

A blue-tinted photograph of four people (two men and two women) walking away from the camera down a long, arched hallway. They are carrying backpacks and bags, suggesting students or commuters. The text 'TRANSFORMATIONAL PARTNERSHIPS FUND' is overlaid in the center.

TRANSFORMATIONAL PARTNERSHIPS FUND

The Attorney General Can Be Your Ally in Transformation

Transformational transactions (e.g. mergers, assets sales, teachouts, JVs, discontinuing certain programs, strategic program realignment) raise complex issues and can face fierce resistance from stakeholders within or outside the board room. However, the state Attorney General's office can be a strong ally when institutions of higher education take bold action in the best interest of their mission.

Panelist:

- Laura Sparks, The Cooper Union
- Margaret Drugovich, Hartwick College
- Jonathan Green, Massachusetts Attorney General's Office
- James Sheehan, New York Attorney General's Office
- Anne Wallestad, BoardSource

The Higher Education Landscape

January 2021

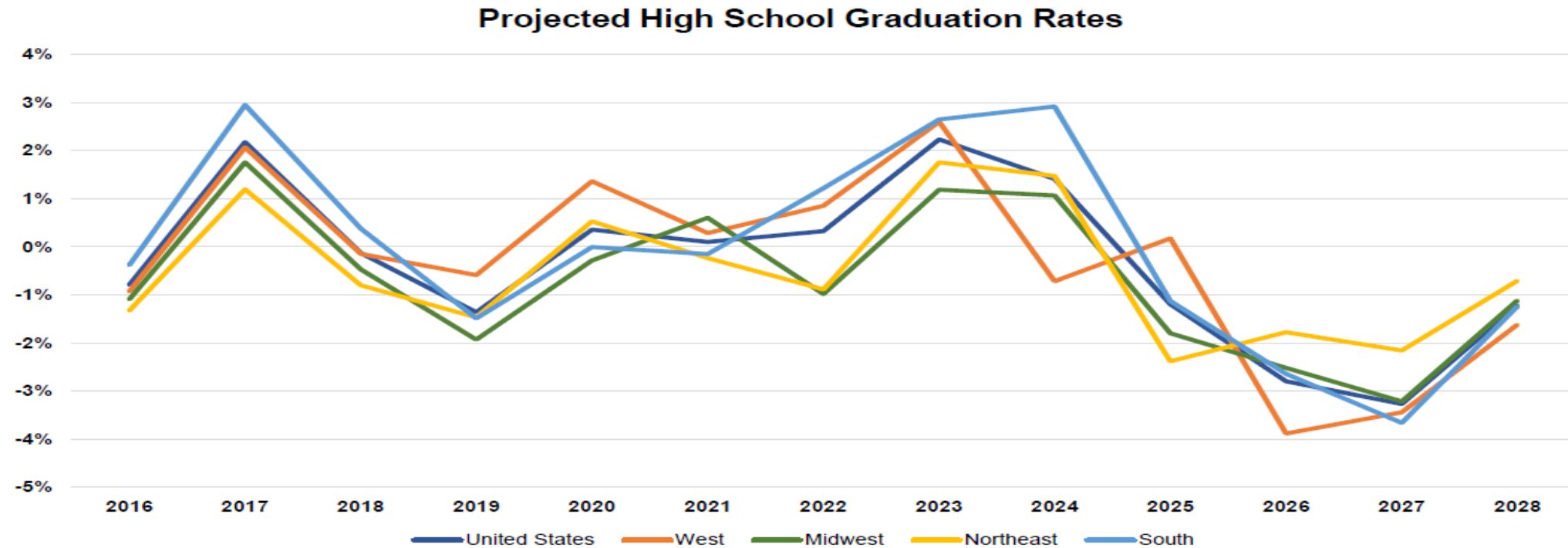
For the 4th consecutive year Standard and Poor's gave the higher education sector a negative outlook signaling the existence of financial strain within the sector prior to the pandemic.

