

OHIO BOARD OF REGENTS

Agenda Item 3.10 Consideration of changes to Board of Regents' policies regarding tuition limitations, enrollment limitations, state oversight of student housing, two-year campus service districts, and control of the creation of new academic programs

RESOLUTION

WHEREAS, the Ohio Board of Regents was created in the mid-1960s as a coordinating board, with planning, advisory, and recommendatory powers, but few direct governing powers; and

WHEREAS, public colleges and universities in Ohio are governed by their own Boards of Trustees; and

WHEREAS, Boards of Trustees are responsible for the approval of budgets, the appointment of Presidents, and the general management of fiscal affairs, purchasing, curriculum, human resources, and capital resources; and

WHEREAS, despite Ohio's history and philosophy, certain state regulations remain in place that restrict the decision-making authority of Boards of Trustees of state-assisted colleges and universities; and

WHEREAS, these regulations include a) tuition limitations; b) enrollment limitations; c) state oversight of student housing; d) two-year campus service districts; and e) state control over the creation of new academic programs; and

WHEREAS, the Board of Regents has determined that eliminating some of these regulations would restore to Boards of Trustees the authority they need to discharge their legal and fiduciary responsibilities; and

WHEREAS, the Board of Regents has determined that one other of these regulations need to be studied, and one other continued;

NOW, THEREFORE,

BE IT RESOLVED, upon the recommendation of the Chancellor and with the concurrence of the Performance Committee of the Ohio Board of Regents, that the Board hereby supports the elimination of tuition caps, enrollment caps, and Board oversight of student housing.

BE IT FURTHER RESOLVED, that the Board of Regents hereby calls for a study of two-year campus service districts; and endorses the continuation of current policies regarding program approval of new academic programs, and recommends the continual improvement of the policy and process of program review, with a new emphasis on program outcomes.

BE IT FURTHER RESOLVED, that the attached document, "The Case for Further Deregulation of Higher Education in Ohio" provides the basis and supporting documentation for the Board's changes in policy regarding these matters.

The Case for Further Deregulation of Higher Education in Ohio

The Ohio Board of Regents

March, 2001

Background

More than 30 years ago, state leaders across the nation were confronted with a new challenge. The children of the generation that fought and won World War II already had filled the nation's primary and secondary schools beyond bursting. The expected increase in college enrollments threatened to overwhelm the capacity of the nation's colleges and universities to serve them.

States needed new resources, new institutions, and new policies to enable them to serve this "Tidal Wave" of additional students expecting to go to college. Perhaps most importantly, many states needed new decision-making bodies to plan for and implement the future expansion of services and institutions.

Responses to the challenge were varied, but for the most part fell into one of two categories. Some states created a statewide **governing board**, with strong central powers to govern directly the affairs of colleges and universities in the state, including the approval of budgets and the appointment of presidents. Other states opted instead to create a **coordinating board**, characterized with planning, advisory, and recommendatory powers, and few if any direct governing powers. Under such a board, the system of higher education is decentralized, and local control is highly valued. Functionally, this means that the authority for most decisions is delegated to individual institutions of higher education and not to the state.

Ohio's history and politics led it to choose the second path, and the Ohio Board of Regents was created in the mid-1960s as a coordinating board. It has retained that identity ever since.

The Current Higher Education Policy Framework

In most important respects the evolution of state higher education policies in Ohio have reinforced and strengthened a decentralized philosophy. Operationally, that means for example that the Board of Regents' policies are developed in consultation with its partners throughout the state. It also means that the Regents' funding policies generally determine how a campus earns its share of state funds through empirical formulas, but rarely dictate or restrict how those funds may be spent. A few key elements of the decentralized philosophy include the following:

- ❖ **Public colleges and universities are governed by their own Boards of Trustees, most of whom¹ are appointed by the Governor.**
 - The governance responsibility of the Boards of Trustees includes approval of budgets, appointment of Presidents, and general management of fiscal affairs, purchasing, curriculum, human resources, and capital resources.
 - The Board of Trustees and not the state controls the institution's treasury. Operating cash balances may accumulate and are carried over from year to year. Boards of Trustees, however, are ultimately responsible for managing the effects of deficits – if any.
- ❖ **Major state funding mechanisms respect the decentralized nature of higher education in Ohio.**
 - The state's major operating subsidy, which distributes over \$1.6 billion in state funds among 38 institutions via an enrollment-based formula, has been decentralized since the creation of the Regents.
 - Campuses earn state dollars based upon their current mix of programs and students, but are not required to spend their state funds precisely as earned. All other things being equal, the formula rewards low-cost operations and penalizes high-cost operations, and puts a premium on service to students.
 - The state's capital funding policy, which distributes about \$250 million per year, was reformed in the mid-1990s to make it more consistent with a decentralized system of higher education.
 - Prior to that reform, the Board of Regents made most major capital funding decisions in a partially centralized system.
 - The new funding policy allocates capital resources on the basis of a formula based partly on enrollments and other important campus activities, and partly on the age of existing facilities. Allocations are dynamic and changeable, designed ultimately to provide campuses with the resources they need for credit instruction, research, and job-related training, and to renovate or rehabilitate aging facilities.

Remnants of the Past

Despite that history and philosophy, certain state regulations remain in place that restrict the decision-making authority of Boards of Trustees of state-assisted colleges and universities. To the extent that those regulations are unnecessary, they create an unhealthy imbalance between the legal and fiduciary **responsibilities** shouldered by the Trustees and the **authority** they need to discharge those responsibilities. Five of these are listed below and are the subject of the discussion and analysis that follows:

1. Tuition Limitations
2. Enrollment Limitations
3. State Oversight of Student Housing
4. Two-Year Campus Service Districts
5. State Control over the Creation of New Academic Programs

¹ Some members of the Boards of Trustees of Technical Colleges and Community Colleges are appointed by local authorities.

