

VERMONT STATE COLLEGES

MANUAL OF POLICIES AND PROCEDURES

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Chapter 72. Vermont State Colleges

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- § 2171. Corporation established; purposes; powers
- (a) There is hereby created as a part of the educational system of the State of Vermont a public corporation to be known as “Vermont State Colleges,” which shall plan, supervise, administer and operate facilities for education above the high school level supported in whole or in substantial part with state funds; however, while the corporation shall maintain cooperative relations with the University of Vermont and State Agricultural College, nothing in this chapter shall give the corporation any responsibility for the planning, supervision, administration or operation of the university.
 - (b) The corporation shall own the real and personal property of the Castleton, Johnson and Lyndon teachers colleges and Vermont Agricultural and Technical Institute and of other state operated institutions of higher education which may be

established. It shall protect, preserve and improve the property and promote its use as institutions of higher education.

- (c) The corporation may acquire, hold and dispose of property in fee or in trust, or any other estate, except as provided in subsection (d) of this section, shall have a common seal and shall be an instrumentality of the state for the purposes set forth in this section. The state of Vermont shall support and maintain the corporation.
- (d) The corporation shall not abandon, lease, sell or dispose of any of the institutions under its control unless such action is specifically authorized by the general assembly. The terms of any such sale, lease or other disposal shall be prescribed by the department of administration, with the approval of the governor, within the terms of the authorization of the general assembly.
- (e) The corporation may make expenditures for capital improvements. The corporation is authorized to borrow money for building purposes, to give security therefore as may be required, to execute necessary or proper instruments in connection therewith, and is also authorized to accept, sue and administer such funds as may be made available to it for any of its corporate purposes by the United States or any of its agencies, and to agree to any terms and conditions with reference thereto which may be required thereby not inconsistent with its corporate purposes.

History

Amendments - 1963. Subsection (e): Added.

Effective dates, 1961, No. 247, § 5, PROVIDED: “This act shall take effect upon passage but the operative date (1) as to the vesting in the corporation of the ownership of the property of those existing institutions for which the corporation is to be responsible, (2) as to section 4 (which repealed §§ 101-106. 143 (5), 145 and chapters 71 and 73 of this title) of this act, and, (3) as to commencement of performance by the corporation of its obligation to supervise, administer and operate the institutions shall be as determined by the board of trustees but in no event later than July 1, 1962.”

Transfer. 1961, No. 247, § 2, Eff. July 28, 1961, provided: “All the real and personal property of the Castleton, Johnson and Lyndon teachers colleges and the Vermont Agricultural and Technical Institute is hereby transferred to the Vermont State Colleges together with all the rights, powers, duties and obligations of those institutions incurred before the operative date of this act, including but not limited to duties and obligations toward students attending or enrolled in the institutions before the effective date of this act.”

Annotations

Control of students, 4	Sale of property, 1
Immunity from suit, 3	Trust funds, 2

1. Sale of property. Subsection (d) does not apply to dispositions of property where abandonment by the state of the particular educational institutions involved or the closing down of the operations of same does not result therefrom. 1962-64 Op. Atty. Gen. 430.
2. Trust funds. Vermont State Colleges as the successor in interest of Vermont Agricultural and Technical Institute at Randolph Center and Castleton teachers college in Castleton under this section, became responsible for the administration of certain bequests and trust funds held on behalf of these institutions by the state treasurer of Vermont, and transfer of the said funds should be made to the trustees of Vermont State Colleges, 1962-64 Op. Atty. Gen. 433.
3. Immunity from suit. State university which was organized as public corporation with all rights and powers incident to corporations was not immune from suit under U.S. Const. Amend. II prohibition against actions against state by non-residents. Connelly v. University of Vermont and State Agr. Col. (D.C. Vt. 1965) 244 F. Supp. 156.
4. Control of students. School authorities have absolute discretion in determining whether a student has been delinquent in his studies.

Connelly v. University of Vermont and State Agr. Col. (D.C. Vt. 1965)
244 F. Supp. 156.

Whether dismissed medical student should or should not have received passing grade for period in question was matter wholly within jurisdiction of school authorities who alone were qualified to make determination, and allegation that university student should have received a passing grade was not subject for judicial review and complaint failed to state claim upon which relief could be granted. Id.

