

PERFORMANCE AUDIT

Pennsylvania State System of Higher Education

April 2015



Commonwealth of Pennsylvania
Department of the Auditor General

Eugene A. DePasquale • Auditor General



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EUGENE A. DEPASQUALE
AUDITOR GENERAL

April 24, 2015

The Honorable Frank T. Brogan
Chancellor
Pennsylvania State System of Higher Education
Dixon University Center
2986 North Second Street
Harrisburg, PA 17110

Dear Chancellor Brogan:

Enclosed is our performance audit of the Pennsylvania State System of Higher Education (PASSHE). This audit covered the period July 1, 2011, through June 30, 2014, unless otherwise noted. Our audit was conducted under the authority of Sections 402 and 403 of the Fiscal Code and in accordance with generally accepted government auditing standards as issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective(s). We believe that the evidence obtained meets those standards.

Our first audit objective sought to determine the extent to which PASSHE ensures that the 14 universities developed and implemented policies and procedures to comply with federal and state laws and regulations related to campus safety, including sexual assault prevention and response, sexual violence awareness, and protection of minors. Our second audit objective sought to determine the extent to which PASSHE is working with the 14 universities to manage costs to ensure that a PASSHE education is affordable, and the third audit objective was to determine if the Board of Governors is effectively fulfilling its duties as prescribed in Act 188.

The report contains three audit findings with seven related recommendations, and three conclusions related to our objectives. First, we found that tuition at PASSHE universities continues to rise despite efforts by PASSHE to manage costs in an era with stagnant state funding. The purpose of PASSHE is to provide a “high quality education at the lowest possible cost to the students.” However, tuition has increased 27 percent from fiscal year 2008-2009 to fiscal year 2013-2014.

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In our second finding, we report that PASSHE discontinued its practice of conducting vital internal audits related to reporting campus crime statistics. PASSHE's Office of Internal Audits and Risk Assessment is responsible for conducting internal audits covering a wide range of financial and compliance topics at each of the 14 universities. We found that since July 1, 2011, the Office of Internal Audits and Risk Assessment conducted only four internal audits to evaluate the university's compliance with the Clery Act.

In our third finding, we found that PASSHE has not established system-wide, uniform procedures to comply with Title IX, which resulted in inconsistencies in these procedures at its universities.

Our three conclusions highlight areas in which PASSHE is doing well. We found that PASSHE's Board of Governors is fulfilling its duties as mandated by Act 188, PASSHE has taken several steps to help ensure its universities are complying with state and federal laws related to sexual violence and sexual harassment, and PASSHE universities established campus safety related policies and procedures required by state and federal laws.

In closing, I want to thank you and your staff for the assistance provided to us during the audit. We are pleased that you have agreed with the audit report's findings and have pledged to implement the audit recommendations.

Sincerely,

A handwritten signature in black ink, appearing to read "Eugene A. DePasquale". The signature is fluid and cursive, with a long horizontal stroke at the end.

Eugene A. DePasquale
Auditor General

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Executive Summary

The stated purpose of the Pennsylvania State System of Higher Education (PASSHE) is “to provide high quality education at the lowest possible cost to the students.” Evaluating PASSHE’s efforts to remain affordable was the first objective of this audit. In addition, the Auditor General set forth two more objectives: 1) to assess PASSHE’s efforts to comply with federal and state laws regarding campus safety and 2) to determine the effectiveness of the Board of Governors in overseeing its universities and learning centers.

In this report we discuss three findings (identified deficiencies): one related to college affordability, and two related to campus safety. These three findings resulted in seven recommendations. We also discuss three conclusions (no identified deficiencies): one related to each of the three objectives.

College Affordability

The U.S. Government Accountability Office (GAO) issued a report in December 2014 entitled *State Funding Trends and Policies on Affordability*. The GAO asserts the following in its report.

There is widespread concern that the rising costs of higher education are making college unaffordable for many students and their families. Federal and state support is central to promoting college affordability; however, persistent state budget constraints have limited funding for public colleges.

So, how has PASSHE addressed these trends in order to meet its goal of providing quality affordable higher education? A stated goal in its current strategic plan is to “develop new funding strategies, diversify resources, and manage costs to preserve affordability.” To that end, based on audit procedures summarized in Appendix A, we concluded that PASSHE has made efforts to keep tuition affordable.

Yet, the audit also found that tuition at PASSHE universities is continuing to rise and that PASSHE can do more to ensure that the cost of college remains affordable. PASSHE must commit

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to ongoing, substantive evaluations of whether it is staying true to its own mission as required by Act 188.

Campus Safety

To address this objective, our procedures were twofold. First, we reviewed PASSHE's Board of Governors' procedures for monitoring its universities' compliance with specific federal and state laws regarding campus safety. Second, we performed a limited review of policies and procedures in place at each of the 14 universities. We did not test for compliance with established policies and procedures, as this was not the scope of this particular audit.

We concluded that PASSHE is taking campus safety seriously and that it is working with the universities to ensure that they take the issue seriously, as well. We also concluded that each university has established policies and procedures related to campus safety as required by state and federal laws.

We found, however, that PASSHE should improve overall campus safety policies and procedures by encouraging and facilitating a collaborative effort, involving all of the universities. This collaboration should then lead to the development and implementation of uniform policies and procedures.

We also found that PASSHE's Office of Internal Audits and Risk Assessment had discontinued its Clery Act compliance audits. We believe that these audits are an important internal control to help ensure that the universities are complying with the provisions of the Clery Act.

Board of Governors' Oversight

Our audit procedures revealed that the Board, as a collective body, appeared to be actively engaged and committed to the duties and responsibilities it is charged with fulfilling. We concluded that the Board performed its duties as mandated in Act 188 in an effective manner. We had no findings related to this objective.

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Introduction and Background

The Department of the Auditor General conducted this audit of the Pennsylvania State System of Higher Education (PASSHE) at the direction of Auditor General Eugene A. DePasquale. The purpose of this audit was to focus on PASSHE's actions related to college affordability and safety on its university campuses. See Appendix A for further information about the audit scope, methodology, and objectives.

PASSHE's Creation and Purpose

PASSHE is comprised of 14 state-owned universities,¹ their four branch campuses, the McKeever Environmental Learning Center, numerous off-campus centers, the Dixon University Center, PASSHE at Center City, and the Office of the Chancellor (collectively known as PASSHE or the State System). The universities function independently, but as part of the State System, they are able to share resources and thereby, benefit from economies of scale.

PASSHE was created by Act 188 of 1982², and it formally began operations on July 1, 1983. Prior to the passage of Act 188, Pennsylvania's state-owned colleges and universities were under the administrative oversight of the Pennsylvania Department of Education. Act 188 transferred administrative and operational responsibilities to the newly created PASSHE. Further, Act 188 changed the institutional designation from "state colleges" to "universities."³

According to Act 188, PASSHE's purpose is "to provide high quality education at the lowest possible cost to the students," and its primary mission is "the provision of instruction for undergraduates and graduate students to and beyond the

¹ Bloomsburg, California, Cheyney, Clarion, East Stroudsburg, Edinboro, Indiana, Kutztown, Lock Haven, Mansfield, Millersville, Shippensburg, Slippery Rock, and West Chester. These institutions were established as "state normal schools" and teachers colleges and have a long history pursuant to the Normal School Act of 1857 and the School Code of 1911.

² Article XX-A of the Public School Code of 1949 (24 P.S. § 20-2001-A *et seq.*). Act 188 grants certain statutory responsibilities to each commission of presidents (24 P.S. § 20-2007-A), each university's council of trustees (24 P.S. §§ 20-2008-A - 20-2009-A), and each university president (24 P.S. § 20-2010-A).

³ While Indiana University of Pennsylvania was already known as a university as early as 1965 and prior to the creation of the State System by Act 188, each of the other 13 state colleges, became "known as the (Name) University of Pennsylvania of the State System of Higher Education," effective July 1, 1983. See 24 P.S. § 20-2002-A(b).

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master's degree in liberal arts and sciences and in applied fields, including the teaching profession."⁴ The 14 universities offer 40 Associate's, 242 Bachelor's, 161 Master's, and 10 Doctorate degree programs.

Board of Governors

Act 188 created a Board of Governors (Board), which functions as the primary policy-making and control authority for PASSHE. The Board's statutory powers give the Board overall responsibility for planning and coordinating the development and operation of PASSHE. The Board's powers and duties include:

- Establishing operating policies.
- Appointing university presidents.
- Setting tuition levels.

See Appendix B for a full list of the Board's powers and duties as outlined in Act 188.

The Board of Governors is comprised of 20 members, as follows:

- § Governor (or designee)
- § Secretary of Education (or designee)
- § 4 members of the General Assembly or official representatives (one senator appointed by the President Pro Tempore and one senator appointed by the minority leader, one representative appointed by the Speaker of the House, and one representative appointed by the minority leader)
- § 14 members appointed by the Governor (with the advice and consent of the Senate). The 14 gubernatorial appointees are as follows:
 - Ø 3 undergraduate student members (selected from among the presidents of the local campus student government associations or local equivalents)

⁴ 24 P.S. § 20-2003-A(a); Act 188 provides that "Graduate instruction at the doctoral level, except for doctoral programs provided...[under] the 'Indiana University of Pennsylvania Act,' only may be offered jointly with Indiana University or an institution chartered to offer work at the doctoral level." Ibid.

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- Ø 5 PASSHE university council of trustees members
(each from a different university)
- Ø 6 citizen members

Members of the General Assembly serve a term of office concurrent with their respective elective terms. All members appointed by the Governor, except students, serve four-year terms. Student members' terms expire automatically upon graduation, separation from the State System, or failure to maintain good academic standards at their institution. The Board is required to meet quarterly and additionally at the call of the chairperson. Eleven members constitute a quorum for the transaction of any business.

Office of the Chancellor

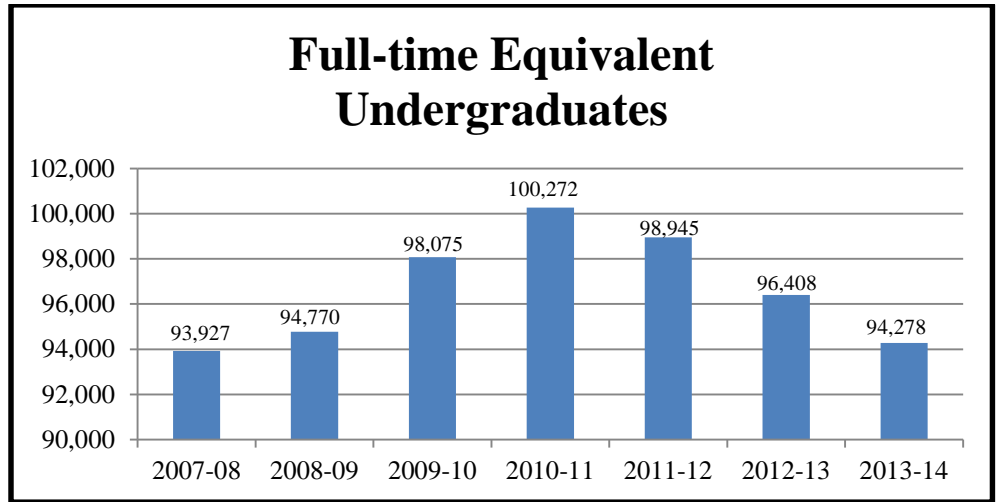
The Board employs a chancellor, who functions as the chief executive officer for the State System.⁵ Among the many duties outlined in Act 188, the chancellor is responsible for the administration of the State System under policies prescribed by the Board. In this role, the chancellor advises the Board on budgetary and academic program matters and on the formulation of policies and procedures. The chancellor is empowered to hire central office staff to help fulfill the chancellor's duties.