Each regulation has its own history and rationale. This document maintains that changes in the past decades have called into question the need to continue some of those regulations.² Specifically, this paper:

- Supports the elimination of the first three of the regulations -- tuition caps, enrollment caps, and dormitory controls;
- Calls for additional study to consider possible revisions to the fourth – two-year campus service districts, and
- Endorses the continuation of the fifth -- program approval – with a recommendation for continued improvement in both the policy and process of program review, with a new emphasis on outcomes.

Ultimately, changes along the lines suggested here would represent a strong endorsement by the Regents of local control, and should enable Boards of Trustees to manage their affairs more effectively. These changes also would permit and encourage more competition among campuses in the provision of services to students and communities. It is important to stress that the precise consequences of that competition are not known at this time, and that one of the purposes of this paper is to prompt discussion and feedback from campus leaders and other stakeholders about the merits and possible consequences of these policy revisions. All campuses could be challenged to some degree to adapt to the changes. Some campuses will be more successful than others, and will gain enrollments and state support as a result.

Finally, the changes recommended here would not discourage collaboration and in fact may even increase cooperative activity among Ohio's colleges and universities as campuses learn to adapt to a new environment that has fewer regulations and more freedom of action.

² The Regents adopted a policy statement in 1988 that anticipated some of this discussion. The policy, a copy of which is attached in the Appendix, addressed the issue of enrollment limitations and student housing within the broader context of local control and competition. The recommendations of this paper regarding those two issues conform to those made in the 1988 policy statement.

1. Tuition Limitations

Current Policy³

Since the late 1980s, the biennial operating appropriations act has limited the authority of Boards of Trustees of state-assisted colleges and universities to raise instructional and general fees charged to resident undergraduates. Depending on funding levels provided by the state, those limitations have varied historically between 5% and 9%. There is no evidence that fee limitations have ever been applied to graduate student fees, non-resident undergraduate student fees or to the miscellaneous special fees or charges levied on students. Nor have they ever applied to auxiliary fees, such as dining and residence halls, or parking fees. In addition, the General Assembly provides a broad exemption to the fee caps for fees related generally to bond or other legal obligations of the campus. Exemptions also are permitted for “exceptional circumstances.”

Effects of the Current Policy

The ostensible purpose of the fee caps is to make college more affordable for resident undergraduates. However, the state’s experience with the fee caps has been at best equivocal. They are complicated to administer and enforce, are inequitable in their effects, and have perverse unintended consequences. In view of this proposed change and other proposed changes in state policies related to access discussed below, a strong case can be made that the fee caps are unnecessary counterproductive infringements on Trustees’ decision-making powers.

Complex and Inequitable. The complications and inequities are caused by the nature of the fee limitations and their exemptions. The caps apply only to resident undergraduate instructional and general fees, which are defined in the appropriations act as fees that are “uniformly applied.” So, special charges (that is, those that are not uniformly applied to all students) are exempt from the fee caps. Similarly, fee increases related to institutional bond obligations are exempt from the caps. None of those special provisions or exemptions would be a problem if campuses had identical fee structures, resource needs, or budget strategies. However, Ohio’s campuses vary tremendously in the manner in which they generate revenues. That variation is due to a number of factors, including size, enrollment patterns, mission, age, and location of the campus. Because of that variation, to meet the same revenue needs one campus may be able to raise resident undergraduate fees via one of the exemptions or exceptions, while another may be unable to do so, leading to inequities in campus resource bases and subsequently inequities in their ability to serve their students and their communities.

A current example of the problem concerns campus investments in technology. All campuses must make those investments, and some are better able than

³ The legislation regarding the current fee caps may be found in Section 7.03 of Am. Sub. H.B. 282 of the 123rd General Assembly.

others to do so because of their ability to take advantage of the fee cap exemptions. Some campuses levy special technology fees, which might vary by program, college, or student rank. Because the special fees by definition are not uniformly applied, they are exempt from the fee caps. Another campus may incorporate technology investments into a locally funded capital project, the debt service of which is to be retired by student fees, which also are exempt from the fee caps. Campuses that have decided to make technology fees a part of their uniform fee structure would have them capped by law; others, for historical or unique reasons described above, would not. This produces clear inequities in the campus resource bases and subsequently inequities in the levels of service provided to students.

Perverse Consequences. The fee caps also have the perverse effect of providing an incentive for campuses to raise fees higher than they might otherwise. Why would the fee caps, in effect, become the floor as well as a ceiling? The fee caps apply to *annual* percentage increases in fees. If a campus foregoes an annual increase, or decides to increase fees but sets the increase below the maximum permitted, *it loses that revenue increment in perpetuity.* It cannot recoup the revenues the prior year's fee increase would have generated by seeking a larger fee increase in a subsequent year, because the fee cap would be in place limiting its ability to do so. A prudent campus fiscal officer, one who is knowledgeable about the cumulative effect of fee caps, aware of the campus needs for resources, and intent upon maintaining a healthy financial statement⁴, could reasonably conclude that he or she has no other option than to recommend the maximum legal increase in fees each year.

Another unintended effect is "ossification" – that is, the permanent stratification of the universities according to the distribution of fees in effect when the fee caps were first imposed more than a decade ago. The fee caps lock into place a historical educational resource base in existence almost 15 years ago, and do not permit a university to substantially change its mission, especially if that mission change involves higher entrance standards, more selective admissions, smaller class sizes, more educational technology, and higher fees. Over time, some institutions appropriately will want to change as they recognize a need or an opportunity to respond to different markets, environments, or student and community needs. But the constraints imposed by these arbitrary fee caps create a serious misalignment between a campus' new mission and its resources, and prevent true transformations of campus missions and service.

Limits Availability of Additional Funds. The fee caps also deny access to institutions to additional fee-based revenue, at a time when the institutions have urgent needs for additional funding, particularly for technology improvements. If those needs are not satisfied by increased operating funding from the state, the institutions' other primary revenue source, fee generation will likewise be stifled and the needs will not be satisfied.