Rule of judicial nonintervention in scholastic affairs is particularly applicable in case of medical school which must be the judge of student qualifications and courts are not supposed to be learned in medicine and are not qualified to pass opinion to attainments of student in medicine. Id. College student dismissal, motivated by bad faith, arbitrariness or capriciousness may be actionable. Id.

If it were determined that instructor in state college of medicine acted arbitrarily, capriciously or in bad faith in failing student, court could order defendant university to give dismissed medical student fair and impartial hearing on his dismissal order. Id.

1973 (Adj. Sess.) amendment. Subsection (e): Provided for capital improvements and specific legislative approval.

5. Guarantee on loans. The Vermont State Colleges cannot guarantee or be surety on or take a second mortgage on premises purchased by faculty members to assist the faculty members in purchasing residential properties. 1968 Op. Atty. Gen. No. 84.

§ 2172. Trustees, appointment, vacancies

(a) The corporation shall be governed by a board of 15 trustees who shall be appointed as follows:

(1) Biennially the governor, with the advice and consent of the senate, shall appoint trustees to serve for six-year terms expiring March 1 of the year of the biennial session. Nine trustees may be in office at one time under this division. In the event of any vacancy occurring between biennial sessions in an office under this division, the governor pursuant to Title 3, § 257, shall fill the same, which appointment shall terminate March 1 in the year of the next following biennial session.

(2) One trustee shall be a student trustee:

(A) who shall be a matriculated student at an educational institution operated by the Vermont State Colleges corporation;

(B) who shall be pursuing a degree program; and

(C) who shall have reached the age of majority.

The student trustee shall serve a one-year term expiring on June 1. The student trustee shall be appointed, and a vacancy may be filled, from among those eligible students applying for the position by the decision of those members of the steering committee of the Vermont State Colleges student association who have been elected at large to that committee by the students at their respective colleges. No college may be represented by a student trustee for more than two consecutive terms, and no student trustee may serve more than two consecutive terms.

(3) Four trustees shall be legislative trustees who are members of the general assembly at the time of their election. Legislative trustees shall serve four-year terms expiring on March 1 of the second year of the biennial session, and they shall be elected by joint assembly of the legislature. Vacancies for any cause shall be filled by the general assembly at the next session and the term of a person so appointed shall expire on March 1 of the next even numbered year.

- (b) Appointments by the governor and elections by the general assembly shall be made with consideration of the geographic distribution of members to prevent an unfair focus on any single college.
- (c) No trustee shall be a member of the board of trustees of the University of Vermont - Amended 1977, No. 188 (Adj. Sess.), § 1, Eff. April 5, 1978.

Annotations

- 1. Duties. Implied duties of the trustees include the protection and preservation of property which would in part be carried out through the acquisition of insurance coverage and the determination of the amount and type thereof. 1962-64 Op. Atty. Gen. 292.
- 2. Compatibility of offices. Federal customs inspector holds an office under authority of congress within meaning of chapter II, section 50 of Vermont constitution and hence is ineligible for appointment to board of trustees of Vermont State Colleges. 1962-64 Op. Atty. Gen. 119.

Continuation of term. 1977, No. 188 (Adj. Sess.) § 3, Eff. April 5, 1978, provided: “The board of trustees of the Vermont State Colleges corporation, as altered by this act (which amended this section and section 2173 of this title), is a continuation of that board as formally constituted. This act shall not shorten the term of any incumbent trustee.”

Appointment of legislative trustees. 1977, No. 188 (Adj. Sess.), § 5, Eff. April 5, 1978, provided: “Upon the passage of this act (April 5, 1978), the speaker of the house shall appoint two senators whose term as legislative trustees shall be from the date of their appointment until March 1, 1980.”

Transitional provisions, 1977, No. 188 (Adj. Sess.) § 4, Eff. April 5, 1978, provided: “The general assembly shall meet in joint session in 1980 and it shall elect legislative trustees to serve as follows:

- (1) two trustees to serve a term expiring March 1, 1982
- (2) two trustees to serve a term expiring March 1, 1984”.