Financial Stressors

- **Demographics**
 - Shrinking pool of high school graduates
 - International enrollment
 - Race and Ethnicity
- **Operating Pressures**
 - Decreased net tuition revenue
 - Affordability Concerns
- **Economy**
 - State appropriations

Demographics

High School Graduation Rates



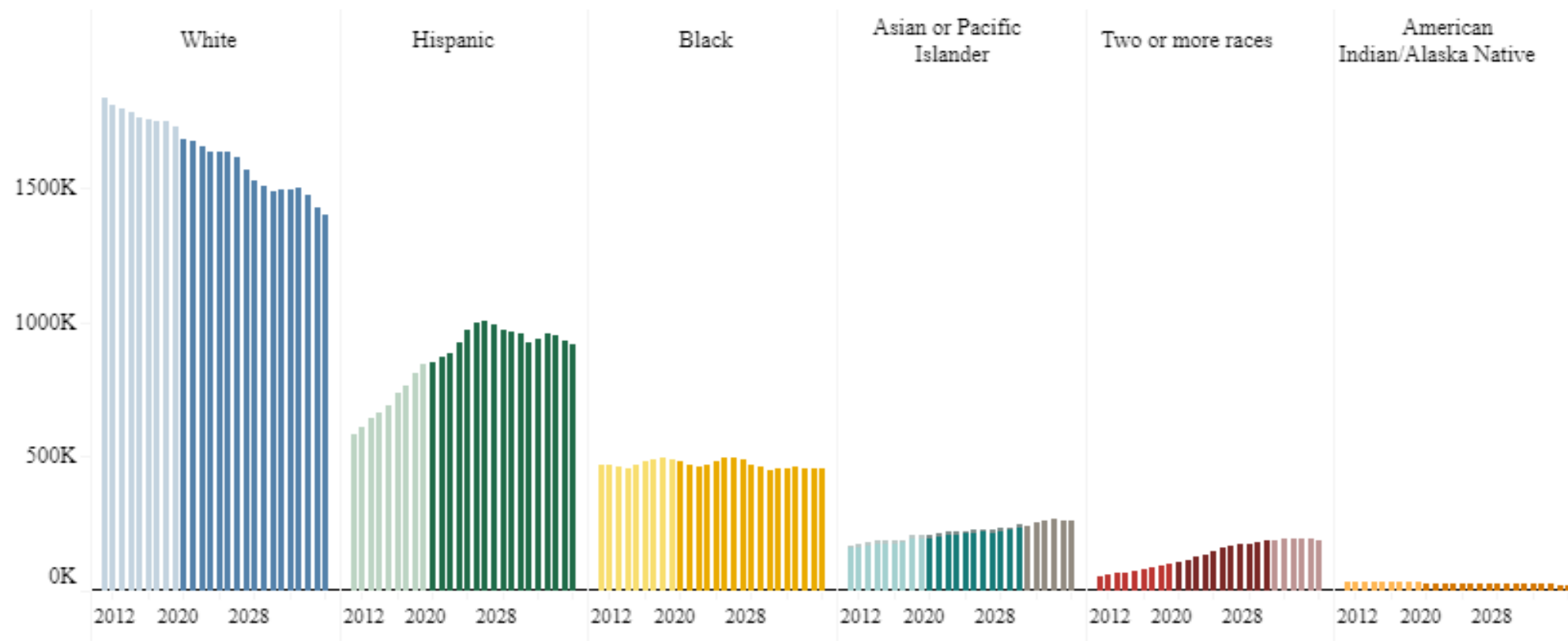
Source: IIE Fall 2019 International Enrollment Snapshot Survey

