

TITLE 3: HUMAN RESOURCES
DIVISION 1: EDUCATION

§ 1316. Board of Regents: Duties of the Board.

The board has the following duties:

(a) To hold in trust for the Commonwealth the property and assets of the college, and to have the authority to negotiate loan guarantees and, with the approval of the Commonwealth Development Authority, issue bonds.

(b) To set the goals and general directions of the college, and to approve policies in pursuit of such goals and directions.

(c) To authorize the granting of degrees, certificates of accomplishment and other documents of successful program completions the board may direct.

(d) To review eligibility based on established policy or criteria and to establish awards for all publicly funded financial assistance for the postsecondary education of Commonwealth students within the Commonwealth.

(e) To adopt, amend and repeal policies governing the conduct of its business and the performance of the powers and duties granted to or imposed upon it by law or the Constitution. Any action of the board shall require a majority vote of the members present, a quorum being present.

(f) To elect and to set the terms, within the law, of its own officers.

(g) To acquire for use by the college any property, whether real, personal or mixed, whether tangible or intangible, or any interest therein, and to sell, lease or otherwise dispose of the same for the good of the college; provided, that any real property granted to the college without cost by any legal entity capable of receiving and holding public land shall revert to the Commonwealth government or the legal entity upon determination by the board that the college will make no further use of the property.

(h) To accept on behalf of the college gifts, grants, donations, bequests, a United States Department of Agriculture Land Grant Endowment, Educational Tax Credits or other contributions and to deposit the same in a college trust fund for the exclusive use and expenditure of the college and for the specific program purposes as stipulated by the requirements and regulations set forth by the Land Grant Endowment. The college trust fund shall be invested with care, skill, prudence and diligence in fixed income and/or equity holdings. The interest earned from such investments shall be used for payment of bonds and for other related purposes. The board shall cause to be kept suitable books of account wherein shall be recorded each gift, grant, donation, bequest, endowment, Educational Tax Credit, or other contribution, the essential facts of the management thereof, and the expenditures of the income, and a detailed financial statement of the aforementioned suitable books of account of all trust funds shall be included in the annual financial report submitted to the Governor and the Legislature as mandated in 3 CMC § 1316(y).

(i) To establish and to oversee the activities of a Northern Marianas College Foundation as a private, nonprofit, tax exempt public corporation for the support of the college, and for the purpose of caring for such activities as those stated in subsections (g) and (h) of this section.

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(j) To act as the state board of higher education for the Commonwealth for purposes of federal law.

(k) To serve as the official coordination agency of the Commonwealth for all postsecondary education within the Commonwealth, with power to license, limit and otherwise regulate, consistent with the purposes of this chapter, any postsecondary educational activities offered by any public or private agency.

(l) In consultation with the Governor, to approve the budget of the college and to have the budget submitted to the legislature pursuant to 1 CMC § 7206.

(m) To set the salary for and to appoint and remove the president of the college for such term as the board shall determine; provided, that an initial appointment of any individual shall be for a period not to exceed two years and no appointment shall be for a period to exceed four years. Nothing in this chapter shall preclude renewal of such appointment by the board if it so wishes. The board shall define the duties and responsibilities of the president by adopted rules.

(n) To appoint and to terminate the president, officers, faculty employees and staff of the college, and consistent with its adopted rules and regulations, to specify their responsibilities and authority, and to set classifications and salaries.

(1) The college is specifically exempted from the 1984 Compensation Adjustments Act (1 CMC division 2, part 2, chapter 4), as amended [1 CMC § 8241 et seq.]; and the Commonwealth Salary Act of 1988 (1 CMC division 2, part 2, chapter 1), as amended [1 CMC § 8211 et seq.].

(o) To issue, in the name of the college, diplomas, certificates and other official documents indicating successful completion of courses of study established within the college.

(p) To set, charge, and collect the tuition (resident and nonresident), fees, and other charges for college services and to deposit the same in the College General Fund that will be deposited at federally-insured banking institutions in the Commonwealth. The tuition fee for resident and nonresident students shall be established and approved by the board. The board shall adopt the necessary rules defining residence for tuition and fees herein; provided that the basic rules shall be that a student shall qualify for the resident tuition fee only if the adult student, or in the case of a minor student, the student's parents or guardians, has been a bona fide resident of the Commonwealth for at least twelve consecutive months next* preceding the student's first day of officially scheduled instruction for any semester or term in which the student is enrolling at the college.**

(q) To hold at least one public hearing annually for the purpose of making the college's work known and investigating and assessing the needs and role of the college in the Commonwealth.

(r) By the authority and power vested in the board by the Commonwealth Constitution and this chapter, the board may delegate such power and authority to any officer, employee or committee as the board may designate by adopted rules. The rules shall prescribe the limits of such delegation.

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(s) To enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of its business and on such terms as it may deem appropriate with any agency or instrumentality of the United States, or with any state, Commonwealth, territory, or possession, or with any political subdivision thereof, or with any person, firm, association, or corporation.

(t) To determine the character of and the necessity for its obligations and expenditures, and the manner in which they shall be incurred, allowed and paid, subject to provisions of law applicable to the college.

(u) To execute, in accordance with its bylaws, all instruments necessary or appropriate in the exercise of any of its powers.

(v) To establish procurement policies for the college, and to expend funds by the federal or Commonwealth government or donated to the college by any other entity according to the Constitution, Article X, Section 8, and Commonwealth law.