§ 2173. Board of Trustees; organization

In addition to the fourteen elected and appointed trustees, the board of trustees shall include as a member the governor of the state of Vermont. A majority of the trustees shall constitute a quorum for the transaction of business. At the first meeting of the board and annually thereafter the board shall elect one of its voting members to serve as chairman. - Added 1961, No. 247, § 1, eff. July 28, 1961; amended 1977, No. 188 (Adj. Sess.), § 2, eff. April 5, 1978.

§ 2174. Board of trustees; power

The board of trustees may confer such honors and degrees as are usually given in colleges and universities and any other appropriate degrees, and may elect a president, a secretary, a director of educational affairs and a director of financial affairs; it may also appoint necessary officers for each institution under its control, professors and instructors and any other necessary members of staff and prescribe their duties, salaries and terms of office. The board shall make by-laws and regulations for the government of its meetings and each institution under its control prescribing among other things, the terms of admission, courses of instruction, educational standards, rates of tuition, scholarships and other student aids. - Added 1961, No. 247, § 1, Eff. July 28, 1961.

Cross references. Residency for instate tuition purses, see § 2282a of this title.

§ 2175. Tenure; retirement system

The by-laws shall contain regulations concerning tenure for the teaching faculty and terms of employment for other members of staff, but without diminishing the rights as to tenure and status now held by those officers and employees transferred to the corporation from the other state institutions replaced by this corporation. The corporation may deduct from funds appropriated to it for salaries, employer contributions to retirement system established by its board of trustees or to such other retirement system as the board may choose. - Added 1961, No. 247, § 1, Eff. July 28, 1961.

Annotations

1. Filing with federal government. Vermont State Colleges is an instrumentality of the state and as a part of the educational system of the state is exempt from disclosing the operations of its retirement plan to the secretary of labor under the provisions of 29 U.S.C. § 303, 1962-64 Op. Atty. Gen. 432.

§ 2176. Procedures relating to accounting.

The corporation shall develop, administer and install procedures relating to accounting practices, control of expenditures, budgets, audits and purchase of supplies. The fiscal year of the corporation shall be July 1 to June 30 and its fiscal biennium shall be the period of two successive fiscal years beginning July 1 of each odd numbered year. - Added 1961, No. 247, § 1, Eff. July 28, 1961.

§ 2177. Controls and audits; financial reports; other reports.

- (a) Control of funds appropriated and of the work carried on shall be vested in the board of trustees.
- (b) The books and accounts of the corporation shall be audited annually as of June 30 under the supervision of the auditor of accounts who shall publish the audit report in detail.
- (c) The trustees on or before October 1 in every even numbered year shall file with the commissioner of administration and with the state treasurer statements showing in detail the amount appropriated to the corporation and expended for the current fiscal biennium as required by law in the case of the head of each department of the state.
- (d) Biennially the corporation shall report to the legislature on the activities of the corporation during the preceding biennium.
- (e) With the approval of the governor the commissioner of administration, through the budget director or such divisions of the department of administration as the commissioner may designate, shall have the following powers, duties and functions:
 - (1) The authority to allot from time to time to the corporation the appropriation made by the general assembly for the corporation. The allotment may be made on a monthly basis or as the work of the corporation may progress;
 - (2) The keeping of such controlling accounts as may be necessary in order to determine the accuracy and limit of the expenditures made under the allotments;
 - (3) Have access to and the right to copy and records of the corporation under such regulations as the governor may prescribe.

The corporation shall be governed by the allotments made as provided herein and shall not at any time exceed the sum thus allotted. But nothing contained herein shall authorize any decrease in any appropriation by the commissioner or any division director, except to the extent that actual annual receipts are less than estimated receipts. - Added 1961, No. 247, § 1, Eff. July 28, 1961.

History

Revision note. Subsection (e) of this section was originally classified to § 2180 of this title pursuant to the provisions of 1961, No. 247, § 1. It was reclassified to this section to correct an apparent error in the slip law and to conform to 1961, No. 247 as it appears in the session laws, “Laws of Vermont 1961”.

1. Public inspection. The public is not entitled to examine the financial records and documents of the Vermont State Colleges and the University of Vermont, but is entitled to examine detailed reports on and audits of the records. 1972 Op. Atty. Gen. 73.