S&P Global
Ratings

Biggest challenge for small to mid-sized private colleges

Demographics

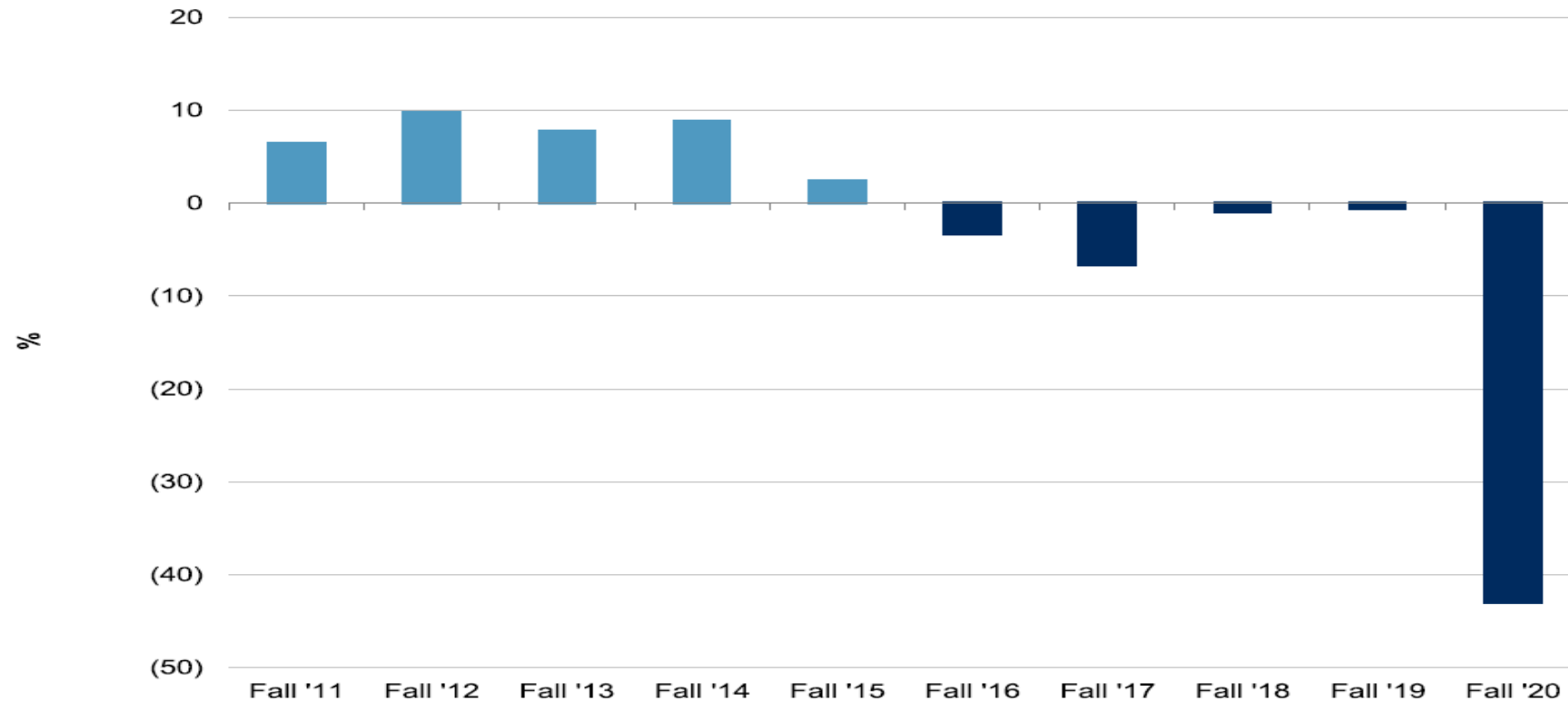
Public High School Graduates by Race/Ethnicity



Source: Western Interstate Commission for Higher Education, Knocking at the Door, 10th edition.

