shall be made for terms of one to nine years respectively. Seven members shall be appointed by the local legislative bodies or boards of those counties eligible to appoint members to the community college regional board of trustees. The seven locally appointed members of such board may include one member from the local legislative body or board of each county eligible to appoint members to the community college regional board of trustees. Membership in a community college regional board of trustees shall be apportioned among the counties participating in such board in accordance with the number of full-time equivalent students attending a community college sponsored by such regional board who are residents of the respective participating counties, and in accordance with such further regulations as may be prescribed by the state university trustees. Six members shall be appointed by the governor and one member elected by and from among the students of the college who shall serve as a member of the board for a one-year term, provided, however, that the term of the student member first elected shall be nine months commencing October first, nineteen

hundred eighty-four. The student member shall be afforded the same parliamentary privileges as are conferred upon members, including but not limited to the right to make and second motions and to place items on the agenda. Such student member shall be subject to every provision of any general, special or local law, ordinance, charter, code, rule or regulation applying to the members of such board with respect to the discharge of their duties including, but not limited to, those provisions setting forth codes of ethics, disclosure requirements and prohibiting business and professional activities. The election of the student member shall be conducted in accordance with rules and regulations promulgated by the respective representative campus student association in accordance with guidelines established by the state university trustees. In the event that the student member ceases to be a student at the institution, he shall be required to resign. The governor's initial appointments shall be as follows: (a) two individuals for terms of two and four years respectively; (b) two individuals for terms of six years and two individuals for terms of eight years. Appointments by local authorities shall be as follows: (a) three individuals for terms of one, three and five years, respectively; (b) two individuals for terms of seven years, and two individuals for terms of nine years. Vacancies shall be filled for unexpired terms in the same manner as original selections by the authority responsible for the original selection. The board shall select its own chairman from among its voting membership. Trustees shall receive no compensation for their services but shall be reimbursed for their expenses actually and necessarily incurred by them in the performance of their duties under this article. Members initially appointed or elected under this subdivision to any community college regional board of trustees hereafter established shall take office immediately upon their selection and qualification, but for purposes of determining the expiration of their respective terms and the commencement of the terms of their successors, the term of office of each such initial member shall be deemed to have commenced on the first day of July of the year in which such college was established. The terms of office of all members of community college regional boards of trustees heretofore established, appointed or elected as provided in this subdivision, shall terminate on the thirtieth day or day of the calendar year within which such terms expire under the provisions of this subdivision as hereby amended. For the purpose of determining such year all initial terms of office of appointed members of the community college regional board of trustees heretofore established shall be deemed to have commenced on the first day of July of the year in which such community college regions were established and the terms of their successors for full terms, if any, shall be deemed to have commenced upon the expiration of the number of years from such date for which such initial appointments were made.

The one member elected by and from among the students of the college may be removed by such students in accordance with rules and regulations promulgated by the respective representative campus student association in accordance with guidelines promulgated by the state university trustees.

1-a. Notwithstanding the provisions of subdivision one of this section, a community college region established to operate as local sponsor of Jamestown community college shall be administered by a single board of trustees of fifteen members, fourteen of whom shall be appointed for terms of seven years, except that the initial appointments shall be made as set forth in this subdivision, and one member who shall be elected by and from among the students of the college and shall serve as set forth in subdivision one of this section. Eight members shall be appointed by the local governing bodies of the counties and city eligible to appoint members to the Jamestown community college regional board of trustees, and six members shall be appointed by the governor. The eight locally appointed members of such board may include one member appointed from among the local governing bodies of the counties or city eligible to appoint members to the regional board of trustees. Member-

stay in the Jamestown community college regional board of trustees shall be apportioned in accordance with the number of full-time equivalent students attending the community college who are residents of the respective participating counties or city, and in accordance with such further regulations as may be prescribed by the state university trustees.

Upon the effective date of this subdivision, and notwithstanding any inconsistent provision of any other law, the current Jamestown community college board of trustees shall be redesignated the Jamestown community college regional board of trustees and the terms of the current members of the Jamestown community college board of trustees shall continue until their expiration or termination as provided by section sixty-three hundred six of this chapter. The governor's initial appointments to the Jamestown community college regional board of trustees shall be as follows: one individual shall be appointed for a term of three years, and one individual shall be appointed for a term of five years. Initial appointments by the local authorities shall be as follows: one individual shall be appointed for a term of two years, one individual shall be appointed for a term of four years, and one individual shall be appointed for a term of six years. Vacancies shall be filled for unexpired terms in the same manner as original selections by the authority responsible for the original selection. The board shall select its own chairman from among its voting membership. Trustees shall receive no compensation for their services but shall be reimbursed for their expenses actually and necessarily incurred by them in the performance of their duties under this article. Members initially appointed or elected under this subdivision to any community college regional board of trustees hereafter established shall take office immediately upon their selection and qualification, but for purposes of determining the expiration of their respective terms and the commencement of the terms of their successors, the term of office of each such initial member shall be deemed to have commenced on the first day of July of the year in which such college was established. The terms of office of all members of community college regional boards of trustees heretofore established, appointed or elected as provided in this subdivision, shall terminate on the thirtieth day of June of the calendar year within which such terms expire under the provisions of this subdivision as hereby amended. For the purpose of determining such year, all initial terms of office of appointed members of the community college regional board of trustees heretofore established and the terms of their successors for full terms, if any, shall be deemed to have commenced upon the expiration of the number of years from such date for which such initial appointments were made.

The one member elected by and from among the students of the college may be removed by such students in accordance with rules and regulations promulgated by the respective representative campus student association in accordance with guidelines promulgated by the state university trustees.

3. Pursuant to such regulations and limitations as may be established and prescribed by the state university trustees, the community college regional board of trustees may enter into any contract or agreement deemed necessary or appropriate for the effective operation of the college, including: (a) contracts or agreements entered into with the federal government to enable participation in federal student loan programs, including any and all instruments required thereunder; and (b) contracts with non-profit corporations organized by officers, employees, alumni or students of the college for the furtherance of its objects and purposes. Notwithstanding the provisions of any other law, general, special or local, such contracts entered into with such non-profit corporation shall not be subject to any requirement that contracts be let to the lowest responsible bidder after advertisement for bids. Nothing contained in this subdivision shall be deemed to diminish or impair any powers or authority otherwise vested in the community college regional board of trustees.

3. Pursuant to such regulations and limitations as may be established and prescribed by the state university trustees with the approval of the director of the budget, the community college regional board of trustees may participate in cooperative educational programs, services and arrangements with colleges, universities, school districts, boards of cooperative educational services, libraries, museums and join any cooperative association of such educational institutions formed as a corporation pursuant to section two hundred sixteen of this chapter.

4. The community college regional board of trustees is hereby created a body corporate. All property which is now vested in, or shall hereafter be conveyed or transferred to the community college regional board of trustees, shall be held by them as a corporation.

5. Two or more eligible counties appointing members to a community college regional board of trustees shall divide the local share of the capital costs of a community college sponsored by such community college region according to the respective equalized assessed valuations of such counties or such other factors as may be prescribed by the state university trustees. The local share of the operating expenses of a community college sponsored by a community college region shall be apportioned among those counties appointing members to the community college regional board of trustees on the basis of operating shares. Such operating shares shall be allocated in proportion to the number of students attending the community college who are residents of the respective counties participating on the community college regional board, calculated on the basis of full-time equivalent students, in the same manner as the allocable portion of the local sponsor's share of operating costs pursuant to section sixty-three hundred five of this chapter, and such other factors as may be prescribed by the state university trustees. Any community college sponsored by a community college region may, under the provisions of section six thousand three hundred five of this chapter, elect to charge an allocable portion of the operating costs incurred by the regional sponsor, and a further sum on account of the regional sponsor's share of capital costs, to the counties of residence of students attending such college who are non-residents of the community college region.

6. The final budget of the community college region as adopted by the regional board of trustees and approved by the state university trustees shall be a charge against all of the counties appointing members to such board. The regional board of trustees, after approval of its budget, shall certify to the legislative body or board of all counties appointing members to such regional board the respective proportionate share of the capital and operating costs required to be raised by each county. The counties shall add such costs, as certified, to their own budgets and provide such certified costs by appropriations from general revenues or from funds derived from special tax levies earmarked in part or whole for such purposes, by the use of gifts of money or, with the consent of the state university trustees, by the use of property, gifts of property or by the furnishing of services. Where a county provides all or a portion of its share of capital or operating costs in real or personal property or in services, the valuation of such property and services for the purpose of determining the amount of state aid shall be made by the state university trustees with the approval of the director of the budget. Such funds shall be turned over to the treasurer of the community college sponsored by the community college region within the fiscal year of such region. Notwithstanding any other provision of this subdivision, all counties appointing members to a community college regional board of trustees may require that any budget proposed by such regional board, which would result in an increase in the level of contributions to college revenues by such counties over the level of contributions required for the previous college fiscal year, shall be approved by the legislative body or board of all such counties.

7. Notwithstanding the provisions of any general, special or local law to the contrary, the fiscal year of a community college sponsored by a community college region shall begin with the first day of September and

and with the thirty-first day of August in each year. All of the provisions of law fixing times or dates within which or by which certain acts shall be performed in relation to the preparation and adoption of the budget of a county, including but not limited to submission of a budget estimate, filing of a tentative budget, public hearing and adoption of a budget, shall apply to the budget of a community college-sponsored by a community college region but shall be correspondingly changed, as to time, to relate to the commencement of the fiscal year of the community college region; provided, however, that after the budget for the community college region shall have been adopted, the counties appointing members to a community college regional board of trustees shall provide for the raising of taxes required by such budget, without any decrease in amount, in the same manner and at the same time prescribed by law for the annual levy of taxes by or for the county.

3. Moneys raised by taxation for maintenance of a community college region and moneys received from all other sources for purposes of the community college region shall be kept separate and distinct from any other moneys of the counties appointing members to the community college regional board of trustees and shall not be used for any other purpose. The amount of taxes levied for maintenance of a community college region shall be credited thereto and made available therefor within the fiscal year of such community college region.

4. The community college regional board of trustees shall direct that payment of amounts for maintenance of the college be made in whole or in part to the treasurer of the community college sponsored by such region for expenditure by such officer, subject to such regulations regarding the custody, deposit, audit and payment thereof as such board of trustees may deem proper.

The board of trustees may authorize the treasurer of the college to establish a bank account or accounts in the name of the college and deposit therein moneys received or collected by the college, including moneys appropriated and paid by the counties appointing members to the community college regional board of trustees, moneys received from tuition, fees, charges, sales of products and services, and from all other sources. The board of trustees may authorize the treasurer to pay all proper bills and accounts of the college, including salaries and wages, from funds in its custody. The treasurer shall execute a bond or official undertaking to the community college regional board of trustees in such sum and with such sureties as that board shall require, the expense of which shall be a college charge.

The community college regional board of trustees similarly may authorize the treasurer to establish and maintain petty cash funds, not in excess of two hundred dollars each, for specified college purposes or undertakings, from which may be paid, in advance of audit, properly itemized and verified or certified bills for materials, supplies or services furnished to the college for the conduct of its affairs and upon terms calling for the payment of cash to the vendor upon the delivery of any such materials or supplies or the rendering of any such services. Lists of all expenditures made from such petty cash funds shall be presented to the board of trustees at each regular meeting thereof, together with the bills supporting such expenditures, for audit and the board shall direct reimbursement of such petty cash funds from the appropriate budgetary item or items in an amount equal to the total of such bills which it shall so audit and allow. Any of such bills or any portion of any of such bills as shall be disallowed upon audit shall be the personal responsibility of the treasurer and such official shall nevertheless reimburse such petty cash fund in the amount of such disallowances. The community college regional board of trustees shall provide for periodic audits of all accounts maintained at its direction and render such reports respecting any and all receipts and expenditures of the college as the local legislative body or board, or other appropriate governing agency, may direct.

1d. All proposals for the acquisition or construction, including new construction, additions or reconstruction of college facilities adopted

by a community college regional board of trustees shall be approved by the legislative body or board of all counties appointing members to such board of trustees, and the state university trustees. Upon such approvals, each participating county may finance its proportionate share of the cost of acquisition of such facilities either from any current funds legally available therefor, or by the issuance of obligations pursuant to the local finance law. All counties participating in such regional board of trustees may together issue joint obligations pledging the full faith and credit for all participating counties jointly and that each such county shall pay a specified share of annual debt service on such joint obligations in accordance with the provisions of article 1727-g of the general municipal law and applicable provisions of the local finance law.

11. The community college regional board of trustees, for the purpose of administering the state civil service law, shall be deemed to be a municipal employer. No civil service rights of an employee of any community college or local sponsor shall be lost, impaired or affected by reason of the enactment of this section and related amendments of this article into law.

12. For the purposes of article fourteen of the civil service law, the community college regional board of trustees shall be deemed to be the public employer and as such shall negotiate with and enter into written agreements with employee organizations representing the instructional staff and non-instructional staff of the community colleges that have been certified or recognized under such article. For purposes of such article, the president of the community college shall be deemed to be the chief executive officer, the chief legal officer of the community college shall be chief legal officer, and the community college regional board of trustees shall be deemed to be the legislative body of the government. The state public employment relations board shall have exclusive jurisdiction for the purpose of administering the provisions of such article.

13. For the purpose of this section, all references in this section to a "county" or "counties" shall be deemed to include a city or cities, or a school district or school districts, as the case may be.

Citation/Title

§ 6304, Financing of community colleges

*60942 McKinney's Education Law § 6304

**MCKINNEY'S CONSOLIDATED LAWS OF NEW YORK ANNOTATED
EDUCATION LAW
CHAPTER 16 OF THE CONSOLIDATED LAWS
TITLE VII--STATE AND CITY COLLEGES AND INSTITUTIONS--CORNELL UNIVERSITY
ARTICLE 126--COMMUNITY COLLEGES AND STATE-AIDED FOUR-YEAR COLLEGES**

Current through L.2000, CHS.2 TO 23,52.

§ 6304. Financing of community colleges

1. The master plan, standards and regulations prescribed by the state university trustees shall include provisions for financing the capital costs and operating costs of such colleges in the following manner:

a. State financial aid shall be one-third of the amount of operating costs, as approved by the state university trustees. Operating costs shall not include any payment of debt service or rentals or other payments by a local sponsor to the dormitory authority pursuant to any lease, sublease or other agreement entered into between the dormitory authority and a local sponsor. Such aid for a college shall, however, be for two-fifths of operating costs for any fiscal year of the college during which it is implementing a program of full opportunity provided a plan has been approved by the state university trustees. Such plan, which shall be submitted by the college only after approval by the board of trustees and the local sponsor or sponsors, shall

(i) establish a policy of offering acceptance in an appropriate program of the college to all applicants residing in the sponsorship area who graduated from high school within the prior year and to applicants who are high school graduates and who were released from active duty with the armed forces of the United States within the prior year;

(ii) provide for full implementation of such policy by the fall semester of nineteen hundred seventy or, if the college demonstrates to the state university trustees that full implementation by such time would not be feasible and in the best interests of the college, provide for a timetable to achieve such full implementation within five years which provides for substantial growth in registration each year;

(iii) make provision for and contain adequate assurances of the expenditure of funds by the sponsor or sponsors at a level pursuant to state university regulations, at least that necessary to implement the plan;

(iv) provide for adequate programs of remediation, instruction and counselling to meet the needs of all students to be served by the college. The trustees may require periodic reports or certifications from colleges which have submitted plans which have been approved and may, in appropriate cases, revoke such approval in case a college is in default of implementing its plan.

*60943 b. (i) Operating costs shall not include any payment of debt service or rentals or other payments by a local sponsor to the dormitory authority pursuant to any lease, sublease or other agreement entered into between the dormitory authority and a local sponsor. Such operating costs shall be subject to such maximum limitations and joint regulations as shall be prescribed by both the city university trustees and the state university trustees with the approval of the director of the budget. Such limitations shall be based upon maximum allowances per student for each student in attendance in the case of operating costs, or in accordance with such other factors as may be deemed appropriate. Operating costs shall include courses offered for the purpose

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providing occupational training or assistance to business for the creation, and retention of job opportunities and for the improvement of productivity, through contracts or arrangements between a community college and a business, labor organization, or not-for-profit corporations or other nongovernmental organizations, including labor-management committees composed of labor, business and community leaders organized to promote labor-management relations, productivity, the quality of working life, industrial development, and retention of business in the community.

(ii) By December thirty-first, nineteen hundred seventy-three, the state university trustees shall develop a new formula for the financing of the operating costs of community colleges. Such formula may include maximum limitations, regulations, and incentives to achieve compliance with the code of standards and procedures for community colleges.

The state university trustees shall present to the governor proposed legislation incorporating such formula into law for consideration during the nineteen hundred seventy-four regular session of the legislature. The state university trustees shall also present a detailed analysis of the fiscal impact of such a formula on the state and on each community college within the state.

Such formula or the amended version thereof, upon enactment into law, shall replace any limitations and regulations then in existence concerning the financing of community colleges promulgated pursuant to this section.

(iii) The state university trustees shall, on or before December thirty-first in each year, make a report to the governor and legislature as to the status of community college programs and curricula provided for in article one hundred twenty-six of this chapter. Such report shall also contain recommendations for any revision or alteration in the formula for financing the operating costs of community colleges.

(iv) The state university trustees shall promulgate regulations, effective the first day of July, nineteen hundred seventy-four, which shall include a code of standards and procedures for the administration and operation of community colleges. Such code of standards and procedures, may include, but not be limited to, minimum and maximum standards for academic curricula, minimum and maximum qualitative and quantitative standards for facilities, and standard administrative procedures, which may include schedules and formats for the preparation and submission of annual budgets by the boards of trustees and the local sponsors to the state university trustees, schedules for local sponsors' disbursements to the community colleges of their provided shares of operating costs and systems of accounts for use by the boards of trustees and the local sponsors of the community colleges. Such regulations may supplement, replace or amend any limitations and regulations then in existence promulgated pursuant to this section.

c. The local sponsor or sponsors shall provide one-half of the amount of the capital costs, or so much as may be necessary, and one-third or, in the case of a college implementing a program of full opportunity for local residents, four-fifteenths of the operating costs, or so much as may be necessary, by appropriations from general revenues or from funds derived from special tax levies earmarked in part or whole for such purposes, by the use of gifts of money or, with the consent of the state university trustees, by the use of property, gifts of property or by the furnishing of services or, where a community college region is the local sponsor, in the manner provided by section sixty-three hundred ten of this chapter. Where the local sponsor or sponsors provide all or a portion of its or their share of capital or operating costs in real or personal property or in services, the valuation of such property and services for the purpose of determining the amount of state aid shall be made by the state university trustees with the approval of the director of the budget. Local sponsors and, in the case of community college regions, any county, city or school district which has appointed members to a community college regional board of trustees may authorize the issuance of bonds or notes pursuant to the provisions of the local finance law to provide any portion or all of its requisite share of such costs for which a period of probable usefulness has been established in the local finance law. Where a county or city is the local sponsor of a community college, or appoints members to a community college regional board of trustees, the expenditures of the county or city for the college, or community college region, shall be a purpose of the county or city provided, however, that taxes to pay the local sponsor's share of operating costs, or the operating shares of the community college region charged to the county, shall be charged back to the cities and towns in the county in proportion to the number of students attending the community

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Each term who were residents of each such city or town at the beginning of such term.

***60944** d. Tuition and fees charged students shall be fixed so as not to exceed in the aggregate more than one-third of the amount of operating costs of the community college.

1-b. For the purpose of budgeting and expending funds and for the purpose of determining eligibility for state financial aid for operating costs pursuant to subdivision one of this section, subject to rules and regulations of the state university trustees and the approval of the director of the budget, the community colleges in the city of New York sponsored by the board of higher education or by the city of New York where the board of higher education has been designated as the trustees of such colleges, shall be treated as a single community college.

2. Community colleges shall be empowered and authorized through their boards of trustees, to accept gifts, grants, bequests and devises absolutely or in trust for such purposes as may be appropriate or proper for effectuating the programs and objectives of such colleges.

3. Nothing herein contained shall be construed to prevent any local sponsor or sponsors from creating and operating community colleges which exceed maximum cost limitations or allowances prescribed by the state university trustees, provided however, that the excess costs over such prescribed limits or allowances shall be borne and paid for or otherwise made available to or by such sponsors.

4. Where two or more local sponsors jointly establish and operate a community college, the local share of the capital costs shall be apportioned among them according to their respective equalized assessed valuations or such other factors or bases as may be provided or prescribed in the plans, standards and regulations prescribed by the state university trustees. The local share of the operating expenses shall be apportioned among such joint sponsors in accordance with the number of students who are residents of their respective areas, or such other factors as may be prescribed in the plans, standards and regulations by the state university trustees.

5. Any community college may, with the consent and approval of its local legislative body or board, community college regional board of trustees, or other appropriate governing agency, and the state university trustees, require lesser tuition charges or fees from persons who are residents of the sponsoring community, communities or community college region than the amount necessary in the aggregate to provide one-third of the operating costs, or provide tuition to such persons without charge, provided that the local legislative body or board, community college regional board of trustees or other appropriate governing agency appropriates sufficient funds, or sufficient funds are made available from other sources to provide the amount which would normally be provided by such tuition and fees. Each community college shall provide that upon request by a student who is an eligible veteran the payment of tuition and fees, less the amounts payable for such purposes from scholarships or other financial assistance awarded said veteran pursuant to article thirteen of this chapter, article one hundred thirty of this chapter [FN1] or any other community college, state or federal financial aid program, shall be deferred in such amounts and until such times as the several payments of veterans' benefits under the Veterans' Readjustment Benefit Act of 1966, as amended [FN2], are received by the veteran, provided that the veteran has filed a claim for such benefits and presents to the community college proof of eligibility, extent of entitlement to benefits and the need for deferral until the receipt of such benefits.

***60945** 5-a. Notwithstanding the provisions of any general, special or local law to the contrary, the fiscal year of a community college other than in the city of New York and other than one sponsored by a school district, shall begin with the first day of September and end with the thirty-first day of August in each year. All of the provisions of law fixing times or dates within which or by which certain acts shall be performed in relation to the preparation and adoption of the budget of a city or a county, including but not limited to submission of a budget estimate, filing of a tentative budget, public hearing and adoption of a budget, shall apply to the budget of a community college sponsored by such city or county but shall be correspondingly changed, as to the commencement of the fiscal year of the community college; provided, however, that after the budget for the

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Community college shall have been adopted, the local legislative body or board or other appropriate governing body shall provide for the raising of taxes required by such budget, without any decrease in amount, in the same manner and at the same time prescribed by law for the annual levy of taxes by or for the city or county. All of the provisions of law fixing times and dates within which or by which certain acts shall be performed in relation to the preparation and adoption of the budget of a school district shall apply to the budget of a community college sponsored by a school district. The provisions of this subdivision shall not apply to community college regions.

5-b. Moneys raised by taxation for maintenance of a community college and moneys received from all other sources for purposes of the community college, other than in the city of New York, shall be kept separate and distinct from any other moneys of the sponsor or sponsors and shall not be used for any other purpose. The amount of taxes levied for maintenance of a community college shall be credited thereto and made available therefor within the fiscal year of such community college. The provisions of this subdivision shall not apply to community college regions.