(w) To take such actions as may be necessary or appropriate to carry out the powers conferred upon it by law and the Commonwealth Constitution.

(x) To submit an annual budget for the operation and administration of the college to the Governor pursuant to 1 CMC § 7206.

(y) To submit to the Governor and the legislature within 120 days after the end of the fiscal year an annual financial report that follows acceptable accounting practices, including all revenue collections, line item expenditures, banking reports, a college trust fund report, and including an annual accomplishment report of the operations, administration and activities of the college.

(z) Nothing in this chapter shall be construed to impair or diminish the power and authority of the board as specified by the Commonwealth Constitution.

* As stated in PL 17-47.

Source: PL 4-34, § 11; amended by PL 8-18, § 10; PL 9-53 § 6; modified; PL 10-77, § 4, modified; subsections (a) and (h) amended by PL 11-85, §§ 4 and 5, respectively; subsection (p) amended by PL 12-47, § 3; (h),(p),(s),(v) and (y) amended by PL 17-47 § 2 (July 9, 2011).

Commission Comment: PL 10-77, the “Higher Education Act of 1997,” took effect December 24, 1997. Section 4 of PL 10-77 amended subsection (n) of this section. PL 10-77, §§ 1, 2 and 3 state as follows:

Section 1. Short Title. This Act shall be known and cited as the “Higher Education Act of 1997.”

Section 2. Findings. The Legislature finds that for the third consecutive six-year term, the Northern Marianas College has received full accreditation from the Western Association of Schools and Colleges. The Legislature continues to recognize that accreditation is dependent upon the Board of Regents maintaining its constitutionally created autonomy. The Legislature also recognizes that one of the Board of Regent's primary duties is selecting a President for the College and being able to set the

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compensation and salary of its Chief Executive Officer (CEO), faculty and staff.

Section 3. Purposes. The purpose of this Act is to clarify ambiguities in the law and confirm that the Board of Regents shall have sole power and authority to set the salaries for the Chief Executive Officer, faculty and staff of the Northern Marianas College.

PL 11-85 which amended subsections (a) and (h) took effect on July 21, 1999. PL 11-85 contained short title, findings, purpose, severability, and savings clauses as follows:

Section 1. Short Title. This Act shall be known as the “Postsecondary Education Amendment Act of 1999”.

Section 2. Findings. The Legislature finds that the Northern Marianas College has received an endowment from the United States Department of Agriculture for the purpose of investing such funds for the benefit of the Land Grant Program, and that the College may also be eligible for other federal endowments.

Section 3. Purpose. The purpose of this Act is to provide the Board of Regents with the authority to invest Land Grant Endowment Funds and other funds donated or raised by the College in a manner that will yield a fair and reasonable rate of return.

...

Section 6. Severability. If any provision of this Act or the application of any such provision to any person or circumstance should be held invalid by a court of competent jurisdiction, the remainder of this Act or the application of its provisions to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

Section 7. Savings Clause. This Act and any repealer contained herein shall not be construed as affecting any existing right acquired under contract or acquired under statutes repealed or under any rule, regulation or order adopted under the statutes. Repealers contained in this Act shall not affect any proceeding instituted under or pursuant to prior law. The enactment of this Act shall not have the effect of terminating, or in any way modifying, any liability, civil or criminal, which shall already be in existence on the date this Act becomes effective.

PL 12-47, which amended subsection (p), took effect on April 26, 2001. PL 12-47 contained the following short title, findings and purpose, severability, and savings clause provisions:

Section 1. Short Title. This act may be cited as the “Postsecondary Education Amendment Act of 2002.”

Section 2. Findings and Purpose. The Legislature finds that:

- a) it is necessary for the board to establish both resident and nonresident tuition fee[s] without constraint; and
- b) Existing authority of the board is limited to the establishment of nonresident tuition at not less than two times the fee for resident students.

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The purpose of this amendment is to empower the board to establish both resident and nonresident tuition fees determined by the board to be reasonable.

...

Section 4. Severability. If any provision of this Act or the application of any such provision to any person or circumstance should be held invalid by a court of competent jurisdiction, the remainder of this Act or the application of its provisions to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

Section 5. Savings Clause. This Act and any repealer contained herein shall not be construed as affecting any existing right acquired under contract or acquired under statutes repealed or under any rule, regulation or order adopted under the statutes. Repealers contained in this Act shall not affect any proceeding instituted under or pursuant to prior law. The enactment of this Act shall not have the effect of terminating, or in any way modifying, any liability, civil or criminal, which shall already be in existence a the date this Act becomes effective.

Public Law 17-47 was enacted on July 9, 2011 to change the financial duties of NMC “to ensure better NMC fiscal responsibility and compliance with CNMI law.” PL 17-47 § 1.

**Public Law 17-78 (effective August 17, 2012) temporarily amended subsection (p) from August 17, 2012 until August 17, 2014 as follows:

(p) To set, charge, and collect the tuition (resident and nonresident), fees, and other charges for college services and to deposit the same in the College General Fund. The tuition fee for resident and nonresident students shall be established and approved by the board. The board shall adopt the necessary rules defining residence for tuition and fees.

Section 3 (the sunset clause) of PL 17-78 provides:

The authorization provided under this Act shall expire two (2) years after the effective date of this Act or September 30, 2014, whichever comes first.