

BP222

Closure of an Institution, a Branch Campus or a Teaching Site

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A decision to close an educational institution or one of its Teaching Sites or Branch Campuses requires thoughtful planning and careful consultation with all affected constituencies. Every effort must be devoted to informing each constituency as fully as possible about the conditions compelling consideration of a decision of such importance, and all available information must be shared. As much as possible, the determination to close an institution or one of its Teaching Sites or Branch Campuses must be made through a consultative process and only after alternatives have been considered, but responsibility for the final decision to close rests with the institution's Board. Since the immediate interests of current students and faculty are most directly affected, their present and future prospects require especially sensitive attention and involvement.

Institution's proposing to close entirely or to close a Teaching Site or Branch Campus must submit a *Proposed Institutional Change Form* which addresses all of the required checklist items and which includes all supporting documentation noted on the form.

A. Closing an Institution or a Branch Campus or Teaching Site

A decision to close requires specific plans for providing in appropriate ways for the affected students, faculty, administration, and support staff, and for the disposition of the institution's assets. The following factors must be considered by the institution's Board in this process:

1. **Students** - Students who have not completed their degrees must be provided for according to their needs. Arrangements for transfer to other institutions will require complete academic records and all other related information to be compiled in such a way that these records can be transmitted promptly to receiving institutions.

Agreements made with other institutions to receive transferring students and to accept student records must be in writing. In cases where students have held institutional scholarships or grants, if there are available funds that can be legally used to support students while completing degrees at other institutions, appropriate agreements must be negotiated.

2. **Academic Records and Financial Aid Transcripts** - The institution must adhere to state and federal regulations in regard to maintaining academic and financial records of its students. This must be completed prior to the liquidation of real assets.

Arrangements must be made with the relevant state agency for the filing and maintenance of student records. If there is no state agency which can receive records, arrangements must be made with a state university, with state archives, or with a private organization to preserve the records. Notification must be sent to every current and past student indicating where the records are being stored and what the accessibility to those records will be. When possible, a copy of a student's record should also be forwarded to the individual student.

3. **Completion of Instructional Obligations** - When a student has completed approximately 75% or more of the required hours for an academic degree from the closing institution, arrangements should be made to permit that student to complete the requirements for a degree elsewhere but to receive it from the closed institution. This may require special action by an appropriate state agency. Arrangements must include provision for continuation of the institution's accreditation only for this purpose. To receive this consideration from TRACS, the Chief Executive Officer of the institution must inform TRACS of the intent to close the institution as soon as the institution's Board begins discussing the closure. Further, the Chief Executive Officer of the institution must provide TRACS with copies of the plans and notices required in this section as they are developed and disseminated to the relevant parties. This may require the institution to continue as a legal corporate entity for some appropriate period of time beyond the closing date (usually not longer than 18 months), but any such arrangement must be established beyond which students cannot take advantage of such arrangements. Affected students must be made aware of all deadlines and written agreements must be established between the student and the institution whenever such arrangements are to be used.

B. The Teach-Out Plan

The institution must comply with the appropriate Teach-Out Plan Policies (BP224 and BP225).

C. Provision for Faculty and Staff

In every case, the institution must arrange for continuation of those faculty and staff who will be necessary for the completion of the institution's work pending the closing date. In those cases, where faculty and staff will no longer be needed, the institution must make every effort to assist them in finding other employment. It should be understood that the institution can make no guarantees, but every effort should be made to assist in relocation and reassignment. In the event that faculty or staff members find new positions, early resignations should be accepted.

D. The Final Determinations

Determinations must be made to allocate whatever financial resources and assets remain after the basic needs of the current students, faculty, and staff are provided for. When the financial resources of the institution are inadequate to honor commitments, the institution's Board must investigate, prior to its decision to close, what alternatives and protections are available under applicable bankruptcy laws. If bankruptcy can be avoided, but funds are insufficient to maintain normal operations through the end of the closing process, the institution should not overlook the possibility of soliciting one-time gifts and donations to assist in fulfilling its final obligations.

Every effort must be made to develop defensible policies for dividing the resources equitably among those with claims against the institution. It is impossible to anticipate all of the claims that might be made against the remaining resources of an institution, but the following three principles may help to sort out possible claims and to set priorities:

1. Students have the right to expect basic minimal services during the final semester not only in the academic division, but also in the Business Office, Financial Aid Office, Registrar's Office, Counseling, and other essential support services. Staff should be retained long enough to provide these services.

2. Staff must be willing to accept the possibility of early termination of their contracts, provided that reasonable notice is given to all employees, and that the reasons for retaining some personnel longer than others are based on satisfying the minimal needs of students and the legal requirements for closing.
3. Every effort must be made to honor long-term financial obligations even though the parties holding such claims may choose not to press them.

E. The Closing Date

The final action of the institution's Board must be a formal vote to close the institution or a Teaching Site or Branch Campus on a specified date. That date will depend on a number of factors including the decision to file or not to file for bankruptcy. The most important factor is whether or not all obligations to students will have been satisfactorily discharged. This is particularly important if the decision is made to allow seniors to graduate from the institution by completing their degree requirements elsewhere. If such arrangements are made, the Board must be sure to take the legal action necessary to permit awarding degrees after the institution otherwise ceases to function. Normally, the formal vote to award a degree is made after all requirements have been met, but it is legally possible to make arrangements for a student to complete the requirements for a degree at another institution and to receive the degree from the closed institution. These requirements must be clearly specified along with a deadline for completion.

Also, the Board must identify the person or persons authorized to determine whether or not these requirements have been satisfied. Arrangements must be completed with the appropriate state and accrediting agencies in advance to assure that the degree is awarded by a legally authorized and accredited institution.

F. Disposition of Assets

In the case of a not-for-profit institution, the legal requirements of the state where it is incorporated must be carefully examined and meticulously followed with respect to the disposition of institutional assets. Arrangements for the sale of the physical plant, equipment, the library, special collections, art, or other essential holdings, and for the disposition of any endowments or special funds must be explored. In the case of wills, endowments, or special grants, the institution should discuss with the donors, grantors, executors of estates, and other providers of special funds, arrangements to accommodate their wishes. State laws regarding the disposition of funds from a not-for-profit institution must be meticulously followed. All pertinent Federal and State agencies must be apprised of the institution's situation and any obligations relating to state or federal funds need to be discussed with the proper authorities.

G. Other Considerations

The institution must establish a clear understanding with its creditors and all other agencies involved with its activities to assure that their claims and interests will be properly processed. Insofar as possible, the institution must assure that its final arrangements will not be subject to later legal proceedings that might jeopardize the records of its students or faculty.

H. Conclusion

The closing of an educational institution or Teaching Site or Branch Campus may be rendered less traumatic by careful attention to the details of the legal and ethical obligations to assure that the institution's students, faculty, and staff will be optimally provided for, and that assets will be used in a way that will honor the intentions of the original donors.