6. The local legislative body or board, or other appropriate governing agency, other than a community college regional board of trustees, shall provide the local sponsor's share of the community college operating and capital costs in conformance with such sponsor's annual budgetary appropriation, and shall direct that payment of all appropriations for maintenance of the college be made to the board of trustees of the college for expenditure by the board, subject to the terms and conditions of such appropriations appearing in such budget and to such regulations regarding the custody, deposit, audit and payment thereof as such local legislative body or board, or other appropriate governing agency, may deem proper to carry out the terms of the budget; provided that any local sponsor which, as of January first, nineteen hundred eighty-eight, provided for audit and payment of charges against the community college in the same manner as it provides for other charges against the local sponsor, may continue to do so for a period not to extend beyond September first, nineteen hundred eighty-nine.

Such local legislative body or board, or other appropriate governing agency, shall authorize the board of trustees of the college to select a treasurer, establish a bank account or accounts in the name of the college and deposit therein moneys received or collected by the college, including moneys appropriated and paid by the local sponsor, moneys received from tuition, fees, charges, sales of products and services, and from all other sources. The board of trustees of the college shall, subject to the requirements specified in or imposed pursuant to this subdivision, authorize the treasurer to pay all proper bills and accounts of the college, including salaries and wages, from funds in its custody. The treasurer shall execute a bond or official undertaking to the board of trustees of the college in such sum and with such sureties as that board shall require, the expense of which shall be a college charge.

***60946** The board of trustees of the college similarly shall authorize the treasurer to establish and maintain petty cash funds, not in excess of two hundred dollars each, for specified college purposes or undertakings, from which may be paid, in advance of audit, properly itemized and verified or certified bills for materials, supplies or services furnished to the college for the conduct of its affairs and upon terms calling for the payment of cash to the vendor upon the delivery of any such materials or supplies or the rendering of any such services. Lists of all expenditures made from such petty cash funds shall be presented to the board of trustees at each regular meeting thereof, together with the bills supporting such expenditures, for audit and the board shall direct reimbursement of such petty cash funds from the appropriate budgetary item or items in an amount equal to the total of such bills which it shall so audit and allow. Any of such bills or any portion of any of such bills as shall be disallowed upon audit shall be the personal responsibility of the treasurer and such official shall forthwith reimburse such petty cash fund in the amount of such disallowances.

The board of trustees of the college shall provide for periodic audits of all accounts maintained at its direction and render such reports respecting any and all receipts and expenditures of the college as the local legislative body or board, or other appropriate governing agency, may direct.

The board of trustees of the college, or the community college regional board of trustees may require any bank or banker in

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Each community college moneys are on deposit or are to be deposited to file with the board a surety bond payable to the college executed by a surety company authorized to transact business in this state and securing to the college the payment of such deposits and the agreed interest thereon, if any. In lieu of a surety bond, the board may require any such bank or banker to deposit with it outstanding unmatured obligations of the United States of America, the state of New York, or of any municipality or college of the state of New York, as security for such moneys so deposited; but such obligations shall be subject to the approval of the board and shall be deposited in such place and held under such conditions as the board may determine. Every depository of college moneys is hereby authorized and empowered to secure deposits of such moneys as provided in this subdivision.

8. a. The state shall, in addition to any other funds that may be appropriated for assistance to community colleges, annually appropriate and pay

(i) to the local sponsor of each community college, except a community college where the local sponsor has entered into an agreement with the dormitory authority to finance and construct a community college facility, an amount equal to the aggregate of all rentals and all payments due and payable to the dormitory authority pursuant to any lease, sublease, or other agreement entered into between the dormitory authority and such local sponsor, whether or not such local sponsor shall be liable therefor, for each twelve-month period beginning on the next succeeding July first, and

(ii) to the local sponsor of each community college where the local sponsor has entered into an agreement with the dormitory authority to finance and construct a community college facility, an amount equal to one-half of all rentals and all payments due and payable to the dormitory authority pursuant to any lease, sublease, or other agreement entered into between the dormitory authority and such local sponsor, whether or not such local sponsor shall be liable therefor, for each twelve-month period beginning on the next succeeding July first, provided, however, if such a local sponsor shall thereafter agree to finance the costs of providing all or part of a community college facility the state shall, instead, annually appropriate and pay to such local sponsor an amount equal to that portion of all rentals and all payments due and payable to the dormitory authority during the twelve-month period beginning on the next succeeding July first pursuant to any lease, sublease or other agreement providing for such financing which portion represents the state's share (one-half) of the cost of each facility being financed, whether or not the local sponsor shall be liable to pay such rentals and payments, and

*60947 (iii) to the local sponsor of each community college which has financed the entire capital cost of constructing a community college facility, an amount equal to one-half of the annual debt service on obligations issued by such local sponsor for the purpose of constructing such facility. No local sponsor of a community college shall be eligible for assistance pursuant to the provisions of this paragraph unless: (a) a first instance appropriation has been enacted into state law prior to the commencement of construction; and (b) the state comptroller has approved the interest rate of any and all obligations issued by such local sponsor after July twenty-fourth, nineteen hundred seventy-six to finance the cost of such facility prior to the issuance of such obligations; and (c) all contracts for the construction of such facility entered into by such local sponsor after July twenty-fourth, nineteen hundred seventy-six have been approved by the director of the budget prior to the awarding of such contracts.

b. For the purposes of this subdivision, all references to the local sponsor of a community college shall be deemed, in the case of community college regions, to refer to those counties, cities or school districts which have appointed members to a community college regional board of trustees.

9. a. Where construction of a community college facility has commenced pursuant to the provisions of a lease, sublease or other agreement with the dormitory authority or prior to July twenty-fourth, nineteen hundred seventy-six, the local sponsor of such community college may elect to finance the entire capital cost of constructing such facility pursuant to the provisions of subdivision ten of this section, provided, however, that the proceeds of obligations issued by such local sponsor to finance the capital cost of constructing such facility may be paid to the dormitory authority to the extent of amounts owing under a lease, sublease or other agreement with the dormitory authority entered into by such local sponsor with respect to such facility, and

vided further that any such local sponsor which elected to refinance the entire capital cost of constructing a community college facility pursuant to the provisions of this subdivision, may, at the time it enters into permanent financing of such facility, elect to do so pursuant to the provisions of the dormitory authority act [FN3] or subdivision ten of this section.

b. For the purposes of this subdivision, all references to the local sponsor of a community college shall be deemed, in the case of community college regions, to refer to those counties, cities or school districts which have appointed members to a community college regional board of trustees.

10. a. Each local sponsor of a community college shall have full power and authority to finance all or a portion of the capital costs of a community college facility pursuant to the provisions of the local finance law and to expend the proceeds therefrom to pay such costs.

b. For the purposes of this subdivision, the reference to the local sponsor of a community college shall be deemed, in the case of community college regions, to refer to those counties, cities or school districts which have appointed members to a community college regional board of trustees.

CREDIT(S)

1985 Main Volume

(Formerly § 6305, added L.1948, c. 696, § 1; amended L.1949, c. 562, § 1; L.1950, c. 636, § 1; L.1951, c. 735, § 1; renumbered 6304 and amended L.1955, c. 769, §§ 3, 4; amended L.1964, c. 141, § 1; L.1965, c. 631, § 1; L.1969, c. 174, § 1; L.1969, c. 408, § 1; L.1970, c. 811, §§ 1, 2; L.1972, c. 464, §§ 19, 20; L.1973, c. 708, §§ 4 to 6; L.1973, c. 749, § 2; L.1973, c. 891, § 1; L.1973, c. 897, § 1; L.1975, c. 332, § 25; L.1976, c. 725, § 1; L.1977, c. 725, § 1, 2; L.1981, c. 113, § 1; L.1984, c. 552, § 4; L.1984, c. 762, § 1.)

2000 Electronic Update

**60948 (As amended L.1988, c. 614, § 1; L.1995, c. 295, §§ 3 to 6.)*

[FN1] Two articles 130 have been enacted.

[FN2] 38 USCA § 1650 et seq.

[FN3] Public Authorities Law § 1675 et seq.

<General Materials (GM) - References, Annotations, or Tables>

HISTORICAL NOTES

HISTORICAL AND STATUTORY NOTES

2000 Electronic Update

1997 Legislation

L.1997, c. 389, pt. E, § 12, eff. Aug. 7, 1997, deemed eff. April 1, 1997, provides:

"Notwithstanding the provisions of paragraph d of subdivision 1 of section 6304 of the education law, pursuant to standards and regulations of the state university trustees and the city university trustees for the college fiscal year 1997-98, community colleges may increase tuition and fees above that allowable under such paragraph d. Such standards and regulations shall require that in order to exceed the tuition limit otherwise set forth in the education law, local contributions either in the aggregate or for each full-time equivalent student shall be no less than the comparable amounts for the previous community

ge fiscal year."

1995 Amendments. Subd. 1, par. c. L.1995, c. 295, § 3, eff. July 26, 1995, inserted provisions relating to actions by cities.

Subd. 8, par. b. L.1995, c. 295, § 4, eff. July 26, 1995, inserted reference to cities.

Subd. 9, par. b. L.1995, c. 295, § 5, eff. July 26, 1995, inserted reference to cities.

Subd. 10, par. b. L.1995, c. 295, § 6, eff. July 26, 1995, inserted reference to cities.

1988 Amendment. Subd. 6. L.1988, c. 614, § 1, deleted pars. (a) and (b), which authorized audit and directed payment of certified bills and accounts, deleted par. (c) designation, required provision of local sponsor's share of costs in conformance with budget, made provisions relating to the direction of payment of appropriations mandatory rather than directory, inserted proviso authorizing certain local sponsors to continue current manner of payment until Sept. 1, 1989, and made provisions authorizing election of treasurer to pay bills and accounts and to establish and maintain petty cash funds mandatory rather than directory.

Effective Date of Amendment by L.1988, c. 614; Applicability. Section 2 of L.1988, c. 614, provided: "This act [amending this section] shall take effect immediately [Sept. 1, 1988], and shall apply only to community college fiscal years commencing on or after July first, nineteen hundred eighty-eight."

*60949 Increase of CUNY Tuition and Fees. L.1991, c. 409, § 30; amended L.1991, c. 408, § 11, eff. July 19, 1991, retroactive to Apr. 1, 1991, provided "Notwithstanding the provisions of paragraph d of subdivision 1 of section 6304 of the education law [par. d of subd. 1 of this section] and the conditions established by chapter 53 of the laws of 1991, community colleges of the city university of New York for college year 1991-92 may increase tuition and fees above those allowable under paragraph d provided that in such year no community college of the city university of New York shall set tuition and fees in an amount greater than \$1,750."

State Financial Assistance for Fiscal Year 1991-1992; Applicability. L.1991, c. 409, § 31, eff. July 19, 1991, retroactive to Apr. 1, 1991, provided: "Notwithstanding any provision of law, rule or regulation, the city university community colleges for college fiscal year 1991-92 shall be entitled to the total of the budgeted or actual number (whichever is less) of full-time equivalent students enrolled in programs eligible for state financial assistance multiplied by the amount if in the college fiscal year 1989-1990 the financial contribution to the operating costs of the college, by the local sponsoring jurisdiction, is no less than the amount equivalent in dollars of one-half mill (50 cents per \$1,000), as calculated against the total valuation of taxable real property in such jurisdiction as most recently tabulated by the state board of equalization and assessment. The provisions of this section shall be applicable to appropriations made pursuant to chapter 53 of the laws of 1991, as amended, to the city university of New York for payment to community college programs."

Increase of SUNY Tuition and Fees. L.1991, c. 409, § 47; amended L.1991, c. 408, § 11, eff. July 19, 1991, retroactive to Apr. 1, 1991, provided: "Notwithstanding the provisions of paragraph d of subdivision 1 of section 6304 of the education law [par. d of subd. 1 of this section] and the conditions established by chapter 53 of the laws of 1991, community colleges of the State University of New York for college year 1991-92 may increase tuition and fees above those allowable under paragraph d provided that in such year no community college of the State University of New York shall set tuition and fees in an amount greater than \$1,750."

Impact of Amendment by L.1984, c. 762; Report. Section 3 of L.1984, c. 762; amended L.1987, c. 366, § 2, eff. July 23, 1987, provided: "On or before February first of each year, the state university of New York and the city university of New York shall each report to the governor, the president pro tem of the senate and the speaker of the assembly upon the impact of this legislation [L.1984, c. 762]. Such reports, developed in consultation with the governor and the legislature, shall include the following: (a) a description of the courses funded pursuant to this legislation, including a description of how the courses promote the purposes of this legislation; (b) a comprehensive review of the contract course program that specifically details program cost and program impact on statewide business retention and job creation efforts; (c) an analysis of any regional and/or statewide trends in the courses offered; (d) recommendations for changes in the program that provide for coordination of contract course offerings with related state and local economic development and training efforts."

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1984 Amendments. Subd. 1, par. b, subpar.(i), L.1984, c. 762, § 1, eff. Aug. 3, 1984, in sentence beginning "Such operating costs" inserted "joint" and "both the city university trustees and"; and in sentence beginning "Operating costs shall include" deleted ",improvement" following "for the creation" and inserted "and for the improvement of productivity" and "other nongovernmental."

Subd. 1, par. c. L.1984, c. 552, § 4, eff. July 27, 1984, in sentence beginning "The local sponsor" inserted "or, where a community college region is the local sponsor, in the manner provided by section sixty-three hundred ten of this chapter"; in sentence beginning "Local sponsors and," inserted "and, in the case of community college regions, any county or school district which has appointed members to a community college regional board of trustees"; and in sentence beginning "Where a county" inserted "or appoints members to a community college regional board of trustees," ", or community college region," and "the operating shares of the community college region charged to the county,".

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- Subd. 5. L.1984, c. 552, § 4, eff. July 27, 1984, in sentence beginning "Any community college" inserted "community college regional board of trustees," substituted ", communities or community college region" for "or communities" and inserted "community college regional board of trustees"
- Subd. 5-a. L.1984, c. 552, § 4, eff. July 27, 1984, added sentence beginning "The provisions of "
- Subd. 5-b. L.1984, c. 552, § 4, eff. July 27, 1984, added sentence beginning "The provisions of "
- Subd. 6. L.1984, c. 552, § 4, eff. July 27, 1984, in sentence beginning "The local legislative" inserted "other than a community college regional board of trustees,"
- Subd. 7. L.1984, c. 552, § 4, eff. July 27, 1984, in sentence beginning "The board of" inserted ", or the community college regional board of trustees".
- Subd. 8, par. a, opening subpar. L.1984, c. 552, § 4, eff. July 27, 1984, designated former opening par. as the opening subpar. of par. a.
- Subd. 8, par. a, subpar. (i). L.1984, c. 552, § 4, eff. July 27, 1984, redesignated par. (a) as subpar. (i) of par. a.
- Subd. 8, par. a, subpar. (ii). L.1984, c. 552, § 4, eff. July 27, 1984, redesignated par. (b) as subpar. (ii) of par. a.
- *60951 Subd. 8, par. a, subpar. (iii). L.1984, c. 552, § 4, eff. July 27, 1984, redesignated par. (c) as subpar. (iii) of par. a and in subpar. (iii), as so redesignated, in sentence beginning "No local sponsor" substituted ": (a) " for "; (i)", "(b)" for "(ii)" and "(c)" for "(iii)".
- Subd. 8, par. b. L.1984, c. 552, § 4, eff. July 27, 1984, added par. b.
- Subd. 9, par. a. L.1984, c. 552, § 4, eff. July 27, 1984, designated existing text of subd. 9 as par. a.
- Subd. 9, par. b. L.1984, c. 552, § 4, eff. July 27, 1984, added par. b.
- Subd. 10, par. a. L.1984, c. 552, § 4, eff. July 27, 1984, designated existing text of subd. 10 as par. a.
- Subd. 10, par. b. L.1984, c. 552, § 4, eff. July 27, 1984, added par. b.
- 1981 Amendment. Subd. 1, par. b, subpar. (i). L.1981, c. 113, § 1, eff. Sept. 1, 1981, added sentence beginning "Operating costs shall include courses".
- 1977 Amendment. Subd. 8, par. (b), L.1977, c. 212, § 1, eff. June 1, 1977, inserted ", provided, however, if such a local sponsor shall thereafter agree to finance the costs of providing all or part of a community college facility the state shall, instead, annually appropriate and pay to such local sponsor an amount equal to that portion of all rentals and all payments due and payable to the dormitory authority during the twelve-month period beginning on the next succeeding July first pursuant to any lease, sublease or other agreement providing for such financing which portion represents the state's share (one-half) of the cost of each facility being financed, whether or not the local sponsor shall be liable to pay such rentals and payments, and".
- Subd. 8, par. (c). L.1977, c. 212, § 1, eff. June 1, 1977, in sentence beginning "No local sponsor" in cl. (ii) inserted "after July twenty-fourth, nineteen hundred seventy-six", and in cl. (iii) substituted "entered into by such local sponsor after July twenty-fourth, nineteen hundred seventy-six have been" for "shall be" and inserted "prior to the awarding of such contracts".
- Subd. 8, par. (d). L.1977, c. 212, § 1, eff. June 1, 1977, redesignated former par. (d) as subd. 9.
- Subd. 9. L.1977, c. 212, § 1, eff. June 1, 1977, redesignated former par. (d) of subd. 8 as subd. 9, and in subd. 9, as so designated, substituted "a lease, sublease or other agreement with the dormitory authority or prior to July twenty-fourth, nineteen hundred seventy-six," for "paragraph (a) or (b) of this subdivision.", "subdivision ten of this section" for "paragraph (c) of this subdivision.", "a lease, sublease or other agreement with the dormitory authority entered into by such local sponsor with respect to such facility" for "an agreement, lease, or sublease with the dormitory authority entered into prior to the effective date of this act, whether or not due at the time of such payment", deleted "paragraph (c) of" preceding "this subdivision, may", and substituted "the dormitory authority act or subdivision ten of this section" for "paragraphs (a), (b) or (c) of this subdivision".
- *60952 Subd. 10. L.1977, c. 212, § 2, eff. June 1, 1977, added subd. 10.
- 1976 Amendment. Subd. 8, pars. (c), (d). L.1976, c. 725, § 1, eff. July 24, 1976, added pars. (c) and (d).
- 1975 Amendment. Subd. 8, par. (a). L.1975, c. 332, § 25, eff. July 1, 1975, deleted "a community college in the city of New York, or" following "community college, except"

Subd. 8. par. (c). L.1975, c. 332, § 25, eff. July 1, 1975, omitted par. (c) which related to sum payable to community college in city of New York.

1973 Amendments. Subd. 1. par. a. subpar. (iv). L.1973, c. 708, § 4, eff. July 1, 1973, omitted sentences which read: "Such costs shall be subject to such maximum limitations and regulations as shall be prescribed by the state university trustees with the approval of the director of the budget. Such limitations shall be based upon maximum allowances per student for each student in attendance in the case of operating costs, or in accordance with such other factors or bases as may be deemed appropriate."

Subd. 1. par. b. L.1973, c. 708, § 5, eff. July 1, 1973, added par. b. Former par. b redesignated c.

Subd. 1. par. c. L.1973, c. 891, § 1, eff. June 22, 1973, in sentence beginning "Local sponsors may" substituted "such costs for which a period of probable usefulness has been established in the local finance law" for "capital costs".

L.1973, c. 708, § 5, eff. July 1, 1973, redesignated former par. c as d.

Subd. 1. par. d. L.1973, c. 708, § 5, eff. July 1, 1973, redesignated former par. c as d.

Subd. 1-b. L.1973, c. 708, § 6, eff. July 1, 1973, added subd. 1-b.

Subd. 5. L.1973, c. 749, § 2, eff. Aug. 1, 1973, added sentence beginning "Each community college".

Subd. 8. par. (a). L.1973, c. 897, § 1, eff. June 22, 1973, deleted provision prohibiting payments if the dormitory authority had expended funds exceeding one-half of the total cost of a community college facility for a local sponsor.

1972 Amendment. Subd. 1. par. a. opening subpar. L.1972, c. 464, § 19, eff. May 24, 1972, in sentence beginning "State financial aid" deleted "one-half of the amount of capital costs and" following "aid shall be" and transferred provisions following "state university trustees" into sentence beginning "Such aid for"; and added sentence beginning "Operating costs shall".

*60953 Subd. 1. par. a. subpar. (iv). L.1972, c. 464, § 19, eff. May 24, 1972, in sentence beginning "Such limitations shall" deleted "as determined by student capacity in the case of capital costs, or" following "allowances per student".

Subd. 8. L.1972, c. 464, § 20, eff. May 24, 1972, added subd. 8.

1970 Amendment. Subd. 1. par. a. opening subpar. L.1970, c. 811, § 1, eff. May 18, 1970, designated part of existing text as the opening subpar. and in the opening subpar. as so designated: in sentence beginning "State financial aid" inserted ", provided that such aid for a college shall be for two-fifths of operating costs for any fiscal year of the college during which it is implementing a program of full opportunity provided a plan has been approved by the state university trustees"; and added sentence beginning "Such plan, which".

Subd. 1. par. a. subpars. (i) to (iii). L.1970, c. 811, § 1, eff. May 18, 1970, added subpars. (i) to (iii).

Subd. 1. par. a. subpar. (iv). L.1970, c. 811, § 1, eff. May 18, 1970, designated part of existing text as subpar. (iv). and in subpar. (iv), as so designated, added opening clause beginning "provide for adequate" and sentence beginning "The trustees may".

Subd. 1. par. b. L.1970, c. 811, § 2, eff. May 18, 1970, in sentence beginning "the local sponsor" inserted "or, in the case of a college implementing a program of full opportunity for local residents, four-fifteenths".

1969 Amendments. Subd. 1. par. a. L.1969, c. 174, § 1, eff. July 1, 1969, in sentence beginning "State financial aid" substituted "each as approved by the state university trustees" for "subject to such maximum limitations and regulations as may be prescribed by the state university trustees"; added sentence beginning "Such costs shall"; and in sentence beginning "Such limitations shall" substituted "shall" for "may" and "may be deemed" for "the state university trustees may deem".

Subd. 7. L.1969, c. 408, eff. May 9, 1969, added subd. 7.

1965 Amendment. Subds. 5-a, 5-b. L.1965, c. 631, § 1, eff. July 2, 1965, added subds. 5-a and 5-b.

1964 Amendment. Subd. 6. L.1964, c. 141, eff. Mar. 16, 1964, in sentence beginning "The local legislative" inserted "or by an officer or agent authorized by the board of trustees" in two instances.

1955 Amendment. Subd. 1. par. b. L.1955, c. 769, § 3, eff. July 1, 1955, in sentence beginning "Where a county is", inserted "each term" following

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community college", substituted "were residents" for "are inhabitants" and inserted "at the beginning of such term".