Demographics

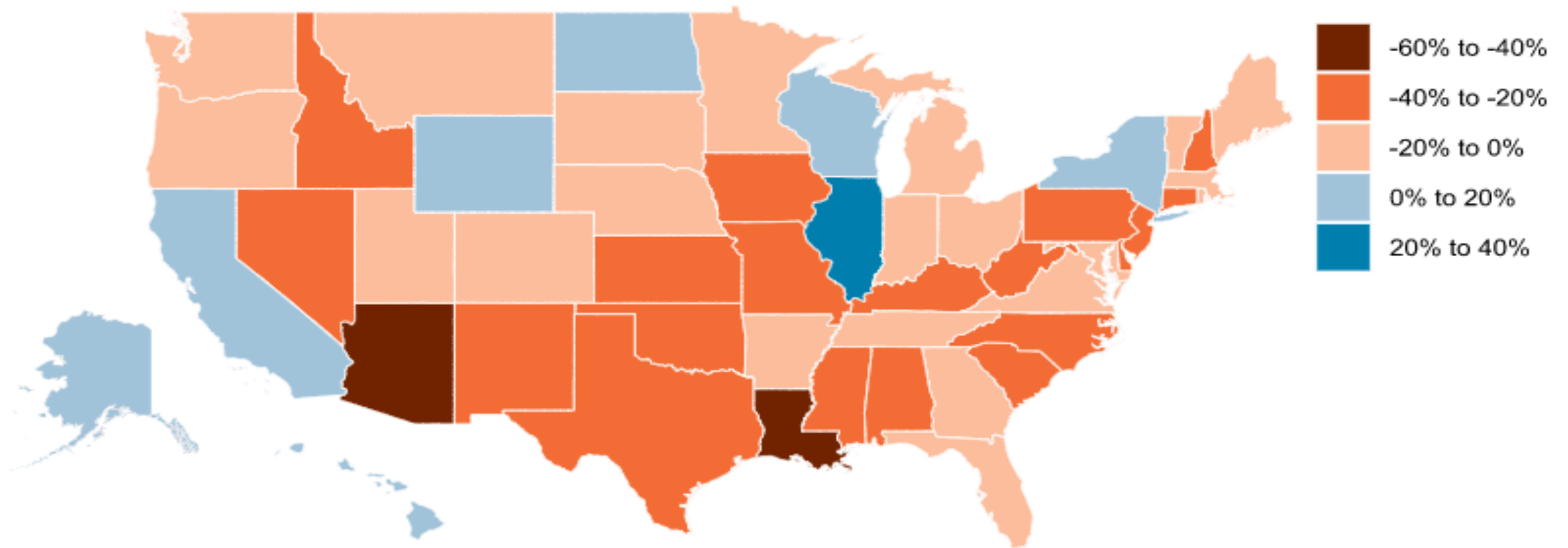
International Student Enrollment



Source: 2020 Open Doors Report on International Educational Exchange
Copyright © 2021 by Standard & Poor's Financial Services LLC. All rights reserved.

State Appropriations

Percent Change In State Support Per FTE, 2008 To 2018



Source: S&P Global; 2018 SHEF Report, State Higher Education Executive Officers. Constant 2018 dollars adjusted by Cost of Living Index, Enrollment Mix Index, and the SHEEO Higher Education Cost Adjustment (HECA).

The Financial Realities

With many institutions having problems meeting enrollment and revenue targets pre-COVID, the pandemic has exacerbated those problems causing a fundamental shift in business model for many and making the need for these discussions more important than ever.

Tales From the Frontlines



THE COOPER UNION

A Story of Transformation
from 2012–Today

OURS IS THE HISTORY OF A NATION

- Founded in 1859, on the eve of the Civil War—The Cooper *Union*
- A beloved and storied institution representing the ideals of a nation
- With a robust financial support system to sustain it in perpetuity, or so it seemed...





IT ALL CAME TO A HEAD 2012–2015 (ish)

- A message of financial distress that was *decades in the making* finally comes to a head.
- Complete breakdown of internal relations and the public's *trust*.
- Protests and a 60+ day sit-in, a lawsuit, an investigation by the Office of the Attorney General, and a deeply fractured community.



INGREDIENTS FOR CHANGE

- A negotiated settlement memorialized in a consent decree provides a ***framework for governance and management***.
- A ***shift to collaboration and respect*** in living out the framework signaled that positive change was possible.
- New leadership brought an ***opportunity to heal*** while also ushering in a new commitment to operational and financial ***discipline***.
- Proactive, direct, and honest ***communication and engagement with the Office of the Attorney General*** made progress possible.
- A commitment to ***transparency, clarity, and planning*** rebuilt trust and hope.



NOW...