§ 2178. Tax exemption

All real and personal property owned by the corporation shall be exempt from taxation. - Added 1961, No. 247, § 1, Eff. July 28, 1961.

§ 2179. Nonapplicability of certain statutes

Except as expressly provided in this chapter, the corporation, the officers and employees shall not be governed by: (1) chapter 9 of Title 3, dealing with administrative departments; (2) chapter 13 of Title 3, dealing with classification of state personnel; (3) chapter 13 of Title 3, dealing with state employees retirement system except as may be otherwise agreed by the board of trustees of the system and the board of trustees of the corporation with respect to those officers and employees of the corporation transferred to the corporation from the state institutions replaced by the corporation; (4) chapter 55 of this title, dealing with the state teachers retirement system except as may be otherwise agreed by the board of trustees of the system and the board of trustees of the corporation with respect to those officers and employees of the corporation transferred to the corporation from the state institutions replaced by the corporation; (5) chapter 7 of Title 32, dealing with public moneys; (6) chapters 3 and 5 of this title, dealing with the state board of education and the commissioner of education; (7) chapter 49 of Title 29, dealing with supplies, duties of purchasing director as to purchases

of material, supplies or equipment except upon request of the corporation, or (8) chapter 5 of Title 29, dealing with the state buildings division, except that any construction of buildings by the corporation shall be under the supervision of the state buildings director. - Amended 1973, No. 240 (Adj. Sess.), § 2 Eff. April 8, 1974.

History

Amendments - 1967. In item (7) beginning “chapter 50 of Title 29,” changed words “where the purchase price concerned is less than \$100.00” to “except upon request of the corporation”.

Revision note. Reference to chapter 51 of Title 29 was changed to chapter 50, since chapter 51 was repealed by 1959, No. 328 (Adj. Sess.), § 34(e), and similar provisions are contained in chapter 50 of said Title 29.

Revision note. Reference to “chapter 15 of Title 3” was changed to “chapter 16 of Title 3,” since chapter 15 was repealed by 1971, No. 231 (Adj. Sess.), § 5. Section 4 of that act created the new state retirement system in chapter 16.

Reference to “chapter 50 of Title 29” was changed to “chapter 49 of Title 29” to conform to renumbering of that chapter.

1973 (Adj. Sess.), amendment. In item (8) omitted reference to chapter 4; added chapter 5 and exception relating to supervision of construction by state buildings director.

§ 2180. First meeting of board.

The governor shall call the first meeting of the board of trustees. At this meeting the permanent location of the corporation and the place of its principal office in the state of Vermont shall be determined by the board. - Added 1961, No. 247, § 1, Eff. July 28, 1961.

History

Revision note. Subsection (e) classified to this section pursuant to 1961, No. 247, § 1, was reclassified to § 2177 to correct an apparent error in the slip law and to conform to 1961, No. 247 as it appears in the session laws, "Laws of Vermont 1961".

§ 2181. Repealed. 1967, No. 8, § 1.

History

Former § 2181 related to sale or lease of Lyndon teachers college and was derived from 1961, No. 279, §§ 1-3.

For present provision relating to sale or lease of institutions see § 2171 of this title.

§ 2182. Harassment and hazing prevention policies

- (a) The board of trustees of the Vermont state colleges shall adopt and ensure the enforcement of a policy which establishes that harassment as defined in subdivision 11(a)(26) of this title is a form of unlawful discrimination and therefore prohibited. The board shall also require the establishment of procedures for the handling of complaints of discriminatory harassment and the initiation of educational programs designed to prevent such conduct. The policies and procedures shall be in effect by January 1, 1996.
- (b) The board of trustees of the Vermont state colleges shall adopt and ensure the enforcement of a policy prohibiting hazing which contains a definition of hazing

that is at least as stringent as the definition contained in subdivision 11(a)(30) of this title. The policy shall include appropriate penalties or sanctions, or both, for organizations which or individuals who engage in hazing; revocation or suspension of an organization's permission to operate or exist within the institution's purview if that organization knowingly permits, authorizes, or condones hazing; and clear delineation of circumstances under which hazing will be reported to a law enforcement agency. A summary of the policy shall be distributed to all students at least annually. (Added 1993, No. 162 (Adj. Sess.), § 5; amended 1999, No. 120 (Adj. Sess.), § 7.)