*60954 Subd. 5. L.1955, c. 769, § 3, eff. July 1, 1955, omitted provisions as to tuition and fees of non-resident, part-time and out-of-state residents

1951 Amendment. Subd. 6. L.1951, c. 735, eff. Apr. 11, 1951, added subd. 6.

Effective Date of Amendment by L.1984, c. 552; Repeal. See section 8 of L.1984, c. 552, set out as a note under section 6310.

Effective Date of 1981 Amendment; Termination. Section 3 of L.1981, c. 113; amended L.1984, c. 762, § 2, eff. Aug. 3, 1984, provided: "This act [amending subd. 1, par. b, subpara. (i), of this section] shall take effect on the first day of September next succeeding the date on which it shall have become a law [May 18, 1981] and shall continue in full force and effect until August thirty-first, nineteen hundred eighty-seven."

Effective Date of 1970 Amendment. Section 3 of L.1970, c. 811, provided: "This act [amending this section] shall take effect immediately [May 18, 1970] provided that increases in the state share of operating costs shall be payable only for costs incurred after the first day of September, nineteen hundred seventy "

Effective Date of Amendment by L.1969, c. 174. Amendment by L.1969, c. 174, eff. July 1, 1969, pursuant to L.1969, c. 174, § 2, as amended by L.1969, c. 340, § 17

Effective Date. Section effective July 1, 1948, pursuant to L.1948, c. 696, § 2.

Former Section 6304. Section, added L.1948, c. 696; repealed L.1955, c. 769, § 1; related to admissions to community colleges. See now section 6305.

Preservation of Rights and Duties. Section 3 of L.1977, c. 212, eff. June 1, 1977, provided: "Nothing contained in this act [amending this section] shall affect rights, obligations or duties of the dormitory authority, any local sponsor, as such term is defined in section sixty-three hundred one of the education law, or the state of New York arising by virtue of any lease, sublease or other agreement entered into between the dormitory authority and any local sponsor prior to the effective date of this act [June 1, 1977]."

Section 2 of L.1976, c. 725, eff. July 24, 1976, provided: "Nothing contained in this act [amending this section] shall effect rights, obligations or duties of the dormitory authority, any local sponsor or the state of New York arising by virtue of any lease, sublease or other agreement entered into between the dormitory authority and any local sponsor prior to the effective date of this act [July 24, 1976]."

*60955 Separability of Provisions of 1972 Amendment. See section 22 of L.1972, c. 464, set out as a note under Public Authorities Law § 1680.

Implementation and Impact of 1981 Amendment; Report. Section 2 of L.1981, c. 113, provided: "The state university of New York and the city university of New York shall each file a report with the governor and the legislature on the implementation and impact of this legislation by February first, nineteen hundred eighty-four".

REFERENCES

LEGISLATIVE HISTORIES

L.1997, c. 389: For Legislative, Executive or Judicial memorandum relating to this law, see the Table of Contents in McKinney's 1997 Session Laws of New York.

L.1988, c. 614: For memorandum of the State University of New York, see McKinney's 1988 Session Laws of New York, p. 2097

L.1984, c. 552: For memorandum of the State University of New York, see McKinney's 1984 Session Laws of New York, p. 3355.

CROSS REFERENCES

City university of New York community college budget process, see Education Law § 6229.

Community college tuition and instructional income fund, see State Finance Law § 97-p.

Financing of the city university of New York, see Education Law § 6221.

Powers and duties of state university trustees; planning functions, see Education Law § 354.

Regents plan for higher education including approved plans of state university and city university of New York and plans of independent institutions of higher education, see Education Law § 237.

State aid for certain

higher educational institutions, see Education Law § 358.

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dependent institutions of higher education, see Education Law § 6401 et seq.
 assistance to local government, see generally, State Finance Law § 54 et seq.

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Capital budget, see 8 NYCRR 603.1 et seq.
 College finance and business operations, see 8 NYCRR 602.1 et seq.
 Criteria for state university trustees' approval of community college full-opportunity plans, see 8 NYCRR 601.6.
 *60956 Local sponsors' responsibilities regarding financing of the college, see 8 NYCRR 604.1.

LIBRARY REFERENCES**1985 Main Volume**

Colleges and Universities ⇄ 4, 6(1).
 C.J.S. Colleges and Universities §§ 9, 10.

Texts and Treatises

48 NY Jur, Public Securities and Obligations § 15.
 52 NY Jur, Schools, Colleges, and Universities §§ 910-912, 917.
 87 NY Jur 2d, Public Securities § 17.
 95 NY Jur 2d, Schools, Universities, and Colleges §§ 641, 642, 643, 650.
 NY Jur 2d, State of New York § 22.
 15A Am Jur 2d (Rev ed), Colleges and Universities § 33.

UNITED STATES CODE ANNOTATED

Institutional aid, see 20 USCA § 1051 et seq.

ANNOTATIONS**NOTES OF DECISIONS**

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1. Constitutionality

This section permitting county to establish community college, and providing that county is to pay one-half of capital cost and that expenditure by county for college shall be a purpose of county, and board of supervisors' resolution for construction of college with county to provide 50% of cost by issuance of bonds and notes did not violate Const. art. 8, §§ 1, 2 prohibiting county from contracting indebtedness except for county purpose or giving or lending any money or property or lending its credit to any individual, even though less than 50% of student body in such college might be from county. *Grimm v Rensselaer County*, 1958, 9 Misc.2d 1082, 171 N.Y.S.2d 491, motion to dismiss appeal denied 4 N.Y.2d 869, 174 N.Y.S.2d 237, 150 N.E.2d 708, affirmed 4 N.Y.2d 416, 176 N.Y.S.2d 271, 151 N.E.2d 841.

***60957 2. State aid**

Fact that two-year community colleges were designed to serve different purpose than four-year senior colleges provided rational basis for distinct state aid formulae with respect to each. *Grier v. Bowker*, 1971, 327 F.Supp. 892.

State aid formulae with respect to community colleges of state university and senior colleges of city university found not to discriminate on basis of economic status on theory that they encourage city to charge tuition fees to community college students which have effect of denying indigent students the opportunity to attend summer sessions. *Grier v. Bowker*, 1971, 327 F.Supp. 892.

Board of Trustees of the State University of New York had authority to limit state assistance to full opportunity community college in a manner which could result in the college receiving less than 40 percent of its operating budget without first determining that the operating budget was unreasonable. *Drimmer v Board of Trustees of State University of New York* (3 Dept. 1983) 98 A.D.2d 132, 470 N.Y.S.2d 900, affirmed 63 N.Y.2d 790, 481 N.Y.S.2d 334, 471 N.E.2d 147.

Regulation promulgated by the Board of Trustees of the State University of New York limiting state assistance to full opportunity community colleges was not arbitrary and capricious. *Drimmer v. Board of Trustees of State University of New York* (3 Dept. 1983) 98 A.D.2d 132, 470 N.Y.S.2d 900, affirmed 63 N.Y.2d 790, 481 N.Y.S.2d 334, 471 N.E.2d 147.

Community college's contract course with employer, which provided general education requirements for school age children of French citizens temporarily assigned to employer's facilities, did not meet Education Law's requirements for state financial aid as a course providing occupational training or assistance to business for creation and retention of job opportunities; statute did not apply to courses for educating employees' children. *Dutchess Community College v Regan*, 1987, 137 Misc.2d 39, 519 N.Y.S.2d 782.

3. Operating costs

***60958** Fund balances in a county community college's operation budget may only be used for operation and maintenance expenses of the college and may not be transferred to sponsoring counties. *Op.State Compt. 80-345.*

Surplus money in a county community college operating budget may not, pursuant to this section, be used for any purpose which would not be considered as operation and maintenance of the community college. *Op.State Compt. 79-350.*

Premiums for property insurance on community college facilities are paid from the college operating budget and are expenditures eligible for State aid reimbursement. *Op.State Compt. 78-1045.*

Other than by gifts of money or by the use of property, gifts of property or by the furnishing of services, a county's share of the operating costs of a county-sponsored community college may be provided from general revenues, including a tax on real estate within the county, or from revenues realized from the imposition of other forms of taxation permitted by law. *Op.State Compt. 68-1047.*

4. Capital costs

In authorizing contract for new building for county's community college, for which State financial aid is to be provided by the State University Trustees, county need provide by appropriation or financing only for its share of the capital cost of the new building. 1956 *Op.Atty.Gen. 257.*

5. Tuition and fees--Collection of

When a good faith effort has been made to collect unpaid tuition and registration fees, less than the full amount of such fees owing to a county community

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ge may be accepted and the amounts closed if the circumstances so dictate. Op.State Compt. 78-538.

6. --- Discrimination

Fact that tuition fees for summer courses were charged to students at city-administered community colleges of state university while no fees were charged students at senior colleges of city university while attending such colleges did not involve fundamental right nor inherently suspect discrimination against indigent students such that the distinction could be justified only by compelling state interest, where the classification did not involve opportunity to pursue education, in that tuition fees were not charged during the normal college year, but only the taking of courses during the summer to enable students to complete college career at faster pace. *Grier v. Bowker*, 1971, 327 F.Supp. 892.

Fact that city-administered community colleges of state university and senior colleges of city university, both financed in part by city and in part by state, were financed under separate statutory schemes provided city with rational basis for system whereby students at community colleges were charged tuition fees while attending summer courses at any of the colleges while students at senior colleges were not charged tuition fees for summer courses at the senior colleges. *Grier v. Bowker*, 1971, 327 F.Supp. 892.

*60959 Where a community college has established a student tuition refund schedule, it would seem that any deviation therefrom in individual cases by the board of trustees could serve as a basis for claiming discrimination or a denial of equal protection by students who are refused refunds under similar circumstances. Op.State Compt. 80-423.

7. --- Waiver of

Any waiver of tuition granted pursuant to this section must be granted to all residents of the sponsoring community duly admitted to the college and tuition may not be waived only for residents of the sponsoring community who have attained a certain level of scholastic achievement. Op.State Compt. 78-767.

A collective bargaining agreement may validly provide for the waiver of tuition for dependents of faculty members of a community college who are residents of the sponsoring municipality. 27 Op.State Compt. 85, 1971.

A community college may not waive tuition for only those residents of the sponsoring municipality who are over the age of sixty. 27 Op.State Compt. 85.

A community college may not offer a free course in ambulance rescue procedures. 27 Op.State Compt. 85, 1971.

A community college lacks authority to waive tuition for dependents of faculty members. Op.State Compt. 70-312.

8. Gifts, grants and bequests

A community college may accept funds from a private organization, in trust, to be used for the purpose of student aid as determined by a committee formed by such organization, and a college official may serve on the committee. Op.State Compt. 69-825.

9. Budget, adoption of

County board of supervisors having adopted one of the alternative plans provided by this section for disbursement of sponsor's contribution to community college could repeal such selection and make a choice of another plan only by following its usual legislative procedure, and attempted repeal of resolution by incorporating it in proposed county charter and submitting charter to voters was void, and resolution, never having been modified or repealed except by charter provision, was still in effect. *Daugherty v. Oneida County* (4 Dept. 1964) 22 A.D.2d 111, 254 N.Y.S.2d 372.

Unless otherwise expressly provided, the same procedures which are used for a basic county budget will apply to the adoption of the county community college budget, including the veto procedures by county executive. Op.State Compt. 78-663.

10. Audit and payment of bills and accounts

Where student loan checks issued pursuant to section 650 et seq. relating to assistance for higher education are payable jointly to a county community college and the student, the county may deposit the check and issue its own check for balance due student. 29 Op.State Compt. 129, 1973.

*60960 Elimination of the necessity of vendor-verified claims with regard to bills and accounts of school districts does not apply to community colleges. Op.State Compt. 68-982.

the absence of regulations of City Council to the contrary, and except as otherwise provided in the case of petty cash funds, under this section, all claims

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st Jamestown Community College must be presented to Board of Trustees for audit prior to payment by college treasurer. 9 Op.State Compt. 287, 1953

11. Treasurer, powers of

Unless specifically authorized by this section, the power of the treasurer of a community college to sign checks may not be delegated. Op.State Compt 68-861.

12. Security for deposits

At the discretion of the board of trustees when a community college opens a checking account in its name, it may require as security either a surety bond or obligations of the federal government, New York State, a municipality or a college of New York State. Op.State Compt. 83-21.

Depository designated for the deposit of moneys of a community college deposited in the name of such college are not authorized or required to secure such deposits. 10 Op.State Compt. 37, 1954.

13. Capital construction account

County board of supervisors should maintain a community college "capital construction" account. Op.State Compt. 68-982.

14. City funding--In general

"Maintenance of effort law" bound the city to maintain the previous year's contribution to the funding of City University of New York (CUNY), even if no increase in tuition or fees was contemplated for the current fiscal year, where tuition and fees for the current fiscal year and the previous year exceeded one-third of CUNY's operating budget. *Perez v. Giuliani*, 1999, 182 Misc.2d 398, 697 N.Y.S.2d 470.

City's obligation to pay state-determined sponsor's share for City University of New York (CUNY) community college funding was ministerial, not discretionary. *Perez v. Giuliani*, 1999, 182 Misc.2d 398, 697 N.Y.S.2d 470.

5. --- Terms and conditions, city funding

A "term and condition" of a budget appropriation to City University of New York (CUNY) is impermissible if it legislates educational policy or restricts the exclusive powers of the CUNY Board of Trustees. *Perez v. Giuliani*, 1999, 182 Misc.2d 398, 697 N.Y.S.2d 470.

***60961** City's budget conditioning its funding of sponsor's share for City University of New York (CUNY) upon the CUNY Board of Trustees adopting mandatory standardized exit examinations for students in remedial programs violated the Board's power under state law to prescribe academic standards, including examination requirements. *Perez v. Giuliani*, 1999, 182 Misc.2d 398, 697 N.Y.S.2d 470.

PART 604

ADMINISTRATION OF THE COLLEGE

(Statutory authority: Education Law, §355(1)(c))

Sec.

604.1 Responsibilities and duties of the local **Sponsor**604.2 Responsibilities and duties of the college **Trustees**

604.3 Responsibilities and duties of the president

604.4 Student members of board of **Trustees**

Section 604.1 Responsibilities and duties of the local Sponsor. [Additional statutory authority: L. 1999, chs. 174, 340]

- (a) **Establishment of the college.** It is the responsibility of the **Sponsor** to formulate a plan for the establishment of a community college in accordance with article 126 of the New York State Education Law.
- (b) **Financing of the college.** The **Sponsor** in approving the college budget shall provide one half, or so much as may be necessary, of the amount of the capital costs, and at least one third or, in the case of a college implementing an approved plan of full opportunity, four fifteenths, or so much as may be necessary, of the annual operating costs. Approval of the college budgets shall be in accordance with provisions of the standards and regulations of the State University **Trustees**. The expenditure of budgeted funds shall be in accordance with the alternative auditing plans described in article 126 of the New York State Education Law.
- (c) **College property.** The **Sponsor** shall accept and hold title to all buildings, equipment and grounds provided for the purposes of the college and acquired through the approved budgets of the college.

604.2 Responsibilities and duties of the college trustees. Under the time-honored practice of American colleges, **Trustees** of colleges as legal official bodies corporate, concentrate on establishing policies governing the college, and delegate responsibility for the administration and execution of those policies to their employed professional administrators. The college **Trustees**, subject to the approval of the State University **Trustees**, shall appoint a president (whether permanent, acting or interim), approve curricula, approve budgets, establish tuition and fees (within legal limits), approve sites and temporary and permanent facilities. Approval or disapproval of the appointment of a president by the State University **Trustees** shall be made in accordance with the State University **Trustees** guidelines for the selection and approval of such appointments. The guidelines shall include a procedure for the State University **Trustees** to receive the recommendation of the chancellor concerning such appointment. The college **Trustees** shall provide for the awarding of certificates and diplomas, and the conferring of appropriate degrees on the recommendation of the president and the faculty. In addition, the college **Trustees** upon the recommendation of the president shall appoint personnel, adopt salary schedules, and approve the organizational pattern of the college.

- (a) The college **Trustees** shall formulate and record the policies and procedures of appointment and

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conditions of employment of the president and other professional administrative personnel not holding academic continuing appointments or tenure.

- (c) The college **Trustees** shall establish policies and delegate to the professional administrative staff responsibility for the following:
- (1) personnel policies, including the following:
 - (i) appointments, promotions and dismissals of faculty members;
 - (ii) conditions of employment, leaves of absence and sabbatical leave;
 - (iii) rules and regulations to which faculty are expected to adhere;
 - (iv) statements regarding academic freedom; and
 - (v) subject to the local and State civil service regulations, the working conditions for nonacademic personnel and fixed rates of compensation;
 - (2) creations of divisions, departments, and appropriate administrative and academic positions and definition of duties to carry out the objectives of the college;
 - (3) regulations governing the behavior and conduct of students and guiding the cocurricular program of the college;
 - (4) authorization and supervision of travel for the purposes of the college;
 - (5) care, custody, control and management of land, grounds, buildings, equipment and supplies used for the purposes of the college for carrying out its objectives;
 - (6) use of college facilities for outside organizations;
 - (7) admission of students;
 - (8) preparation of a budget for operation of the college for submission to and approval by the local **Sponsor** and the **State University Trustees**;
 - (9) preparation of capital equipment and capital construction budgets;
 - (10) use of college facilities for research, consultation or other contractual services pursuant to the educational purposes of the college, in accordance with regulations of the college **Trustees** and upon reimbursement to the college on a fair and equitable basis for the use of facilities or equipment; and
- (1) make available for inspection all college policies and procedures at the college for the convenience and information of members of the college constituency.

604.3 Responsibilities and duties of the president. The president of the college, as the chief executive officer responsible to the college **Trustees**, is responsible for providing general educational leadership and for promoting the educational effectiveness of the institution in all its aspects. In this regard, the president

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will perform the following duties:

- (a) Carry out, execute and administer all policies of the college **Trustees** and the State University **Trustees**.
- (b) Formulate and present to the college **Trustees**, for their action, recommendations on:
 - (1) curriculum;
 - (2) budgets;
 - (3) salary schedules and salaries;
 - (4) personnel appointments, promotions, retention and retrenchment;
 - (5) organizational structure;
 - (6) planning and management of facilities; and
 - (7) granting of degrees or certificates;
- (c) Administration of collective negotiations agreements;
- (d) Submit an annual report on the operation of the college to the college **Trustees**, and prepare such other reports and the college **Trustees** or State University of New York may require;
- (e) Assure the preparation of a faculty handbook in which the role of the faculty in the administration and advancement of the college is described (see also section 805.1 of this Subchapter);
- (f) Assure the preparation of documents needed for orientation and guidance of students attending the college.

604.4 Student members of boards of trustees.

- (a) **General procedures.** The following guidelines shall govern the rules and regulations to be promulgated regarding the election of the student members of boards of **Trustees**:
 - (1) The representative campus student association, hereinafter referred to as the association, shall mean the campus duly recognized representative student governance organization. Where more than one representative student governance organization has been recognized at any campus, representatives of each shall advise, consult and share responsibility for the preparation and promulgation of rules and regulations in such manner as may be mutually agreed upon.
 - (2) The association, or such organization as may be mutually agreed upon pursuant to this subdivision in the case of multiple student governance organizations prior to October 1, 1975, or as soon thereafter as may be practicable, shall conduct an election and certify a successful candidate to the chairman of the board of **Trustees**. Such member-elect shall hold office from October 1, 1975. In each succeeding year, the election shall be conducted prior to July 1 and each elected member shall serve for one calendar year.

- (b) **Guidelines.** The rules and regulations to be promulgated by the association, or in such manner as may be mutually agreed upon pursuant to paragraph (1) of subdivision (a) of this section in the case of multiple student governance organizations, shall fix and define the following:
- (1) the time and place of such election;
 - (2) the eligibility of electors, except that eligibility shall not be limited to undergraduate students or full-time students only;
 - (3) the manner of qualifying as a candidate for election, except that in the event that a student member ceases to be a student at the institution, he shall be required to resign;
 - (4) the form and content of notification to the electors of the time and place of the election and the duties of the office;
 - (5) the form of ballots, the location of polling places, the time such polls shall be open, the manner of casting ballots, the procedures for tallying and reporting the completed votes;
 - (6) the manner in which election irregularities, if any, may be expeditiously resolved; and
 - (7) the manner in which an elected student member may be removed.

***25644 8 NYCRR 600.1**

**OFFICIAL COMPILATION OF CODES, RULES AND REGULATIONS OF THE
STATE OF NEW YORK
TITLE 8. EDUCATION DEPARTMENT
CHAPTER V. STATE UNIVERSITY OF NEW YORK
SUBCHAPTER D. CODE OF STANDARDS AND PROCEDURES FOR THE
ADMINISTRATION AND OPERATION OF COMMUNITY COLLEGES UNDER
THE PROGRAM OF STATE UNIVERSITY OF NEW YORK
PART 600. DEFINITIONS AND INTRODUCTION**

Text is current through February 29, 2000, and annotations are current through February 2000.

Section 600.1 Definition of terms.

(a) Community College. Colleges established and operated either individually or jointly, by counties, cities, intermediate school districts, or school districts approved by the State University trustees pursuant to the provisions of article 126 of the Education Law.

(b) College trustees. The local board of trustees charged by law to administer the college or colleges.

(c) Local Sponsor. The local sponsoring agency, such as a county, a city or a board of education which, with the State, students and other counties, supplies the basic fiscal support for the college.

(d) State University trustees. The Board of Trustees of the State University of New York which is legally responsible for coordinating the program of the individual colleges.

Historical Note

Sec. filed Dec. 13, 1968; amd. filed Aug. 4, 1977 eff. Aug. 4, 1977.

<General Materials (GM) - References, Annotations, or Tables>

***25645 8 NYCRR 600.2**

**OFFICIAL COMPILATION OF CODES, RULES AND REGULATIONS OF THE
STATE OF NEW YORK
TITLE 8. EDUCATION DEPARTMENT
CHAPTER V. STATE UNIVERSITY OF NEW YORK
SUBCHAPTER D. CODE OF STANDARDS AND PROCEDURES FOR THE
ADMINISTRATION AND OPERATION OF COMMUNITY COLLEGES UNDER
THE PROGRAM OF STATE UNIVERSITY OF NEW YORK
PART 600. DEFINITIONS AND INTRODUCTION**

Text is current through February 29, 2000, and annotations are current through February 2000.

Section 600.2 Introduction.

The Education Law of New York State provides that the State University trustees shall provide standards and regulations covering the organization and operation of community colleges. In summary, article 126 of the New York State Education Law prescribes that:

(a) The local sponsor shall be responsible for establishing the college, providing local financing, accepting title to college property, approving the total budget, and selecting the prescribed procedures for the audit of college funds and for the payment of bills and accounts.

(b) The State University trustees shall be responsible for approving the establishment of the community college and of its programs, curricula and budgets, and for providing standards and regulations to guide and govern its operation.

(c) The college trustees with the approval of the State University trustees shall be responsible for the appointment of the president, adoption of the curricula and preparation of the budget; and, subject to the general supervision of the State University trustees, shall discharge such other duties as may be appropriate or necessary for the effective operation of the college.

Historical Note

Sec. filed Dec. 13, 1968; amd. filed Aug. 4, 1977 eff. Aug. 4, 1977.