Student Enrollment

The graph that follows shows the full-time equivalent enrollment of undergraduate students at the 14 state-owned universities from academic years 2007-08 through 2013-14. As the graph shows, enrollment peaked in 2010-11, with 100,272 undergraduate students. Enrollment has declined each academic year since 2010-11. According to PASSHE, this enrollment decline is generally attributed to a decline in high school graduates in recent years.

⁵ Please note that the chancellor is also the chief executive officer of the Board. While the chancellor has the right to speak on all matters before the Board, he/she has no authority to vote. See 24 P.S. § 20-2004-A(e).

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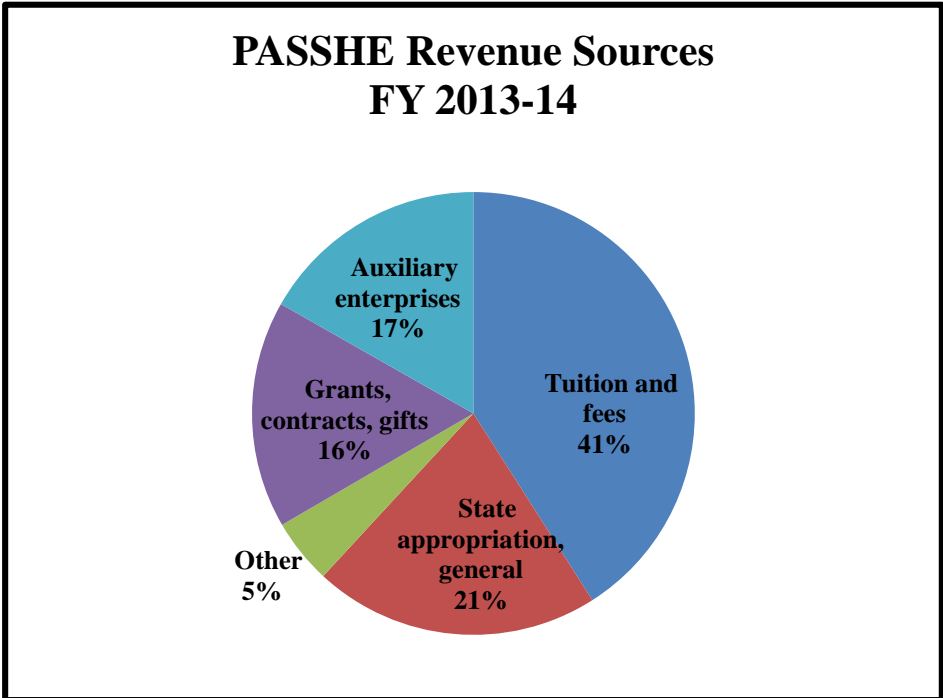


PASSHE Funding and Expenditures

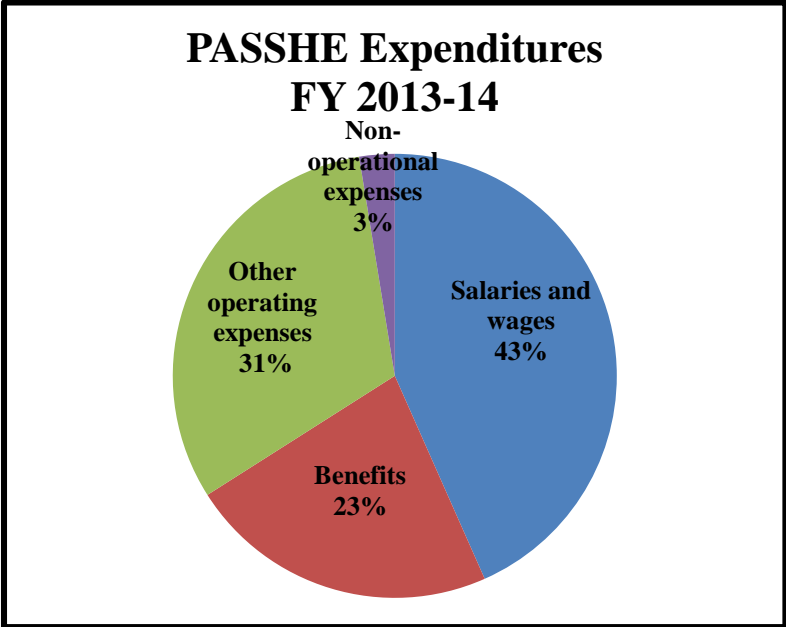
2013-14 state funding of \$412.8 million is the same amount PASSHE received in 1997-98—16 years ago.

PASSHE’s total revenues for fiscal year 2013-14 amounted to nearly \$2.0 billion, with the largest sources being tuition and fees (\$809 million); auxiliary enterprises (\$331 million in fees for facilities such as dormitories, student union buildings, and health centers); grants, contracts, and gifts (\$328 million); and the state appropriation (\$413 million). The following chart shows that state funding comprised only 21 percent of total revenues for PASSHE in fiscal year 2013-14. By way of comparison, in fiscal year 2008-09, the state appropriation comprised 27 percent of PASSHE’s total revenues.

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With regard to expenses, PASSHE’s total expenditures for fiscal year 2013-14 amounted to approximately \$2.0 billion. Together, salaries, wages, and benefits amounted to over \$1.3 billion dollars, or 66 percent of PASSHE’s total expenses, as is shown on the chart below.



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State Appropriation Funding and Tuition Rates

As the table below shows, PASSHE received nearly \$500 million from the General Fund in fiscal year 2008-09. By fiscal year 2011-12, however, the state appropriation to PASSHE was reduced to approximately \$413 million, and remained at that level for the next three years. For the six-year period ending in fiscal year 2014-15, the amount of state funding to PASSHE decreased by nearly \$85 million, or 17 percent.

Fiscal Year	State Appropriation	Annual Percent Change	Annual Tuition ⁶	Annual Percent Change	State Funding/Student	Annual Percent Change
2008-09	\$497,168,000	--	\$5,356	--	\$5,246	--
2009-10	\$465,197,000*	(6.43%)	\$5,554	3.7%	\$4,743	(9.6%)
2010-11	\$465,197,000*	0.00%	\$5,804	4.5%	\$4,639	(2.2%)
2011-12	\$412,751,000	(11.27%)	\$6,240	7.5%	\$4,172	(10.1%)
2012-13	\$412,751,000	0.00%	\$6,428	3.0%	\$4,281	2.6%
2013-14	\$412,751,000	0.00%	\$6,622	3.0%	\$4,378	2.2%
2014-15	\$412,751,000	0.00%	\$6,820	3.0%	not available	
Change from 2008-09 to 2014-15		(17%)		27%		

*State appropriation listed excludes *American Recovery and Reinvestment Act (ARRA)* funds allocated to PASSHE – ARRA funds allocated were \$65.2 million in 2009/10 and \$38.2 million in 2010/11.

Since fiscal year 2008 – 09, per student state funding has dropped nearly 20 percent.

As state appropriations decreased, tuition rates increased. As the table above shows, tuition has increased 27 percent over the past six years, with the largest increase coming in fiscal year 2011-12—the same year that the appropriation dropped significantly. For the past three years, PASSHE has increased tuition by 3 percent each year.

Correspondingly, the commonwealth’s per student investment in PASSHE has decreased. Since fiscal year 2008-09, state funding per student has decreased by nearly 20 percent. In

⁶ Throughout this section, when we use the term “tuition,” we are referring to the baseline tuition rate set by the Board of Governors for in-state undergraduate students.

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other words, the reduction in state appropriations has increased the financial burden on students and their families.

Tuition Pricing Flexibility Pilot Programs

While the table presented above shows the baseline tuition set by the Board of Governors each year for in-state undergraduate students, it is important to note that since January 2014, the Board of Governors has approved 23 “pricing flexibility pilots” across 12 universities (only Shippensburg⁷ and Kutztown have yet to implement any pilots).

These pricing flexibility pilots allow the universities to get approval from the Board to charge tuition rates that vary from those set by the Board of Governors. We found that about half of these programs actually lowered tuition costs for some students. However, the other half of the pilots increased tuition, in some cases for only a specific group of students, and in other cases, the tuition increase affected the general student population. Examples of these pilots include the following:

Examples of pricing flexibility pilots that lower tuition.

- § Reduced tuition rates for all active duty military members (and their dependents and spouses) enrolled in targeted programs or at certain universities.
- § Reduced tuition rates for Cheyney, Millersville, West Chester, and East Stroudsburg students who enroll at PASSHE’s Center City campus in Philadelphia.
- § Reduced tuition for newly enrolled out-of-state undergraduates at Edinboro, Mansfield, and Bloomsburg.

According to PASSHE, the primary purpose of these pilots that lower tuition is to increase enrollment.

⁷ Shippensburg is currently awaiting approval from the Board on its proposal to charge a per-credit tuition rate.

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Examples of pricing flexibility pilots that increase tuition and/or fees.

- § Addition of new or increased existing instructional fees for high-cost, high-demand programs such as nursing, speech language-pathology, sciences, technology, engineering, mathematics, art, athletic training at several of the universities.
- § Change from a flat full-time tuition rate to a per credit tuition rate at Millersville and Indiana.⁸
- § Addition of a per credit education services fee at Lock Haven.⁹

According to PASSHE, the justification for pilots that increase tuition and/or fees is to better “align charges to students with instructional services delivered.”

According to PASSHE officials, each university will assess the effect that each pilot program has on enrollment and/or revenue collections after the program has been in place for two years. During Board meetings, PASSHE staff discussed the possibility of expanding these programs to the other universities if they are successful at the pilot locations. Because these pilots have been in place for only one or two semesters, it is too soon to determine how these programs have affected enrollment and revenues.

The cost to attend Penn State University or Pittsburgh University is nearly double the cost to attend a PASSHE university.