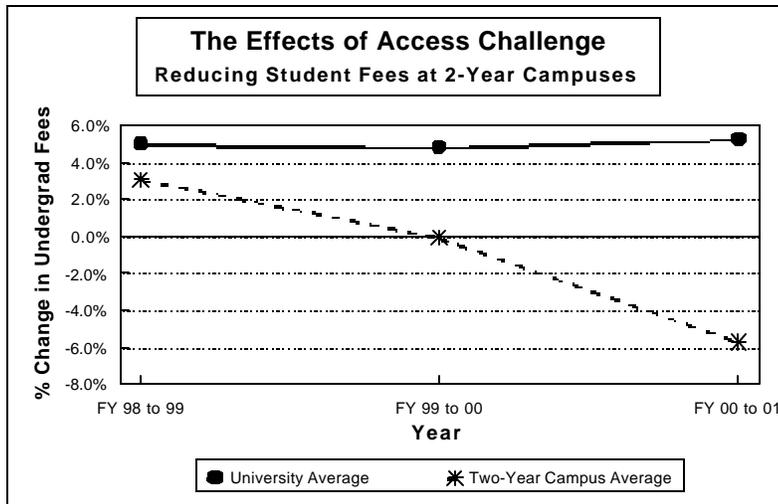
Other Paths to Affordable College Tuition. The potential of increased fees does raise a concern about the effect that such increases might have on access. The

⁴ As required by Senate Bill 6 legislation.

ostensible purpose of the fee caps – to make college more affordable – has been addressed in a variety of programs and collaborations created or supported by the Ohio Board of Regents. The state-funded Access Challenge program provided \$65 million in FY 2001 to reduce resident tuition and fees at Ohio’s access campuses. The Board of Regents recommended funding to further reduce those fees by an additional 5% per year in FY 2002 and FY 2003. Access campuses include all community colleges, technical colleges, regional campuses, the Community and Technical colleges located at the University of Akron, Youngstown State University, and the University of Cincinnati, and Central State and Shawnee State University⁵.

Access Challenge is having its intended effects, one of which is demonstrated in the chart below. Fees at two-year campuses were held flat in FY 2000 and have actually decreased by an average of 6% in FY 2001. In part as a result of those fee reductions, students are responding with their feet. Enrollments at two-year campuses are projected to increase by 2-4% in the next two years, while enrollments at university main campuses are expected to remain flat.

Figure 1



In addition, increases in the need-based Ohio Instructional Grant, Part-Time Student Grant, and the Federal Pell Grant programs directly help reduce the cost of higher education for low-income students. Finally, the Board’s collaboration with the increasingly successful regionally-based Ohio College Access Network (OCAN) helps marshal a significant amount of local public and private funds and other resources to help needy students enroll and succeed in college.

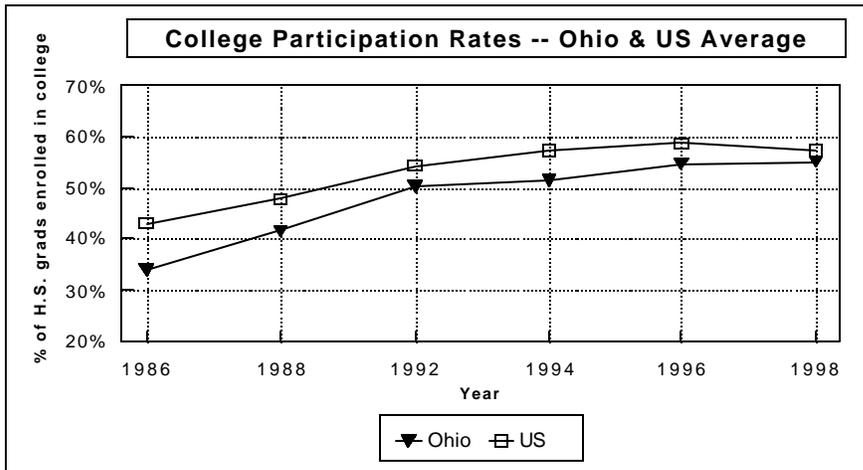
The programs appear to be paying off. As figure 2 below shows, the college participation rate for Ohio’s recent high school graduates has increased steadily since 1986. Although the rate for Ohio is still below the national average, the

⁵ In effect, because of Access Challenge, the fee caps only apply to 11 university main campuses in FY 2001.

two trend lines begin to converge in 1998.⁶

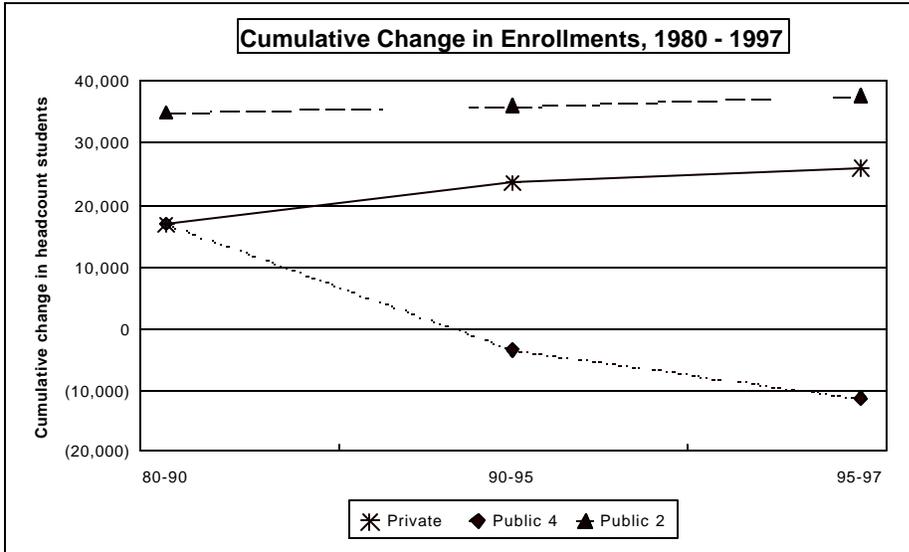
The data in figure 3 below suggests that this increase in participation is attributable to increasing enrollments in Ohio's access campuses – that is, public two-year campuses, as well as at Ohio's private colleges and universities. These data demonstrate in part the success that Ohio has had in expanding the number and size of its public access campuses during this time period. In addition, the trend line for the private campuses suggests that tuition alone does not determine college enrollment patterns. In FY 98 – 99 the average tuition for an undergraduate enrolled in a private four-year college or university was \$14,513, compared to the \$4,174 price tag for public campus. Somewhat paradoxically, enrollments in Ohio have increased in the least expensive and most expensive sectors of higher education.