<General Materials (GM) - References, Annotations, or Tables>

ANNOTATIONS**CASE NOTES**

Because local sponsor is responsible for providing financing, county governing board as sponsor and not county community college board of trustees may issue indebtedness to finance cost of construction of dormitory. Op.State Comp. 97-22. 1997 WL 821902

8 NYCRR 601.1, Establishment minima. [Education Law, § 6304, subd. 1, par. (a), (b)(i)]

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*25647 8 NYCRR 601.1

**OFFICIAL COMPILATION OF CODES, RULES AND REGULATIONS OF THE
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SUBCHAPTER D. CODE OF STANDARDS AND PROCEDURES FOR THE
ADMINISTRATION AND OPERATION OF COMMUNITY COLLEGES UNDER
THE PROGRAM OF STATE UNIVERSITY OF NEW YORK
PART 601. INITIAL ORGANIZATION OF A COMMUNITY COLLEGE**

Text is current through February 29, 2000, and annotations are current through February 2000.

Section 601.1 Establishment minima. [Education Law, § 6304, subd. 1, par. (a), (b)(i)]

(a) Enrollment. A proposed college shall have a potential enrollment of at least 1,000 full-time equivalent students from its sponsorship within four years after its opening.

(b) Financial resources. The local sponsor shall have a true valuation of at least \$300 million and an assessed valuation of at least \$150 million.

(c) Budget. The local sponsor shall make available its share of funds at least one year in advance of the formal opening of the college to assure the availability of sufficient facilities and instructional resources by opening day.

(1) Personnel.

(i) President and staff. The college budget shall provide, at least one year before the formal opening of the college, sufficient funds to appoint a president together with such supporting staff as may be necessary for the organization of the college, including those functions associated with the business affairs, academic development, library and student-personnel program. Sufficient staff shall be employed to provide adequate care and maintenance of buildings, grounds and equipment.

(ii) Faculty. The college budget shall provide for one full-time equivalent classroom teacher for a minimum of each 18.5 full-time students or the equivalent thereof.

(2) Facilities.

(i) Classrooms, laboratories, library and other facilities. Sufficient space must be provided to prevent overcrowding as currently defined in statements guiding space requirements issued by State University of New York.

(ii) Library. Upon opening, the college shall have a sufficient number of well-distributed books and periodicals to support the academic program.

Historical Note

Sec filed Dec 13, 1968; ams. filed: Apr 13, 1971; July 17, 1975; Aug. 31, 1976; Aug 4, 1977 eff. Aug 4, 1977.

<General Materials (GM) - References, Annotations, or Tables>

*25652 8 NYCRR 601.5

**OFFICIAL COMPILATION OF CODES, RULES AND REGULATIONS OF THE
STATE OF NEW YORK
TITLE 8. EDUCATION DEPARTMENT
CHAPTER V. STATE UNIVERSITY OF NEW YORK
SUBCHAPTER D. CODE OF STANDARDS AND PROCEDURES FOR THE
ADMINISTRATION AND OPERATION OF COMMUNITY COLLEGES UNDER
THE PROGRAM OF STATE UNIVERSITY OF NEW YORK
PART 601. INITIAL ORGANIZATION OF A COMMUNITY COLLEGE**

Text is current through February 29, 2000, and annotations are current through February 2000.

Section 601.5 Community college service areas.

(a) In accordance with subdivision 1 of section 6302 and subdivision 2 of section 6305 of the Education Law, a community college may provide educational services beyond its sponsorship area which may be included in the operating budget for State financial assistance purposes, provided that:

(1) such services are provided for a qualified local sponsor or sponsors who elect to participate in the operations of an existing community college. A qualified local sponsor shall be defined as:

(i) a county which does not sponsor a community college or have located within its geographic boundary a State University agricultural and technical college; or

(ii) any city, intermediate school district or school district within such a county; and

(2) the provision of such educational services is defined in an agreement between the board of trustees of the community college and a qualified local sponsor or sponsors, as duly authorized by appropriate local law, resolution, order or ordinance of the local sponsor of the college and the qualified local sponsor.

(b) A qualified local sponsor shall pay an appropriate share of the expense involved in the local sponsor's community college program where students who attend the program reside within the jurisdiction of the qualified local sponsor.

(1) The appropriate share with respect to operating costs shall be determined on the basis of the full operating chargeback rate on an FTE student basis established for the community college.

(2) The appropriate share with respect to capital costs shall be determined on the basis of the full capital chargeback rate established for the community college. Capital costs shall be paid by the qualified local sponsor only in the event that capital costs are generated solely as a result of the program provided by the community college.

*25653 (3) When students reside outside of the areas of both the sponsor and the qualified local sponsor, the allocable portion to be paid by the county of residence for operating and capital costs shall be the amount established for the residents of the qualified local sponsor and paid to the college.

(c) The determination of a community college service area and the provision of educational services therein, as may be defined pursuant to subdivision (a) of this section, shall be subject to the approval of the chancellor or his designee, except that where the provision of educational services pursuant to this section

8 NYCRR 601.5, Community college service areas.

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would result in the establishment of an institutional branch campus, such establishment shall be pursuant to the procedures for multiple campuses (§ 601.4 of this Title, supra).

(d) The chancellor, or his designee, may develop and issue appropriate guidelines and procedures for the implementation of this section.

Historical Note

Sec filed April 29, 1974; ams. filed: Oct. 10, 1975; Aug. 4, 1977 eff. Aug. 4, 1977

<General Materials (GM) - References, Annotations, or Tables>

Art. 126

3. "Local sponsor." Any city, county, intermediate school district, school district approved by the state university trustees, or community college region approved by the state university trustees, sponsoring or participating in the establishment or operation of a community college.

4. "Community college region." A community college local sponsor composed of two or more contiguous counties or school districts which are eligible to appoint members to a community college regional board of trustees.

5. "Resident." A person who has resided in the state for a period of at least one year and in the county, city, town, intermediate school district, school district or community college region, as the case may be, for a period of at least six months, both immediately preceding the date of such person's registration in a community college or, for the purposes of section sixty-three hundred five of this chapter, his application for a certificate of residence.

In the event that a person qualified as above for state residence, but has been a resident of two or more counties in the state during the six months immediately preceding his application for a certificate of residence pursuant to section sixty-three hundred five of this chapter, the charges to the counties of residence shall be allocated among the several counties proportional to the number of months, or major fraction thereof, of residence in each county. (Added L. 1948, c. 696, § 1; amended L. 1950, c. 819, § 1; L. 1953, c. 271, § 4; L. 1955, c. 769, § 2; L. 1968, c. 1025, § 1; L. 1984, c. 552, § 1.)

Historical Note

1984 Amendment. Subd. 2. L. 1984, c. 552, § 1, eff. July 27, 1984, deleted "or" following "intermediate school districts," and inserted "or individually by community college regions approved by the state university trustees."

Subd. 3. L. 1984, c. 552, § 1, eff. July 27, 1984, deleted "or" following "intermediate school district," and inserted "or community college region approved by the state university trustees."

Subd. 4. L. 1984, c. 552, § 1, eff. July 27, 1984, added subd. 4 and redesignated former subd. 4 as 5.

Subd. 5. L. 1984, c. 552, § 1, eff. July 27, 1984, redesignated former subd. 4 as 5 and in subd. 5, as so designated, in sentence beginning "A person who," substituted a comma for "or" following "intermediate school district" and inserted "or community college region."

ARTICLE 126--COMMUNITY COLLEGES AND STATE-AIDED FOUR-YEAR COLLEGES

- Section 6301. Definitions.
6302. Authorization to establish community colleges.
6303. Programs and curricula of community colleges.
6304. Financing of community colleges.
6305. Non-resident and out-of-state students.
6306. Administration of community colleges--boards of trustees.
6307. Establishment of state-aided four-year colleges.
6308. Defense and indemnification of community college trustees, officers and employees.
[6309. Repealed.]
6310. Community college regions--administration and finance.

Cross References

Applicability of not-for-profit corporation law, see section 216-a.
Board of trustees of city university of New York prohibited from selling, transferring or otherwise disposing of land and buildings purchased by city funds used for community colleges, see section 6236.
Community college severance provisions relating to the city university of New York, see section 6226.

New York Codes, Rules and Regulations

Code of standards and procedures for the administration and operation of community colleges under the program of state university of New York, see generally, 8 NYCRR Part 600 et seq.

United States Code Annotated

Community college unit, establishment of, see section 1135c-1 of Title 20, Education.

§ 6301. Definitions

As used in this article, unless the context shall otherwise require, the following terms shall mean:

- 1. "State university trustees." Board of trustees of the state university.
2. "Community colleges." Colleges established and operated pursuant to the provisions of this article, either individually or jointly, by counties, cities, intermediate school districts, school districts approved by the state university trustees, or individually by community college regions approved by the state university trustees, and providing two-year post secondary programs pursuant to regulations prescribed by the state university trustees and receiving financial assistance from the state therefor.

Historical Note

1984 Amendment. Subd. 1, opening college tuition and instructional income fund".

par. L.1984, c. 552, § 2, eff. July 27, 1984, inserted, other than a community college region."

Subd. 2. L.1984, c. 552, § 2, eff. July 27, 1984, added subd. 2 and redesignated former subd. 2 as 3.

Subd. 3. L.1984, c. 552, § 2, eff. July 27, 1984, redesignated former subd. 2 as 3 and former subd. 3 as 4.

Subd. 4. L.1984, c. 552, § 2, eff. July 27, 1984, redesignated former subd. 3 as 4 and former subd. 4 as 5.

Subd. 5. L.1984, c. 552, § 2, eff. July 27, 1984, redesignated former subd. 4 as 5 and in subd. 5, as so redesignated, in sentence beginning "Whenever a plan" inserted, other than a plan for participation in a community college region."

1979 Amendment. Subd. 2. L.1979, c. 204, § 1, eff. July 1, 1979, in sentence beginning "in addition to" inserted "masters degree".

1975 Amendment. Subd. 2. L.1975, c. 356, § 1, eff. July 1, 1975, added sentences beginning "In addition to" and "Notwithstanding any other".

1972 Amendment. Subd. 3. L.1972, c. 464, § 18, eff. May 24, 1972, inserted, provided however, that in the case of any local sponsor which shall have assigned such financial assistance to the dormitory authority, such payment shall be made to the commissioner of taxation and finance for deposit in the community

Cross References

Duty to formulate plans—
Board of trustees of city university of New York, see section 6206.
State university trustees, see section 354.

General powers of local governments to adopt and amend local laws, see Municipal Home Rule Law § 10 et seq.

Home rule powers of local governments, see Const. Art. 9, § 2.

Procedure for adoption of local laws by legislative body, see Municipal Home Rule Law § 20.

State aid for certain—
Higher educational institutions, see section 358.
Independent institutions of higher education, see section 6401 et seq.

State assistance to local government, see generally, State Finance Law § 54 et seq.

New York Codes, Rules and Regulations

Initial organization of a community college, see 8 NYCRR Part 601.
Regulations of the board of trustees of the state university, see generally, 8 NYCRR Part 300 et seq.

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Library References

Colleges and Universities 6-3.
C.J.S. Colleges and Universities §§ 4, 5.

Notes of Decisions

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School district governing agencies 1
Site of college 4
1. **School district governing agencies**
Trustees and Boards of Education of school districts are the appropriate governing agencies authorized by this section to establish community colleges sponsored by such school districts. 1967, Op.Atty Gen. (Inf.) March 14.
2. **Referendum**
The board of supervisors of county may not submit proposition to qualified voters of county on question of establishing a community college. 5 Op.State Compt. File No. 3970, 1949.
Chapter 264, Laws of 1907, authorizing submission of proposed appropriation at taxpayers election does not authorize submission of proposition on question of establishing community college when such proposition contains no language appropriating money for such purpose. Id.
3. **Authority of local sponsor**
Under this section authorizing establishment of community colleges, board of trustees of college is of strictly limited authority and the county, the local sponsor, is the dominant member of the partnership and is given and required to exercise firm and close control of financial structure of the college and its fiscal operation, as respects both capital and income transactions. Meyer v. Wiess, 1966, 25 A.D.2d 174, 268 N.Y.S.2d 226.
4. **Site of college**
Consent of county board is necessary for establishment of site of community college which site is given to county since in order to effectuate legislative mandate, the acceptance of such proffered accretion to capital of college and consequent encumbrance of future revenues from appropriations must, in combination at least, infringe upon authority of county board and be without the assent of college board's authority. Meyer v. Wiess, 1966, 25 A.D.2d 174, 268 N.Y.S.2d 226.

§ 6303. Programs and curricula of community colleges

1. Community colleges shall provide two-year programs of post high school nature combining general education with technical education relating to the occupational needs of the community, area or community college region in which the college is located and those of the state and the nation generally. Special courses and extension work may be provided for part-time students.
2. Training for certain occupational skills may be limited to selected community colleges by the state university trustees in order to avoid unnecessary duplication or overlapping of facilities and programs.
3. The curricula in community colleges shall be designed to serve the needs of students who seek two years of post secondary education and whose needs would not ordinarily be met by the usual four-year college curriculum. However, such colleges shall

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nevertheless provide sufficient general education to enable qualified students who so desire to transfer after completion of the community college program to institutions providing regular four-year courses except that the provision of such general education sufficient for transfer to institutions providing regular four-year courses shall be at the option of the local sponsor in any of the community colleges established upon discontinuance of a state institute of applied arts and sciences and upon discontinuance of section vocational school at Troy pursuant to the provisions of section fifty-nine hundred nine of former article one hundred nineteen of this chapter.

4. The curricula of the community colleges shall be developed with the assistance and guidance of the state university trustees and shall be subject to their approval, and such modifications, amendments and revisions as they may from time to time prescribe.

5. Notwithstanding the provisions of any other general, special or local law, rule or regulation, community colleges may permit persons sixty years of age or over to audit courses given therein without tuition, examination, grading or credit therefor upon a space available basis, subject to the provisions of section sixty-three hundred four of this chapter, as determined by the president of each such institution, provided that such audit attendance does not deny course attendance at a community college by an individual who is otherwise qualified under the regulations and the provisions of section sixty-three hundred four of this chapter. The provisions of this paragraph shall not affect any state aid to community colleges granted pursuant to article one hundred twenty-six of this chapter.

(Added L.1948, c. 696, § 1; amended L.1957, c. 828, § 2; L.1974, c. 1002, § 2; L.1974, c. 1003, § 1; L.1984, c. 552, § 3.

Historical Note

1984 Amendment. Subd. 1, L.1984, c. 552, § 3, eff. July 27, 1984, redesignated former par. c. of former par. a to d as subds. 2 to 5 and, in remaining text, in sentence beginning "Community colleges shall" substituted "area or community college region" for "or area".
 Subd. 2, L.1984, c. 552, § 3, eff. July 27, 1984, redesignated former par. a of subd. 1 as subd. 2.
 Subd. 3, L.1984, c. 552, § 3, eff. July 27, 1984, redesignated former par. b. of subd. 1 as subd. 3.
 Subd. 4, L.1984, c. 552, § 3, eff. July 27, 1984, redesignated former par. c. of subd. 1 as subd. 4.
 Subd. 5, L.1984, c. 552, § 3, eff. July 27, 1984, redesignated former par. d of subd. 1 as subd. 5.
 1974 Amendments. Subd. 1, par. d, L.1974, c. 1003, § 1 eff. Sept. 1, 1974, added sentence beginning "The provisions of".
 L.1974, c. 1002, § 2, eff. Sept. 1, 1974, added par. d.
 1957 Amendment. Subd. 1, par. b, L.1957, c. 828, § 2, eff. Apr. 22, 1957, in sentence beginning "However, such col-

leges" inserted "except that the provision of such general education sufficient for transfer to institutions providing regular four-year courses shall be at the option of the local sponsor in any of the community colleges established upon discontinuance of a state institute of applied arts and sciences and upon discontinuance of the veterans vocational school at Troy pursuant to the provisions of section fifty-nine hundred nine of former article one hundred nineteen of this chapter".

Effective Date of 1984 Amendment: Repeal. See section 8 of L.1984, c. 552, set out as a note under section 6310.

Effective Date. Section effective July 1, 1948, pursuant to L.1948, c. 696, § 2.

Discontinuance of State Institutes of Applied Arts and Sciences. A note appended to L.1957, c. 828, provided: "Article one hundred nineteen of the education law provided for the establishment of five state institutes of applied arts and sciences for an experimental period in the cities of Binghamton, Buffalo, New York, White Plains and Utica.

Cross References

Powers and duties of state university trustees regarding the regulation and formulation of curricula, see section 355.

New York Codes, Rules and Regulations

Criteria for state university trustees' approval of community college full-opportunity plans, see 8 NYCRR 601.6.
 Programs, see 8 NYCRR 601.2.
 Registration of curricula, see 8 NYCRR Part 52.

Library References

Colleges and Universities ¶9.
 C.J.S. Colleges and Universities § 24 et seq.

Notes of Decisions

1. Police training program. An attorney may not be hired by the county to teach a course as part of a police science program at a community college but if such a course is made part of a college curricula, such an attorney may be hired by the college and police officers can attend as part of training program and tuition paid by municipal corporation employing them. 15 Op. State Compt. 323, 1949.

§ 6304. Financing of community colleges

1. The master plan, standards and regulations prescribed by the state university trustees shall include provisions for financing the capital costs and operating costs of such colleges in the following manner:

a. State financial aid shall be one-third of the amount of operating costs, as approved by the state university trustees. Operating costs shall not include any payment of debt service or rentals or other payments by a local sponsor to the dormitory authority pursuant to any lease, sublease or other agreement entered into between the dormitory authority and a local sponsor. Such aid for a college shall, however, be for two-fifths of operating costs for any fiscal year of the college during which it is implementing a program of full opportunity provided a plan has been approved by the state university trustees. Such plan, which shall be submitted by the college only after approval by the board of trustees and the local sponsor or sponsors, shall

(i) establish a policy of offering acceptance in an appropriate program of the college to all applicants residing in the sponsorship area who graduated from high school within the prior year and to applicants who are high school graduates and who were released from active duty with the armed forces of the United States within the prior year;

(ii) provide for full implementation of such policy by the fall semester of nineteen hundred seventy or, if the college demonstrates to the state university trustees that full implementation by such time would not be feasible and in the best interests of the college, provide for a timetable to achieve such full implementation within five years which provides for substantial growth in registration each year;

(iii) make provision for and contain adequate assurances of the expenditure of funds by the sponsor or sponsors at a level pursuant to state university regulations, at least that necessary to implement the plan;

(iv) provide for adequate programs of remediation, instruction and counseling to meet the needs of all students to be served by the college. The trustees may require periodic reports or certifications from colleges which have submitted plans which have been approved and may, in appropriate cases, revoke such approval in case a college is in default of implementing its plan.

b.(i) Operating costs shall not include any payment of debt service or rentals or other payments by a local sponsor to the dormitory authority pursuant to any lease, sublease or other agreement

entered into between the dormitory authority and a local sponsor. Such operating costs shall be subject to such maximum limitations and joint regulations as shall be prescribed by both the city university trustees and the state university trustees with the approval of the director of the budget. Such limitations shall be based upon maximum allowances per student for each student in attendance in the case of operating costs, or in accordance with such other factors as may be deemed appropriate. Operating costs shall include courses offered for the purpose of providing occupational training or assistance to business for the creation, and retention of job opportunities and for the improvement of productivity, through contracts or arrangements between a community college and a business, labor organization, or not-for-profit corporations or other nongovernmental organizations, including labor-management committees composed of labor, business and community leaders organized to promote labor-management relations, productivity, the quality of working life, industrial development, and retention of business in the community.

(ii) By December thirty-first, nineteen hundred seventy-three, the state university trustees shall develop a new formula for the financing of the operating costs of community colleges. Such formula may include maximum limitations, regulations, and incentives to achieve compliance with the code of standards and procedures for community colleges.

The state university trustees shall present to the governor proposed legislation incorporating such formula into law for consideration during the nineteen hundred seventy-four regular session of the legislature. The state university trustees shall also present a detailed analysis of the fiscal impact of such a formula on the state and on each community college within the state.

Such formula or the amended version thereof, upon enactment into law, shall replace any limitations and regulations then in existence concerning the financing of community colleges promulgated pursuant to this section.

(iii) The state university trustees shall, on or before December thirty-first in each year, make a report to the governor and legislature as to the status of community college programs and curricula provided for in article one hundred twenty-six of this chapter. Such report shall also contain recommendations for any revision or alteration in the formula for financing the operating costs of community colleges.

(iv) The state university trustees shall promulgate regulations effective the first day of July, nineteen hundred seventy-four, which shall include a code of standards and procedures for the

administration and operation of community colleges. Such code of standards and procedures, may include, but not be limited to, minimum and maximum standards for academic curricula, minimum and maximum qualitative and quantitative standards for facilities, and standard administrative procedures, which may include schedules and formats for the preparation and submission of annual budgets by the boards of trustees and the local sponsors to the state university trustees, schedules for local sponsors' disbursements to the community colleges of their provided shares of operating costs and systems of accounts for use by the boards of trustees and the local sponsors of the community colleges. Such regulations may supplement, replace or amend any limitations and regulations then in existence promulgated pursuant to this section.

c. The local sponsor or sponsors shall provide one-half of the amount of the capital costs, or so much as may be necessary, and one-third or, in the case of a college implementing a program of full opportunity for local residents, four-fifteenths of the operating costs, or so much as may be necessary, by appropriations from general revenues or from funds derived from special tax levies earmarked in part or whole for such purposes, by the use of gifts of money or, with the consent of the state university trustees, by the use of property, gifts of property or by the furnishing of services or, where a community college region is the local sponsor, in the manner provided by section sixty-three hundred ten of this chapter. Where the local sponsor or sponsors provide all or a portion of its or their share of capital or operating costs in real or personal property or in services, the valuation of such property and services for the purpose of determining the amount of state aid shall be made by the state university trustees with the approval of the director of the budget. Local sponsors and, in the case of community college regions, any county or school district which has appointed members to a community college regional board of trustees may authorize the issuance of bonds or notes pursuant to the provisions of the local finance law to provide any portion or all of its requisite share of such costs for which a period of probable usefulness has been established in the local finance law. Where a county is the local sponsor of a community college, or appoints members to a community college regional board of trustees, the expenditures of the county for the college, or community college region, shall be a purpose of the county provided, however, that taxes to pay the local sponsor's share of operating costs, or the operating shares of the community college region charged to the county, may be charged back to the cities and towns in the county in proportion to the number of students attending the community college each term who

were residents of each such city or town at the beginning of such term.

d. Tuition and fees charged students shall be fixed so as not to exceed in the aggregate more than one-third of the amount of operating costs of the community college.

1-b. For the purpose of budgeting and expending funds and for the purpose of determining eligibility for state financial aid for operating costs pursuant to subdivision one of this section, subject to rules and regulations of the state university trustees and the approval of the director of the budget, the community colleges in the city of New York sponsored by the board of higher education or by the city of New York where the board of higher education has been designated as the trustees of such colleges, shall be treated as a single community college.