- 10-Year Plan for financial *sustainability and resilience* and *ongoing risk management*.
- *Thriving* enrollment, new academic programs, cutting-edge partnerships.
- *Reengagement with the city and the nation* through robust public programs.
- *Rebuilt community* of supporters.



LESSONS LEARNED



- Address challenges early and often—the problems aren't going away.
- Proactively engage both those with oversight and constituents/stakeholders—when somebody tells you a problem is brewing, it probably is!
- People need to be heard and can be educated about organizational challenges—and without these, change is likely impossible.
- Engagement with the Office of the Attorney General isn't the end of the world—it might be the start of a new beginning...

THE
NEW YORKER

THE COOPER UNION TRAGEDY



By Rebecca Mead
April 24, 2015

THE CHRONICLE OF HIGHER EDUCATION

Cooper Union's Leadership Crisis, in 5 Damning Allegations

By Steve Kolowich | SEPTEMBER 3, 2015

THE WALL STREET JOURNAL.

Students Barricaded in Cooper Union, Livestream Protest

By Lisa Fleisher
Dec. 4, 2012 2:41 pm ET

The New York Times

By Charles V. Bagli

Sept. 1, 2015

New York Attorney General Reaches Deal to End Litigation at Cooper Union



The New York Times

Cooper Union Announces Plan to Reinstate Free Tuition



A settlement crafted by the attorney general, expected to be announced Wednesday, will assign a monitor to oversee finances at Cooper Union. Spencer Platt/Getty Images

INSIDE
HIGHER ED

Free Again -- in 10 Years

Cooper Union unveils plan to cut undergraduate tuition back down to zero in 10 years. Some wonder if it could have done better, despite ambitious cost-cutting and fund-raising goals.

CNBC

Cooper Union college plans to bring back free tuition

TimeOut

Cooper Union is holding a star-studded benefit event tonight

Funding Hartwick's FlightPath: A year of partnership with the NYS AG

Dr. Margaret L. Drugovich, President



HARTWICK
COLLEGE

est. 1797



Funding FlightPath: A year of partnership with the NYS AG



- **October 2017:** Board votes to engage a thought partner to explore alternative pathways to a sustainable future.
- **February 2018:** Board votes to engage the Art&Science Group to complete a cycle of research and generate recommendations on strategic directions.
- **March 2018:** President convenes faculty, staff and student working group to inform and respond to A&S research effort.
- **May 2019:** President convenes an expanded campus based working group to work with research findings pending Board approval.
- **June 2019:** A&S presents its recommendations to the Hartwick Community and the Board; Board votes to approve the President's recommendation to authorize the development of a campus driven implementation plan to include actionable steps in response to the research

Funding FlightPath: A year of partnership with the NYS AG



- **Fall 2019:** Campus working group begins to develop a plan that responds to the research findings
- **November 2019:** Exploring different approaches to funding FlightPath, President Drugovich contacts Charities Bureau Chief Sheehan
- **December 2019:** Mr. Sheehan tours our campus; we discuss FlightPath and possibility of funding through use of the endowment
- **January 2020 – October 2020:** President shares with the AG: the assumptions that caused us to choose a course of transformation; audited financial statements; planning documents; planning process; information on restricted endowed accounts; 990s; credit ratings; accreditation reaffirmation, etc. Many phone and email exchanges designed to clarify our purpose, our plans, and our financial status.

Funding FlightPath: A year of partnership with the NYS AG



- **June 2020:** Board votes to authorize:
 - the implementation of FlightPath;
 - an application to the New York Supreme Court to relieve endowment restrictions (i.e. authorize use that would constitute a change in the donor's intent) to support *initial* funding of FlightPath
 - a fundraising campaign to support *ongoing* funding of FlightPath
- **Summer 2020:** while preparing the court petition, we start to explore the possibility of using operational and unrestricted endowment funds to fund FlightPath, while at the same time accelerating spending of endowed scholarship funds in a manner consistent with the donors' original intent.

