

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 day-to-day matters, Cullen and Dykman is uniquely experienced in advising colleges and universities considering strategic opportunities. Our team assists institutions to navigate the complexities of identifying and pursuing long-term solutions for a sustainable future. For institutions confronting enrollment and revenue challenges, we understand the impact of 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 options 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; and
- mergers, acquisitions, and other permanent relationship structures.

Cullen and Dykman assists colleges and universities in evaluating the viability of potential opportunities given the institution's financial runway and with carrying out potential strategic transactions, including obtaining regulatory, accretor, and other required approvals, or, 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 mission, accreditation, and state and federal regulatory frameworks, including:

- **Represented a private, non-profit college** in a merger with a public university.
- **Representing a private, non-profit college** as it continues to evaluate potential strategic alternatives while concurrently implementing an orderly closure and winddown process.
- **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 college** as it effectuated the sale of its historic campus and relocation to a new, state-of-the-art campus facility and is 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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