Constitutional Autonomy in Michigan and the State’s Public Universities

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Introduction

- Chief Policy Officer, MASU, 2015-present
- Doctoral candidate, Dept. of Educational Administration, MSU
  - Dissertation topic: *Constitutional Autonomy in Michigan and Higher Education Policymaking by Governors*
  - Surveyed all but one prior Governor, all former Lt. Govs., and many State Budget Directors serving 1983-2019.
  - Comprehensive history of the evolution of this topic going back to its inception in 1850.
- Disclaimer: This is a primer on historical context, not legal advice or precursor to any specific policy proposals
- Thank you: MASU is proud of this ecosystem, and we believe this is the first invitation to talk about autonomy in many years.
The Structure of Michigan Higher Education

- No centralized state governing or coordinating board for higher education.
- Campuses have individual governing boards with full authority.
  - Exception is the Board of Regents of the University of Michigan overseeing 3 campuses (Ann Arbor, Dearborn, Flint)
  - 10 gubernatorially appointed boards, 3 statewide elected boards (MSU, UM, WSU)
- The State Board of Education is charged with “planning and coordinating” for higher education in the Constitution of 1963, but that entity is advisory only since Regents v. State of Michigan (1975) and does not engage.
- Community colleges have locally elected governing boards. The state constitution provides for a state board for “supervision and planning” for community colleges but this has been defunct for decades.
- Several independent non-profit colleges are chartered in state law.
The Structure of Michigan Higher Education

- Universities have voluntary coordination through MASU.
- Many states had such voluntary coordinating boards until the postwar era.
- Examples of MASU coordination:
  - Academic program review and approval
  - Convening committees and sharing best practices
  - Policy development and advocacy
  - Sector-wide research and data analysis
  - Primary conduit between campuses and the state during early pandemic
  - Partnerships with other stakeholders: Legislative offices, Executive Office, SBO, MCCA, MICU, MILEAP, MCAN, MCACS
What is Constitutional Autonomy? And Why Does Michigan Have it?

- The Michigan Legislature itself identified its mismanagement of the early University of Michigan as a cause for the university’s struggles.

- A legislative committee recommended functional independence between the state and UM and provided for an elected Board of Regents.
  - Implemented in the Michigan Constitution of 1850

- The growth and success of UM following the granting of constitutional autonomy was proof of the wisdom of the new arrangement.

- Subsequent Michigan Constitutions have expanded autonomy to more universities, and all were granted autonomy and individual governing boards in the Constitution of 1963.
What Does it Mean to be Autonomous?

- “Each board shall have general supervision of its institution and the control and direction of all expenditures from the institution's funds.” –Art. VIII, Sec. 5
- Almost 175 years of jurisprudence has interpreted this as a wide-ranging grant of deference to universities.
- As a result, Michigan’s public universities are market-oriented and can respond more nimbly than universities in other states to changing fields and industry demands.
- More access to programs throughout the state to students who can’t or don’t want to move across the state, leading to stronger regions of the state.
Boundaries: Past Policies Struck Down

- What academic programs are offered
- What academic programs are not offered
- **Where** academic programs are offered
- Prior authorizations of institutional expenditures
- Automatic penalties in the appropriations act triggered by institutional policies such as domestic partner benefits
- State controls over institutional campus firearms policies
- State controls over processes such as presidential searches
Boundaries: Past Policies Upheld

- Matters of statewide public policy that happen to intersect with the public universities. Examples:
  - Public employee status
  - Workers’ compensation
  - Prevailing wage
  - Labor organizing rights
- There are limits, though – medical students can organize, but can’t bargain over the academic elements of a program, like bargaining to not do a rotation in pathology.
Responsibilities of Autonomous Public Universities

- Michigan public universities possess a great deal of power and responsibility. They work everyday to use this autonomy to help meet the state's needs.
  - Talent and workforce preparation
  - Research and development, including spinoff technologies and companies
  - Civic engagement and cultural placemaking
- The universities (and MASU) continue to serve as partners with the Legislature, Executive, and other stakeholders.
- Even if something can't be done by state mandate to apply to all universities, please reach out. The universities want to help and voluntarily coordination and partnerships can achieve much!
  - MI Transfer Pathways, Math Pathways, Michigan Transfer Agreement, Michigan Universities Coalition on Health, Michigan University Self-Insurance Corp., etc.
Questions?

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