Figure 2



⁶ This is not to argue that Ohio's educational deficit or college participation gap has been solved. We await the release of the 2000 Census data to examine more precisely levels of educational attainment and college participation in the state. The data in Figures 2 and 3 together suggest that participation is not simply a function of price; improvements in participation may have occurred in Ohio due to enrollment growth in the relatively inexpensive two-year public sector and the relatively expensive private sector.

Figure 3



Likely Effects of Change

In all likelihood, the elimination of the fee caps should have little immediate effect on the fee increases historically adopted by most universities. However, the elimination of the caps would give each university Board of Trustees the freedom to consider fully the resource needs of its institution and its fee level and structure, in light of its mission. In making decisions about possible changes in fees, the Boards of Trustees would remain responsive and accountable to their students, parents, and communities. Over time, some variation in fee increases is to be expected, as Boards of Trustees weigh the additional options provided by the elimination of the fee caps. For example, it is highly unlikely that campuses with access missions would seek increases that would put the cost of a college education out of reach for the students they serve. Nor is it likely that all universities would seek to become access campuses; others, with different student markets, program niches, or missions may need additional resources and seek to generate those revenues through fee increases.

Recommended Action

In its operating budget recommendations for FY 2002 – 2003, the Board of Regents recommended that the fee limitations of Am. Sub. H.B. 282 not be renewed. The Regents also recommended increased appropriations for Access Challenge, as well as increases in many student financial aid programs to help make higher education more affordable.

2. Enrollment Limitations

Current Policy

For over thirty years state law has capped enrollments at five public universities in Ohio⁷. In 1989 those enrollment caps were eased by increasing them by 1,000 to their current levels, which are measured on a full-time student equivalent basis:

Bowling Green State University.....	16,000
Kent State University.....	21,000
Miami University.....	16,000
Ohio University.....	21,000
Ohio State University.....	41,000

In implementing this provision and consistent with the intent of the state law, the Board of Regents has exempted from the ceilings certain categories of students in order to:

- Ensure access to place-bound students,
- Increase access by minorities, and
- Accommodate enrollments in unique programs.

As a result, part-time students enrolled in late afternoon or evening classes are exempt, as are enrollments by African-Americans above a historical enrollment level for such students⁸. Likewise, enrollments in professional, medical, and agriculture programs at Ohio State University are exempt. Those include such programs as allied medical, nursing, dentistry, medicine, optometry, and veterinary medicine.

No university is currently over the enrollment caps. According to the latest figures available, only one – Miami University – is approaching its ceiling.

Effects of the Current Policy

The law establishing the enrollment caps was enacted in 1969. About that time, the state was anticipating a surge in college enrollments as a result of the post-war baby boom. The state sought to increase capacity by expanding its current institutions and by adding new institutions. New state universities were being created from existing municipal institutions in major urban centers of the state. For example, the list below provides the earliest date cited in the Ohio Revised Code for each urban university as a state university:

Akron.....	1965
Cleveland.....	1964

⁷ The enrollment limitations may be found in Section 3345.19 of the Ohio Revised Code.

⁸ Records from the late 1980s suggest that 1986 was the benchmark year.

Cincinnati.....	1976
Wright State	1965
Toledo.....	1965
Youngstown.....	1967

No record of legislative deliberations on the imposition of the enrollment caps could be found to help inform this analysis. However, knowledgeable sources report that the enrollment caps were imposed in part to permit the newly added urban institutions to enroll a sufficient number of students to reach a certain economy of scale in their operations. It appears that state decision-makers feared that increasing enrollment growth at the five traditional residential universities might simultaneously starve the urban institutions of enrollments they needed to fully mature, and exceed the capacity of the residential campuses to serve the new students. Seen in this light, the decision to cap enrollments served to distribute new enrollments among new institutions, and as such was not an unreasonable manner to match demand with supply during a time of explosive growth.

Data from that time period demonstrate that the policy had this effect, intended or not. From FY 1968 to FY 1972, enrollments at the urban universities increased at more than twice the rate as those at the residential campuses – 45% for the urban schools versus 21% for the residential campuses. Overall enrollments at the urban universities jumped from 54,000 to 78,000 in a four-year period.

Figure 4

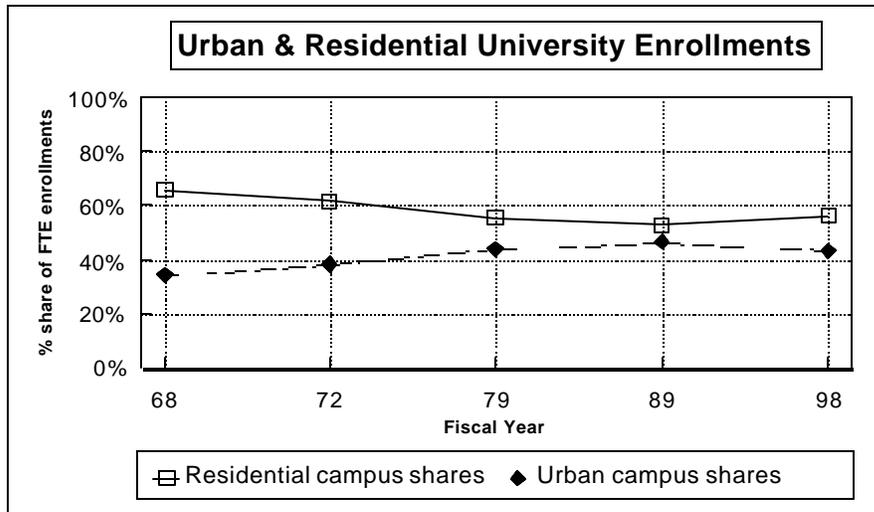


Figure 4 graphs the share of enrollments at state-assisted urban and residential campuses over time. The urban campus share increased from 34% in 1968 to 47% in 1989, and retreated slightly to 43% in 1998.