§ 2184. School of dental hygiene

- (a) The Vermont State Colleges shall establish and operate a school of dental hygiene for the training of dental hygienists. The colleges shall have the authority to grant certificates of graduation on the successful completion of a two-year course in dental hygiene.
- (b) The general assembly shall appropriate funds to conduct a curriculum of a recognized school of dental hygiene to the state colleges.
- (c) The colleges shall grant special tuition rates to residents of the state who agree to practice dental hygiene in the state for two years following graduation. The colleges shall give preference in admissions to eligible students who are residents of the state.
- (d) The Vermont State Colleges are authorized and empowered to receive from any source sums donated for scholarships or general improvements and may cooperate with the federal government or any agency thereof in securing federal funds for dental hygiene education in the state. (Added 2003, No. 107 (Adj. Sess.), § 11.)

§ 2185. Determination of residency for tuition purposes

Any member of the armed forces of the United States on active duty who is transferred to Vermont for duty other than for the purpose of education shall, upon transfer and for the period of active duty served in Vermont, be considered a resident for in-state tuition purposes at the start of the next semester or academic period. (Added 2003, No. 127 (Adj. Sess.), § 2.)

VERMONT STATE COLLEGES
BY-LAWS*

ARTICLE I - BOARD OF TRUSTEES

Section 1. Board of Trustees

The Board of Trustees is the governing body of the Vermont State Colleges and has complete and full authority over administration and operation, financial affairs, selection and appointment of officers and employees as set forth in No. 247 (H.422) of the Acts of 1961. **

ARTICLE II - MEETINGS

Section 1. Meetings

The Board of Trustees shall hold a minimum of six regularly scheduled meetings during the course of each fiscal year. The annual meeting of the Board shall be the last regular meeting of the fiscal year. Following each annual meeting, the Chair of the Board shall propose a planned schedule of regular meetings for the next fiscal year and the first two meetings of the following fiscal year. At its first regular meeting of the new fiscal year, the Board shall adopt a schedule of its regular meetings for the remainder of the fiscal year and for the first two regular meetings in the following fiscal year. Changes in the scheduled meetings of the Board may be made and special meetings of the Board may be called for other times by the Chair or by any four members of the Board.

Section 2. Notice

Notice of all meetings of the Board shall be given by letter mailed or telegram sent, at least five days before a meeting, to each Trustee at his/her address as it appears on the records of the Corporation.

* Revised 2/11/65; 1/27/67; 2/24/67; 6/23/67; 2/9/68; 1/25/74; 1/24/75; 2/21-22/75; 12/17/77; 6/21/79; 11/17/82; 1/13/92, 9/8/06; 9/30/09; 4/4/13

** Vermont Statutes Annotated 2171 et seq.

Section 3. Quorum

A majority of the trustees shall constitute a quorum, but a lesser number may adjourn a meeting.

ARTICLE III - OFFICERS AND STAFF

Section 1. Officers

The officers of the Board shall be a Chair, a Vice-Chair, a Secretary and a Treasurer. The same person may serve as Secretary and Treasurer.

Section 2. Election

The officers of the Board shall be elected at each annual meeting from among the members of the Board. They shall hold office for one year and until their successors are elected and qualified. In the event of a vacancy in an office, the Board shall elect, in the same manner the office was originally filled, a replacement to serve out the remainder of the term vacated.

Section 3. Staff

The Board shall appoint a Chancellor, a Financial Officer and such other staff as it deems necessary. They shall serve at the pleasure of the Board unless their terms of service are otherwise designated by the Board.

ARTICLE IV - DUTIES OF OFFICERS AND STAFF

Section 1. Chair

The Chair of the Board shall preside at all meetings of the Board. He/She may call special meetings of the Board when he/she deems it necessary. He/She shall appoint members to committees unless otherwise specified.

Section 2. Vice-Chair

The Vice-Chair shall perform the duties of the Chair in his/her absence.

Section 3. Secretary

The Secretary of the Board shall have charge of the Seal of the Corporation, shall be the certifying officer with respect to its records, contracts, and other transactions, and shall keep a record of the proceedings of the Corporation.