PASSHE tuition rates compared to other Pennsylvania colleges and universities

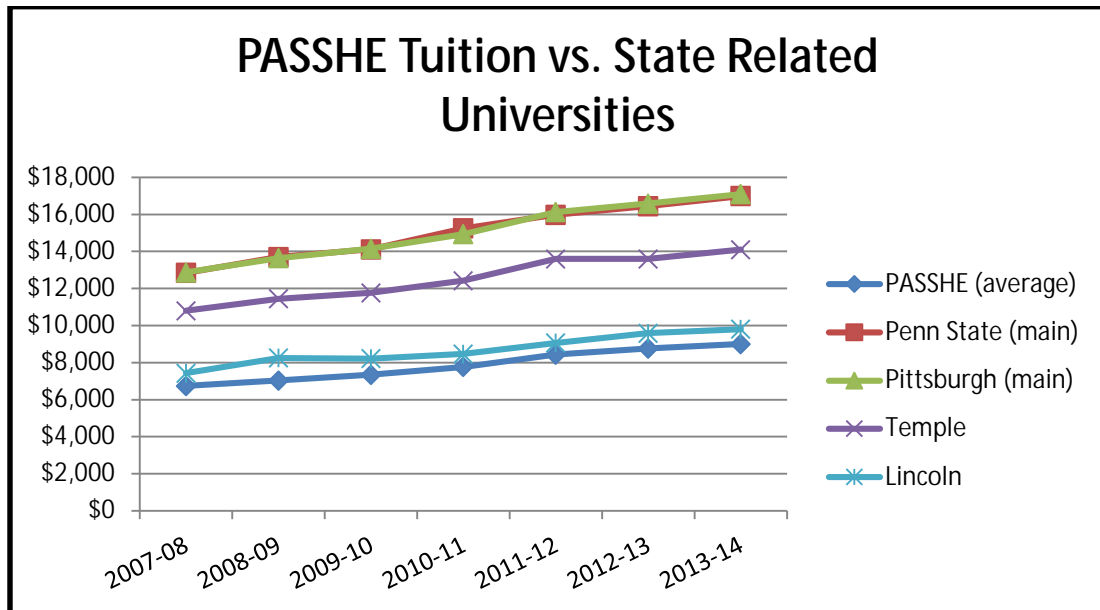
Despite annual tuition increases, costs to attend one of the PASSHE universities have remained lower than at other four-year colleges and universities in Pennsylvania. The chart below shows that the annual tuition and fees combined for PASSHE have been lower than those offered at each of the four state-related universities. Lincoln University’s costs have surpassed those of PASSHE by just a small margin each year, while the costs to attend the main campuses of the Pennsylvania State University and the University of Pittsburgh

⁸ This tuition pilot replaces the hybrid arrangement whereby students enrolled in 12 to 18 credits are charged a flat rate, and students who take fewer than 12 credits are charged on a per-credit basis.

⁹ Lock Haven used to charge undergraduate students an educational services fee on a per-credit basis up to 12 credits, at which point the fee was capped. This pilot allows Lock Haven to eliminate the full-time cap and apply the per credit charge to all credits that a student takes.

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have been nearly double the costs for the PASSHE universities each year. This chart also shows that the tuition and fee costs for the four state-related universities have increased each year at approximately the same rate as tuition and fees at the PASSHE universities.



Because numerous private colleges and universities in Pennsylvania can offer students sizable school-specific scholarships, it is difficult to compare their tuition rates to PASSHE. However, generally speaking, the tuition at the PASSHE universities is much lower than the tuition of the private schools when you compare “gross” tuition rates. For example, the 2014-15 baseline tuition at PASSHE was \$6,820, while it was \$30,070 at Duquesne and \$42,176 at the University of Pennsylvania.

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Findings and Recommendations

This section of the audit report presents our findings (identified deficiencies) in relation to the audit objectives, where applicable. We present these findings to assist PASSHE management in understanding the need for taking corrective action. We also present recommendations for each finding that are directed at resolving the cause of the identified deficiencies.

Finding One Tuition at PASSHE universities continues to rise despite efforts by PASSHE to manage costs in an era with stagnant state funding.

Because the costs of tuition¹⁰ at the 14 state-owned universities traditionally have been lower than those at the state-related institutions, such as the University of Pittsburgh and Pennsylvania State University, and at private colleges in the commonwealth, a PASSHE education has been considered the “affordable” choice in Pennsylvania. In fact, the purpose of PASSHE is to provide a “high quality education at the lowest possible cost to the students.”¹¹ However, with annual increases in PASSHE tuition rates, many students and families across the commonwealth are concerned that attaining a PASSHE education is becoming out of reach.¹²

As shown in the *Introduction and Background* ([click here](#)) section of this report, tuition has increased 27 percent from fiscal year 2008-09 to fiscal year 2013-14. Several factors have contributed to the annual increases in PASSHE tuition, including:

- § 17 percent decrease in state funding since fiscal year 2008-09.
- § 6 percent decline in enrollment since fiscal year 2010-11.

¹⁰ Throughout this finding, when we use the term “tuition,” we are referring to the baseline tuition rate set by the Board of Governors for in-state undergraduate students.

¹¹ 24 P.S. § 20-2003-A(a).

¹² This concern is mentioned in PASSHE’s *Strategic Plan 2020: Rising to the Challenge*, and noted in the *Maguire Study* commissioned by PASSHE in 2012.

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§ 28 percent increase in benefit costs since fiscal year 2008-09, especially pension costs.

There are several important factors that play a critical part in ensuring that a PASSHE education remains affordable. One factor is the key role that the state plays in promoting affordability in higher education by providing a General Fund appropriation to PASSHE each year. Another factor is the manner in which PASSHE manages its budget and takes actions to reduce expenses.

**PASSHE has made efforts to
minimize tuition increases.**

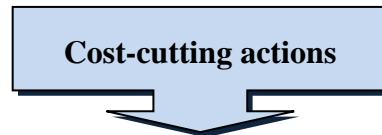
We found that PASSHE has made efforts to keep tuition affordable at the 14 state-owned universities. As part of its *Strategic Plan 2020: Rising to the Challenge*, PASSHE set a goal that states:

*Develop new funding strategies,
diversify resources, and manage
costs to preserve affordability.*

PASSHE's strategies to reach that goal include:

- Controlling expenditures.
- Exploring alternative revenue sources.
- Expanding programs to meet emerging market demands.

This section presents the various actions PASSHE has taken to ensure that the cost of college remains affordable.



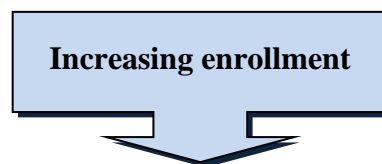
In its strategic plan document, PASSHE states that it estimated that it has saved \$250 million over the past decade by taking certain cost-cutting actions. When we asked PASSHE officials to provide the details on these cost savings, they gave us a copy

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of a one-page summary that they had prepared for the Pennsylvania General Assembly's Appropriation Committees in spring 2013, as well as other documents outlining these actions. According to the documentation PASSHE provided, it implemented the following system-wide cost-cutting actions¹³:

- § Achieving efficiencies through strategic sourcing.
- § Managing energy costs by procuring electricity and natural gas on the wholesale market and by reducing energy use.
- § Automating processes and services.
- § Not filling vacancies.
- § Offering a voluntary retirement incentive program in 2012.
- § Introducing collaborative purchasing of goods and services among the universities.
- § Consolidating business operations, such as payroll, human resources, legal, construction, and information technology services.
- § Placing academic programs, that are no longer viable, in moratorium.

PASSHE officials stated that they will continue efforts to identify additional areas where the universities can share services to further reduce costs and increase efficiencies.



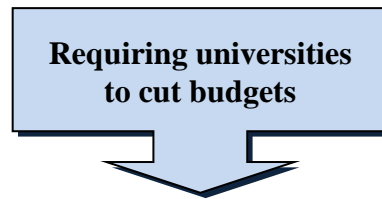
As discussed in the *Introduction and Background* ([click here](#)) section of this report, full-time equivalent undergraduate enrollment reached a peak of 100,272 students in fiscal year 2010-11. Since that time, the undergraduate enrollment count has declined one to three percentage points each year. Recognizing that enrolling more students will increase tuition

¹³ PASSHE could not provide us with the estimated cost savings for each specific cost-cutting action taken.

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revenues for the universities, PASSHE is taking the following actions in an effort to increase enrollment:

- § Offering reduced tuition rates for select students, such as active duty military members or out-of-state students.¹⁴
- § Creating new academic programs, or reorganizing existing programs, especially in the areas of science, technology, allied health, mathematics, and business and finance.
- § Developing and deploying online programs because the online programs are offered at multi-university locations, thus expanding the course offerings at each school. Additionally, the availability of online courses opens up opportunities for other potential students to enroll that may otherwise have not had the ability to take classes at a PASSHE university.
- § Encouraging individual universities to enter into articulation agreements with local community colleges to ensure a seamless transition of credits from the community college to the PASSHE universities. This effort aids in keeping tuition affordable for the students since they can complete two years at a community college, typically with lower tuition before transferring all credits to a PASSHE university to finish their degree.

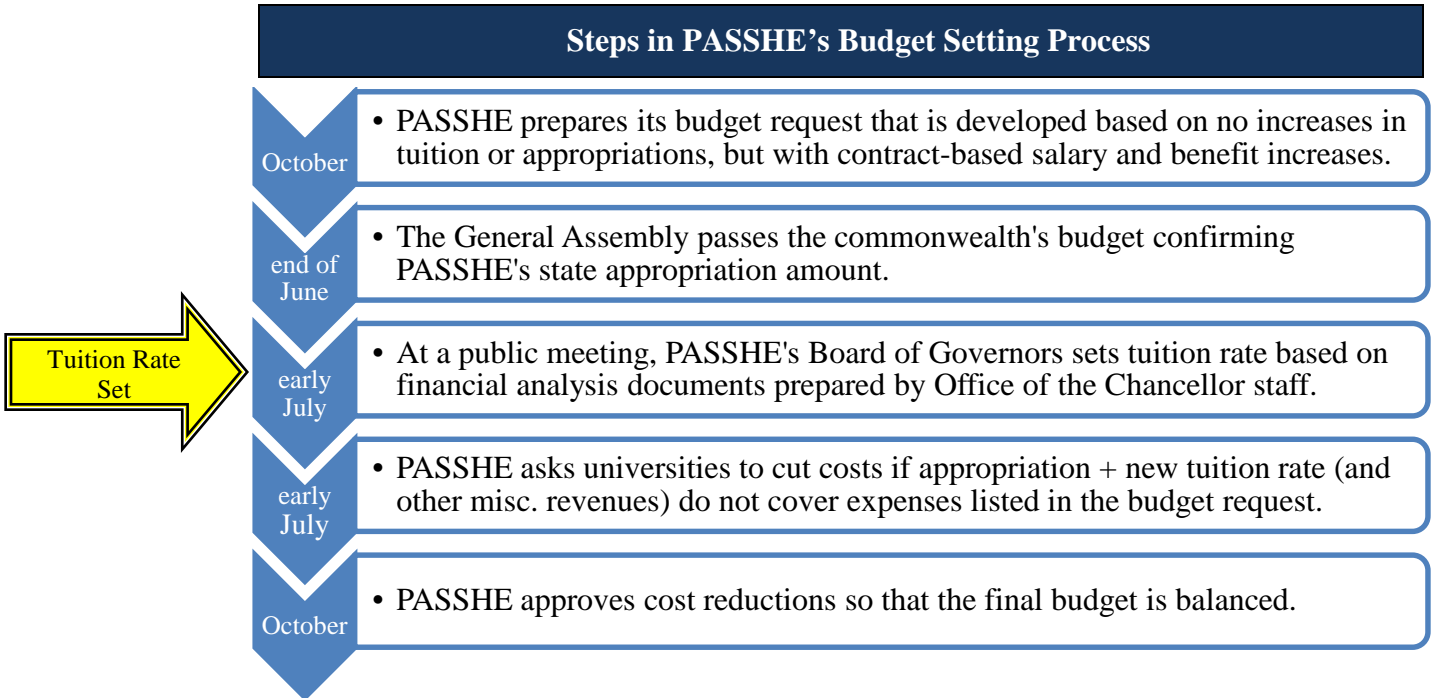


As the diagram below shows, the Board of Governors does not set tuition rates until after the commonwealth’s budget is passed and the state funding appropriation amount for PASSHE is known. In that regard, tuition rates are highly

¹⁴ For additional information on these reduced tuition rates, see the *Tuition Pricing Flexibility Pilot Programs* ([click here](#)) section in the *Introduction and Background* of this report.