Penalizing Growth and Restricting Student Choice. While the law establishing enrollment caps may have been successful in allocating enrollment growth and protecting or increasing the market share of urban universities, it also has had

obvious negative effects. At the margins, the enrollment caps stifled competition among campuses, penalized success that campuses may have had in attracting or retaining students, and limited student choice. While no residential university currently is over the cap, historical Regents correspondence bears testimony to difficulties some residential campuses have had to reduce their enrollments within the cap. It appears that more than once a residential campus actually had its instructional subsidy reduced as a penalty for success in attracting or retaining students, success that resulted in overenrollment. One of the principal, current efforts of the Board of Regents is to increase the educational attainment of Ohioans, including the number of high school graduates matriculating to higher education. It is difficult, in that light, to imagine a time in the recent past when university officials had to devote their time and energy to dampening or reducing enrollments, perhaps even fearful that an increase in retention might trigger a subsidy penalty from the state. In sum, the policy supporting enrollment caps is directly contrary to current policies of the Board of Regents.

The Challenge of Distance Education. The very concept of enrollment limitations is rendered virtually meaningless by the growth of educational opportunities available at a distance through the Internet or other technologically mediated methods. For example, a course offered at the main campus of Ohio University in Athens, Ohio could easily be made available at any time, anywhere in Ohio or the world. For all intents and purposes, a student sitting at home at her computer in Ashtabula, or Fremont, or Cincinnati could be enrolled at Ohio University for credit courses. The new technologies create new opportunities for competition and service, opportunities that are further encouraged by the state through the creation of such entities as OARNet and the support of programs and initiatives offered by the Ohio Learning Network⁹. It is hard to imagine why enrollment limitations are needed, or how they can be reasonably enforced, in this new instructional environment.

Likely Effects of Change

It is unlikely that the elimination of the enrollment caps would produce a dramatic immediate change in enrollments among public and private colleges and universities in the state. It is clear that lifting the caps will enable the campuses that are currently capped to grow, should they chose to do so and should students respond by opting to enroll in sufficient numbers. The growth will come as net new enrollments for Ohio, at the expense of other campuses that are less successful in attracting or retaining students, or some combination of the two.

⁹ Ohio is not alone in this regard. Most other states, as well as the federal government, actively promote web-based distance education. For a national policy statement, see "The Power of the Internet for Learning," Report of the Web-Based Education Commission to the President and the Congress of the United States, December 2000.

Recommended Action

The Board recommended increasing the enrollment limitations by 1,000 FTEs for each of the five affected universities in its operating budget recommendations for FY 2002 and FY 2003. Members of the Performance Committee of the Board expressed their desire to eliminate the enrollment caps entirely as soon as possible. Staff recommends that the Regents request that Ohio Revised Code section 3345.19 be repealed, effective immediately.

3. State Oversight of Student Housing

Current Policy

State colleges and universities may not increase their student housing capacity without the approval of the Board of Regents. They may not contract additional debt to do so, nor may they permit other entities to construct additional student housing on land they own or lease, without the prior approval of the Regents.¹⁰ State law requires the Regents to consider demographic projections and statewide and regional dormitory occupancy patterns when rendering their decision. Lastly, the law anticipates the time when those controls may no longer be needed, and invites recommendations for change from the Regents: “The board shall monitor demographic trends and shall recommend that the General Assembly modify this section when there is no longer a significant risk of future enrollment decline.”

No records of legislative deliberation or intent are available to help inform this analysis. It seems evident that the policy was established at least in part in anticipation of enrollment decreases that were projected to occur in the 1980s as a result of a drop in the number of high school graduates during that time period. (In fact, college enrollments actually increased statewide during that time period because increases in participation rates more than offset decreases in the number of high school graduates.) In addition, the policy may have been prompted or reinforced by the consequences of severe enrollment losses that occurred at Ohio University in the 1970s. The enrollment decline at Ohio University led to an operating crisis for the under-utilized campus-owned residence halls, and the state reportedly had to intervene to provide Ohio University with extraordinary financial assistance. Finally, it is probable that the controls on dormitory expansion were instituted in part to harmonize state residence hall policy with the enrollment caps discussed above.

Effects of the Current Policy

It is unclear whether the student housing limitations have had any impact on the stock of student housing available at Ohio’s public campuses. Formal requests from campuses fully document their need for additional housing, and as a result are routinely approved by the Regents. In addition, some campuses have been able to increase or improve their student housing stock through special arrangements with private developers of off-campus sites, which do not require the approval of the Regents. Research indicates that undergraduates who live on campus are more likely to become integrated into campus life and therefore more likely to be retained from year to year and succeed in obtaining a degree. To the extent that the consequences of these controls essentially drive students off campus, students may lose a major opportunity to become members of a broader campus community and to find academic success.

¹⁰ These restrictions are stated in temporary law in the biennial operating appropriations act. The most current may be found in Section 7.03 of Am. Sub. H.B. 282 of the 123rd General Assembly.

Likely Effects of Change

The elimination of these controls would have little if any immediate impact on student housing construction or availability. Occupancy rates and enrollments have been fairly stable over the recent past, and demographic projections indicate that enrollments should remain stable in the future. There does not appear to be any risk of precipitous enrollment declines statewide in the future, nor is there any indication that there is any oversupply of student housing.

Table 1 describes the fall dormitory occupancy rates for state universities for the past three years. With the exception of Cleveland State, an urban-commuter campus, all universities have occupancy rates at or above 90%.

Table 1: Dormitory Occupancy Rates, 1998 - 2000

Institution	1998 Occupancy Rate	1999 Occupancy Rate	2000 Occupancy Rate
Akron	103%	103%	85%
Bowling Green	99%	100%	97%
Cincinnati	92%	98%	88%
Cleveland	88%	82%	82%
Kent	97%	96%	97%
Miami	97%	100%	100%
Ohio State	99%	99%	100%
Ohio University	96%	96%	100%
Shawnee	97%	115%	100%
Toledo	97%	98%	104%
Wright State	100%	100%	106%
Youngstown State	92%	104%	107%

Demographic projections¹¹ indicate that the total number of high school graduates (both public and private) in Ohio will increase by 10% from 1996 to 2008, or a little less than 1% per year.