2. Community colleges shall be empowered and authorized through their boards of trustees, to accept gifts, grants, bequests and devise absolutely or in trust for such purposes as may be appropriate or proper for effectuating the programs and objectives of such colleges.

3. Nothing herein contained shall be construed to prevent any local sponsor or sponsors from creating and operating community colleges which exceed maximum cost limitations or allowances prescribed by the state university trustees, provided however, that the excess costs over such prescribed limits or allowances shall be borne and paid for or otherwise made available to or by such sponsors.

4. Where two or more local sponsors jointly establish and operate a community college, the local share of the capital costs shall be apportioned among them according to their respective equalized assessed valuations or such other factors or bases as may be provided or prescribed in the plans, standards and regulations prescribed by the state university trustees. The local share of the operating expenses shall be apportioned among such joint sponsors in accordance with the number of students who are residents of their respective areas, or such other factors as may be prescribed in the plans, standards and regulations by the state university trustees.

5. Any community college may, with the consent and approval of its local legislative body or board, community college regional board of trustees, or other appropriate governing agency, and the state university trustees, require lesser tuition charges or fees from persons who are residents of the sponsoring community, communities or community college region than the amount necessary in the

aggregate to provide one-third of the operating costs, or provide tuition to such persons without charge, provided that the local legislative body or board, community college regional board of trustees or other appropriate governing agency appropriates sufficient funds, or sufficient funds are made available from other sources to provide the amount which would normally be provided by such tuition and fees. Each community college shall provide that upon request by a student who is an eligible veteran the payment of tuition and fees, less the amounts payable for such purposes from scholarships or other financial assistance awarded said veteran pursuant to article thirteen of this chapter, article one hundred thirty of this chapter¹ or any other community college, state or federal financial aid program, shall be deferred in such amounts and until such times as the several payments of veterans' benefits under the Veterans' Readjustment Benefit Act of 1966, as amended², are received by the veteran, provided that the veteran has filed a claim for such benefits and presents to the community college proof of eligibility, extent of entitlement to benefits and the need for deferral until the receipt of such benefits.

5-a. Notwithstanding the provisions of any general, special or local law to the contrary, the fiscal year of a community college other than in the city of New York and other than one sponsored by a school district, shall begin with the first day of September and end with the thirty-first day of August in each year. All of the provisions of law fixing times or dates within which or by which certain acts shall be performed in relation to the preparation and adoption of the budget of a city or a county, including but not limited to submission of a budget estimate, filing of a tentative budget, public hearing and adoption of a budget, shall apply to the budget of a community college sponsored by such city or county but shall be correspondingly changed, as to time, to relate to the commencement of the fiscal year of the community college; provided, however, that after the budget for the community college shall have been adopted, the local legislative body or board or other appropriate governing body shall provide for the raising of taxes required by such budget, without any decrease in amount, in the same manner and at the same time prescribed by law for the annual levy of taxes by or for the city or county. All of the provisions of law fixing times and dates within which or by which certain acts shall be performed in relation to the preparation and adoption of the budget of a school district shall apply to the budget of a community college sponsored by a school district. The provisions of this subdivision shall not apply to community college regions.

5-b. Moneys raised by taxation for maintenance of a community college and moneys received from all other sources for purposes of

the community college, other than in the city of New York, shall be kept separate and distinct from any other moneys of the sponsor or sponsors and shall not be used for any other purpose. The amount of taxes levied for maintenance of a community college shall be credited thereto and made available therefor within the fiscal year of such community college. The provisions of this subdivision shall not apply to community college regions.

6. The local legislative body or board, or other appropriate governing agency, other than a community college regional board of trustees, (a) may provide for the audit and payment, in the same manner as other charges against the local sponsors are audited and paid, of all bills and accounts, including salaries and wages, certified by the board of trustees of the college or by an officer or agent authorized by the board of trustees, and within the appropriations therefor; (b) may direct the treasurer or other appropriate fiscal officer of the local sponsor to pay all bills and accounts, including salaries and wages, certified by the board of trustees of the college or by an officer or agent authorized by the board of trustees, within the appropriations therefor, subject to such regulations regarding audit and payment thereof as such local legislative body or board, or other appropriate governing agency, may deem proper; or (c) may direct that payment of appropriations for maintenance of the college be made in whole or in part to the board of trustees of the college for expenditure by the board, subject to the terms and conditions of such appropriations and to such regulations regarding the custody, deposit, audit and payment thereof as such local legislative body or board, or other appropriate governing agency, may deem proper.

In the event action is taken pursuant to authorization (c) above, such local legislative body or board, or other appropriate governing agency, may authorize the board of trustees of the college to elect a treasurer, establish a bank account or accounts in the name of the college and deposit therein moneys received or collected by the college, including moneys appropriated and paid by the local sponsor, moneys received from tuition, fees, charges, sales of products and services, and from all other sources. The board of trustees of the college may, subject to the requirements specified in or imposed pursuant to authorization (c) above, authorize the treasurer to pay all proper bills and accounts of the college, including salaries and wages, from funds in its custody. The treasurer shall execute a bond or official undertaking to the board of trustees of the college in such sum and with such sureties as that board shall require, the expense of which shall be a college charge.

community college regions, to refer to those counties or school districts which have appointed members to a community college regional board of trustees.

9. a. Where construction of a community college facility has commenced pursuant to the provisions of a lease, sublease or other agreement with the dormitory authority or prior to July twenty-fourth, nineteen hundred seventy-six, the local sponsor of such community college may elect to finance the entire capital cost of constructing such facility pursuant to the provisions of subdivision ten of this section, provided, however, that the proceeds of obligations issued by such local sponsor to finance the capital cost of constructing such facility may be paid to the dormitory authority to the extent of amounts owing under a lease, sublease or other agreement with the dormitory authority entered into by such local sponsor with respect to such facility, and provided further that any such local sponsor which elected to refinance the entire capital cost of constructing a community college facility pursuant to the provisions of this subdivision, may, at the time it enters into permanent financing of such facility, elect to do so pursuant to the provisions of the dormitory authority act³ or subdivision ten of this section.

b. For the purposes of this subdivision, all references to the local sponsor of a community college shall be deemed, in the case of community college regions, to refer to those counties or school districts which have appointed members to a community college regional board of trustees.

10. a. Each local sponsor of a community college shall have full power and authority to finance all or a portion of the capital costs of a community college facility pursuant to the provisions of the local finance law and to expend the proceeds therefrom to pay such costs.

b. For the purposes of this subdivision, the reference to the local sponsor of a community college shall be deemed, in the case of community college regions, to refer to those counties or school districts which have appointed members to a community college regional board of trustees.

(Formerly § 6305, added L.1948, c. 696, § 1; amended L.1949, c. 562, § 1; L.1950, c. 636, § 1; L.1951, c. 735, § 1; renumbered 6304 and amended L.1955, c. 769, §§ 3, 4; amended L.1964, c. 141, § 1; L.1965, c. 631, § 1; L.1969, c. 174, § 1; L.1969, c. 408, § 1; L.1970, c. 811, §§ 1, 2; L.1972, c. 464, §§ 19, 20; L.1973, c. 708, §§ 4 to 6; L.1973, c. 749, § 2; L.1973, c. 891, § 1; L.1973, c. 897, § 1; L.1975, c. 332, § 25; L.1976, c. 725, § 1; L.1977, c. 212, §§ 1, 2; L.1981, c. 113, § 1; L.1984, c. 552, § 4; L.1984, c. 762, § 1.)

³Two articles 14b have been enacted
L.1981, c. 113, § 1; L.1984, c. 552, § 4.

Historical Note

1984 Amendments. Subd. 1, par. b, subpar. (i), L.1984, c. 762, § 1, eff. Aug. 3, 1984, in sentence beginning "Such operating costs" inserted "joint" and "both the city university trustees and", and in sentence beginning "Operating costs shall include" deleted "improvement" following "for the creation" and inserted "and for the improvement of productivity" and "other nongovernmental."

Subd. 1, par. c, L.1984, c. 552, § 4, eff. July 27, 1984, in sentence beginning "The local sponsor" inserted "or, where a community college region is the local sponsor, in the manner provided by section sixty-three hundred ten of this chapter"; in sentence beginning "Local sponsors and," inserted "and, in the case of community college regions, any county or school district which has appointed members to a community college regional board of trustees"; and in sentence beginning "Where a county" inserted "or appoints members to a community college regional board of trustees," "or community college region," and "or the operating shares of the community college region charged to the county."

Subd. 5, L.1984, c. 552, § 4, eff. July 27, 1984, in sentence beginning "Any community college" inserted "community college regional board of trustees," substituted "communities or community college region" for "or communities" and inserted "community college regional board of trustees".

Subd. 5-a, L.1984, c. 552, § 4, eff. July 27, 1984, added sentence beginning "The provisions of".

Subd. 5-b, L.1984, c. 552, § 4, eff. July 27, 1984, added sentence beginning "The provisions of".

Subd. 6, L.1984, c. 552, § 4, eff. July 27, 1984, in sentence beginning "The local legislative" inserted "other than a community college regional board of trustees,".

Subd. 7, L.1984, c. 552, § 4, eff. July 27, 1984, in sentence beginning "The board of" inserted "or the community college regional board of trustees".

Subd. 8, par. a, opening subpar. L.1984, c. 552, § 4, eff. July 27, 1984, designated former opening par. as the

Subd. 8, par. a, subpar. (i) L.1984, c. 552, § 4, eff. July 27, 1984, redesignated par. (a) as subpar. (i) of par. a.

Subd. 8, par. a, subpar. (ii) L.1984, c. 552, § 4, eff. July 27, 1984, redesignated par. (b) as subpar. (ii) of par. a.

Subd. 8, par. a, subpar. (iii) L.1984, c. 552, § 4, eff. July 27, 1984, redesignated par. (c) as subpar. (iii) of par. a and in subpar. (iii), as so redesignated, in sentence beginning "No local sponsor" substituted "a" for "a"; (i) " (ii)" for "(ii)" and "(c)" for "(iii)".

Subd. 8, par. b, L.1984, c. 552, § 4, eff. July 27, 1984, added par. b.

Subd. 9, par. a, L.1984, c. 552, § 4, eff. July 27, 1984, designated existing text of subd. 9 as par. a.

Subd. 9, par. b, L.1984, c. 552, § 4, eff. July 27, 1984, added par. b.

Subd. 10, par. a, L.1984, c. 552, § 4, eff. July 27, 1984, designated existing text of subd. 10 as par. a.

Subd. 10, par. b, L.1984, c. 552, § 4, eff. July 27, 1984, added par. b.

1981 Amendment. Subd. 1, par. b, subpar. (i), L.1981, c. 113, § 1, eff. Sept. 1, 1981, added sentence beginning "Operating costs shall include courses".

1977 Amendment. Subd. 8, par. (b), L.1977, c. 212, § 1, eff. June 1, 1977, inserted " provided, however, if such a local sponsor shall thereafter agree to finance the costs of providing all or part of a community college facility the state shall, instead, annually appropriate and pay to such local sponsor an amount equal to that portion of all rentals and all payments due and payable to the dormitory authority during the twelve-month period beginning on the next succeeding July first pursuant to any lease, sublease or other agreement providing for such financing which portion represents the state's share (one-half) of the cost of each facility being financed, whether or not the local sponsor shall be liable to pay such rentals and payments, and".

Subd. 8, par. (c) L.1977, c. 212, § 1, eff. June 1, 1977, in sentence beginning "No local sponsor" in c) (iv) inserted "after July twenty-fourth, nineteen hundred seventy-six"; and (v) c) (iv) sub b)

son after July twenty-fourth, nineteen hundred seventy-six have been" for "shall be" and inserted "prior to the awarding of such contracts."

Subd. 8, par. (d) L.1977, c. 212, § 1, eff. June 1, 1977, redesignated former par. (d) as subd. 9.

Subd. 9, L.1977, c. 212, § 1, eff. June 1, 1977, redesignated former par. (d) of subd. 8 as subd. 9, and in subd. 9, as so designated, substituted "a lease, sublease or other agreement with the dormitory authority or prior to July twenty-fourth, nineteen hundred seventy-six," for "paragraph (a) or (b) of this subdivision," "subdivision ten of this section," "paragraph (c) of this subdivision," "a lease, sublease or other agreement with the dormitory authority entered into by such local sponsor with respect to such facility" for "an agreement, lease, or sublease with the dormitory authority entered into prior to the effective date of this act, whether or not due at the time of such payment", deleted "paragraph (c) of" preceding "this subdivision, may", and substituted "(the dormitory authority act or subdivision ten of this section" for "paragraphs (a), (b) or (c) of this subdivision".

Subd. 10, L.1977, c. 212, § 2, eff. June 1, 1977, added subd. 10.

1976 Amendment. Subd. 8, para. (c), (d). L.1976, c. 725, § 1, eff. July 24, 1976, added para. (c) and (d).

1975 Amendment. Subd. 8, par. (a). L.1975, c. 332, § 25, eff. July 1, 1975, deleted "a community college in the city of New York, or" following "community college, except".

Subd. 8, par. (c). L.1975, c. 332, § 25, eff. July 1, 1975, omitted par. (c) which related to sum payable to community college in city of New York.

1973 Amendments. Subd. 1, par. a, subpar. (iv). L.1973, c. 708, § 4, eff. July 1, 1973, omitted sentences which read: "Such costs shall be subject to such maximum limitations and regulations as shall be prescribed by the state university trustees with the approval of the director of the budget. Such limitations shall be based upon maximum allowances per student for each student in attendance in the case of operating costs, or in accordance with such other factors or bases as may be deemed appropriate."

Subd. 1, par. a, subpars. (i) to (iii) L.1970, c. 811, § 1, eff. May 18, 1970, added subpars. (i) to (iii)

Subd. 1, par. a, subpar. (iv). L.1970, c. 811, § 1, eff. May 18, 1970, designated part of existing text as subpar. (iv), and in subpar. (iv), as so designated, added opening clause beginning "provide for adequate" and sentence beginning "The trustees may".

Subd. 1, par. b. L.1970, c. 811, § 2, eff. May 18, 1970, in sentence beginning "(the local sponsor" inserted "or, in the case of a college implementing a program of full opportunity for local residents, four-fifteenths".

1969 Amendments. Subd. 1, par. a. L.1969, c. 174, § 1, eff. July 1, 1969, in sentence beginning "State financial aid" substituted "each as approved by the state university trustees" for "subject to such maximum limitations and regulations as may be prescribed by the state university trustees"; added sentence beginning "Such costs shall"; and in sentence beginning "Such limitations shall" substituted "shall" for "may" and "may be deemed" for "the state university trustees may deem".

Subd. 7. L.1969, c. 408, eff. May 9, 1969, added subd. 7.

1965 Amendment. Subds. 5-a, 5-b. L.1965, c. 631, § 1, eff. July 2, 1965, added subds. 5-a and 5-b.

1964 Amendment. Subd. 6. L.1964, c. 141, eff. Mar. 16, 1964, in sentence beginning "The local legislative" inserted "or by an officer or agent authorized by the board of trustees" in two instances.

1955 Amendment. Subd. 1, par. b. L.1955, c. 769, § 3, eff. July 1, 1955, in sentence beginning "Where a county is" inserted "each term" following "community college"; substituted "were residents" for "are inhabitants" and inserted "at the beginning of such term".

Subd. 5. L.1955, c. 769, § 3, eff. July 1, 1955, omitted provisions as to tuition and fees of non-resident, part-time and out-of-state residents.

1951 Amendment. Subd. 6. L.1951, c. 735, eff. Apr. 11, 1951, added subd. 6.

Effective Date of Amendment by L.1984, c. 552; Repeal. See section 8 of L.1984, c. 552, set out as a note under section 6310.

Effective Date of 1981 Amendment. Section 1 of L.1981, c. 703, amended L.1981, c. 703, Aug. 3, 1984, provided (amending subd. 1, par. b, of this section) shall take effect on the first day of September next to the date on which it shall have law [May 18, 1981] and shall have full force and effect until August first, nineteen hundred eighty-five.

Effective Date of 1970 Amendment. Section 3 of L.1970, c. 811, "This act [amending this section] shall take effect immediately [May 18, 1970] provided that increases in the share of operating costs shall be only for costs incurred after the day of September, nineteen hundred eighty."

Effective Date of Amendment L.1969, c. 174. Amendment by c. 174, eff. July 1, 1969, par. L.1969, c. 174, § 2, as amended L.1969, c. 340, § 17.

Effective Date. Section effective 1, 1949, pursuant to L.1949, c. 1. Former Section 6304. Section L.1949, c. 696, repeated L.1955 § 1; related to administrators in colleges. See now section 6305.

Preservation of Rights and Section 3 of L.1977, c. 212, eff. 1977, provided: "Nothing in this act [amending this section] affects rights, obligations or duties dormitory authority, any local authority as such term is defined in section three hundred one of the education or the state of New York in virtue of any lease, sublease or agreement entered into between dormitory authority and any local authority prior to the effective date of [June 1, 1977]."

Section 2 of L.1975, c. 725, § 24, 1976, provided "Nothing in this act [amending this section] effect rights, obligations or duties dormitory authority, any local authority or the state of New York in virtue of any lease, sublease or agreement entered into between dormitory authority and any local authority prior to the effective date of [July 24, 1976]."

Separability of Provisions of Amendment. See section 25 of

c. 464, set out a note under Public Authorities Law § 1680.
Implementation and Impact of 1981 Amendment: Report. Section 2 of L.1981, c. 113, provided: "The state university of New York and the city univer-

Cross References

City university of New York community college budget process, see section 6229.
Community college tuition and instructional income fund, see State Finance Law § 97-p.
Financing of the city university of New York, see section 6221.
Powers and duties of state university trustees; planning functions, see section 354.
Regents plan for higher education including approved plans of state university and city university of New York and plans of independent institutions of higher education, see section 237.
State aid for certain—
Higher educational institutions, see section 353.
Independent institutions of higher education, see section 6401 et seq.
State assistance to local government, see generally, State Finance Law § 54 et seq.

New York Codes, Rules and Regulations

Capital budget, see 8 NYCRR Part 603.
College finance and business operations, see 8 NYCRR Part 602.
Criteria for state university trustees' approval of community college full-opportunity plans, see 8 NYCRR 601.6.
Local sponsors' responsibilities regarding financing of the college, see 8 NYCRR 604.1.

United States Code Annotated

Institutional aid, see section 1061 et seq. of Title 20, Education.

Library References

Colleges and Universities ¶4, 6(1).
C.J.S. Colleges and Universities §§ 9, 10.

Notes of Decisions

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Notes of Decisions

1. **Constitutionality**
This section permits a county to establish community college, and providing that county is to pay one-half of capital cost and that expenditure by county for college shall be a purpose of county, and

board of supervisors' resolution for construction of college with county to provide 50% of cost by issuance of bonds and notes did not violate Const. art. 8, § 1, 2 prohibiting county from contracting indebtedness except for county purpose or giving or lending any money or property or lending its credit to any individual, even though less than 50% of student body in such college might be from county. *Grimm v. Reussacker County*, 1958, 9 Misc.2d 1082, 171 N.Y.S.2d 491, affirmed 4 N.Y.2d 416, 176 N.Y.S.2d 271, 151 N.E.2d 841.

2. State aid

Board of Trustees of the State University of New York had authority to limit state assistance to full opportunity community college in a manner which could result in the college receiving less than 40 percent of its operating budget without first determining that the operating budget was unreasonable. *Drimmer v. Board of Trustees of State University of New York*, 1983, 98 A.D.2d 132, 470 N.Y.S.2d 900.

Regulation promulgated by the Board of Trustees of the State University of New York limiting state assistance to full opportunity community colleges was not arbitrary and capricious. *Drimmer v. Board of Trustees of State University of New York*, 1983, 98 A.D.2d 132, 470 N.Y.S.2d 900.

Fact that two-year community colleges were designed to serve different purpose than four-year senior colleges provided rational basis for distinct state aid formulae with respect to each. *Grier v. Bowker*, D.C.N.Y.1971, 327 F.Supp. 892.

State aid formulae with respect to community colleges of state university and senior colleges of city university found not to discriminate on basis of economic status on theory that they encourage city to charge tuition fees to community college students which have effect of denying indigent students the opportunity to attend summer sessions. *Id.*

3. Operating costs

Fund balances in a county community college's operation budget may only be used for operation and maintenance expenses of the college and may not be

transferred to sponsoring county. *Op. State Compt.* 80-345

Surplus money in a county community college operating budget may not, pursuant to this section, be used for any purpose which would not be considered as operation and maintenance of the community college. *Op. State Compt.* 79-350.

Premiums for property insurance on community college facilities are paid from the college operating budget and are expenditures eligible for State aid reimbursement. *Op. State Compt.* 78-1045.

Other than by gifts of money or by the use of property, gifts of property or by the furnishing of services, a county's share of the operating costs of a county-sponsored community college may be provided from general revenues, including a tax on real estate within the county, or from revenues realized from the imposition of other forms of taxation permitted by law. *Op. State Compt.* 68-1047.

4. Capital costs

In authorizing contract for new building for county's community college, for which State financial aid is to be provided by the State University Trustees, county need provide by appropriation or financing only for its share of the capital cost of the new building. 1946 *Op. Atty Gen.* 257.

5. Tuition and fees—Collection of

After a good faith effort has been made to collect unpaid tuition and registration fees, less than the full amount of such fees owing to a county community college may be accepted and the amounts closed if the circumstances so dictate. *Op. State Compt.* 78-538.

6. — Discrimination

Fact that tuition fees for summer courses were charged to students at city-administered community colleges of state university while no fees were charged students at senior colleges of city university while attending such colleges did not involve fundamental right nor inherently suspect discrimination against indigent students such that the distinction could be justified only by compelling state interest, where the fees

to him of satisfactory evidence, issue to any person desiring to enroll in a community college as a non-resident student, a certificate of residence showing that said person is a resident of said county. If the chief fiscal officer of a county refuses to issue such a certificate on the ground that the person applying therefor is not a resident of such county, the person applying may appeal to the chancellor of the state university. The chancellor of the state university shall make a determination after a hearing, upon ten days' notice to such chief fiscal officer of the county, and such determination shall be final and binding on the county. Such person shall, upon his registration for each college year, file with the college such a certificate of residence issued not earlier than two months prior thereto, and such certificate of residence shall be valid for a period of one year from the date of issuance.

4. If, pursuant to subdivision two of this section, a community college elects to charge to and collect an allocable portion of the operating costs and a further sum on account of capital costs of such college from each county which has issued a certificate or certificates of residence pursuant to subdivision three of this section, on the basis of which non-resident students are attending such community college, the president of such community college shall, within forty-five days after the commencement of each college term or program, submit to the chief fiscal officer of each county a list of non-resident students attending such college on the basis of such certificates of residence and a voucher for the amount payable by each county for these students. Such list and voucher shall be determined on the basis of non-resident students enrolled in the program as of the end (or last day) of the third week of the commencement for a program scheduled for one semester, the end of the second for a program scheduled for an academic quarter and the end of the first week for any program scheduled to be completed in thirty days or less. The chancellor of the state university, or such officers or employees thereof as shall be designated by the chancellor in the manner authorized by the state university trustees, shall notify the chief fiscal officers of each county of the approved annual operating and capital charge-back rate for each community college. The amount billed to the chief fiscal officer of each county by the president of such community college as a charge for the allocable portion of the operating costs and a further sum on account of capital costs of such college for non-resident students shall be paid to the chief fiscal officer of such college by the billed county no later than sixty days after the county receives said billing.