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dependent on the amount of state appropriation awarded to PASSHE.



However, according to PASSHE officials, the Board does not necessarily set tuition at a rate that will fully cover budget needs not addressed with the appropriation and other anticipated revenues (as shown in the fourth step of the diagram above). PASSHE officials explained that when the Board is discussing tuition increases, it has to consider the possibility that if the increases are too high, a PASSHE education may no longer be affordable to some potential students.

By way of example, PASSHE officials pointed out that in the past two years there was a PASSHE system-wide budget shortfall even after the tuition rate was set. They stated that the budget gap was \$38 million in fiscal year 2014-15 and \$50 million in fiscal year 2013-14.

When the Board set the tuition rate at a level that did not close the budget gap, PASSHE required each university to cut its own budget so that the system-wide budget could be balanced. PASSHE officials stated that each university makes its own

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determination on where it will make its budget cuts because each university has a unique set of circumstances that dictate where cuts can be absorbed.

While it is laudable that PASSHE has chosen to limit annual tuition increases in an effort to keep college costs affordable, PASSHE has to be careful to not let the university budget cuts become so drastic that the cuts negatively affect the students' education (e.g., decreases in the number of classes or elimination of student services and activities). As mentioned earlier, PASSHE's purpose is to provide a high quality education at the lowest possible cost to students.¹⁵ Therefore, PASSHE has to continue to address rising college costs, but it cannot do so at the expense of, or by sacrificing, quality.

PASSHE must take more action to ensure college remains affordable.

While PASSHE has taken the actions discussed above to address college affordability, PASSHE must find additional ways to control expenditures.

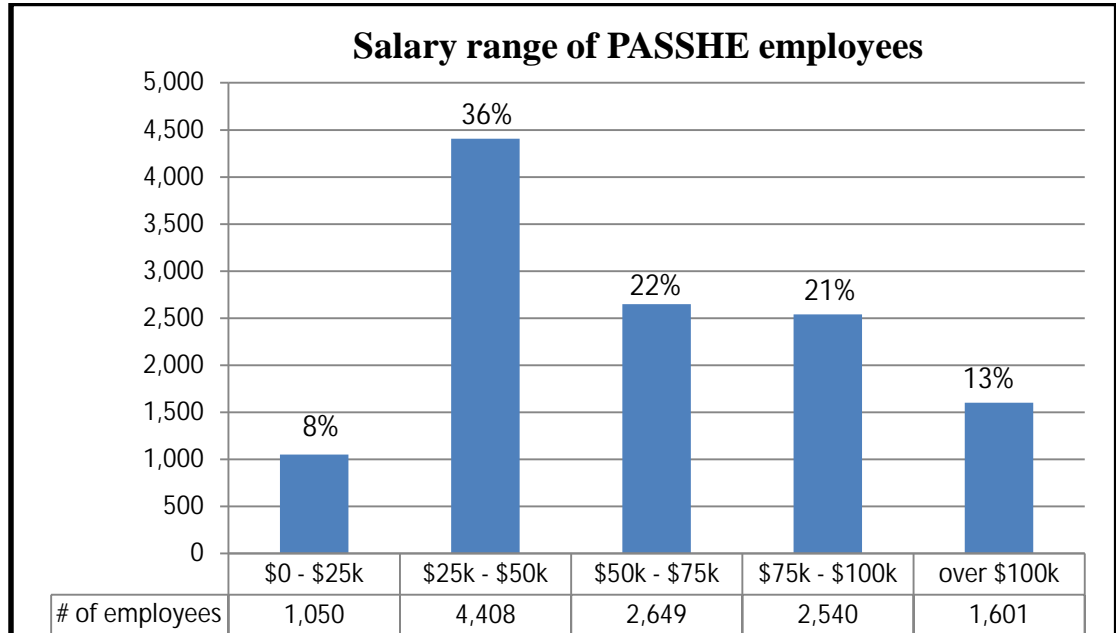
Personnel Costs

PASSHE's personnel costs (salaries, wages, and benefits) for its more than 12,000¹⁶ employees amounted to over \$1.3 billion in fiscal year 2013-14, which was about two-thirds of PASSHE's budget that year. The personnel costs for approximately 87 percent of those employees were established in eight separate collective bargaining agreements. The following graph shows the salary ranges for PASSHE employees as of January 15, 2015.

¹⁵ 24 P.S. § 20-2003-A(a).

¹⁶ As of January 15, 2015, PASSHE had 12,248 employees.

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Source: Developed by Department of the Auditor General staff using data obtained from Pennwatch.pa.gov as of January 15, 2015.

As stated earlier, PASSHE’s personnel expenses comprised nearly two-thirds of PASSHE’s operating budget in fiscal year 2013-14. When analyzing PASSHE’s personnel expenses, we found that the annual increases in costs to provide employee benefits have exceeded the growth in costs for salaries each fiscal year from 2008-09 through 2013-14, as shown on the table below. In fact, in fiscal year 2011-12, costs for salaries actually declined because PASSHE offered a voluntary retirement program, and salaries were frozen.

Fiscal Year	Benefit Costs	Annual Percent Change	Salary and Wage Costs	Annual Percent Change
2008-09	\$358,700,000	--	\$835,200,000	--
2009-10	\$386,600,000	7.8%	\$861,800,000	3.2%
2010-11	\$402,200,000	4.0%	\$877,700,000	1.8%
2011-12	\$408,200,000	1.5%	\$853,900,000	-2.7%
2012-13	\$428,000,000	4.9%	\$869,400,000	1.8%
2013-14	\$458,900,000	7.2%	\$879,500,000	1.2%
Change from 2008-09 to 2013-14		28%		5%

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Benefit costs include current and retired employee health care, pension payments (SERS¹⁷, PSERS¹⁸, and the Alternate Retirement Plan), and other benefits such as Social Security and workers' compensation. PASSHE's largest benefit costs have been for both current and retired employees' health care. Further, since fiscal year 2011-12, PASSHE's payments to SERS and PSERS have increased by 20 to 56 percent annually. According to PASSHE's audited financial statements for the year ended June 30, 2014, "these steep increases were instituted by SERS and PSERS to fund their unfunded actuarial accrued liabilities."

Like all other state agencies whose personnel costs are driven by collective bargaining agreements, PASSHE is constrained in its ability to manage those personnel expenses. Further, while PASSHE can control personnel costs by not filling vacancies, it has to ensure that it has adequate instructional staff to offer enough courses for students to finish their degree programs timely. If there are fewer class offerings, it may take students longer to graduate, which means students would pay more in tuition and possibly incur more debt.

Operating Costs

One of PASSHE's largest operating costs is for the maintenance and operation of its buildings, including utility costs. While PASSHE has taken efforts to reduce energy costs (as described earlier in this finding), utility costs are increasing. We noticed in budget documents that PASSHE reminded the universities that due to the expiration of electric generation rate caps, utility rates will increase. In fact, according to PASSHE, the estimated utility cost increase for 2010-11 was 10.5 percent, for 2011-12 it was 8.6 percent, and for 2012-13 it was 3 percent.

While PASSHE's efforts to reduce energy costs are commendable, with the ever increasing utility expenses, PASSHE must continue to look for other costs reduction opportunities.

¹⁷ i.e., Pennsylvania State Employees' Retirement System.

¹⁸ i.e., Pennsylvania Public School Employees' Retirement System.

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Utility costs, as well as other non-personnel operating costs, vary by university, and while this audit did not include a detailed analysis of each university's operating expenses, one such building and maintenance expense received considerable media attention.

The president's 118-year-old residence at California University of Pennsylvania was renovated last year at a cost of approximately \$850,000. Renovations included electrical, plumbing, and sewer upgrades, as well as other modernization improvements to the living quarters. Some media reports highlighted the costs of lavish materials such as crystal doorknobs, custom draperies, and Italian marble in the entryway.

We asked PASSHE officials about their rationale for the reported costs, and they stated that the official residence at California University was in "very poor condition," and that it has not had a significant renovation since 1930 and that minimal work has been done to the residence in the last few decades. As a result, PASSHE considered the renovations to be a necessity.

The project was funded with \$650,000 of PASSHE "System Reserve" funds.¹⁹ PASSHE officials stated that the amount of \$650,000 has customarily been the acceptable limit of investment from the System Reserve for such renovations. The remaining costs were to be funded from California University's operating budget.

According to PASSHE officials, California University's Council of Trustees received a full description of the work to be completed and the cost estimate of the project. The Council of Trustees was in full support of the renovation project.

PASSHE's Board of Governors was advised of the project and was provided with a general description of the work and the proposed funding amount from the System Reserve. The Office of the Chancellor received a description of work and a detailed cost estimate from the university. The Office of the

¹⁹ PASSHE maintains a System Reserve Fund in accordance with PASSHE Policy 1984-07-A: *System Reserve Allocation and Expenditure Criteria*. PASSHE allocates an amount from their general funds allocation that will restore the reserve balance to a level not to exceed \$1,500,000. The balance is not to fall below \$500,000 in any fiscal year except in cases of emergencies.

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Chancellor granted approval for the project, in accordance with PASSHE's System Reserve policy.²⁰

While we understand the need for renovations and investments in campus facilities, PASSHE should, however, carefully review all details of proposed project costs. This is not only necessary to demonstrate awareness of public perception, but also to foster prudent spending by its universities in projects of this magnitude.

Moving Forward:

PASSHE's own strategic plan contains "strategies" to address college affordability, including:

- § Balance, diversify, and grow financial resources (state funding, tuition and fees, private giving, and entrepreneurial activities) and control expenditures to enable the State System and its universities to achieve their missions.
- § Develop and implement a multi-year, strategic, financial-operational planning model that addresses commonwealth funding, tuition and fees, and ongoing financial and contractual obligations.

It is imperative that PASSHE continue to increase its focus on cost containment measures, as well as growing new revenues, to help keep tuition levels affordable for Pennsylvania students. In our research related to college affordability, we found that other states are taking actions such as limiting the amount of annual tuition increases, freezing tuition rates altogether, offering one flat rate for all four years, and providing tuition refunds for timely completion of degree programs. PASSHE should consider the feasibility of such actions for its universities.

²⁰ In accordance with PASSHE Policy 1984-07-A, the Board of Governors is not required to vote to approve the renovation of a president's residence with System Reserve Funds; it only needs to be consulted. Further, the Council of Trustees at California University was not required to vote to approve this project since the renovations were not paid for with Commonwealth capital funding or System bond financing.

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If costs are not contained and tuition continues to rise, many students will likely incur higher amounts of debt to pursue a college education. For some other students, the rising costs could prevent them from completing their degrees. PASSHE, therefore, must commit to an ongoing, substantive evaluation of whether it is staying true to its own mission as required by Act 188 “to provide high quality education at the lowest possible cost to the students.”

Recommendations

1. PASSHE should continue to evaluate:
 - § Operating costs to identify areas where PASSHE can attain additional savings.
 - § Personnel expenses for cost reductions, including an evaluation of areas where duties can be consolidated.
 - § Academic program offerings to ensure that outdated programs are placed in moratorium and new, high-demand programs are offered.
 - § Opportunities where technology, such as online classes, can help keep tuition affordable and increase academic offerings.
2. PASSHE should analyze the effects on tuition revenue levels and enrollment for each of its pricing flexibility pilot programs and expand or discontinue those programs based on the results of its evaluations.
3. PASSHE should research tuition programs used in other states, evaluate the applicability of those programs for the PASSHE universities, and implement those it deems feasible and appropriate for PASSHE.