Section 4. Treasurer

The Treasurer of the Corporation shall have general supervision of the finances and business transactions of the Corporation. He/She shall make provisions for annual audits. He/She shall be responsible to ensure that there is adequate bond coverage for himself/herself and all officers and employees of the Corporation who may handle money. He/She shall sign in the name of the Corporation such documents and instruments as the Board may direct.

Section 5. Chancellor

The Chancellor of the Corporation shall be the officer referred to in 16 V.S.A. Sections 2173 and 2174 as presiding officer of the Corporation, or President. He/She shall be the chief administrative officer of the Corporation and shall have all the duties, responsibilities and authority that commonly pertain to that position. He/She shall be the agent of the Board in implementing its decisions and policies. He/She shall have general supervision of the academic and business affairs of the Corporation and all other powers accorded to him/her under these By-Laws and the Personnel Handbook. He/She shall be an ex-officio and non-voting member of the Board as he/she deems advisable.

Section 6. Financial Officer

Under the direction of the Chancellor, the Financial Officer shall supervise and direct the financial and business affairs of the Corporation. He/She shall have general responsibilities for keeping of books of account, preparation of budgets, receiving, depositing, withdrawing of monies, investing of funds, and making payments on contracts. He/She shall perform such other duties as may be required of him/her by the Chancellor. He/She is appointed by the Chancellor upon approval of the Board.

ARTICLE V - COLLEGE CHIEF EXECUTIVE OFFICERS

Section 1. President

The President is the Chief Executive and Administrative Officer of a member college. The responsibility for selection of college presidents lies with the Board of Trustees after consultation with the Chancellor and representatives of the affected college, including faculty, staff and students.

The President is directly responsible to the Chancellor for the effective operation of the college within system-wide policies and objectives as approved by the Board of Trustees. The Chancellor exercises direct supervision of the President. The Chancellor shall also make recommendations to the Board, as appropriate, on the compensation, reappointment, non-reappointment and discharge of the President. After considering the Chancellor's recommendations and its own assessment of the President's performance, final authority in these matters shall rest with the Board.

In cases of potential discharge of the President during his/her contract period, the Chancellor has the authority to suspend a President with pay pending Board of Trustees consideration of the matter.

ARTICLE VI – COMMITTEES

Section 1. Establishment of Committees

Committees may be established by resolution of the Board of Trustees, from time to time, as the Board may determine at any regular or special Board meeting.

Section 2. Powers

Each Committee shall have those powers set forth in the resolution establishing the Committee.

Section 3. Membership

No Committee shall have fewer than three (3) members including the Chair of the Board of Trustees. Each Committee member shall be a voting member of the Board of Trustees; provided however, that the Board by resolution may permit others to serve as ex-officio, non-voting Committee members. Each Committee established by the Board shall have a Chair, who shall be a voting member of the Board of Trustees. The Chair and all other Committee members shall be elected in the manner set forth in the resolution creating the Committee. In the event of a vacancy of a committee chair or a committee member, the vacancy shall be filled for the remainder of the term vacated in the same manner as the original appointment or election.

Section 4. Quorum

A majority of voting members is required for the conduct of Committee business, but a lesser number may adjourn a meeting.

Section 5. Meetings

All Committee meetings shall comply with the provision of the open meeting law, 1 V.S.A. 312, et seq.

Section 6. Minutes

Minutes shall be kept of all Committee meetings.

Section 7. Subcommittees

Unless prohibited by the resolution establishing the Committee, any Committee may establish one or more subcommittees, by majority vote of voting Committee members.

ARTICLE VII - POLICY AND PROCEDURE MANUAL

Section 1. Policy and Procedure Manual

The Chancellor shall publish and distribute, after approval of the Board, a Policy and Procedure Manual which shall set forth the official policies and procedures of the Board where not inconsistent with the By-Laws.

Section 2. Approval

A Policy and/or Procedure may be approved at any meeting of the Board, provided such are submitted to the members of the Board at the time of the call of the meeting.

ARTICLE VIII – AMENDMENTS

Section 1. Amendments

The By-Laws may be amended at any meeting by a majority vote of the Board provided notice is given as to substance of the proposal in the call.