Finally, it is important to note that financial accountability is assured through campus compliance with the elaborate S.B. 6 regulations. The required reports and analyses provide the state with a comprehensive way to monitor an institution's financial health on a quarterly and annual basis. A campus' auxiliary operations – which would include campus-owned student housing – are included in those financial data.

¹¹ The National Center for Education Statistics projects an increase of 10.7%, while the Western Interstate Conference for Higher Education projects an increase of 10%. Nationally, the number of high school graduates is expected to rise by 26% during this time period.

Recommended Action

The Regents recommended that the state law requiring Regents' approval of campus decisions regarding dormitory construction or expansion be repealed in the next operating appropriations act.

4. Two-Year Campus Service Districts

Current Policy

Ohio has a large and diverse system of two-year campuses:

- ❖ Community colleges – local levy supported (6)
- ❖ State community colleges (9)
- ❖ Technical colleges (8)
 - (7) co-located with a regional campus
 - (1) free standing
- ❖ Community and technical colleges of universities (4)
- ❖ Regional campuses (24)
 - (7) co-located with a technical college

The Ohio Revised Code authorizes “service districts” for technical colleges, community colleges, state community colleges and university branch districts in Sections 3354.01, 3355.01, 3357.01 and 3358.01. Further, the Ohio Revised Code gives the Ohio Board of Regents authority to establish standards for the establishment of service districts for two-year colleges and branches (ORC 3333.04). These standards are found in Ohio Board of Regents Rule 3333-1-23 “TO APPROVE OR DISAPPROVE THE CREATION OF SERVICE DISTRICTS IN OHIO FOR TWO-YEAR CAMPUSES.”

Service districts are designated geographical areas for delivery of comprehensive services by Ohio’s two-year campuses. According to the Ohio Board of Regents *Operating Manual for Two-Year Campus Programs* there are two types of service districts:

- **Chartered** -- the service area counties are included within a charter of a community or technical college; and
- **Board of Regents designated** -- the service area counties are assigned to a two-year institution by the Regents

Although this arrangement appears to be somewhat rigid, there are opportunities for services to be delivered outside of a district arrangement. There are cooperative service districts, generally found in larger populated areas that have more than one two-year campus. The campuses are expected to reach agreement on programs and services to be offered independently or jointly. Co-terminus service districts exist to allow institutions with special programs occasionally to offer courses/programs in locations outside their approved service areas. In those situations, the college proposing to provide services beyond its assigned geographical area is expected to notify the two-year campus located within that particular service district.

Effects of Current Policy

Service districts help organize the delivery of two-year college education to all Ohioans to create a community-based and community-responsive system throughout the state for associate degrees, workforce training and retraining and continuing education. Community colleges have the ability to levy local taxes, and the district serves to define the taxing jurisdiction. Residents in the district experience real benefits, as they pay lower tuition than nonresidents. District size varies considerably geographically (anywhere from one county up to five counties) but the size and the area are determined at least in part by population and the existence of unmet educational needs. Districts are required to be distinct and non-overlapping.

Likely Effects of Change

While service districts help organize the delivery of two-year college services throughout the entire state, the structure also creates the potential for restricting offerings and services to students. Alternative structures (such as regional service districts, contractual arrangements and collaborative partnerships among institutions within and outside a region) would permit and encourage leveraging and pooling resources (particularly relevant in expensive high technology education and training programs) and the potential for high quality degree programs based on complementary relationships rather than competitive ones. A more open market-driven system could perhaps allow for greater and more immediate response to employer training needs and filling in the gaps for services and needs anywhere in the two-year college system.

Recommended Action

The issues involved in the creation, operation, and effects of service districts are complex and should be referred for consultation by an appropriate and representative group of Regents, educators, and business representatives to review current policies and procedures and make recommendations for change. Recent market penetration studies conducted by the Ohio Board of Regents, Higher Education Information System data, and comparative information from other selected states should be considered in the consultative process.

5. State Control over the Creation of New Academic Programs

Program Approval

The Regents' program approval policies cover two broad areas: 1) New programs; and 2) Existing programs offered at a different location than the main campus. A discussion of the program approval process and concerns about each of these broad areas follows. In considering these concerns, the staff of the Board of Regents offers the following recommendations:

New Programs

- Maintain the current rigor of the existing input-based process.
- Complete the process of exploring the implementation of an outcomes-based review process.

Existing Programs Offered at a Different Location than the Main Campus

- Begin some deregulation of off-campus programs immediately.
- Extend and reinforce efforts to assist campuses in improving program quality in distance education.
- Retain the authority to review and approve distance learning while working with the North Central Accreditation Agency.
- Conduct a comprehensive study of off-campus programs in the near future.

Current Policy: New Programs

The philosophy behind current Regents' program approval is twofold:

- for all universities there is a desire to ensure program quality—a consumer protection function; and
- for public universities only, there is the dimension of need—ensuring that public monies are not used to subsidize unnecessary duplication.

These philosophies are reflected in the Ohio Administrative Code, Rules 3333-1-04, -05, -07, and -08. In summary, these rules require that new programs being offered by Ohio-based¹² institutions of higher education must be approved by the Regents. It should be noted that the Regents' staff takes a conservative view of what constitutes a new program: an existing program must change at its core—roughly fifty percent of the curriculum—before it is considered to be new. Simple name changes, on the other hand, do not require formal Regents' approval.