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Finding Two**PASSHE discontinued its practice of conducting vital internal audits related to reporting campus crime statistics.**

PASSHE's Office of Internal Audits and Risk Assessment (OIARA) is responsible for conducting internal audits covering a wide range of financial and compliance topics at each of the 14 universities. We found that since July 1, 2011, the OIARA conducted only four internal audits to evaluate the university's compliance with the Clery Act²¹.

PASSHE officials stated that Clery Act compliance audits for two other universities were approved by the Board's Audit Committee for inclusion in the fiscal year 2013-14 OIARA work plan.²² However, these audits were not completed, according to PASSHE, "due to inadequate available OIARA staff hours."

These Clery Act compliance audits are an important tool that assist PASSHE in ensuring that each of the universities is actually complying with the provisions of the Clery Act. However, we found that OIARA, which reports directly to the Board's Audit Committee,²³ has ceased conducting such audits.

**Internal audits are an essential tool to
monitor the universities'
compliance with the Clery Act.**

The objectives of the Clery Act compliance audits that we reviewed were to review and evaluate each of the university's compliance with key provisions of the Clery Act and to evaluate the completeness, accuracy, and timeliness of the universities' reporting of crime and fire statistics. The OIARA Clery Act compliance review audit program we obtained

²¹ i.e., the federal Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (originally called the Crime Awareness and Campus Security Act of 1990), 20 U.S.C. § 1092(f)

²² The Board's Audit Committee approves a work plan for the OIARA each fiscal year.

²³ See Board of Governors' Policy 1991-06-A, *State System Audit Policy*, updated on July 16, 2009.

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contained a detailed methodology outlining steps for the internal auditors to carry out when evaluating compliance.

Internal audits highlight deficiencies that the universities otherwise may not know about.

In Conclusion Two of this report ([click here](#)), we discuss several actions PASSHE has taken to ensure the universities comply with federal and state laws and regulations related to sexual assault, including a system-wide compliance assessment. However, the value of internal audits cannot be understated. We believe that the Clery Act compliance audits are a valuable tool that enables PASSHE to determine if the universities are actually complying with the established policies and procedures. Internal audits are also beneficial to the universities because the audits can identify deficiencies as well as areas for improvement.

Finally and most important, internal audits can help the universities potentially avoid costly fines and penalties. If the U.S. Department of Education were to conduct an investigation of the individual universities and find areas of noncompliance, it could assess penalties of \$35,000 per violation.²⁴

While PASSHE has stated that it had inadequate staff hours to continue its Clery Act compliance audits in fiscal year 2014-15, PASSHE officials told us that it will “determine whether this subject area is appropriate for audit work in future years.”

PASSHE has a duty to ensure that its universities comply with all aspects of the Clery Act, not merely to avoid investigations by the U.S. Department of Education or any other authorities but to provide the transparency and campus safety awareness that the law intended.

PASSHE should do all that it can to ensure compliance with the Clery Act in order to raise awareness about crimes on campus as part of a larger, concerted effort to reduce crime and to require timely and appropriate investigations of any crimes that do occur. PASSHE’s compliance audits are integral to its effective oversight regarding this critically important issue.

²⁴ 34 C.F.R. Part 36 (Relating to Adjustment of Civil Monetary Penalties for Inflation), amended at 77 FR 60049, October 2, 2012. Section 36.2 indicates that the civil penalty was adjusted from \$27,500 to \$35,000. See 34 C.F.R. § 36.2.

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Recommendation

4. PASSHE should immediately reinstitute Clery Act compliance audits within its Office of Internal Audits and Risk Assessment.

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Finding Three **PASSHE has not established system-wide, uniform procedures to comply with Title IX, which resulted in inconsistencies in these procedures at its universities.**

Title IX of the Education Amendments of 1972 prohibits discrimination on the basis of sex in any federally-funded education program or activity as stipulated by the U.S. Department of Education's Office of Civil Rights²⁵ (OCR) and the U.S. Department of Justice. Under Title IX, discrimination on the basis of sex can include sexual violence, such as rape, sexual assault, sexual battery, and sexual coercion.

Grievance Procedures

Title IX requires schools to “adopt and publish grievance procedures providing for the prompt and equitable resolution of student and employee sex discrimination complaints.”²⁶

Each of PASSHE's universities has developed its own grievance procedures in order to comply with Title IX regulations. As a result, PASSHE's legal staff must carefully review 14 different grievance procedures to determine whether each university's procedures comply with all requirements of Title IX. This lack of uniform, system-wide procedures impairs efficiency, increases the legal workload, and could make monitoring the universities for compliance more difficult.

Additionally, although Title IX does not require schools to implement separate procedures for addressing sexual violence complaints, many schools do so. These procedures, however, must also meet the Title IX requirement of affording a complainant with a prompt and equitable resolution.²⁷

²⁵ It is important to note as of May 1, 2014 that five (Non-PASSHE) universities in Pennsylvania are under investigation by the U.S. Department of Education for possible violations of Title IX over the handling of sexual violence and harassment complaints. See <http://www.ed.gov/news/press-releases/us-department-education-releases-list-higher-education-institutions-open-title-ix-sexual-violence-investigations>.

²⁶ 20 U.S.C. § 1681 *et seq.* See also Catherine E. Lhamon, Assistant Secretary for Civil Rights, *Questions and Answers on Title IX and Sexual Violence*, U.S. Department of Education, April 29, 2014, <http://www2.ed.gov/about/offices/list/ocr/docs/qa-201404-title-ix.pdf> See also Footnote 1 in the document.

²⁷ *Ibid.*

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Our review of each university's grievance procedures found that they had various potential for effectiveness in achieving compliance with Title IX. For instance, we found that while some universities designate specific time frames for major stages of the complaint resolution process, others did not.

In another example, we found that while some universities' grievance procedures contained a statement that these procedures applied to third parties, as well as to students and employees, others did not. Since third parties are intended to be covered by Title IX, they should have been expressly included by all universities.

Notices of Non-Discrimination

In order to comply with Title IX, the universities are required to publish a notice of nondiscrimination stating that they do not discriminate on the basis of sex and that inquiries regarding Title IX should be referred to the university's Title IX coordinator or to OCR. This notice must be widely distributed to various parties including applicants for employment and admission. The universities distribute this information on several publications, such as employment applications, as well as undergraduate and graduate school admission applications. Our review of these types of publications found that the language varied between universities. While some universities used language that is consistent with Title IX, others did not. This may lead to confusion by general readers of these notices.

Without uniform Title IX policies and procedures, PASSHE cannot efficiently monitor the universities for compliance with this important grievance procedure requirement. In addition, the lack of system-wide policies and procedures, which comply with this Title IX requirement, could result in students, employees, and third parties at one or more of the PASSHE universities not receiving a prompt and equitable resolution of their complaints. Furthermore, universities are subject to penalty by the OCR if the OCR determines they are not in compliance with Title IX.²⁸ Depending on the scope and

²⁸ According to the U.S. Department of Justice's *Title IX Manual*, "despite the lack of a private right of action in the courts concerning the lack of a grievance procedure, the requirement to establish a prompt and equitable grievance procedure can be enforced administratively by the funding agency. The Supreme Court

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severity of non-compliance, the universities could risk substantial penalties or possible loss of federal funding.

Recommendations:

PASSHE is in a unique position to be able to assist its 14 universities to employ best practices in complying with Title IX. It can facilitate a collaborative effort by the universities to draw from the best of each school's policies and procedures. In doing so, PASSHE should do the following:

5. Adopt and publish system-wide, uniform grievance procedures for sex discrimination complaints. These procedures should address specific Title IX requirements, such as procedures for filing complaints, timely investigation of complaints, timeliness of resolution, and notice to parties of outcomes.
6. Employ uniform language, consistent with Title IX requirements, in all universities' publications used to distribute the required notice of non-discrimination.
7. Monitor the universities in a consistent, routine manner to ensure that each one is fully complying with these uniform Title IX policies and procedures.

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Conclusions

This section of the audit report presents our conclusions (no identified deficiencies) in relation to the audit objectives, where applicable. Because we did not identify any deficiencies in the areas noted below, we have not made any recommendations for corrective actions.

Conclusion One

PASSHE's Board of Governors is fulfilling its duties as mandated by Act 188 of 1982 in an effective manner.

Act 188 of 1982, PASSHE's enabling legislation, mandated specific powers and duties for the Board of Governors (Board). Some of the responsibilities imposed on the Board were required to be addressed only at the time of the Board's creation, whereas other responsibilities are ongoing.²⁹ Appendix B ([click here](#)) presents a list of each of the Board's mandated responsibilities.

We found that the Board performed the functions mandated in Act 188 in an effective manner. We made this conclusion based on the following:

1. **The Board was actively engaged in planning and policy-making functions.** The Board meets at least quarterly. Based on our observations at two of these quarterly meetings, as well as our review of PASSHE policies and all of the Board's meeting minutes for meetings held since July 1, 2011, we saw that the Board was actively involved in the following areas:
 - § Approval of the strategic plan, annual operating budgets, annual capital budgets, annual appropriation requests, building demolition, bond issuances, new academic programs, and pricing flexibility pilot projects.
 - § Consideration and approval of cost cutting measures.
 - § Setting of tuition rates and the technology fee.

²⁹ 24 P.S. § 20-2006-A.

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- § Establishment of new policies and amending of existing policies.
 - § Allocation of annual funding to the 14 universities, including performance funding.
 - § Approval of pricing flexibility pilot projects.
2. **The Board is comprised of five committees.** These committees are: Academic and Student Affairs; Audit; Executive; Finance, Administration, and Facilities; and Human Resources. We also found that the Board formed two special committees during our audit period, one for strategic planning and another for funding review. The use of Board committees, as well as the two special committees, provides a forum for staff from the Office of the Chancellor to inform and discuss in detail various PASSHE issues with Board members.
3. **Board members maintained consistent attendance at Board meetings.** We found that the Board members regularly attended each of the quarterly Board meetings held since July 1, 2011. We also found that the Board had very few vacancies during that period, with student vacancies being most prevalent because when the student members graduate, they are no longer a member of the Board.

Based on the above observations and reviews, we concluded that the Board, as a collective body, is actively engaged and committed to its duties and responsibilities as outlined in Act 188.

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**Conclusion
Two****PASSHE has taken several steps to help ensure its universities are complying with state and federal laws related to sexual violence and sexual harassment.**

We concluded that PASSHE³⁰ took several actions during our audit period to help ensure that the 14 universities developed and implemented policies and procedures to comply with federal and state laws and regulations related to campus safety, including sexual assault prevention and response, sexual harassment, and sexual violence awareness.³¹ These actions included the following:

Ø PASSHE employs a Title IX Coordinator

PASSHE's Title IX Coordinator acts as a liaison between the Office of the Chancellor and the 14 state-owned universities.³² Further, she acts as PASSHE's chief compliance officer to ensure that the 14 universities are up-to-date and in compliance with Title IX, the Clery Act, and the commonwealth's sexual violence education program.

PASSHE's Title IX Coordinator holds meetings once a semester and conducts telephone meetings more frequently with university officials to review the status of updates to policies, resources, reporting practices, training, and communication. Further, the Title IX Coordinator of PASSHE has attended trainings sponsored by the American Association of Title IX Coordinators (ATIXA), as well as webinars and other educational opportunities conducted by recognized

³⁰ In this regard we use the term PASSHE to specifically mean the Office of the Chancellor's staff.

