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State University New York Memorandum Re: Powers of Forestry College Board of Trustees as compared with powers of Councils

Waxman

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MEMORANDUM

To: President Carlson
From: Mr. Waxman
Re: Powers of Forestry College Board of Trustees as compared with powers of Councils

You have requested my office to make a comparison of the powers of the Forestry College Board of Trustees under Article 121 of the Education Law (§§ 6001-6007) with the powers which the councils for the State-operated units of State University have under new Section 356 of the Education Law which became effective September 1, 1953.

Although Article 121 of the Education Law sets forth, in what appears to be specific language, the powers and duties granted to the Forestry College Board of Trustees, the problem is not as clear-cut as it would appear from reading that article.

Since the creation of State University and the enactment of Article 8 of the Education Law (§§ 350-361), Article 121 cannot be read alone but must be read in conjunction with Article 8. In reading these two articles together, inconsistencies, ambiguities and conflicts are found and it is not always possible to state definitely where certain powers and responsi-
bilities now rest. This, of course, is one of the important reasons why all the laws pertaining to the State University should be codified into one article.

In determining the responsibilities now vested in the Forestry College Board, it must be kept in mind that, upon the creation of State University, the Forestry College was placed "under the supervision of the state university trustees" (Educ. Law § 6001) and the State University Trustees are vested with "the over-all central administration, supervision and coordination of state-operated institutions * * * of the state university." (Educ. Law § 355, subd. 1 [a])

The following summary compares the powers of the Forestry College Board under the present laws with the powers which they would have if they were to have a council and be brought within the provisions of our omnibus bill which became effective on September 1, 1953. All references are to sections of the Education Law.

**POWER OF APPOINTMENT**

**Present Law** - Section 6005, subd. 1, empowers the Forestry College Board to employ and at pleasure remove members of the faculty and other personnel of the College. At the same time, Section 355, subd. 1 (e) specifically provides that the appointment of the head of each state-operated institution must be approved by the State University Trustees.
New Law - Section 355, subd. 2 (h), empowers the State University Trustees to appoint the head of its state-operated colleges upon the recommendation of the local council. It also empowers the State University Trustees to appoint or provide for the appointment of the rest of the college personnel, upon the recommendation of the head of the college.

RULES AND REGULATIONS

Present Law - The Forestry College Board is now authorized to adopt rules, not inconsistent with law, controlling the affairs of the college (§ 6005, subd. 2). At the same time, the State University Trustees are authorized to make and establish rules and regulations, not inconsistent with law, for the government of the State University and the institutions therein. (§ 355, subd. 2 [b])

New Law - The councils are authorized to make regulations, not inconsistent with law or the rules of the State University Trustees. (§ 356, subd. 4 [k])

TUITION AND FEES

Present Law - Under § 6007, there is no tuition in the College of Forestry for students who are residents of the State of New York. The Forestry College Board is authorized to fix the tuition for non-resident students, as well as fees and other charges to be paid by the students.

New Law - There would still be no tuition charge for resident students at the Forestry College. Tuition for non-resident students and other fees would be regulated by State University Trustees. (§ 355, subd. 2 [i])
DEGREES

Present Law - Section 6005, subd. 3, gives the Forestry College Board of Trustees the power "to prescribe the degrees to be conferred on graduation therefrom, and on those taking postgraduate degrees therein." However, Section 355, subd. 2[f], provides that the State University Trustees shall "grant all degrees, diplomas and certificates which heretofore have been granted or have been authorized to be granted upon the completion of courses of study in any institution which now is or hereafter may be in the state university * * * *.

New Law - State University Trustees would retain the power to grant all degrees, diplomas, certificates, etc. (§ 355, subd. 2[f])

BUDGETS AND EXPENDITURES

Present Law - Under Section 6004, State University Trustees are vested with the supervision over requests for appropriations, budgets, estimates and expenditures of the College of Forestry. All moneys received from State appropriations for such college are expended upon vouchers approved by the President of the State University of New York. The Forestry College Board is given no specific authority with regard to the requests for appropriations or budgets of the Forestry College.

New Law - New Section 356, subd. 4(d) gives the new local councils power to review the proposed budget requests for the institutions for which they serve and recommend to the State University Trustees a budget for such institutions.
CARE, CUSTODY AND MANAGEMENT OF FACILITIES

Present Law - The State University Trustees are now vested with the care, custody, control and management of the lands, grounds, buildings, facilities and equipment of all State-operated institutions of the State University. (§ 352, subd. 1)

New Law - Under Section 356, subd. 4(c), the new councils are authorized to make regulations governing the care, custody and management of lands, grounds buildings and equipment. They are also given the authority to name the buildings and grounds of their institution. (§ 356, subd. 4 [f])

COURSES OF INSTRUCTION

Present Law - Sections 6004 and 6005 provide that the Forestry College Board shall be responsible for prescribing the courses of instruction, creating the departments and positions and deciding all other matters pertaining to the educational policies, activities and operations of the Forestry College.

New Law - Section 356 would give the council the power to review all major plans of the head of the college for its effective operation and to make recommendations to the State University Trustees with relation thereto. Such major plans are defined to include the appraisal or improvement of the faculty and other personnel, expansion or restriction of student admissions, appraisal or improvement of academic programs and of standards for the earning of degrees, expansion of institutional plans and appraisal or improvement of student activities and housing.

STUDENT DISCIPLINE

Present Law - The Forestry College Board is charged with maintenance of discipline. (§ 6004)
New Law - The councils are authorized to make regulations governing the conduct and behavior of students. (§ 356, subd. 4 [g])

SALARIES

Present Law - Although Section 6004 provides that the Forestry College Board shall determine the number and salaries of the members of the faculty and other employees of the Forestry College, Section 355-a authorizes the State University Trustees to classify and reclassify, allocate and reallocate the faculties and staff of its state-operated units in accordance with salary schedules set forth in that section. It also authorizes State University Trustees to except positions from the schedule, determine the procedure by which an employee shall be promoted, make promotions, grant increments and transfer positions from one state-operated institution in the State University to another. (§ 355, subd. 8)

New Law - Councils would have no authority to determine salaries.

ACQUISITION OF PROPERTY

Present Law - Both the Forestry College Board and the State University Trustees are now authorized to accept gifts for the purposes of the Forestry College. (§§ 6005, subd. 4 and 355, subd. 2 [a]) However, only the State University Trustees are authorized to acquire property for the Forestry College by purchase or appropriation. (§ 355, subd. 2 [a])

New Law - Only the State University Trustees would have the power to accept gifts on behalf of the Forestry College and to acquire property for its uses.

September 22, 1953

IRVING I. WAXMAN
Counsel