The manner in which programs are actually reviewed varies both by program level and by type of institution:

Variation by program level. The staff of the Board of Regents normally recommends approval of two-year programs with an in-house paper review and accomplishes this in a matter of a month or so.¹³ The same applies to baccalaureate programs if they are in an area already offered by a university—e.g. a new major in business. Entry into an entirely new program area, which in practice almost always means a professional area such as engineering or the health professions, will likely require an extended review, the nature of which varies by the type of university (see below). Graduate and graduate professional programs always require an extended review. In the case of public universities, this is a peer review carried out through the Regents' Advisory Committee on Graduate Study (RACGS). In the case of an independent or out of state entity planning to offer a program in Ohio this means the use of external consultants; although, in addition to this external review, the two largest in-state private universities that are fully participating members of RACGS, Case Western Reserve University and the University of Dayton, voluntarily subject their new graduate and graduate professional program proposals to the extended peer review process provided by RACGS.

¹² “Ohio-based” in this case means that the institution has some physical presence in the state, which can be one or more campuses or as little as a single classroom or a single employee. Institutions chartered or incorporated out of state, and offering courses or programs solely by electronic means or by mail, cannot be regulated. Institutions offering programs exclusively at federal facilities also are exempt—the Regents challenged this in court and lost.

¹³ Two-year programs offered by for-profit institutions are under the purview of the Proprietary Board. A Regents staff member is designated as a member of the Board, but, unlike previous policy, has no veto power. Baccalaureate and graduate programs offered by for-profit institutions must be approved by the Regents before going to the Proprietary Board for final consideration.

Variations by type of institution. Some years ago the Regents' staff undertook an internal restructuring of program approval processes with the objective of ensuring that the principles described in Ohio Administrative Code, Rules 3333-1-04, -05, -07 and -08, were applied as consistently as possible across all sectors.¹⁴ A number of changes were made, but a major difference remains—RACGS peer review for public institutions (as well as the two largest independent institutions) and external consultant review for independent and out of state institutions. The reason for this is that the latter group is considered to have substantial internal competition that would make the peer review process infeasible. For example, a half dozen independent institutions offer the M.B.A. in the Columbus region—it would be difficult for these colleges and universities to sit in judgment on prospective competitors, whether from in or out of state. An alternative means of ensuring consistency, doing away with peer review on the public side, is unattractive for several reasons. First, the universities generally believe that the current RACGS-centered developmental process works well (see also the next section), and there is strong agreement that the existence of RACGS and the experience it gains from program review makes it an effective body in helping to set state policy in graduate education. This has been borne out most recently in the statewide doctoral program review and in the subsequent reconsideration of doctoral and master's degree program funding.

Concerns about Current Policy for New Programs. There are two principal concerns about the administration of the present policy on approval of new programs:

- current processes take too long and are too expensive and
- current processes only consider inputs rather than outcomes.

Concerns about time/expense of approval process. We have heard little concern about either the timing or the expense of the processes in place for associate and baccalaureate programs. As noted, recommendations at those levels are developed by staff and are implemented very quickly. An exception is for out of state colleges and universities not already offering programs in Ohio: The initial process for such institutions is fairly rigorous. Nor have we heard concerns about the graduate process for public universities. Decisions about the nature of the review are effectively made by the universities themselves through the graduate dean institutional representatives on RACGS. The graduate deans have made a number of changes to improve focus and efficiency and, on balance, they and the universities they represent seem quite satisfied with the process.

The issue for independent colleges and universities is different: It is clear that they would like the process to go faster and be easier. Universities proposing new doctorates have been especially unhappy, often expressing the view that

¹⁴ This effort also focused on making processes more efficient. Prior to this time, program approval activities took up some 80% of Academic and Access Affairs staff time. Now, it is more like 15%. (The number of Academic and Access Affairs staff has remained relatively constant in the time period referred to here.)

the Regents' process is too demanding. Not surprisingly, the public universities tend to think that the process for independent and out of state institutions is too easy.

The staff view is that the rigor of the process is about right. We have seen in our review process numerous cases where institutions, both public and private, make plans to offer graduate programs with insufficient concern for quality: New programs have been advanced to the Regents' staff without sufficient program faculty, without faculty in all areas of emphasis, without library and/or laboratory resources, etc. We also have seen public universities propose doctoral programs that provide little evidence of need. They have been attractive to campuses in part because of intense internal faculty pressure to develop higher level programming and, also, because of the availability of state subsidy entitlements. This issue has been effectively addressed through changes in the funding policy for doctoral programs, which partially severs the connection between enrollments in doctoral programs and funding for those programs, and also provides a mechanism for a reallocation of doctoral funds on the basis of a quality review.

Concern about lack of focus on outcomes. As Chancellor Chu noted when he came to Ohio a few years ago, our program approval process focuses exclusively on inputs—the resources available to a program when it begins—and scarcely at all at program outputs—the success of its graduates as well as the effectiveness of its scholarly, creative, research, and professional activities. The Chancellor's comments are fully aligned with current national thinking: Many states are studying how to shift the emphasis of their reviews toward outputs and away from inputs.

The Academic and Access Affairs staff convened a consultation, including prominent representatives of public and independent colleges and universities, on this topic over a year ago. The consensus of the group was that it would be advisable to shift the emphasis of program approval toward outcomes; however, in view of concerns about consumer protection, the group felt it would be inadvisable to completely abandon the initial review. The emphasis at program initiation, therefore, would be on a fairly simple process of securing information that appropriate program resources (including especially faculty and curriculum) were in place. The group considered that graduate programs would be an exception—extended review would still be required in advance of program offering (this is consistent with the national trend). In effect, the recommendation was to keep something very like the existing process and add an outcomes review.

The staff was concerned about the direction that surfaced from that consultation. If implemented literally, we could be adding to rather than reducing the burden placed on the review process. Alternatively, if we eased the process, which for all practical purposes could only occur at the graduate level, we could find ourselves in the situation of allowing colleges and universities to offer programs that would not fare well in the subsequent outcomes review. Of course, they could then be fixed, but this approach would be the reverse of what business has learned, which is to build quality in at the beginning rather

than try to fix problems at the end. Clearly, we need a process that ensures that campuses have in place the internal quality assurance processes such that any new program will have an extremely high probability of success. We are exploring how to do this; the most logical way is to combine our effort with North Central's accreditation, which envisages a similar approach. We have had several conversations with North Central, and will be talking with them and with other national organizations and state agencies later in January about a combined strategy.