³¹ Our audit focused on two federal laws: Title IX, Education Amendments of 1972, 20 U.S.C. Chapter 38 (Discrimination Based on Sex and Blindness) and particularly, 20 U.S.C. § 1681 (relating to Sex) ("Title IX") and The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, 20 U.S.C. § 1092(f) ("Clery Act"), and one state law: Article XX-G (Sexual Violence Education at Institutions of Higher Education) of the Public School Code of 1949, 24 P.S. Article XX-G and particularly, 24 P.S. § 20-2003-G (relating to Sexual Violence Education Program), 24 P.S. § 20-2003-G).

³² Each of the 14 universities has its own Title IX coordinator, as well as an officer responsible for social equity issues.

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experts in Title IX, Campus SaVE,³³ the Clery Act, and related sexual misconduct issues. PASSHE's Title IX Coordinator has received ATIXA certification as a trained Title IX administrator and attended a "Bystander Sexual Assault Intervention Train-the-Trainer" program in fall 2014.

Ø Office of Chief Counsel oversees the 14 universities

PASSHE's Chief Counsel interacts regularly with the senior executives in the Chancellor's office, and he assigns PASSHE's nine attorneys to work with the universities' staff. A major responsibility for these attorneys is to advise the university executives at all levels on compliance with PASSHE policies, as well as state and federal laws and regulations.

With regard to Title IX and Clery Act compliance, PASSHE officials explained that the Office of the Chancellor, through the Office of Chief Counsel in collaboration with outside counsel, has provided advice and training on the legal requirements of Title IX and the Clery Act to the 14 universities. Further, the Office of Chief Counsel and PASSHE's Title IX Coordinator conducted a system-wide assessment on each university to ensure compliance with legal requirements.

Ø PASSHE conducts training for the universities

PASSHE's Office of the Chief Counsel and its Title IX Coordinator have provided training to various staff at the 14 universities to ensure the universities comply with their legal requirements. In some cases, PASSHE has hired outside counsel to provide specialized training. The following list highlights some of the training that PASSHE provided related to Title IX, Campus SaVE, and Clery Act compliance during our audit period:

§ PASSHE Investigations Training: Legal and Practical Implications of the Campus Investigation (relates to Title

³³ See Violence Against Women Act (VAWA) Reauthorization Act of 2013 (amended the VAWA of 1994 and the Clery Act), Public Law 113-4, 127 Stat. 54. Part of the VAWA was the Campus Sexual Violence Elimination Act or better known as Campus SaVE (20 U.S.C. § 1092(f)), effective March 7, 2014.

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IX and the Dear Colleague Letter issued by the U.S. Department of Education in April 2011).³⁴ This training was held in four sessions for the university Title IX coordinators, and other sessions were held for the universities' Chiefs of Police.

§ PASSHE Update: "Sexual Misconduct Reporting and Investigation Obligations under Title IX and the Clery Act" and "Best Practices for Conducting a Sexual Misconduct Investigation Under Title IX." This training was provided by an outside legal firm, but developed in consultation with PASSHE's Office of Chief Counsel and its Title IX Coordinator. Attendees from all 14 universities included staff from residence life, judicial affairs, social equity, campus safety and university police, as well as Title IX and deputy Title IX coordinators.

§ Half-day workshop on legislation and case law relative to Title IX and other related matters. This training was conducted by the National Center for Higher Education Risk Management and presented to university employees, including Title IX coordinators, student affairs and human resources staff, and social equity officers.

In addition to the trainings listed above in which staff from all the universities attended, PASSHE's Office of Chief Counsel and its Title IX Coordinator provided "personalized" training for the individual universities based on the results of the system-wide assessment.

While we commend PASSHE on the actions taken thus far, PASSHE must remain vigilant in its oversight of the universities. PASSHE should continue to utilize all available resources to assist the universities in their efforts to comply with all federal and state laws and regulations related to campus safety.

³⁴ The Dear Colleague Letter is a form of non-regulatory guidance, and it made clear that higher education institutions have obligations under Title IX to take immediate and effective steps to respond to sexual violence and to remediate its effects.

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**Conclusion
Three**

PASSHE universities established campus safety-related policies and procedures required by state and federal laws.

Based on the limited procedures we performed at each of the 14 system universities³⁵, we concluded that each university has established policies and procedures required by state and federal laws related to campus safety, including sexual assault prevention and response, sexual harassment, and sexual violence awareness.

Specifically, we found that universities provided information sufficient to conclude that they have established policies and procedures to assist in achieving compliance with the following: (See Appendix C for more detail)

- § Key provisions of Title IX regarding designating and training the Title IX coordinator, developing training for employees, and implementing policies and procedures to protect against retaliatory harassment.
- § Key provisions of the Clery Act regarding issuing timely warnings about Clery Act crimes, issuing emergency notifications, and establishing a missing student notification policy.
- § Key provisions of the Clery Act requiring the universities to publish an Annual Security Report (ASR) that contains specific crime and fire statistics.

We reviewed each university's 2014 ASR and found that all required items were included in each report. We also found that although the final regulations for the Violence Against Women Reauthorization Act of 2013 (VAWA) does not become effective until July 1, 2015, thirteen of the universities have already complied with the new reporting requirements in their 2014 ASRs by including statistics for domestic violence, dating violence, and stalking incidents.

³⁵ See Appendix C for details of the limited procedures performed.

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Also regarding the VAWA, we found that eight universities have implemented policies and procedures required by the act in advance of the July 1, 2015 effective date. Specifically, universities are required to develop and distribute a statement of policy regarding programs to prevent domestic violence, dating violence, sexual assault, and stalking. The universities must also develop procedures that the institution will follow once such incidents have been reported. The remaining six universities have these items in place and university officials told us that they are working to consolidate these separate items into one policy statement.

We concluded from the information provided by the universities that they have implemented policies and procedures to assist in achieving compliance with provisions of Act 104 of 2010. The act requires each university to establish a sexual violence awareness educational program that includes specific topics identified in the statute.

Based on the limited review of documents provided to us by each university, we concluded that the universities are making efforts to ensure that they have established the required policies, procedures, training and educational programs. We cannot, however, provide assurance that each university has effectively implemented these policies because we did not specifically test for compliance, as that testing was beyond the scope of the limited procedures performed.³⁶

While we determined that the universities established the required policies and procedures, we did note some inconsistencies that we believe should be addressed by PASSHE. (See Finding Three for more detail)

³⁶ In the future, we may use the information gathered from these limited procedures to conduct detailed compliance audits at each university.

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Appendix A
**Objectives,
Scope, and
Methodology**

The Department of the Auditor General conducted this performance audit in order to provide an independent assessment of the Pennsylvania State System of Higher Education (PASSHE). To be clear, PASSHE is comprised of a Board of Governors, the Office of the Chancellor, and the 14 state-owned universities (see the *Introduction and Background* section for more details on PASSHE's composition). This performance audit focused on activities of the Board of Governors and the Office of the Chancellor and their oversight of the universities. Throughout this report, when we refer to PASSHE we mean the Board of Governors and the Office of the Chancellor, unless we indicate otherwise.

We conducted this audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Objectives

Our performance audit objectives were as follows:

- § Determine the extent to which PASSHE ensures that the 14 universities develop and implement policies and procedures to fully comply with federal and state laws and regulations related to campus safety, including sexual assault prevention and response, sexual violence awareness, and protection of minors. (*See Finding Two, Conclusion Two, and Appendix C for results*)
- § Determine the extent to which PASSHE is working with the 14 universities to manage costs to ensure that a PASSHE education is affordable. (*See Finding One for results*)
- § Determine if the Board of Governors is effectively fulfilling its duties as prescribed in Act 188. (*See Conclusion One for results*)

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Scope

Our audit covered the period of July 1, 2011, through June 30, 2014, unless otherwise indicated. PASSHE's management (the Board of Governors and the Office of the Chancellor) is responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the 14 universities are in compliance with applicable laws, regulations, contracts, grant agreements, and administrative policies and procedures.

In conducting our audit, we obtained an understanding of PASSHE's internal controls, including any information systems controls, as they relate to those requirements and that we considered to be significant within the context of our audit objectives. We assessed whether those controls were properly designed and implemented. Any deficiencies in internal control that were identified during the conduct of our audit and determined to be significant within the context of our audit objectives are included in this report.

Methodology

To address our audit objective to determine the extent to which PASSHE ensures that the 14 universities develop and implement policies and procedures related to campus safety, we performed the following procedures:

- § Interviewed PASSHE's Chief Compliance Officer/Title IX Coordinator and obtained a copy of the Title IX Coordinator job description to obtain an understanding of the duties and responsibilities associated with that position.
- § Obtained copies of correspondence between the Title IX Coordinator and the applicable university officials to obtain assurance that PASSHE's Title IX Coordinator regularly communicates with university officials.
- § Reviewed federal and state laws and regulations³⁷ to determine the requirements placed on PASSHE versus the requirements placed on the individual universities.

³⁷ Pertinent provisions of the federal Clery Act and Title IX, as well as the state Act 104 of 2010.

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- § Obtained copies of audit reports related to university Clery Act compliance from PASSHE's internal audit organization. Our review of these internal audits allowed us to assess PASSHE's internal controls related to ensuring the universities comply with state and federal laws and regulations.
- § Obtained copies of training materials from trainings presented by PASSHE's Office of Chief Counsel and Title IX Coordinator to the applicable university officials on campus safety to gain sufficient evidence that the universities were receiving training from PASSHE on their legal responsibilities.
- § Obtained copies of reports that the universities submitted to PASSHE in which the universities certified that all state and federal reporting requirements were met.
- § Conducted limited procedures at each of the 14 universities to determine if the universities established policies and procedures sufficient to comply with the applicable federal and state laws and regulations related to campus safety. (see Appendix C for more detail)

To address our audit objective to determine the extent to which PASSHE is working with the 14 universities to manage costs to ensure that a PASSHE education is affordable, we performed the following procedures:

- § Obtained and reviewed PASSHE's operating budget information request instructions for fiscal years 2012-13 through 2014-15.
- § Obtained and reviewed PASSHE's state appropriation request for fiscal year 2014-15.
- § Obtained and reviewed budget and financial position documents prepared by the Office of the Chancellor staff and presented to the Board of Governors' Finance, Administration, and Facilities Committee for various meetings held between March 6, 2012, and September 20, 2014.

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- § Reviewed Board meeting minutes for all meetings held since July 1, 2011, and attended the October 2014 and January 2015 quarterly Board meetings.
- § Obtained and reviewed PASSHE's financial statements for fiscal years ended June 30, 2010, through June 30, 2014.
- § Conducted interviews with PASSHE officials to discuss PASSHE's funding streams, expenditures, tuition levels, and college affordability.
- § Based on an analysis of the information obtained above, developed an understanding of PASSHE's cost cutting measures, revenue enhancements, and tuition flexibility programs put in place since July 1, 2011.
- § Determined PASSHE tuition rate fluctuations from the 2007-08 school year through the 2013-14 school year.
- § Compared PASSHE tuition rates to other universities and colleges located in the commonwealth.