Funding FlightPath: A year of partnership with the NYS AG



- **October 2020:**
 - the Board considers the eight statutory factors set forth in New York Not-for-Profit Law and determines that it is prudent to appropriate the **unrestricted endowment funds** for the support of FlightPath *and*
 - the Board further considers these same eight statutory factors and determines that it is prudent to appropriate **funds that are restricted to use for student scholarships** for the sole purpose of funding scholarships, maintaining the donor's intent.
- **November 2020:** the Charities Bureau represents that it will not object to the planned appropriation.

Funding FlightPath: A year of partnership with the NYS AG



- **Take aways:**
 - **The Board** played an invaluable role in determining when it was time to change course and by taking necessary action along the way.
 - **The Hartwick community** played an invaluable role in creating a sustainable plan for transformation that was grounded in objective research.
 - **The NYS Charities Bureau** played an invaluable role by providing feedback, education, and advice on the feasibility (given the law) of leveraging our endowment assets to fund the initial years of FlightPath.

The Attorney General – A Value Added Ally

The Higher Education Sector in Massachusetts

SeaChange Capital

June 18, 2021

Jonathan C. Green

Deputy Division Chief

Non-Profit Organizations/Public Charities Division

Office of Attorney General Maura Healey





Role of the AGO

- Guidance on Restricted/Endowment Funds
- AGO role on proposed transactions, mergers
- Close coordination between AGO and DHE
- Legislative response following closures



College Mergers and Closures

- Combinations:
 - Wheelock College and Boston University
 - Marlboro College (VT) and Emerson College
 - Pine Manor College and Boston College
- Closures with Notice
 - Newbury College
 - Becker College

WHAT IS THE CHARITABLE MISSION? WHO ARE THE BENEFICIARIES?

- State Charities expectations:
- Look to your charter and IRS 990-
- College of New Rochelle: “dedicated to the education of women and men in the liberal arts and professional studies. Building upon its original commitment to women, the College also reaches out to those who have not previously had access to higher education. . . .”
- Charitable mission-providing education to charitable beneficiaries
- Acting in best interest of that charitable mission
 - Stewardship of assets
 - Risk assessment
 - Potential harms to students
 - Planning for the mission to continue if the institution or program cannot
 - Avoiding run on the bank-public projection may be self-fulfilling

ENGAGEMENT-How can we help?

- Not just board members and consultants
- Students
- Faculty
- Community
- Donors
- Elected officials
- Affiliations/Mergers

What we look to and will ask about

- The independent audit process - state law, accreditation standards, reporting and disclosure, warning signs (going concern opinion, management letters)
- The IRS 990 process - Mission Statement; board review and filing.
- The endowment/institutional funds process - identification of restricted assets; return and appropriation of funds; investment and management policies
- The accreditation process and the accreditor
- “The institution demonstrates, through verifiable internal and external evidence, its financial capacity to graduate its entering class.”
- If not, what are your teachout contingencies

Purpose Driven Board Leadership

The Four Principles of Purpose-Driven Board Leadership

Purpose before organization: prioritizing the organization's purpose, versus the organization itself.