Likely Effects of Change in New Programs

The staff has not detected any enthusiasm among the state's colleges and universities for total deregulation of program approval. Even assuming exemplary performance by existing colleges and universities in the state, most seem to believe that it would open Ohio up to opportunistic, low-quality competition from outside. Deregulation is sometimes endorsed in a self-interested manner: not surprisingly, a campus is less likely to appreciate the need for regulation for its own activities as readily as it might endorse the need for controls on others. Though such views are not intended to be taken seriously, that is not unlike what could happen if the Regents—together with North Central—approved a campus' internal quality assurance process. A campus with this approval in place would have significantly greater flexibility than those who chose not to pursue this more general approval.

Recommendation for New Programs

We should finish the process of exploring an effective means of implementing an outcomes-based review process. If implemented properly, such an approach could reduce the administrative burden on both campuses and on Regents' staff and, moreover, it could replace it with efforts that are more directly connected to the actual success of new academic programs.

Current Policy: Off-campus Programs

Currently, the Regents must approve all off-campus program offerings, and may do so only on a site- and time-specific basis. For example, a university planning to offer a baccalaureate or graduate program at a branch campus must secure Regents' approval in advance and may receive it only for a limited period of time -- usually equivalent to the number of years needed for students to complete their program of study. The objectives of this policy are threefold:

- to prevent the de facto creation of new four-year public campuses that could occur if universities had the unfettered ability to add programs to their branches (based on a widespread concern that Ohio already has too many such campuses);
- to ensure that program quality is maintained in an environment in which requisite resources such as full-time faculty, laboratories, library materials, etc. might not be available; and
- to prevent public subsidy of unnecessary duplication as universities compete to serve major metropolitan areas.

These policies apply to public, independent¹⁵, and out of state institutions and are based on Ohio Administrative Code, Rules 3333-1-04, -05, -07 and -08. Enforcement varies much, as noted in the earlier section, although there are some important differences in the type of activity:

- since associate degree programs are almost always available within easy commuting distance, we get few requests to offer these off-campus;
- public universities offer relatively few baccalaureate programs off-campus;
- there are a fair number of public university master's degree programs offered off-campus, but these are dealt with fairly rapidly by RACGS; and
- independent and out of state institutions provide the bulk of the requests for both baccalaureate and master's degree programs. Currently, the staff does not attempt to review distance learning programs that have no off-campus physical facility.

Concerns about Current Policy for Off-campus Programs. Whatever the merits of these policies when they were created, the environment now is substantially different and forces us to consider appropriate changes. For example, if the Regents were to prevent a public university from offering baccalaureate or master's degree programs at one of its branches, it would very likely have the effect of ceding that market to an out of state entity using distance learning. Based on informal but fairly comprehensive discussions, it is clear that both public and independent colleges and universities would like to have access to faster and more flexible approval processes for off-campus programs, though there is much concern about extending this flexibility to out of state institutions.

¹⁵ In the case of independent and out of state colleges and universities, the approval mechanism is that of institutional reauthorization.

There is some concern about the quality of distance learning programs. National studies reveal that early efforts in this area cover the range from a few very good efforts to a wide array of mediocre to poor programs. Many consider that the most common type of offering, simply putting a textbook on the Web, gives students the worst of all possible worlds. It would not be accurate, however, to say that there is any call for Regents' regulation of these programs. While the Regents, as noted, have no authority over out of state distance learning programs offered by institutions that have no physical presence in the state, it seems clear to the staff that they do have such authority over those offered by in state institutions.

Likely Effects of Change in Off-campus Programs

Complete deregulation of off-campus offerings would likely be resisted by many institutions. In particular, the independent sector in Ohio is opposed to increased public subsidy for baccalaureate and master's degree programs at university branches, areas which they believe are already well served by their own offerings. Public universities, by contrast, rarely object to the offerings of independent institutions, even when they appear in close proximity -- a not uncommon situation. It isn't obvious that deregulation would encourage public universities to offer programs outside their immediate home or branch campus regions; although, if they chose to do so, they would certainly occasion objections on the basis of unnecessary duplication from other public and independent institutions. We should also observe that the frequently expressed preference of state colleges and universities, both public and independent, for increased regulation of out of state entities, may be understandable but is difficult to justify.

While change will certainly generate some resistance, lack of change is unreasonable. If we continue to maintain tight control over the offerings of Ohio-based colleges and universities, we will certainly weaken them in an increasingly competitive market, both in the state and nationally.

Recommendation for Off-campus Programs

The staff believes that some deregulation of off-campus programs could occur immediately. We have a proposal in the pipeline, scheduled for discussion in the Initiatives Committee in January, that would allow public universities to offer baccalaureate degrees in technology (e.g. engineering technology) at their own branches and at community colleges. Technology baccalaureate degree programs are not widely available across the state, and this is an area of increasing public need. Independent colleges and universities generally do not offer programs in these areas. Although current rules would not allow permanent approval, we would fashion the resolutions in a manner that made clear that continued offering of these programs would be contingent only on evidence of success in meeting stated and approved outcomes.

The issue of quality in distance learning is best addressed by increased assistance rather than through deregulation. The Ohio Learning Network is

already supporting a variety of efforts that assist campuses in improving program quality. These efforts should be extended and reinforced. Since this is a national market, responsible campuses have considerable incentives to improve. If we are able to implement internal quality assurance mechanisms, these will be important as well. On the other hand, there is a danger that some institutions will view distance learning as a way of gaining large enrollments through the offering of undemanding courses and, ultimately, degree programs lacking academic rigor. National and regional accreditors already have found evidence of this in Ohio and have encouraged vigilance. The staff proposes that, rather than attempting to review and approve all such programs, the Regents retain the authority to do so and work with North Central to discourage abuse.

Beyond those two steps, we propose that current off-campus approval policies continue in effect, with the understanding that this means that the staff should be alert to the possibility of increasing flexibility and decreasing regulation wherever possible. At some point, perhaps a year or so in the future, a comprehensive study of the issue may be warranted.