To address our audit objective to determine if the Board of Governors is effectively fulfilling its duties as prescribed in Act 188, we performed the following procedures:

- § Obtained and reviewed Act 188 to gain an understanding of the Board of Governors' duties and responsibilities.
- § Attended PASSHE Board meetings in October 2014 and January 2015 and reviewed board meeting minutes for meetings held since July 1, 2011, to determine each board member's participation, as well as the level of discussion and information provided to the Board's committees.
- § Determined if any vacancies on the Board occurred during the audit period and determined the process and procedures used to fill those vacancies. Also determined the length of time any board seats were left vacant.

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- § Interviewed PASSHE executive staff regarding the Board's governance and oversight responsibilities to confirm our understanding of the Board's roles and responsibilities.

- § Reviewed Board policies to confirm that the Board fulfilled its duty to create policies as outlined in Act 188.

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**Appendix B Powers and duties of the Board of Governors
as detailed in Act 188 of 1982 ([click here](#))³⁸**

The Board has overall responsibility for planning and coordinating the development and operation of the State System. The powers and duties of the Board are:

- Ü To employ the chancellor to serve at the Board's pleasure under fixed term or contract of fixed duration of not longer than five years, to fix the chancellor's salary, and to prescribe and delineate the chancellor's duties and responsibilities. Prior to the renewal of the chancellor's term or contract, the Board shall conduct an evaluation of the chancellor's service to determine whether such term or contract should be renewed and for what period of time.
- Ü To appoint presidents of the 14 universities (from a list submitted by the chancellor), to serve at the Board's pleasure under fixed terms or contracts of fixed duration. The Board shall fix the salaries and other terms of appointment of each president, and prior to renewal of such term or contract consider the results of the evaluation of each president's service as submitted by the chancellor.
- Ü To establish policies and procedures to be applied by the chancellor, the board, and each university's council of trustees in evaluating the president and when recommending the selection, retention, and dismissal of the president of its respective institution.
- Ü To establish broad fiscal, personnel, and educational policies under which the 14 universities of the State System shall operate.
- Ü To create new undergraduate and graduate degree programs, which shall not be subject to the rules and regulations of the State Board of Education; to approve extension campuses and new external degree programs subject to the rules and regulations of the State Board of Education; to promote cooperation among institutions, including the development of consortia within the State System and other educational institutions and agencies.
- Ü To establish general policies for the admission of students and to assure procedural protection for the discipline and expulsion of students. The actual admission of students shall remain the province of the individual universities.
- Ü To coordinate, review, amend, and approve the annual capital budget requirements of the State System, the annual operating budgets of the individual universities, and the operating budget of the Office of the Chancellor and the Board. The Board shall present these annual budgets with comments to the Secretary of the Pennsylvania

³⁸ 24 P.S. § 20-2006-A.

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Department of Education for presentation to the State Board of Education. The Board may also submit its budget recommendations and findings to the General Assembly subsequent to the submission of the Governor's budget to the General Assembly.³⁹

- Ü To establish general personnel policies under which the universities shall operate consistent with merit principles; to determine equivalent degree and teaching experience qualifications for appointment or promotion of faculty employees within the classifications enumerated in the "State College Faculty Compensation Law,"⁴⁰ to include, but not be limited to, the Degrees of Juris Doctor and Master of Fine Arts; and to enter into collective bargaining agreements pursuant to the "Public Employee Relations Act."⁴¹
- Ü To recommend approval or disapproval of all State System building projects to the Secretary of the Budget which are not within the contracting authority of the State System.⁴²
- Ü To represent the State System before the General Assembly, the Governor, and the State Board of Education.
- Ü To fix the levels of tuition fees, except student activity fees. Tuition fees shall include a differential for such charges between students who are residents of the Commonwealth and students who are nonresidents.
- Ü To adopt general policies with regard to student activity fees and to provide for student participation in the formulation of these policies.
- Ü To establish policies regarding waiver, deferment, and refund of tuition fees and other charges and fees.
- Ü To set the amounts for fines for violations of rules respecting the use, parking, and operation of motor vehicles on State System facilities, which may be established to exceed the amounts which municipalities are authorized to assess for such offenses under 75 Pa.C.S. (relating to vehicles).
- Ü To make all reasonable rules and regulations necessary to carry out the purposes of this article and the duties of the Board.
- Ü To do and perform generally all of those things necessary and required to accomplish the role and objectives of the System.

³⁹ For the purpose of administration, the State System shall be subject to Article VI [Commonwealth Budget Procedures] of the act of April 9, 1929 (P.L. 177, No. 175), known as "The Administrative Code of 1929," except for section 615. *See* 71 P.S. § 229 *et seq*

⁴⁰ Act of January 18, 1952 (1951 P.L. 2111, No. 600). *See* 24 P.S. § 1864.2

⁴¹ Act of July 23, 1970 (P.L. 563, No. 195). *See* 43 P.S. § 1101.201 *et seq*.

⁴² Contracting authority of the system [is] under section 2003-A.1. *See* 24 P.S. § 20-2003-A.1.

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**Appendix C Limited procedures performed at the PASSHE
universities**

The Department of the Auditor General conducted limited audit procedures at each of the 14 PASSHE universities to determine if they are in compliance with key provisions of laws and regulations related to campus safety. The procedures included, but were not limited to, interviewing the Title IX Coordinator, the Clery officer, and other officials at each university; obtaining and reviewing copies of university-specific policies and procedures related to sexual assault prevention and response, as well as sexual violence awareness programs; obtaining and reviewing the educational training materials utilized by each university; and reviewing each university's 2014 Annual Security Report.

The following is a summary of the key provisions of the laws and regulations that we reviewed when we conducted our limited procedures. It is important to note that we did not test each university's compliance with its own policies and procedures; therefore, we cannot provide any assurance that each university has implemented the established policies and procedures.

Applicable Federal Laws**Title IX**

Title IX of the Education Amendments of 1972⁴³ prohibits discrimination on the basis of sex in any federally funded education program or activity. The principle objective of Title IX is to prevent the use of federal money to support sexually discriminatory practices (such as sexual harassment and employment discrimination) in education programs, and to provide individuals effective protection against those practices. Under Title IX, discrimination on the basis of sex can include sexual violence, such as rape, sexual assault, sexual battery, and sexual coercion.

As recipients of federal funds, state owned universities are required to comply with these key provisions of Title IX:

1. Designate at least one employee as a Title IX coordinator, and notify all students and employees of the name or title and contact information of the coordinator.

⁴³ 20 U.S.C. § 1681 *et seq.*

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2. Schools must ensure that the Title IX Coordinator has adequate training on what constitutes sexual harassment, including sexual violence, and that they understand how the grievance procedures operate
3. Adopt and publish grievance procedures providing for prompt and equitable resolution of student and employee sex discrimination complaints alleging any actions prohibited by Title IX. The grievance procedures should include the following:
 - Notice to students and employees of the grievance procedures, including where complaints may be filed
 - Application of the procedures to complaints alleging harassment carried out by employees, other students, or third parties
 - Adequate, reliable and impartial investigation of complaints, including the opportunity for both parties to present witnesses and other evidence
 - Designated and reasonably prompt time frames for the major stages of the complaint process
 - Notice to parties of the outcome of the complaint
 - Assurance that the school will take steps to prevent recurrence of any harassment and to correct its discriminatory effects on the complainant and others, if appropriate
 - Preponderance of evidence standard
4. Publish a policy (also called a “notice of nondiscrimination”) against sex discrimination and distribute the notice to applicants for admissions and employment (and others) that it does not discriminate on the basis of sex, and state that inquiries concerning the application of Title IX may be referred to the Title IX coordinator, or to the U.S. Department of Education’s Office of Civil Rights (OCR).
5. Train employees so that they know to report harassment to appropriate school officials, and so that employees with the authority to address harassment know how to respond properly.
6. Implement policies and procedures to protect against retaliatory harassment.

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Clery Act

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act⁴⁴ (now known as the Clery Act), requires all postsecondary institutions that receive federal funding under Title IV financial aid programs to prepare and distribute an Annual Security Report (ASR) on campus crime and statistics and security information. The ASR must contain information about violent and hate crimes on campus; alcohol, drug, and weapons offenses; and existing security procedures.

The universities are also required to comply with these key provisions of the Clery Act:

1. Issue timely warnings about Clery Act crimes. These warnings must be in a manner likely to reach all members of the campus community when a crime poses a serious or ongoing threat to students and employees.
2. Issue an emergency notification upon the confirmation of a “significant emergency or dangerous situation involving an immediate threat to the health or safety of students or employees occurring on the campus.”
3. Each institution that maintains a police or security department must make, keep, and maintain a daily log that records all crimes reported, including the nature, date, time and general location of each crime, and the disposition of the complaint, if known. This log should be open to the public (unless disclosure would jeopardize the victim’s confidentiality), and entries must be made within two (2) business days of the initial report.
4. Each institution that has on-campus student housing must establish a missing student notification policy for students who reside in on-campus housing and establish official notification procedures for a missing student who resides on-campus.

VAWA

The Violence Against Women Reauthorization Act of 2013 (VAWA) amended the Clery Act and as of July 1, 2015, pursuant to the related regulations⁴⁵ requires institutions to, among other requirements, develop and distribute a statement of policy regarding programs to prevent domestic violence, dating violence, sexual assault, and stalking and the procedures that the institution will follow once such an incident has been reported. Additionally, universities need to compile statistics for incidents of dating violence,

⁴⁴ 20 U.S.C. § 1092(f), as amended. The act was originally called the Crime Awareness and Campus Security Act of 1990, which amended the *Higher Education Act of 1965 (HEA)*.

⁴⁵ <https://www.federalregister.gov/articles/2014/10/20/2014-24284/violence-against-women-act#h-4>

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domestic violence, and stalking and include these incidents in their Annual Security Reports.

Applicable State Law

Act 104 of 2010

Article XX-G of the Public School Code (Act 104 of 2010)⁴⁶ relates to sexual violence awareness educational programs⁴⁷ and requires all institutions of higher education in Pennsylvania to:

1. Establish a sexual violence awareness education program that provides for the following:
 - A discussion of sexual violence
 - A discussion of consent, including an explanation that the victim is not at fault
 - A discussion of drug and alcohol-facilitated sexual violence
 - Information relating to risk education and personal protection
 - Information on where and how to get assistance, including medical exams and evidence collection
 - Information on how to report sexual violence to campus authorities and local law enforcement
 - A discussion of the possibility of pregnancy and transmission of sexual diseases
 - Introduction of members of the education community from campus police, local law enforcement, campus health center, women's center, rape crisis center, campus counseling services, psychological counseling, and student affairs
 - A promise of discretion and dignity
 - A promise of confidentiality for victims of sexual assault
2. A student bill of rights must be made available to students.

Additional Guidance

Dear Colleague Letters (DCLs)

The U.S. Department of Education and its Office of Civil Rights (OCR) have determined that their DCLs are “**significant** guidance documents” under the Office of Management

⁴⁶ 24 P.S. § 20-2001-G *et seq.*

⁴⁷ 24 P.S. § 20-2003-G.

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and Budget’s Final Bulletin for Agency Good Guidance Practices⁴⁸, which includes “policies and procedures for the development, issuance, and use of significant guidance documents by Executive Branch departments and agencies.” While the letters do not add requirements to applicable law, OCR has stated that they do provide information and examples about how OCR evaluates whether covered entities are complying with their legal obligations. For example, the DCL provides that a typical investigation for a sex discrimination or harassment complaint should be concluded within approximately 60 calendar days following receipt of the complaint.