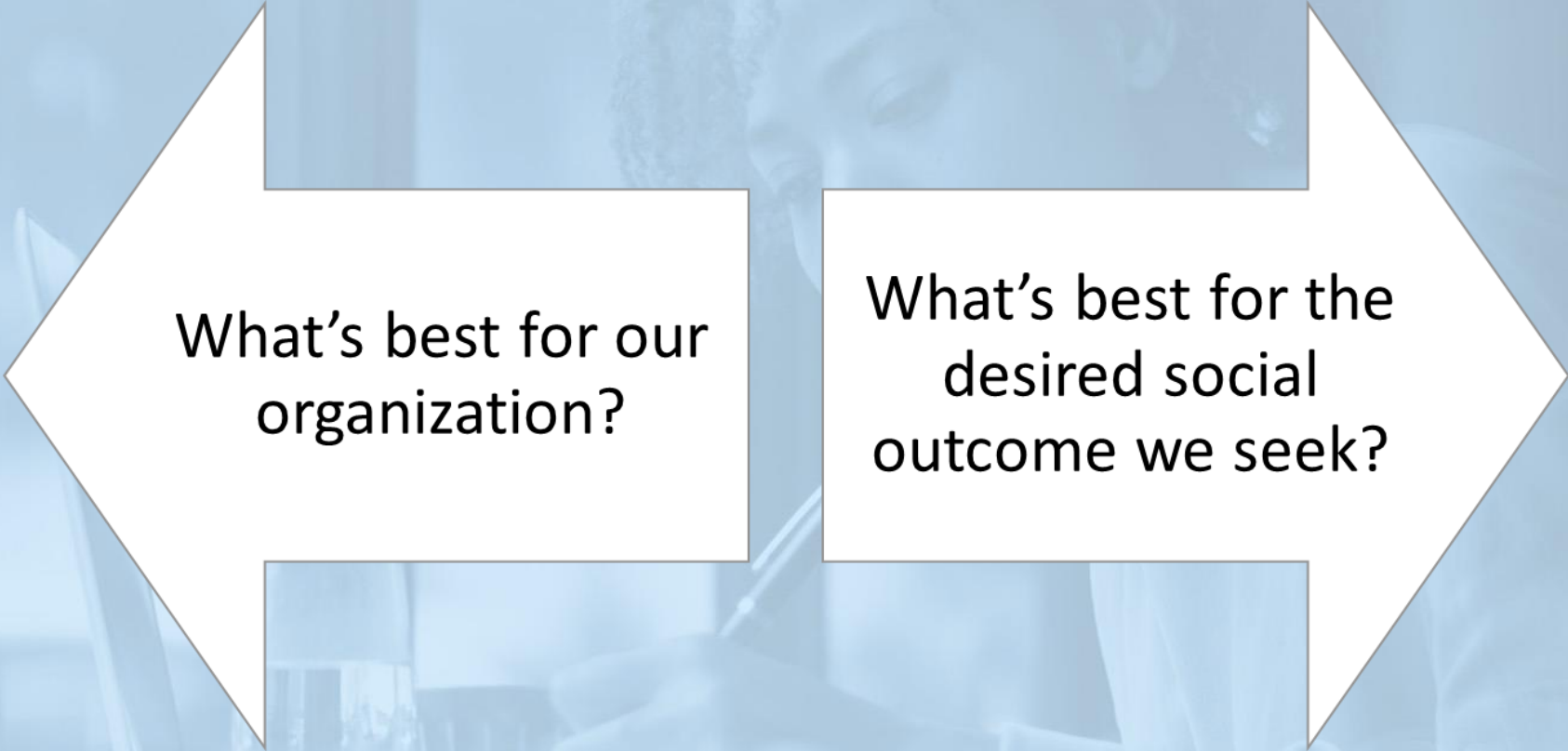
Respect for ecosystem: acknowledging that the organization's actions can positively or negatively impact its surrounding ecosystem, and a commitment to being a respectful and responsible ecosystem player.

Equity mindset: committing to advancing equitable outcomes, and interrogating and avoiding the ways in which the organization's strategies and work may reinforce systemic inequities.

Authorized voice and power: recognizing that organizational power and voice must be authorized by those impacted by the organization's work.

Full article available at https://ssir.org/articles/entry/the_four_principles_of_purpose_driven_board_leadership