5. Amounts payable to such colleges by a county pursuant to this section shall be a general county charge, provided, however,

that with respect to the amounts allocable to each community college a county may charge back such amounts in whole or in part to the cities and towns in the county in proportion to the number of students who, on the basis of certificates of residence issued by such county, were attending each such college as non-residents of the local sponsors thereof during the terms for which the county has been charged, and who were residents of each such city or town at the beginning of such terms.

6. [Renumbered 5.]

7. In the case of counties comprising the city of New York, references in this section to a county shall mean the city of New York and references in this section to the chief fiscal officer of a county shall mean the comptroller of the city of New York.

8. Part-time and out-of-state students shall be charged such tuition and fees as may be approved by the state university trustees. Any student attending a community college who is a member of the armed forces of the United States on full-time active duty and stationed in this state, whether or not a resident of the state, shall be charged the tuition rate for residents as approved by the state university trustees.

9. A community college may expend moneys collected as capital charges received from counties of nonresident students for up to one-half the purchase price of equipment. A community college may include up to one-half the purchase price of equipment in calculating capital charges collected from counties of nonresident students. Such expenditures shall be made pursuant to guidelines promulgated in rules and regulations of the board of trustees of the state university. In no event shall such expenditures qualify for state aid as capital costs.

(Added L.1955, c. 769, § 5; amended L.1958, c. 709, § 1; L.1966, c. 1012, §§ 1, 2; L.1967, c. 486, §§ 13, 14; L.1971, c. 681, § 2; L.1975, c. 439, § 1; L.1975, c. 646, § 1; L.1983, c. 288, § 1; L.1983, c. 405, § 1.)

Historical Note

1983 Amendments. Subd. 8. L.1983, city Trustees", and substituted "not to exceed" for "of" and "be determined and approved" for " , with the approval of".

Subd. 9. L.1983, c. 288, § 1, eff. June 13, 1983, added subd. 9.

1975 Amendments. Subd. 2. L.1975,

c. 646, § 1, eff. Sept. 1, 1975, in sentence

beginning "Such community college"

substituted "a further sum of not to

exceed" for "the", inserted "to be deter-

mined and approved by the State Univer-

Subd. 4. L.1975, c. 646, § 2, eff.

Sept. 1, 1975, in sentence beginning

"The chancellor of" inserted "and capi-

tal"

L.1975, c. 439, § 1, eff. on the 60th

day after July 8, 1975, in sentence begin-

ning "If, pursuant to" substituted "for

five days" for "10 days" and inserted

"or program"; and added sentence beginning "Such list and voucher"

1971 Amendment. Subd. 2. L. 1971, c. 681, § 2, eff. Jan. 1, 1972, substituted "three hundred dollars" for "one hundred dollars" in two instances.

Subd. 4. L. 1971, c. 681, § 2, eff. Jan. 1, 1972, in sentence beginning "If, pursuant to", substituted "submit to the chief fiscal officer of each county a list" for "submit to the chancellor of the state university a list" and "voucher for the amount payable by each county for these students" for "statement of the amount apportioned to and payable by each county"; in sentence beginning "The chancellor of" deleted "by rule or written direction filed with the state comptroller, when and" following "designated by the chancellor" and substituted "notify the chief fiscal officers of each county of the approved annual operating charge-back rate for each community college" for "thereupon certify to the state comptroller such amounts as are due and payable by each such county"; and substituted sentence beginning "The amount billed to the chief fiscal officer" for sentences requiring the chancellor of the state university to notify the chief fiscal officer of each county of the amount due and payable and directing the advance of the certified amount.

Subd. 5. L. 1971, c. 681, § 2, eff. Jan. 1, 1972, redesignated former subd. 6 as 5, substituted "such colleges" for "the state", and omitted former subd. 5 providing a timetable for the reimbursement of the state by counties for which the state has made advances.

1967 Amendment. Subd. 3. L. 1967, c. 486, § 13, eff. Apr. 24, 1967, in sentence beginning "The chancellor of" substituted "chancellor" for "president".

Subd. 4. L. 1967, c. 486, § 14, eff. Apr. 24, 1967, in sentence beginning "The chancellor of" substituted "chancellor" for "president" in two instances.

1966 Amendment. Subd. 2. L. 1966, c. 1012, § 1, eff. July 1, 1966, in sentence

beginning "Such community college" inserted "together with the further sum of one hundred dollars each year for each such non-resident student on account of the local sponsor's share of the capital costs incurred to provide facilities in which such non-resident students can be accommodated", substituted "elected to participate in and pay an appropriate share of the expenses involved in the local sponsor's community college program, such allocable portion of operating expenses and such further sum of one hundred dollars per student for capital costs" for "agreed to pay such allocable portion", and deleted "such portion" preceding "shall, with the".

Subd. 4. L. 1966, c. 1012, § 2, eff. July 1, 1966, in sentence beginning "If, pursuant to" inserted "and a further sum on account of capital costs".

1958 Amendment. Subd. 4. L. 1958, c. 709, § 1, eff. Apr. 14, 1958, in sentence beginning "The president", inserted "or such officers or employees thereof as shall be designated by the president by a rule or written direction filed with the state comptroller, when and in the manner authorized by the state university trustees."

Effective Date of 1963 Amendment; Application. Section 2 of L. 1963, c. 288, provided: "this act [amending this section] shall take effect immediately [June 13, 1963] and shall be deemed to have been in full force and effect, on and after April first, nineteen hundred eighty-three, and shall apply to fiscal years of community colleges commencing on or after July first, nineteen hundred eighty-three."

Effective Date. Section effective July 1, 1955, pursuant to L. 1955, c. 769, § 6.

Derivation. Former sections 5910 and 6304. Section 5910 was added L. 1953, c. 271, § 3; and repealed L. 1955, c. 769, § 1. Section 6304 was added L. 1948, c. 696; and repealed L. 1955, c. 769, § 1.

Former Section 6305. Renumbered 6304.

New York Codes, Rules and Regulations

Admission of students, see 8 NYCRR 605.2.
Community college service areas, see 8 NYCRR 601.5.

Colleges and Universities 609
C.J.S. Colleges and Universities 6-24
et seq.

Notes of Decisions

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A local law superseding the section by authorizing the imposition of a fee impermissibly encroaches upon the State's authority over education and the admission of non-resident students to community colleges and is, therefore, outside the scope of a county's home rule power. *Op. Atty. Gen. (Inf.) 83-1*.

4. Certificate of residence

The chief fiscal officer of a county may not charge a fee for the issuance of a certificate of residence under this section. *Op. Atty. Gen. (Inf.) 83-13*.

5. Cost charge-backs

Under an amendment to this section reducing the charge-back for capital expenditures which a community college may assess counties in which its nonresident students reside, the failure of that State University Trustees to adopt a regulation setting the annual fee did not justify setting the charge-back at a \$300 annual charge for the time between the effective date of the law and the adoption of a new regulation, inasmuch as the charge-back for that time period would be based on the subsequent adopted regulation. *City School Dist. v. City of Corning v. Chemung County*, 1977, 43 N.Y.2d 409, 401 N.Y.S.2d 737, 372 N.E.2d 564, rearrangement denied N.Y.2d 732, 405 N.Y.S.2d 1030, 372 N.E.2d 946.

The sponsor's share for the cost of new additional equipment may be paid from capital cost charge-back funds. *Op. State Compt. 68-509*.

Revenues collected as capital cost charge-backs cannot be used to pay for service on a county building leased to a community college. *Op. State Compt. 68-68*.

The County of Chautauque may charge back upon a town in the county per capita proportion of the county cost where the student in question was a resident of the town at the commencement of the term of the State Compt. *Op. State Compt. 92-1957*.

1. Constitutionality

This section conferring benefits is not unconstitutional even if nonresidents of New York State paying New York City and State income taxes did not receive benefits thereunder equivalent to taxes they paid. *American Commuters Ass'n v. Levitt*, D.C.N.Y. 1967, 279 F.Supp. 40, affirmed 405 F.2d 1148.

That benefits provided by this section were available to New York residents but not to nonresidents of New York State who paid New York State and City income taxes did not make the benefit provisions of this section unconstitutional. *Id.*

2. Policy

This section evidences a legislative intent that counties issuing a certificate of residence bear a proportionate share of all costs attributable to nonresident students, including the expense of issuing certification. *Op. Atty. Gen. (Inf.) 83-13*.

3. Law governing

Since regulation which set a flat fee of \$300 to be paid to community colleges by counties in which nonresident students of a college resided was based on this section prior to its amendment by L. 1976, c. 646, and since this section as so amended provided that the charge-back should be a sum not to exceed \$300 per year to be determined and approved by the State University Trustees, reliance on the old statute in setting a flat fee of \$300 per student was unwarranted. *City School Dist. of City of Corning v. Chemung County*, 1977, 43 N.Y.2d 408, 401 N.Y.S.2d 776, 372 N.E.2d 564, rearrangement denied 44 N.Y.2d 732, 405 N.Y.S.2d 1030, 376 N.E.2d 946.

6. Number of students

A county has no control over the number of its residents who may attend a

community college as nonresident students at some expense to the county. 11 Op-State Compt 607, 1955.

§ 6306. Administration of community colleges—boards of trustees

1. Each community college, except in the city of New York, shall be administered by a board of trustees of ten members, nine of whom shall be appointed for terms of nine years in annual rotation, and one member elected as herein provided, except that initial appointments shall be made for terms of one to nine years respectively. Five members shall be appointed by the local legislative body or board, or other appropriate governing agency, one of whom may be a member of such local legislative body or board, or other appropriate governing agency, four, from among persons residing in the sponsoring community, by the governor and one member elected by and from among the students of the college who shall serve as a non-voting member of the board for a one-year term, provided, however, that the term of the student member first elected shall be nine months commencing October first, nineteen hundred seventy-five. Except as to the authority to cast votes such non-voting member shall be afforded the same parliamentary privileges as are conferred upon voting members, including but not limited to the right to make and second motions and to place items on the agenda. Such non-voting member shall be subject to every provision of any general, special or local law, ordinance, charter, code, rule or regulation applying to the voting members of such board with respect to the discharge of their duties including, but not limited to, those provisions setting forth codes of ethics, disclosure requirements and prohibiting business and professional activities. The election of the student member shall be conducted in accordance with rules and regulations promulgated by the respective representative campus student association in accordance with guidelines established by the state university trustees. In the event that the student member ceases to be a student at the institution, he shall be required to resign. The governor's initial appointments shall be for terms of two, four, six and eight years respectively and those by local authorities for terms of one, three, five, seven and nine years respectively. Vacancies shall be filled for unexpired terms in the same manner as original selections by the authority responsible for the original selection. The board shall select its own chairman from among its voting membership. Where two or more local sponsors join in the establishment of a community college, the apportionment of the appointments among them shall be made by the state university trustees. Trustees shall receive no

compensation for their services but shall be reimbursed for their expenses actually and necessarily incurred by them in the performance of their duties under this article. Members initially appointed or elected under this subdivision to the board of trustees of any community college hereafter established shall take office immediately upon their selection and qualification, but for purposes of determining the expiration of their respective terms and the commencement of the terms of their successors, the term of office of each such initial member shall be deemed to have commenced on the first day of July of the year in which such college was established. The terms of office of all members of the boards of trustees of community colleges heretofore established, appointed or elected as provided in this subdivision, shall terminate on the thirtieth day of June of the calendar year within which such terms expire under the provisions of this subdivision as hereby amended. For the purpose of determining such year all initial terms of office of appointed members of the boards of trustees of community colleges heretofore established shall be deemed to have commenced on the first day of July of the year in which such colleges were established and the terms of their successors for full terms, if any, shall be deemed to have commenced upon the expiration of the number of years from such date for which such initial appointments were made.

The one member elected by and from among the students of the college may be removed by such students in accordance with rules and regulations promulgated by the respective representative campus student association in accordance with guidelines promulgated by the state university trustees.

In the case of community colleges in the city of New York the year in which any such college was established for the purposes of this subdivision shall mean the year in which it was or may be determined that its board of trustees be appointed and serve in the manner provided by this subdivision.

The provisions of this subdivision shall not apply to community college regional boards of trustees.

2. The board of trustees of each community college shall appoint a president for the college, subject to approval by the state university trustees, and it shall appoint or delegate to the president the appointment of other members of the staff. The staff of a community college shall consist of the professional service and the non-professional service. The professional service shall include positions requiring the performance of educational functions in agriculture, home economics, liberal and applied arts and sciences, engineering, technical skills, crafts, business education, medicine,

dentistry, nursing, academic administration, library service, student activities, student personnel services, and other professions required to carry on the work of the community colleges. The non-professional service shall consist of all positions not in the professional service. The board of trustees of each community college shall adopt curricula, subject to the approval of the state university trustees, prepare a budget and, with the exception of community college regional boards of trustees, submit such budget for approval by the local legislative body or board, or other appropriate governing agency and, subject to the general supervision of the state university trustees, discharge such other duties as may be appropriate or necessary for the effective operation of the college. Where the city of New York is the local sponsor of a community college, salaries fixed by the board of trustees of such college shall be in accordance with salary schedules approved by the mayor of that city.

3. In the city of New York, upon the establishment of a community college sponsored by the board of education, the powers of a board shall be the trustees and shall be vested with the powers of a board of trustees of a community college, or upon the application of the sponsoring board, approved by the state university trustees, the board of trustees of such community college may be appointed and serve in the manner provided by subdivision one of this section, and upon the establishment and continuance of a community college sponsored by the city of New York, the local sponsor may designate the board of education in that city as the trustee to be vested with the powers of a board of trustees of a community college, or the local sponsor may provide that the board of trustees of such community college shall be appointed and serve in the manner provided by subdivision one of this section. In the event that the board of education serves as the board of trustees of a community college in the city of New York, its powers and duties in relation thereto shall be as prescribed in this article for boards of trustees of community colleges. In the city of New York, the board of trustees of the Fashion Institute of Technology shall, under such by-laws as such board deems appropriate, provide for the eligibility for sabbatical leaves of absence to members of its permanent instructional staff; provided, however, that when such leaves are for one-half year, they shall be at full pay, and when such leaves are for one year, they shall be at half pay.

4. The board of trustees of each community college may acquire by deed, gift, devise, bequest or lease, real or personal property suitable for carrying out the program and purposes of the college, and pursuant to regulations prescribed by the state university trustees may apply any income that may be derived therefrom to

the maintenance thereof; but no lands, grounds, buildings, facilities or equipment shall be purchased or leased unless an appropriation has been made, therefor, or unless otherwise authorized by law. Title to personal property so acquired shall vest in such board of trustees in its own name and such property shall be held and used by such board for college purposes. Title to real property so acquired shall vest in and be held by the local sponsor in trust for the uses and purposes of the community college. Where a community college region is the local sponsor of a community college, title to real and personal property shall vest in the community college regional board of trustees. The use of real or personal property given to the board of trustees of any community college, or of the income therefrom, to provide any part of the local sponsor's share of capital or operating costs shall be subject to the consent of the state university trustees and such regulations as they may prescribe.

5. The board of trustees shall have the care, custody, control and management of the lands, grounds, buildings, facilities and equipment used for the purposes of such college and of all other property belonging to such college and used for carrying out its purposes, and it shall have power to protect, preserve and improve the same.

6. The board of trustees shall have such other powers and perform such other duties as may be provided by law or prescribed by the state university trustees.

7. Subject to the approval of the local sponsor acting through its local legislative body or board, or other appropriate governing agency, and pursuant to such regulations and limitations as may be established and prescribed by the state university trustees, the board of trustees of each community college may enter into any contract or agreement deemed necessary or appropriate for the effective operation of the college, (1) including contracts or agreements entered into with the federal government to enable participation in federal student loan programs, including any and all instruments required thereunder; provided, however, that the sponsor shall not be liable for any portion of any defaults which it has agreed to assume pursuant to any such agreement in an amount in excess of money appropriated or otherwise lawfully available therefor at the time the liability for payment arises, and (2) including contracts with non-profit corporations organized by officers, employees, alumni or students of the college for the furtherance of its objects and purposes. Notwithstanding the provisions of any other law, general, special or local, such contracts entered into with such non-profit corporation shall not be subject to any requirement that

contracts be let to the lowest responsible bidder after advertisement for bids. Nothing contained in this subdivision shall be deemed to diminish or impair any powers or authority otherwise vested in the board of trustees of any community college. The provisions of this subdivision shall not apply to community college regional boards of trustees.

8. Subject to the approval of the local sponsor acting through its local legislative body or board, or other appropriate governing agency, and pursuant to such regulations and limitations as may be established and prescribed by the state university trustees with the approval of the director of the budget, the board of trustees of each community college may participate in cooperative educational programs, services and arrangements with colleges, universities, school districts, boards of cooperative educational services, libraries, museums and join any cooperative association of such educational institutions formed as a corporation pursuant to section two hundred sixteen of this chapter. The provisions of this subdivision shall not apply to community college regional boards of trustees.

9. In the case of colleges sponsored by community college regions, references in subdivisions two, four, five and six of this section to the board of trustees of a community college shall mean the community college regional board of trustees.

(Added L. 1948, c. 696, § 1; amended L. 1951, c. 427, § 2; L. 1953, c. 271, § 5; L. 1953, c. 272, § 2; L. 1954, c. 147, § 1; L. 1957, c. 855, § 1; L. 1958, c. 388, § 1; L. 1959, c. 659, § 1; L. 1960, c. 416, § 1; L. 1962, c. 876, § 1; L. 1964, c. 576, § 38; L. 1965, c. 723, § 1; L. 1966, c. 835, § 3; L. 1967, c. 96, § 3; L. 1968, c. 453, § 2; L. 1972, c. 860, § 1; L. 1975, c. 332, § 26; L. 1975, c. 587, § 4; L. 1977, c. 164, § 3; L. 1984, c. 552, § 5.)

Historical Note

1984 Amendment. Subd. 1. L. 1984, c. 552, § 5, eff. July 27, 1984, in sentence beginning "Such non-voting member" substituted "member" for "members"; and added sentence beginning "The provisions of".

Subd. 2. L. 1984, c. 552, § 5, eff. July 27, 1984, in sentence beginning "The board of trustees of each community college shall adopt" substituted "and, with the exception of community college regional boards of trustees, submit each budget for" for "for submission to and".

Subd. 3. L. 1984, c. 552, § 5, eff. July 27, 1984, in sentence beginning "In the city of New York, upon the" substituted "trustees" for "trustee"; and in sentence beginning "In the city of New

1977 Amendment. Subd. 1. L. 1977, c. 164, § 3, eff. May 24, 1977, added sentence beginning "Except as to" and "Such non-voting members".

1975 Amendments. Subd. 1. L. 1975, c. 587, § 4, eff. Aug. 1, 1975, in sentence beginning "Each community college" substituted "ten members, nine of whom shall be" for "nine members" and inserted "and one member elected as herein provided"; in sentence beginning "Five members shall" deleted "and" preceding "four, from among" and inserted "and one member elected by and from among the students of the college who shall serve as a non-voting member of the board for a one-year term, provided, however, that the term of the student member first elected shall be nine months commencing October first, nineteen hundred seventy-five"; added sentences beginning "The election of" and "In the event"; in sentence beginning "Vacancies shall be" substituted "selections by the authority" for "appointments by the appointing authority" and "selection" for "appointment"; in sentence beginning "The board shall" inserted "voting"; in sentence beginning "Members initially appointed" inserted "or elected" and substituted "selection" for "appointment" and "member" for "appointee"; in sentence beginning "The terms of" inserted "or elected"; and in sentence beginning "For the purpose" inserted "appointed".

Subd. 2. L. 1975, c. 332, § 26, eff. July 1, 1975, in sentence beginning "Where the city" deleted "or the board of higher education" following "New York" and "or by the board of higher education" following "such college".

Subd. 3. L. 1975, c. 332, § 26, eff. July 1, 1975, deleted references to the board of higher education.

1972 Amendment. Subd. 8. L. 1972, c. 860, § 1, eff. June 2, 1972, added subd. 8.

1968 Amendment. Subd. 7. L. 1968, c. 453, § 5, eff. June 5, 1968, in sentence beginning "Subject to the" added clause (1) and designated part of existing text as clause (2).

1967 Amendment. Subd. 3. L. 1967, c. 96, § 3, eff. Mar. 21, 1967, added sentence beginning "In the city of New York, the".

1966 Amendment. Subd. 3. L. 1966, c. 835, § 3, eff. July 28, 1966, omitted sentence which related to filling of vacancies by mayor on board of trustees administering New York City community college of arts and sciences.

1965 Amendment. Subd. 2. L. 1965, c. 723, § 1, eff. July 1, 1965, added sentences beginning "The staff of", "The professional service" and "The non-professional service"; and in sentence beginning "The board of trustees of each community college shall adopt" substituted "The board of trustees of each community college" for "it".

1964 Amendment. Subd. 2. L. 1964, c. 576, § 38, eff. Apr. 16, 1964, in sentence beginning "Where the city" substituted "mayor" for "board of estimate".

1962 Amendment. Subd. 4. L. 1962, c. 876, § 1, eff. Apr. 29, 1962, added sentences beginning "Title to personal", "Title to real" and "The use of".

1960 Amendment. Subd. 1. L. 1960, c. 416, § 1, eff. Apr. 7, 1960, added sentences beginning "Members initially appointed", "The terms of", "For the purpose" and "In the case".

1959 Amendment. Subd. 7. L. 1959, c. 659, § 1, eff. Apr. 21, 1959, added subd. 7.

1958 Amendment. Subd. 3. L. 1958, c. 398, § 1, eff. Apr. 7, 1958, in sentence beginning "In the case" deleted provisions which continued board of trustees to July 1, 1957, and inserted provisions which required mayor of New York City to fill appointments of vacancies occurring; and omitted sentence which read: "Vacancies in the existing board of trustees of the New York city community college of applied arts and sciences shall be filled alternatively by the mayor of the city of New York and by the governor respectively; the first such vacancy to be filled by the mayor."

1957 Amendment. Subd. 2. L. 1957, c. 855, § 1, eff. Apr. 23, 1957, in sentence beginning "Where the city" inserted "or the board of higher education" or by the board of higher education".

1954 Amendment. Subd. 3. L. 1954, c. 147, § 1, eff. Mar. 23, 1954, in sentence beginning "In the case" substituted "case of the New York city community college of applied arts and sciences

trustees in the county executive subject to confirmation by the board. *Daughter v. Oneida County*, 1984, 22 A.D.2d 111, 254 N.Y.S.2d 372.

2. — Competibility of office

One person may simultaneously serve on the board of trustees of a community college and the council of a four-year State college. *Op. Atty. Gen. (Inf.) 82-19*.