⁴⁸ 72 Fed. Reg. 3432 (Jan. 25, 2007) (emphasis added).

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**Response from
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On the following pages, we present the Pennsylvania State System of Higher Education's full response to our audit report. Overall, PASSHE agreed with the audit report's findings, and it pledges to move forward with implementing our audit recommendations.

Because PASSHE is in agreement with the audit report's findings and recommendations we offer no rebuttal.

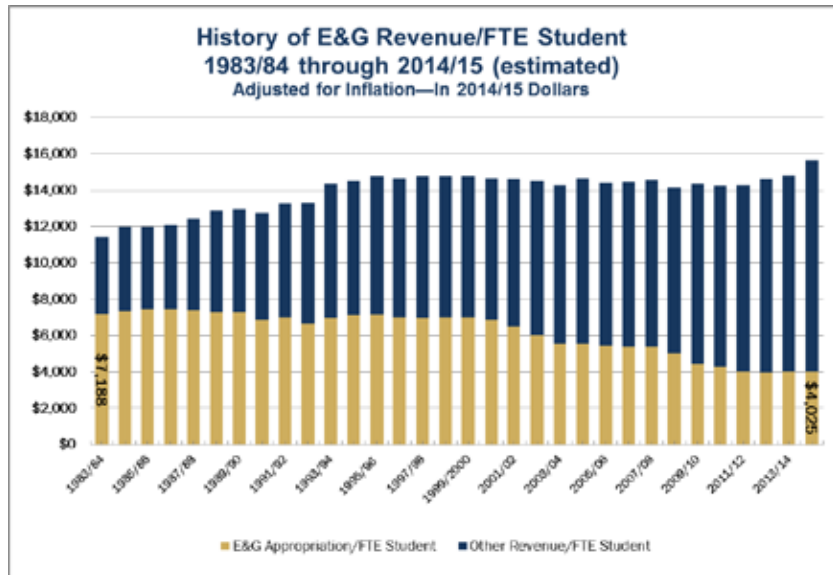
**Pennsylvania State System of
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**Pennsylvania’s State System of Higher Education
Response to Department of Auditor General’s Performance Audit
April 2015**

Finding One: Tuition at PASSHE universities continues to rise despite efforts by PASSHE to manage costs in an era with stagnant state funding.

Response: The State System agrees with this finding. Funding of the System’s budget requirements is essential for continued progress toward ensuring a high quality, high-value, affordable education. Although these continue to be difficult economic times for the Commonwealth, funds dedicated to education are an important investment in Pennsylvania’s future, and the return on that investment is enormous. The Commonwealth’s investment in its public universities will lead to greater affordability and cost predictability for the nearly 110,000 State System students and their families.

For the fourth consecutive year, the final Commonwealth fiscal year 2014/15 budget included the same amount of funding for the System, following the unprecedented \$90.6 million or 18 percent reduction in appropriations that occurred in 2011/12. The buying power of the universities has been significantly reduced as the current state funding of \$412.8 million is approximately the same level of funding the System received in 1997/98. In real terms (adjusted for inflation), the System’s total funding per student is approximately the same as in 1993/94. State appropriations represent a diminishing portion of the System’s revenue, now supporting only 26 percent of the System’s operating budget, as the cost per student funded by the Commonwealth has declined 44 percent since the State System’s inception.

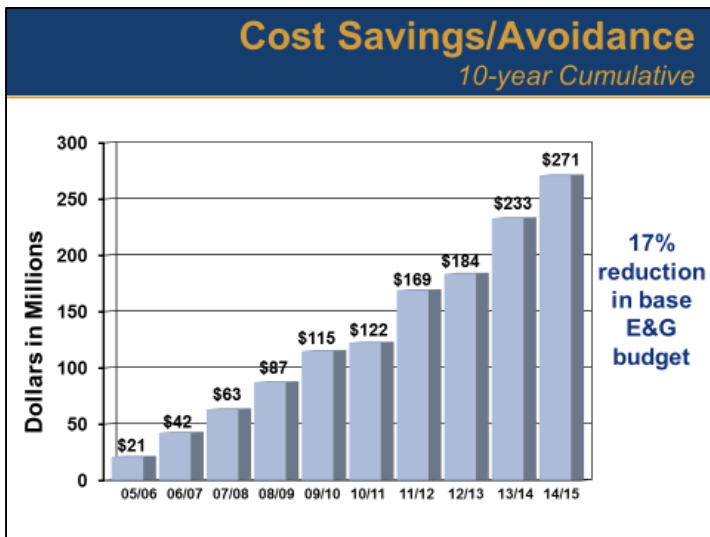


As the state’s mandatory expenditure requirements are anticipated to exceed state revenue growth in 2015/16 and beyond; the same is anticipated for the State System. As the Commonwealth continues to implement budget-cutting

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strategies, System universities are doing so as well. The System’s fiscal emphasis is on addressing the structural gap between revenues and expenses through strategic business model changes to ensure financial sustainability and relevancy of academic programs. The System and its universities continue to operate with limited growth in operating costs through strategic redirection of resources; embracing efficiency initiatives; and aggressively managing physical, financial, and human resources.

All System universities have become more productive by streamlining processes, aligning academic offerings, and eliminating or retooling underenrolled programs and underutilized services. State System universities working together over the past several years have introduced joint programs in areas including nursing, social work, and educational leadership that have opened new opportunities for students while addressing critical workforce needs across the Commonwealth.



The State System universities’ commitment to ensuring academic program vitality includes continuous review of existing academic programs, as well as identification of new programs to meet new market demands. Over the past five years, 50 new degree programs, certificate programs, and minors have been developed; 154 degree programs, certificate programs, and minors have

been placed in moratorium or discontinued; and 63 degree programs, certificate programs, and minors have been reorganized or reinstated to meet new market demands.

The expansion of online courses and programs has created even more opportunities for both traditional students—those who enroll in college right out of high school—and adult learners, many of whom would not be able to take the time away from job and family commitments to take a “regular” class at a campus that might be located literally hundreds of miles away. In addition, students are taking classes that might not otherwise be available at their university.

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In addition to collaborating in ways that directly benefit students, the universities also have capitalized on the benefits of being part of a system to generate significant cost savings in their daily business-related operations. The universities share a wide array of administrative and support services, including employee payroll and benefits management, information systems, legal services,

**Pennsylvania's State System of Higher Education
History of State Appropriations, Tuition Rates, and Unfunded Budget**

Fiscal Year	Total Appropriations	% Change From Prior Year	Resident Under-graduate Tuition Rate	\$ Change From Prior Year	% Change From Prior Year	Total Annualized FTE Enrollment	Unfunded Budget*
2005/06	\$465,197,000	2.6%	\$4,906	\$96	2.0%	100,390	\$20,954,153
2006/07	\$487,873,000	4.9%	\$5,038	\$132	2.7%	102,443	\$21,400,000
2007/08	\$504,240,000	3.4%	\$5,177	\$139	2.8%	103,359	\$20,820,372
2008/09	\$497,168,470	-1.4%	\$5,358	\$181	3.5%	105,566	\$24,056,000
2009/10	\$530,423,000	6.7%	\$5,554	\$196	3.7%	109,637	\$27,694,000
2010/11	\$503,355,000	-5.1%	\$5,804	\$250	4.5%	112,030	\$7,500,000
2011/12	\$412,751,000	-18.0%	\$6,240	\$436	7.5%	109,741	\$46,527,000
2012/13	\$412,751,000	0.0%	\$6,428	\$188	3.0%	106,977	\$14,700,000
2013/14	\$412,751,000	0.0%	\$6,622	\$194	3.0%	104,459	\$49,348,000
2014/15	\$412,751,000	0.0%	\$6,820	\$198	3.0%	102,549	\$38,109,000
Change Since 05/06	\$(52,446,000)		\$1,914				\$271,108,525

*Budget gap remaining after state appropriation and additional revenue from tuition rate increases were applied to total budgetary need.

construction support, and others. A recent outside review indicated that the State System is a national leader in providing cost-effective, quality shared services for its universities. The universities are continuing efforts to identify additional services that could be shared in order to produce even greater cost savings and service enhancements.

At least in part because of these and other efforts to control and reduce costs, the State System has been able to limit annual tuition increases, a significant benefit to students and their families. In most years, those increases have been kept to about the rate of inflation.

However, as resources and affordability are constrained, new approaches to pricing of instruction are being developed to more fairly align the net costs borne by a student with the costs of the education received. Other higher education institutions in Pennsylvania and across the country, both public and private, employ a wide variety of pricing practices. As System universities operate in a competitive higher education market, the Board of Governors has approved 23 flexible pricing pilots developed by the universities since January 2014. The pilot programs are designed to address unique market conditions affecting each of the universities and will be evaluated over a two- or three-year period to determine their effectiveness and whether they should continue—and perhaps be duplicated at other System universities.

The Board of Governors remains committed to its mission of providing a high-quality education at an affordable price. Funding of the System’s budget requirements, coupled with continued fiscal and academic realignment, is essential for continued progress toward ensuring a high-quality, high-value education for years to come.

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Finding Two: *PASSHE discontinued its practice of conducting vital internal audits related to reporting campus crime statistics.*

Response: The State System agrees and will reinstate Clery Act compliance audits using either the Office of Internal Audit and Risk Assessment or an equal external Clery Act expert.

During 2014, the State System engaged an outside law firm to conduct a detailed assessment of each university's policies and procedures regarding Clery Act compliance and disclosure. The assessment focused on and was organized around the five compliance topics as designated in the Act: 1) Policies, 2) Resources, 3) Reporting, 4) Training, and 5) Communications. The assessment was undertaken to provide a baseline for compliance and inform the universities how to design programs for advancing and strengthening compliance going forward.

The external assessment provides a baseline for the Office of Internal Audit and Risk Assessment to design audits that address areas of identified strengths and weaknesses.

Finding Three: *PASSHE has not established system-wide, uniform procedures to comply with Title IX, which resulted in inconsistencies in these procedures at its universities.*

Response: The State System agrees with the finding. In 2013, the System identified inconsistencies in interpretation and reporting of Title IX regulations, particularly due to the evolving nature of the guidance offered by the U.S. Department of Education and the inconsistent results of controlling case law. At that time, the Office of the Chancellor created a System-wide position primarily responsible for assessing risk and monitoring the universities' compliance with Title IX. The System's Title IX coordinator will assist the universities in employing best practices for Title IX compliance. Current university policies, practices, and procedures are being assessed. Where appropriate, System-wide guidance, standards, and resources will be developed, with recognition of the existing university structures, functions, and responsibilities that are interrelated with Title IX compliance.

As of the audit period, the new resource dedicated to assessment and compliance was in its infancy. The System's ongoing commitment continues, with the expectation that the full effect will be experienced in fiscal year 2015/16.

**Pennsylvania State System of
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**Audit Report
Distribution
List**

This report was distributed to the following individuals upon its release:

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Governor
Commonwealth of Pennsylvania

The Honorable Randy Albright
Secretary of the Budget
Office of the Budget
Commonwealth of Pennsylvania

The Honorable Sharon Minnich
Secretary of Administration
Office of Administration
Commonwealth of Pennsylvania

The Honorable Christopher Craig
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Pennsylvania Treasury Department
Commonwealth of Pennsylvania

The Honorable Kathleen G. Kane
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The Honorable Guido M. Pichini
Chairman, Board of Governors
Pennsylvania State System of Higher
Education

The Honorable Andrew E. Dinniman
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