

## Strategic Alternatives and Transactions in Higher Education

### Increased Pressure Due to COVID-19:

It is hard to overstate the impact of the COVID-19 pandemic on college enrollment—particularly for small, private institutions that were already experiencing enrollment challenges before the spring of 2020. For these tuition-dependent institutions, the decrease in revenue has led to other issues, including by way of example, compliance with accreditation standards and Title IV financial responsibility requirements, meeting bond or loan covenants, and increased scrutiny by various stakeholders, including regulators, accreditors, and lenders. We know first-hand the challenges faced by Trustees and senior leadership trying to make critical decisions—often in compressed timeframes.

### Advancing Your Institution's Mission through Strategic Alternatives

In addition to advising on the day-to-day matters facing higher education institutions during normal times, Cullen and Dykman has the experience to assist institutions dealing with the immediate and interim challenges frequently presented in times of financial difficulty while they concurrently work towards identifying and pursuing long-term solutions for a sustainable future. We understand the impact of enrollment and revenue decreases, such as accretor and lender pressures; heightened litigation risks; and increased regulatory scrutiny on operations and institutional viability and sustainability.

Proactive institutions have an opportunity to evaluate potential strategic alternatives to strengthen the institution and achieve long-term sustainability, such as:

- independent growth through the development of new programs and/or expansion of existing programs;
- consortiums/shared services agreements among institutions;
- affiliations, programmatic arrangements, or partnerships with other institutions; or
- mergers, acquisitions, and other permanent relationship structures.

Cullen and Dykman assists colleges and universities in determining which alternatives are viable given the institution's financial runway. This includes assessing and carrying out potential strategic transactions, obtaining regulatory, accretor, and other required approvals, and, in a worst-case scenario, guiding the institution and its Board in developing and implementing a plan for an orderly closure and winding down of the institution's affairs.

# Today's Demands. Tomorrow's Solutions.

## Representative Experience:

Our Higher Education Practice Group is experienced in working with institutions facing operational and financial challenges of varying degrees to evaluate strategic options that fit within the parameters of the institution's accreditation, and state and federal regulatory frameworks, including:

- **Representing a private, non-profit college** in a proposed transaction with a state institution.
- **Representing a private, non-profit college** as it evaluates and implements potential strategic alternatives.
- **Representing a private, non-profit institution** as it explores reinvigorating its donor base while also exploring potential affiliation, merger, or similar relationships with other higher education institutions.
- **Representing a private, non-profit higher education institution** as it effectuates its plan to sell its historic campus and relocate to a new, state-of-the-art campus facility and creating new academic offerings for its students.
- **Representing a private, non-profit college** as it evaluated its financial plan, strategic options, explored potential partner opportunities, and reached the difficult but necessary decision to cease academic instruction and pursue an orderly closure. We continue to advise the institution through an orderly closure and winddown process, including seeking cy pres relief to transfer endowed and restricted funds.
- **Represented a private, non-profit college** through the evaluation of its financial plan, several potential transactions, and the implementation of an orderly closure and winddown process, which included a carefully timed bankruptcy proceeding.
- Presently involved in representing and advising other higher education institutions in evaluating strategic options, potential partner opportunities, creative permanent relationships, and determining the available time (runway) to implement potential alternative paths forward.



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