A local legislative body or board may appoint one but only one of its members as a community college trustee and that individual may sit on both boards; an appointment by the governor of a member of a local legislative body or board to be a community college trustee would result in the appointee vacating his office on the legislative body or board if the appointment as trustee is accepted, because holding both offices would be incompatible. 1990, *Op. Atty. Gen. (Inf.) June 18*.

There is no conflict of interest where the wife of a teacher at a community college is elected as a non-voting trustee of such college. 1975, *Op. Atty. Gen. (Inf.) 331*.

A county supervisor who is also a member of the board of trustees of a community college may vote on matters he participated in as a member of the college board of trustees. 1965, *Op. Atty. Gen. (Inf.) March 15*.

A member of a community college board of trustees would have a prohibited conflict of interest if he should be retained, as an independent contractor, to serve as an adjunct professor. *Op. State Compt. 81-93*.

A teacher in a community college may be a member of the board of education of the city school district which sponsors the college. *Op. State Compt. 66-188*.

5. — Term of office

Trustee of a community college whose term of office has expired holds over under section 5 of the Public Officers Law until his successor shall be chosen and qualified. 1963 *Op. Atty. Gen. (Inf.) 187*.

Cross References

Positions defined in this section to be included in the unclassified service, see *Civil Service Law § 35*.

Powers and duties of trustees of—
 City university of New York, see section 6206.
 State university, see sections 354 and 355.
 University of the state of New York, see section 226.

New York Codes, Rules and Regulations

Administration, see 8 NYCRR Part 604.
 Appointment of employees, see 8 NYCRR Part 335.
 Faculty council of community colleges, see 8 NYCRR Part 606.
 Institutional procedures and regulations, see 8 NYCRR Part 605.
 Registration of curricula, see 8 NYCRR Part 52.
 Salaries of professional service employees, see 8 NYCRR Parts 305 and 307.
 Student members of college councils, see 8 NYCRR 312.

Library References

Colleges and Universities 6-7.
 C.J.S. Colleges and Universities § 16 et seq.

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1. Board members—Appointment of
 Former sections 323(4) and 323(3) of the County Law [now Municipal Home Rule Law, §§ 1 et seq.] which provided that functions assigned to units of local government or to agencies or officers thereof outside educational system may be transferred to other units of local government, agencies or officers authorized transfer of board of supervisors' power to appoint community college

of appointment reside within the geographical boundaries of the local sponsor and are required to file an oath of office within the time period provided by law. *Op. Atty. Gen. (Inf.) 92-29*.

6. Duties of board—Generally

A community college board of trustees, being charged with the administration of the college, is also responsible for general policy and issues involving academic freedom. 1967, *Op. Atty. Gen. (Inf.) June 5*.

7. — Delegation of

Board of trustees of a community college has the power to delegate the authority to the president of the college hire, promote and dismiss employees. *Charles v. Oneonta Community College*, 1979, 69 A.D.2d 144, 418 N.Y.S.2d 200, appeal dismissed 48 N.Y.2d 664, 396 N.Y.S.2d 200, 396 N.E.2d 492.

A community college board of trustees may not delegate to a student, faculty or association the responsibility of supervising the use of college facilities by outside organizations. *Op. State Compt. 70-959*.

8. President, powers of

Community college president's power to accept assistant professor's resignation was incidental to his delegated position from board of trustees to hire, promote and dismiss employees. *Carroll Oneonta Community College*, 1975, A.D.2d 1063, 394 N.Y.S.2d 322.

9. Budget, preparation of

The trustees of a community college may not charge a line item to the budget, after the budget has been approved by the local sponsor, without their approval of such a change to the sponsor. *Op. State Compt. 67-260*.

10. Contracts

PSA (Faculty-student association) employees may not be included as additional

al insureds in a health insurance policy purchased by a community college for its own employees, even if the FSA pays for the additional cost. Op.State Compt. 82-116.

A community college may not sell at cost gasoline purchased under a state contract to a faculty-student association for use in vans used to transport intercollegiate athletic teams. Op.State Compt. 80-153.

A faculty-student association which owns vending machines and has a contract with a community college to supply food and vending services may enter into an agreement with a vending company for servicing and supplying of products for the vending machines without being subject to any requirement that contracts be let to the lowest responsible bidder after advertisement for bids. Op.State Compt. 79-449.

A contract between a community college and a faculty-student association (FSA) may not be assigned or subcontracted by the FSA to a third party. Op.State Compt. 78-593.

11. Counsel, retention of

Absent a conflict between the county of Rensselaer and the Hudson Valley Community College, the Board of Trustees of said college is not authorized to employ the services of an attorney, other than the Rensselaer county attorney, to advise the college officials and appear for the college or its officers in litigation including tort matters which are covered by an insurance carrier, but, in the event of a conflict between the county of Rensselaer and the college where such conflict is proclaimed by a majority vote of all the members of the board of trustees, the board would be authorized to employ separate counsel to represent it at its own expense but only by legislative sanction of the Rensselaer county legislature. 1976, Op.Aty.Gen. (Inf.) 185.

The cost of services rendered by an attorney hired by the county to conduct collective bargaining negotiations with the county community college faculty association should be charged against the county budget rather than the college operating budget. 29 Op.State Compt. 178, 1973.

12. Employee benefits

County-sponsored community college employee fringe benefits, such as vacations, leaves of absence and hospital, medical and surgical insurance, may be granted by the county legislative body, and not college board of trustees. Op.State Compt. 69-1041.

13. Gifts and bequests

College board could accept gift of land for community college without consent of county board though county board had right to approve or disapprove it as site for college. Meyer v. Wiess, 1965, 47 Misc.2d 1056, 263 N.Y.S.2d 813, affirmed 26 A.D.2d 174, 268 N.Y.S.2d 226.

14. Miscellaneous expenditures

A season's greetings card sent by a community college to other educational institutions and to educators would constitute an expenditure without authorization in law. Op.State Compt. 78-150.

Meals and refreshments may be provided at community college functions if the affairs are in connection with official college business. Op.State Compt. 78-421.

15. Parking regulations

While there is no authority for the board of trustees of a community college to regulate parking and traffic on public highways located on campus grounds, the board may designate parking areas on campus and adopt parking regulations applicable in such areas which may include provisions for towing away vehicles illegally parked and the assessment of related towing charges for each violation. Op.Aty.Gen. (Inf.) 83-65.

16. Salaries of employees

A community college is not authorized by law to fix the salaries of its employees when its sponsor is a county, but in such event, it is the county itself which must fix salaries, although the advice of the college may be given. 18 Op.State Compt. 399, 1962.

17. Scholarships

The board of trustees of a community college may not grant "trustee scholar-

ships" for students for academic excellence, where such scholarships are effected by waivers of tuition for the student recipients. Op.State Compt. 78-767.

18. Site of college, recommendation for

College board may make recommendation for site of community college but its recommendation is advisory only. Meyer v. Wiess, 1965, 47 Misc.2d 1056, 263 N.Y.S.2d 813, affirmed 25 A.D.2d 174, 268 N.Y.S.2d 226.

19. Title to real property

Boards of trustees of community colleges are not incorporated bodies nor are they authorized to acquire that status, but are administrative adjuncts of the municipality establishing or sponsoring such institutions, and title to real property for college uses should be taken in the name of the sponsoring municipality. 1950, Op.Aty.Gen. 160.

20. Use of facilities

Where board of trustees of community college made decisions to permit rent free occupation of certain houses owned by the college by selected members of faculty for benefit of college and in furtherance of college's purposes, such policy, if it was to be changed, must be changed by the board of trustees and could not be changed by the county. Weinstein v. Caso, 1974, 44 A.D.2d 690, 354 N.Y.S.2d 23.

This section providing for administration of community colleges establishes an unequal partnership between boards of trustees and local sponsors, but it is beyond peradventure that in the implementation of educational policy deemed necessary for effective operation of college and in the use of college buildings and other facilities the board of trustees ordinarily has sole authority subject to implicit balance of power contained in section relating to duties of state university trustees and local legislative body. Weinstein v. Caso, 1974, 44 A.D.2d 690, 354 N.Y.S.2d 23.

§ 6307. Establishment of state-aided four-year colleges

1. Upon recommendation of the state university trustees, counties or adjoining cities not now adequately served by any four-year college programs, may be empowered singly or jointly to establish and operate four-year college programs. Such colleges shall be financed and administered in a manner similar to that provided for community colleges herein.

(Added L.1948, c. 696, § 1.)

1 So in original. No subd. 2 has been enacted.

Historical Note

Effective Date. Section effective July 1, 1948, pursuant to L.1948, c. 696, § 2.

Library References

Colleges and Universities §-3.
C.J.S. Colleges and Universities §§ 4, 5.

§ 6308. Defense and indemnification of community college trustees, officers and employees

1. 's used in this section, the term "employee" shall mean any person, holding a position by appointment or employment in the

service of a community college, whether or not compensated, or a volunteer expressly authorized to participate in a community college sponsored volunteer program, but shall not include an independent contractor. The term employee shall include a former employee, his estate or judicially appointed personal representative.

2. (a) Upon compliance by the employee with the provisions of subdivision four of this section, the local sponsor of a community college shall provide for the defense of the employee in any civil action or proceeding in any state or federal court arising out of any alleged act or omission which occurred or is alleged in the complaint to have occurred while the employee was acting within the scope of his public employment or duties, or which is brought to enforce a provision of section nineteen hundred eighty-one or nineteen hundred eighty-three of title forty-two of the United States code. This duty to provide for a defense shall not arise where such civil action or proceeding is brought by or on behalf of the local sponsor.

(b) Subject to the conditions set forth in paragraph (a) of this subdivision, the employee shall be entitled to be represented by the local sponsor provided, however, that the employee shall be entitled to representation by private counsel of his choice in any civil judicial proceeding whenever the local sponsor determines based upon its investigation and review of the facts and circumstances of the case that representation by the local sponsor would be inappropriate, or whenever a court of competent jurisdiction, upon appropriate motion or otherwise by a special proceeding, determines that a conflict of interest exists and that the employee is entitled to be represented by private counsel of his choice. The local sponsor shall notify the employee in writing of such determination that the employee is entitled to be represented by private counsel. The local sponsor may require, as a condition to payment of the fees and expenses of such representation, that appropriate groups of such employees be represented by the same counsel. The local sponsor shall certify to its chief fiscal officer that the employee or group of employees is entitled to representation by private counsel under the provisions of this section. Reasonable attorneys' fees and litigation expenses shall be paid by the local sponsor to such private counsel from time to time during the pendency of the civil action or proceeding subject to certification that the employee is entitled to representation under the terms and conditions of this section by the board of trustees of the community college at which such employee is employed and upon the audit and warrant of the chief fiscal officer of the sponsor. Any dispute with respect to representation of multiple employees by a single counsel or the amount of litigation expenses or the reasonableness of attorneys' fees shall be resolved by the court upon motion or by way of a special proceeding.

(c) Where the employee delivers process and a quest for a defense to the local sponsor as required by subdivision four of this section, the sponsor shall take the necessary steps including the retention of private counsel under the terms and conditions provided in paragraph (b) of this subdivision on behalf of the employee to avoid entry of a default judgment pending resolution of any question pertaining to the obligation to provide for a defense.

3. (a) The local sponsor shall indemnify and save harmless its employees in the amount of any judgment obtained against such employees in any state or federal court, or in the amount of any settlement of a claim, or shall pay such judgment or settlement provided, that the act or omission from which such judgment or settlement arose occurred while the employee was acting within the scope of his public employment or duties; the duty to indemnify and save harmless or pay prescribed by this subdivision shall not arise where the injury or damage resulted from intentional wrongdoing or recklessness on the part of the employee.

(b) An employee represented by the local sponsor or by private counsel pursuant to this section shall cause to be submitted to the board of trustees of the community college at which he is employed any proposed settlement which may be subject to indemnification or payment by the local sponsor and if not inconsistent with the provisions of this section such board of trustees of the community college at which he is employed shall certify such settlement, and submit such settlement and certification to the local sponsor. The local sponsor shall review such proposed settlement as to form and amount, and shall give its approval if in its judgment the settlement is in the best interest of the local sponsor and the community college. Nothing in this subdivision shall be construed to authorize the local sponsor to indemnify and save harmless an employee with respect to a settlement or pay any such settlement not so reviewed and approved.

(c) Nothing in this subdivision shall authorize the local sponsor to indemnify and save harmless an employee with respect to punitive or exemplary damages, fines or penalties, or money recovered from an employee pursuant to section fifty-one of the General Municipal Law; provided, however, that the local sponsor shall indemnify and save harmless its employees in the amount of any costs, attorneys' fees, damages, fines or penalties which may be imposed by reason of an adjudication that an employee, acting within the scope of his public employment or duties, has, without willfulness or intent on his part, violated a prior order, judgment, consent decree or stipulation of settlement entered in any court of this state or of the United States.

(d) Upon entry of a final judgment against the employee, or upon the settlement of the claim, the employee shall cause to be served a copy of such judgment or settlement, personally or by certified or registered mail within thirty days of the date of entry or settlement, upon the board of trustees of the community college at which he is employed; and if not inconsistent with the provisions of this section, such judgment or settlement shall be certified for payment by such board. If the local sponsor concurs in such certification, the judgment or settlement shall be paid upon the audit and warrant of the chief fiscal officer of the local sponsor.

4. The duty to defend or indemnify and save harmless prescribed by this section shall be conditioned upon (i) delivery to the local sponsor at its main business office by the employee of the original or a copy of any summons, complaint, process, notice, demand or pleading within five days after he is served with such document, and (ii) the full cooperation of the employee in the defense of such action or proceeding and in defense of any action or proceeding against the community college or local sponsor based upon the same act or omission, and in the prosecution of any appeal. Such delivery shall be deemed a request by the employee that the local sponsor provide for his defense pursuant to this section.

5. The benefits of this section shall inure only to employees as defined herein and shall not enlarge or diminish the rights of any other party nor shall any provision of this section be construed to affect, alter or repeal any provision of the workers' compensation law.

6. The provisions of this section shall not in any way affect the obligation of any claimant to give notice to the local sponsor under any provision of law.

7. The provisions of this section shall not be construed to impair, alter, limit or modify the rights and obligations of any insurer under any policy of insurance.

8. The provisions of this section shall apply to all actions and proceedings pending upon the effective date thereof or thereafter instituted.

9. Except as otherwise specifically provided in this section, the provisions of this section shall not be construed in any way to impair, alter, limit, modify, abrogate or restrict any immunity available to or conferred upon any unit, entity, officer or employee of the sponsor or any other level of government, or any right to defense and/or indemnification provided for any governmental officer or employee by, in accordance with, or by reason of, any other provision of state or federal statutory or common law.

10. If any provision of this section or the application thereof to any person or circumstance be held unconstitutional or invalid in whole or in part by any court of competent jurisdiction, such holding of unconstitutionality or invalidity shall in no way affect or impair any other provision of this section or the application of any such provision to any other person or circumstance.

11. In the case of colleges sponsored by community college regions, references in this section to the board of trustees of a community college shall mean the president of colleges sponsored by such regions.

(Added L.1980, c. 457, § 1; amended L.1984, c. 323, § 1; L.1984 c. 552, § 6.)

142 U.S.C.A. §§ 1981, 1983.

Historical Note

1984 Amendments. Subd. 3, par. (a). States" for "article seven-a of the state finance law".

L.1984, c. 323, § 1, eff. July 3, 1984, substituted "or shall pay such a judgment or settlement; provided," for "provided"; deleted a comma following "or settlement arose" and inserted "or pay".

Subd. 3, par. (b). L.1984, c. 323, § 1, eff. July 3, 1984, in sentence beginning "An employee represented" inserted "the local sponsor or by," pursuant to this section", and "or payment"; in sentence beginning "Nothing in this" substituted "and" for "or" following "sponsor to indemnify" and inserted "or pay any such settlement".

Subd. 3, par. (c). L.1984, c. 323, § 1, eff. July 3, 1984, substituted "section fifty-one of the general municipal law; provided, however, that the local sponsor shall indemnify and save harmless its employees in the amount of any costs, attorneys' fees, damages, fines or penalties which may be imposed by reason of an adjudication that an employee, acting within the scope of his public employment or duties, has, without willfulness or intent on his part, violated a prior order, judgment, consent decree or stipulation of settlement entered in any court of this state or of the United States" for "section 50 of the general municipal law; provided, however, that the local sponsor shall indemnify and save harmless its employees in the amount of any costs, attorneys' fees, damages, fines or penalties which may be imposed by reason of an adjudication that an employee, acting within the scope of his public employment or duties, has, without willfulness or intent on his part, violated a prior order, judgment, consent decree or stipulation of settlement entered in any court of this state or of the United States".

Subd. 3, par. (c). L.1984, c. 323, § 1, eff. July 3, 1984, substituted "section fifty-one of the general municipal law; provided, however, that the local sponsor shall indemnify and save harmless its employees in the amount of any costs, attorneys' fees, damages, fines or penalties which may be imposed by reason of an adjudication that an employee, acting within the scope of his public employment or duties, has, without willfulness or intent on his part, violated a prior order, judgment, consent decree or stipulation of settlement entered in any court of this state or of the United States" for "section 50 of the general municipal law; provided, however, that the local sponsor shall indemnify and save harmless its employees in the amount of any costs, attorneys' fees, damages, fines or penalties which may be imposed by reason of an adjudication that an employee, acting within the scope of his public employment or duties, has, without willfulness or intent on his part, violated a prior order, judgment, consent decree or stipulation of settlement entered in any court of this state or of the United States".

Former Section 6308. Section, added L.1957, § 1, and repealed by L.1980, c. 457, § 1, related to the indemnification of community college employees in the city of New York.

Cross References

Defense and indemnification of state officers and employees, see Public Officers

Law §§ 17, 18.

Liability of board of trustees and liability of City University of New York, see section 6205.

Library References

Colleges and Universities 7, 8, 10.
C.S. Colleges and Universities §§ 16
et seq., 37 et seq.

Notes of Decisions

1. Jurisdiction

Community colleges are not part of State University of New York corporation and action against community college for negligence need not be brought in Court of Claims and Supreme Court would have jurisdiction of subject matter. *Brown v. North Country Community College*, 1970, 63 Misc.2d 442, 311 N.Y.S.2d 517.

Community college created by its sponsors pursuant to this article subject to approval of State University Trustees was an independent entity and Supreme Court had jurisdiction of community college despite fact that no notice of claim of plaintiff was served on either sponsoring counties or on Board of Trustees. *Id.*

§ 6309. Repealed. L.1967, c. 96, § 1, eff. Mar. 21, 1967]

Historical Note

Section, added L.1966, c. 825, § 1, related to sabbatical leaves of absence by staff of New York City University and Fashion Institute of Technology. See now section 6306.

§ 6310. Community college regions—administrative and finance

1. Each community college region and community college sponsored by such region shall be administered by a single board of trustees of fourteen members, thirteen of whom shall be appointed for terms of nine years, as set forth in this subdivision, and one member elected as herein provided, except that initial appointments shall be made for terms of one to nine years respectively. Seven members shall be appointed by the local legislative bodies or boards of those counties eligible to appoint members to the community college regional board of trustees. The seven locally appointed members of such board may include one member from the local legislative body or board of each county eligible to appoint members to the community college regional board of trustees. Membership in a community college regional board of trustees shall be apportioned among the counties participating in such board in accordance with the number of full-time equivalent students attending a community college sponsored by such regional board who are residents of the respective participating counties, and in accordance with such further regulations as may be prescribed by the state university trustees. Six members shall be appointed by the governor and one member elected by and from among the students of the college who shall serve as a non-voting member of the board for a one-year term, provided, however, that the term of the student

member first elected shall be nine months commencing October first, nineteen hundred eighty-four. Except as to the authority cast votes such non-voting member shall be afforded the same parliamentary privileges as are conferred upon voting member including but not limited to the right to make and second motion and to place items on the agenda. Such non-voting member shall be subject to every provision of any general, special or local law, ordinance, charter, code, rule or regulation applying to the vote members of such board with respect to the discharge of their duties including, but not limited to, those provisions setting forth codes of ethics, disclosure requirements and prohibiting business and professional activities. The election of the student member shall be conducted in accordance with rules and regulations promulgated by the respective representative campus student association in accordance with guidelines established by the state university trustees. In the event that the student member ceases to be a student at the institution, he shall be required to resign. The governor's initial appointments shall be as follows: (a) two individuals shall be appointed for terms of two and four years respectively; (b) two individuals for terms of six years and two individuals for terms of eight years. Appointments by local authorities shall be as follows: (a) three individuals for terms of one, three and five years, respectively; (b) two individuals for terms of seven years, and two individuals for terms of nine years. Vacancies shall be filled by unexpired terms in the same manner as original selections by the authority responsible for the original selection. The board shall select its own chairman from among its voting membership. Trustees shall receive no compensation for their services but shall be reimbursed for their expenses actually and necessarily incurred by them in the performance of their duties under this article. Members initially appointed or elected under this subdivision to a community college regional board of trustees hereafter established shall take office immediately upon their selection and qualification but for purposes of determining the expiration of their respective terms and the commencement of the terms of their successors, the term of office of each such initial member shall be deemed to have commenced on the first day of July of the year in which such college was established. The terms of office of all members of a community college regional board of trustees heretofore established, appointed or elected as provided in this subdivision, shall terminate on the thirtieth day of June of the calendar year within which such terms expire under the provisions of this subdivision as hereby amended. For the purpose of determining such year as initial terms of office of appointed members of the community college regional board of trustees heretofore established shall be

deemed to have commenced on the first day of July of the year in which such community college regions were established and the terms of their successors for full terms, if any, shall be deemed to have commenced upon the expiration of the number of years from such date for which such initial appointments were made.

The one member elected by and from among the students of the college may be removed by such students in accordance with rules and regulations promulgated by the respective representative campus student association in accordance with guidelines promulgated by the state university trustees.

2. Pursuant to such regulations and limitations as may be established and prescribed by the state university trustees, the community college regional board of trustees may enter into any contract or agreement deemed necessary or appropriate for the effective operation of the college, including: (a) contracts or agreements entered into with the federal government to enable participation in federal student loan programs, including any and all instruments required thereunder; and (b) contracts with non-profit corporations organized by officers, employees, alumni or students of the college for the furtherance of its objects and purposes. Notwithstanding the provisions of any other law, general, special or local, such contracts entered into with such non-profit corporation shall not be subject to any requirement that contracts be let to the lowest responsible bidder after advertisement for bids. Nothing contained in this subdivision shall be deemed to diminish or impair any powers or authority otherwise vested in the community college regional board of trustees.

3. Pursuant to such regulations and limitations as may be established and prescribed by the state university trustees with the approval of the director of the budget, the community college regional board of trustees may participate in cooperative educational programs, services and arrangements with colleges, universities, school districts, boards of cooperative educational services, libraries, museums and join any cooperative association of such educational institutions formed as a corporation pursuant to section two hundred sixteen of this chapter.

4. The community college regional board of trustees is hereby created a body corporate. All property which is now vested in, or shall hereafter be conveyed or transferred to the community college regional board of trustees, shall be held by them as a corporation.

5. Two or more eligible counties appointing members to a community college regional board of trustees shall divide the local share of the capital costs of a community college sponsored by such community college region according to the respective equalized

assessed valuations of such counties or such other factors as may be prescribed by the state university trustees. The local share of the operating expenses of a community college sponsored by a community college region shall be apportioned among those counties appointing members to the community college regional board of trustees on the basis of operating shares. Such operating shares shall be allocated in proportion to the number of students attending the community college who are residents of the respective counties participating on the community college regional board, calculated on the basis of full-time equivalent students, in the same manner as the allocable portion of the local sponsor's share of operating costs pursuant to section sixty-three hundred five of this chapter, and such other factors as may be prescribed by the state university trustees. Any community college sponsored by a community college region may, under the provisions of section six thousand three hundred five of this chapter, elect to charge an allocable portion of the operating costs incurred by the regional sponsor, and a further sum on account of the regional sponsor's share of capital costs, to the counties of residence of students attending such college who are non-residents of the community college region.

6. The final budget of the community college region as adopted by the regional board of trustees and approved by the state university trustees shall be a charge against all of the counties appointing members to such board. The regional board of trustees, after approval of its budget, shall certify to the legislative body or board of all counties appointing members to such regional board the respective proportionate share of the capital and operating costs required to be raised by each county. The counties shall add such costs, as certified, to their own budgets and provide such certified costs by appropriations from general revenues or from funds derived from special tax levies earmarked in part or whole for such purposes, by the use of gifts of money or, with the consent of the state university trustees, by the use of property, gifts of property or by the furnishing of services. Where a county provides all or a portion of its share of capital or operating costs in real or personal property or in services, the valuation of such property and services for the purpose of determining the amount of state aid shall be made by the state university trustees with the approval of the director of the budget. Such funds shall be turned over to the treasurer of the community college sponsored by the community college region within the fiscal year of such region. Notwithstanding any other provision of this subdivision, all counties appointing members to a community college regional board of trustees may require that any budget proposed by such regional board, which would result in an increase in the level of contributions to college

revenues by such counties over the level of contributions required for the previous college fiscal year, shall be approved by the legislative body or board of all such counties.

7. Notwithstanding the provisions of any general, special or local law to the contrary, the fiscal year of a community college sponsored by a community college region shall begin with the first day of September and end with the thirty-first day of August in each year. All of the provisions of law fixing times or dates within which or by which certain acts shall be performed in relation to the preparation and adoption of the budget of a county, including but not limited to submission of a budget estimate, filing of a tentative budget, public hearing and adoption of a budget, shall apply to the budget of a community college-sponsored by a community college region but shall be correspondingly changed, as to time, to relate to the commencement of the fiscal year of the community college region; provided, however, that after the budget for the community college region shall have been adopted, the counties appointing members to a community college regional board of trustees shall provide for the raising of taxes required by such budget, without any decrease in amount, in the same manner and at the same time prescribed by law for the annual levy of taxes by or for the county.

8. Moneys raised by taxation for maintenance of a community college region and moneys received from all other sources for purposes of the community college region shall be kept separate and distinct from any other moneys of the counties appointing members to the community college regional board of trustees and shall not be used for any other purpose. The amount of taxes levied for maintenance of a community college region shall be credited thereto and made available therefor within the fiscal year of such community college region.

9. The community college regional board of trustees shall direct that payment of amounts for maintenance of the college be made in whole or in part to the treasurer of the community college sponsored by such region for expenditure by such officer, subject to such regulations regarding the custody, deposit, audit and payment thereof as such board of trustees may deem proper.

The board of trustees may authorize the treasurer of the college to establish a bank account or accounts in the name of the college and deposit therein moneys received or collected by the college, including moneys appropriated and paid by the counties appointing members to the community college regional board of trustees, moneys received from tuition, fees, charges, sales of products and services, and from all other sources. The board of trustees may authorize the treasurer to pay all proper bills and accounts of the

college, including salaries and wages, from funds as established. The treasurer shall execute a bond or official undertaking to the community college regional board of trustees in such sum and with such sureties as that board shall require, the expense of which shall be a college charge.

The community college regional board of trustees similarly may authorize the treasurer to establish and maintain petty cash funds not in excess of two hundred dollars each, for specified college purposes or undertakings, from which may be paid, in advance of audit, properly itemized and verified or certified bills for materials, supplies or services furnished to the college for the conduct of its affairs and upon terms calling for the payment of cash to the vendor upon the delivery of any such materials or supplies or the rendering of any such services. Lists of all expenditures made from such petty cash funds shall be presented to the board of trustees at each regular meeting thereof, together with the bill supporting such expenditures, for audit and the board shall direct reimbursement of such petty cash funds from the appropriate budgetary item or items in an amount equal to the total of such bills which it shall so audit and allow. Any of such bills or any portion of any of such bills as shall be disallowed upon audit shall be the personal responsibility of the treasurer and such officer shall forthwith reimburse such petty cash fund in the amount of such disallowances.

The community college regional board of trustees shall provide for periodic audits of all accounts maintained at its direction and render such reports respecting any and all receipts and expenditures of the college as the local legislative body or board, or other appropriate governing agency, may direct.

10. All proposals for the acquisition or construction, including new construction, additions or reconstruction of college facilities adopted by a community college regional board of trustees shall be approved by the legislative body or board of all counties appointing members to such board of trustees, and the state university trustees. Upon such approvals, each participating county may finance its proportionate share of the cost of acquisition of such facilities either from any current funds legally available therefor, or by the issuance of obligations pursuant to the local finance law. All counties participating in such regional board of trustees may together issue joint obligations pledging the full faith and credit for all participating counties jointly and that each such county shall pay a specified share of annual debt service on such joint obligations in accordance with the provisions of article five-g of the general municipal law and applicable provisions of the local finance law.

11. The community college regional board of trustees, for the purpose of administering the state civil service law, shall be deemed to be a municipal employer. No civil service rights of an employee of any community college or local sponsor shall be lost, impaired or affected by reason of the enactment of this section and related amendments of this article into law.

12. For the purposes of article fourteen of the civil service law, the community college regional board of trustees shall be deemed to be the public employer and as such shall negotiate with and enter into written agreements with employee organizations representing the instructional staff and non-instructional staff of the community colleges that have been certified or recognized under such article. For purposes of such article, the president of the community college shall be deemed to be the chief executive officer, the chief legal officer of the community college shall be chief legal officer, and the community college regional board of trustees shall be deemed to be the legislative body of the government. The state public employment relations board shall have exclusive jurisdiction for the purpose of administering the provisions of such article.

13. For the purpose of this section, all references in this section to a "county" or "counties" shall be deemed to include a school district or school districts, as the case may be.

(Added L.1984, c. 552, § 7.)

Historical Note

Effective Date: Repeal. Section 8 of 1984], provided, however, if no community college region has been established within three years immediately following this section; and amending sections 6301, 6302, 6303, 6304, 6306 and 6308] shall take effect immediately [July 27, deemed REPEALED at that time."

Cross References

Administration of community colleges; boards of trustees, see section 6306.
Applicability of not-for-profit corporation law, see section 216-a.
Councils of state-operated institutions; powers and duties, see section 356.

New York Codes, Rules and Regulations

Regulations of the board of trustees of the state university, see generally, 8 NYCRR Part 300 et seq.
Student members of college councils, see 8 NYCRR Part 312.

United States Code Annotated

Assistance to privately owned higher education in major disaster areas, see section 636 of Title 15, Commerce and Trade.

Construction, reconstruction and renovation of academic facilities, see section 25 et seq. of Title 20, Education.
Training and fellowship programs for community development, see section 801 et seq. of Title 20.

trustees. Any student attending a community college who is a member or the spouse or the dependent of a member of the armed forces of the United States on full-time active duty and stationed in this state, whether or not a resident of this state, shall be charged the tuition rate for residents as approved by the state university trustees.

[See main volume for text of 9]

(As amended L. 1985, c. 615, § 1.)

1985 Amendment. Subd. 8. L. 1985, inserted "or the spouse or the dependent c. 615, § 1, eff. July 1, 1986, in sentence of a number" beginning "Any student attending" in-

§ 6306. Administration of community colleges—boards of trustees

1. Each community college, except in the city of New York, shall be administered by a board of trustees of ten members, nine of whom shall be appointed for terms of nine years in annual rotation, and one member elected as herein provided, except that initial appointments shall be made for terms of one to nine years respectively. Five members shall be appointed by the local legislative body or board, or other appropriate governing agency, one of whom may be a member of such local legislative body or board, or other appropriate governing agency, four, from among persons residing in the sponsoring community, by the governor and one member elected by and from among the students of the college who shall serve as a member of the board for a one-year term, provided, however, that the term of the student member first elected shall be nine months commencing October first, nineteen hundred seventy-five. The student member shall be afforded the same parliamentary privileges as are conferred upon voting members, including but not limited to the right to make and second motions and to place items on the agenda. Such student member shall be subject to every provision of any general, special or local law, ordinance, charter, code, rule or regulation applying to the members of each board with respect to the discharge of their duties including, but not limited to, those provisions setting forth codes of ethics, disclosure requirements and prohibiting business and professional activities. The election of the student member shall be conducted in accordance with rules and regulations promulgated by the respective representative campus student association in accordance with guidelines established by the state university trustees. In the event that the student member ceases to be a student at the institution, he shall be required to resign. The governor's initial appointments shall be for terms of two, four, six and eight years respectively and those by local authorities for terms of one, three, five, seven and nine years respectively. Vacancies shall be filled for unexpired terms in the same manner as original selections by the authority responsible for the original selection. The board shall select its own chairman from among its voting membership. Where two or more local sponsors join in the establishment of a community college, the apportionment of the appointments among them shall be made by the state university trustees. Trustees shall receive no compensation for their services but shall be reimbursed for their expenses actually and necessarily incurred by them in the performance of their duties under this article. Members initially appointed or elected under this subdivision to the board of trustees of any community college hereafter established shall take office immediately upon their selection and qualification, but for purposes of determining the expiration of their respective terms and the commencement of the terms of their successors, the term of office of each such initial member shall be deemed to have

L. 1985, c. 552, § 17, eff. Apr. 1, 1986, in sentence beginning "No monies appropriated" substituted "the aggregate funds available for expenditure" for "all location".

§ 6233. Reports of the city university trustees [Eff. Apr. 1, 1986.]

1. The trustees of the city university shall make, on or before January first of each year, an annual report of its activities and such recommendations as it may deem appropriate to the board of regents, the governor, the state comptroller and the legislature. This annual report shall include a summary of city university's (1) operations and accomplishments; and (2) revenues and expenditures in accordance with the categories or classifications established by the trustees of the city university for operating and capital outlay purposes.

2. On the fifteenth day of September, November, January, March, May and July of each year, the trustees of the city university shall submit to the chairs of the senate finance committees and the assembly ways and means committee and the director of the budget for informational purposes, bi-monthly reports developed in consultation with the aforementioned chairs and director of all receipts and disbursements of the city university. These reports shall include but not be limited to:

- a. a comparison of actual receipts and disbursements with the state fiscal year expenditure and revenue plan;
- b. an allocation of lump sum grants;
- c. an allocation of lump sum positions;
- d. the reallocation between campuses of personal service based upon full-time equivalent positions;
- e. transfers to other than personal service and temporary service;
- f. campus allocation changes; and
- g. identification of any revenue shortfalls, deficiencies, surpluses, or budgetary savings by the governor.

(Added L. 1985, c. 552, § 18; amended L. 1985, c. 553, § 1, L. 1985, c. 554, § 14.)

1985 Amendments. Subd. 2, opening June, August, October, December, February and April of each year, the "The" and deleted "the fifteenth day of June, August, October, December, February and April of each year" following "the city university".

Effective Date. Section effective Apr. 1, 1986, pursuant to L. 1985, c. 552, § 22, as renumbered by L. 1985, c. 555, § 1, eff. Apr. 1, 1986.

ARTICLE 126—COMMUNITY COLLEGES AND STATE-AIDED FOUR-YEAR COLLEGES

§ 6305. Non-resident and out-of-state students

[See main volume for text of 1 to 7]

8. [Eff. July 1, 1986.] Part-time and out-of-state students shall be charged each tuition and fees as may be approved by the state university

1985 Amendment. Subd. 1. L. 1985, c. 46, § 2, eff. Sept. 1, 1985, in sentence beginning "Six members shall" deleted "non-voting" preceding "member of the"; in sentence beginning "The student member" substituted "The student" for "Except as to the authority to cast votes such non-voting"; and in sentence beginning "Such student member," substituted "student" for "non-voting" and deleted "voting" preceding "members of such".

Library References

Colleges and Universities ¶4, 7.
C.J.S. Colleges and Universities §§ 9, 16 et seq.

ARTICLE 129—STATE AID FOR CERTAIN INDEPENDENT INSTITUTIONS OF HIGHER EDUCATION

§ 6401. State aid for certain independent institutions of higher learning

(See main volume for text of 1 and 2)

3. Degree awards. The amount of such annual apportionment to each institution meeting the requirements of subdivision two of this section shall be computed by multiplying by not to exceed six hundred dollars the number of earned associate degrees, by not to exceed one thousand five hundred dollars the number of earned bachelor's degrees, by not to exceed nine hundred fifty dollars the number of earned master's degrees, and by not to exceed four thousand five hundred fifty dollars the number of earned doctorate degrees, conferred by such institution during the twelve-month period next preceding the annual period for which such apportionment is made, provided that there shall be excluded from any such computation the number of degrees earned by students with respect to whom state aid other than that established by this section is granted directly to the institution, and provided further that the amount apportioned for an associate degree shall be awarded only to two year institutions qualifying under subdivision two of this section. The regents shall promulgate rules defining and classifying professional degrees for the purposes of this section. Institutions qualifying for state aid pursuant to the provisions of paragraph (b) of subdivision two of this section shall, for purposes of this subdivision, be deemed to be the institutions which confer degrees. For purposes of this subdivision, a two-year institution which has received authority to confer bachelor degrees shall continue to be considered a two-year institution until such time as it has actually begun to confer the bachelor's degree.

(See main volume for text of 4 and 5)

(As amended L. 1985, c. 45, § 1.)

1985 Amendment. Subd. 3. L. 1985, c. 45, § 1, eff. July 1, 1985, in sentence beginning "The amount of" substituted "six hundred" for "four hundred fifty", "one thousand five hundred" for "one thousand two hundred", "nine hundred fifty" for "nine hundred", and "four thousand five hundred fifty" for "four thousand five hundred".

ARTICLE 125-A—REGULATION BY COLLEGES OF CONDUCT ON CAMPUSES AND OTHER COLLEGE PROPERTY USED FOR EDUCATIONAL PURPOSES

§ 6450. Regulation by colleges of conduct on campuses and other college property used for educational purposes

Notes of Decisions

1. Conduct of students—Authority of college
Power of administrators of a state university to exclude individuals to maintain order and secure the safety of others on the campus does not sanction orders based directly or indirectly on race, creed, color, national origin, sex, disability or marital status of the person sought to be excluded. *People v. Leonard*, 1984, 62 N.Y.S.2d 404, 477 N.Y.S.2d 111, 465 N.E.2d 831.

Although administrators of a state university have broad power and great flexibility in maintaining order and securing the safety of others on the university campus, that power is not absolute. *People v. Leonard*, 1984, 62 N.Y.S.2d 404, 477 N.Y.S.2d 111, 465 N.E.2d 831.

2. Privileged conduct

Excluding from college campuses individuals who have flouted basic rules of order does not implicate the broad concept of freedom of movement embraced in the constitutional right to travel. *People v. Leonard*, 1984, 62 N.Y.S.2d 404, 477 N.Y.S.2d 111, 465 N.E.2d 831.

ARTICLE 180—OPPORTUNITY FOR HIGHER EDUCATION

Section

6454. Science and technology entry program [New].

1 Another article 180 is set out post.

§ 6454. Science and technology entry program.

1. As used in this section:
 - a. "Council" means the council on professional career opportunity created pursuant to article forty-four of the executive law.
 - b. "Eligible students" shall mean secondary school students who are either economically disadvantaged or minorities historically underrepresented in the scientific, technical, health, and health-related professions as defined by the regents after consultation with the council, and
 - c. "Eligible applicant" shall mean an institution of postsecondary education or a consortium of such institutions.
2. The purpose of the science and technology entry programs shall be to assist eligible students in acquiring the skills, attitudes and abilities necessary to pursue professional or pre-professional study in post-secondary degree programs in scientific, technical and health-related fields.
3. Grant applications submitted by eligible applicants shall outline a plan of instruction and curriculum-related activities and services to advance the purpose of the science and technology entry program. Such plans may provide for contracting by the eligible applicant with specified not-for-profit community based educational organizations for the provision of instruction, activities and services outlined in the plan. Such plans shall include quantifiable measures to assess the effectiveness of the instruction, activities and services in promoting the purposes of the science and technology entry program. Such measures shall include, but not be limited to:
 - a. the persistence rate of participating students in selected and completing mathematics and science courses in an academic program in their subsequent years in high school;

- b. the college placement rate of participating students in professional or pre-professional programs in scientific, technical, or health-related fields. Such approved plans may be amended with the approval of the commissioner.
4. Eligible applicants receiving grants pursuant to this section shall provide a program of instruction and curriculum-related activities and services to advance the purpose of the science and technology entry program. The curricula of these programs shall, to the extent practicable, emphasize the concrete aspects of the scientific, technical or health-related discipline as it relates to a professional career, through laboratories, relevant work experience opportunities, or similar activities. In addition to specialized instruction, programs funded pursuant to this section shall provide participating students with personal, career and financial aid counseling to ensure that such students are fully aware of the opportunities and necessary preparations for professional careers in scientific, technical, or health-related fields.
5. a. Grants shall be awarded to eligible applicants based upon criteria established by the commissioner after consultation with the council, including, but not limited to, the following:
- (1) an established record of conducting effective collaborative educational programs with neighboring secondary schools;
 - (2) the ability and willingness to cooperate with other postsecondary institutions in operating a program funded pursuant to this section;
 - (3) the capacity to secure or provide additional support in amounts equal to at least twenty-five percent of the grant sought under this section through private and other governmental sources and through in-kind services;
 - (4) a location within a school district with an enrollment comprised of at least twenty-five percent minority group students or a location near such a district that is accessible by public transportation.
- b. The commissioner shall select the grant recipients after consultation with the council. To the fullest extent practicable the commissioner and the council shall ensure that grants are awarded to eligible applicants in a diversity of regions of the state.
6. To be selected to participate in a program funded pursuant to this section, an eligible student must exhibit the potential for college level study if provided with special services, as indicated by academic record, test scores, attendance record, personal references, and other measures deemed appropriate by the commissioner.
7. No grant pursuant to this section shall exceed one hundred thousand dollars to any eligible applicant in a single state fiscal year.
8. The commissioner is authorized to require eligible applicants receiving funds pursuant to this section to report periodically upon:
- a. compliance with the approved plan;
 - b. the objectives of the applicant's program;
 - c. the curricula and the activities and services offered by the program;
 - d. the sources of support and the expenditures of the program;
 - e. the background and progress of students selected to participate in the program;
 - f. the performance of the program in meeting the evaluation standards established pursuant to this section; and
 - g. other matters the commissioner deems appropriate.

9. The commissioner shall report annually to the governor and the legislature on or before February fifteenth upon the programs receiving funds pursuant to this section, and upon the costs and effectiveness of those programs.

(Added L.1985, c. 31, § 14.)

Effective Date. Section effective Apr. 16, 1985, c. 31, eff. Apr. 16, 1985, set out as a note under section 940 of the Executive Law.

Termination of Scholarship Forgiveness Programs. See section 17 of

TITLE VIII—THE PROFESSIONS

ARTICLE 130—GENERAL PROVISIONS

SUBARTICLE 3. PROFESSIONAL MISCONDUCT

Section

6510-b. Temporary surrender of licenses during treatment for drug or alcohol abuse [New].

1 Another article 130 is set out ante.

SUBARTICLE 1. INTRODUCTORY SUMMARY

§ 6500. Introduction

United States Olympic Committee Appointees—Professional Services Rendered within State by Out-of-State Licensees. L.1985, c. 30, § 1, eff. Apr. 16, 1985, provided: "Notwithstanding any inconsistent provision of law, any person who is licensed to practice as a physician, physician's assistant, masseur, physical therapist, chiropractor, dentist, dental hygienist, veterinarian, nurse, podiatrist or optometrist in another state or territory, and who has been appointed by the United States olympic committee to provide professional service at an event in the state sanctioned by such committee, may provide such professional services to athletes and team personnel registered to train at the olympic training center or registered to compete in an event conducted under the sanction of the United States olympic committee in the state without first being licensed pursuant to the provisions of title VIII of the education law [this title]. Such services shall be provided only during the time period specified by the United States olympic committee."

SUBARTICLE 2. STATE MANAGEMENT

§ 6506. Supervision by the board of regents

Notes of Decisions

12. — Fee splitting
State-chartered medical school, which had implied powers to permit its licensed faculty members to conduct, and its students to participate in, clinical programs but which did not itself possess a license to practice medicine, was not prohibited from splitting income produced from the clinical practice with the faculty members. Albany Medical College v. McShane, 1984, 104 A.D.2d 119, 481 N.Y.S.2d 917.

Howatt, Gordon

From: Bukovan, Denise [BUKOVADE@sysadm.suny.edu]
Sent: Wednesday, February 27, 2002 9:37 AM
To: CCBOA-L@LS.SYSADM.SUNY.EDU
Subject: Revised Code
Importance: High

To: Community College Presidents

cc: Business Officers

From: Robert T. Brown

Date: February 27, 2002

Re: Revised Code

Attached please find the most current version of the proposed revised Official Compilation of Codes, Rules and Regulations of the State of New York Code of Standards and Procedures for the Administration and Operation of Community Colleges, Under the Program of the State University of New York, Title 8, Parts 600-607 (note it is 52 pages). We have also included a summary of all changes as well as a summary of the major changes.

Two additional changes were made subsequent to the version you last received in December:

1. In section 602.4(d)(26), scholarships are added as an allowable expense.
2. In section 602.1(e), the option of classifying interest income as revenue in lieu of sponsor share was added.

The proposed code revisions are currently at the first step of the rulemaking process. They are under review by the Governor's Office of Regulatory Reform ("GORR"). Once an approval letter is obtained from GORR, then the proposed reg will be filed with the Department of State and published in the State Register. Publication in the State Register commences a 45 day public comment period. At the end of the comment period, the final regulations will be adopted by the SUNY Board of Trustees. The regulations become final when published in the State Register after their final adoption by the SUNY Board of Trustees. We anticipate that the rulemaking process will conclude in June. However, this is contingent upon receiving authorization to proceed from the Governor's Office of Regulatory Reform by the end of March.

If you have any questions, please give me a call.

Attachments:
Executive Summary (major changes)
Full Summary (all changes)
Code with proposed changes

<<Code Review Briefing Document.doc>> <<FINAL Summary of Revisions.doc>> <<FINAL Code Full Text.doc>>