Principle #1: Purpose before organization



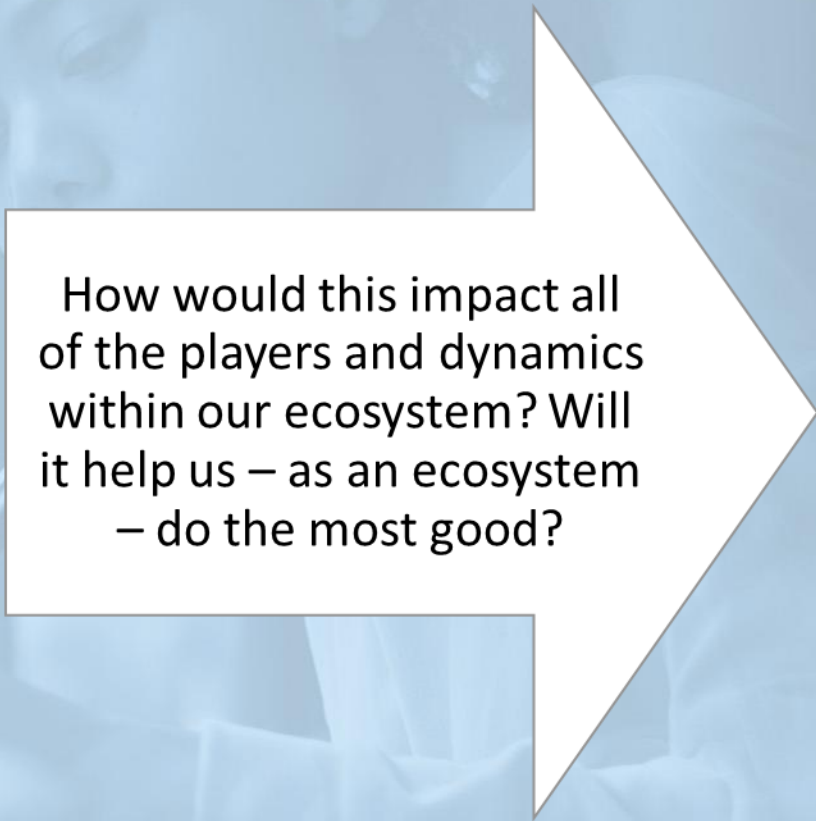
What's best for our
organization?

What's best for the
desired social
outcome we seek?

Principle #2: Respect for Ecosystem

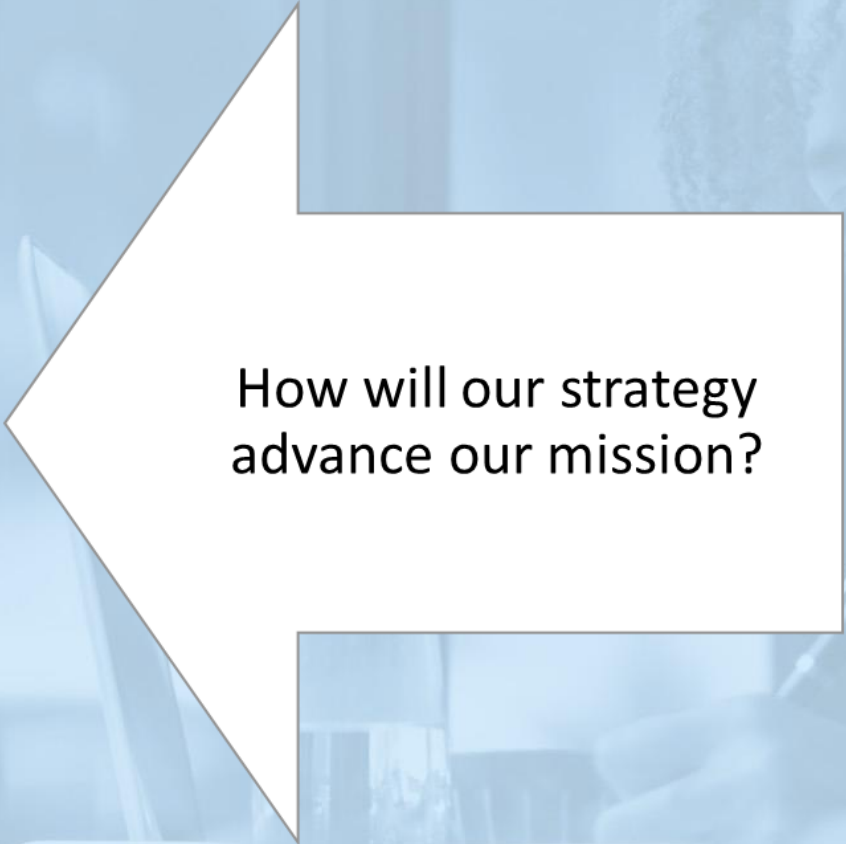


How would this impact our organization?

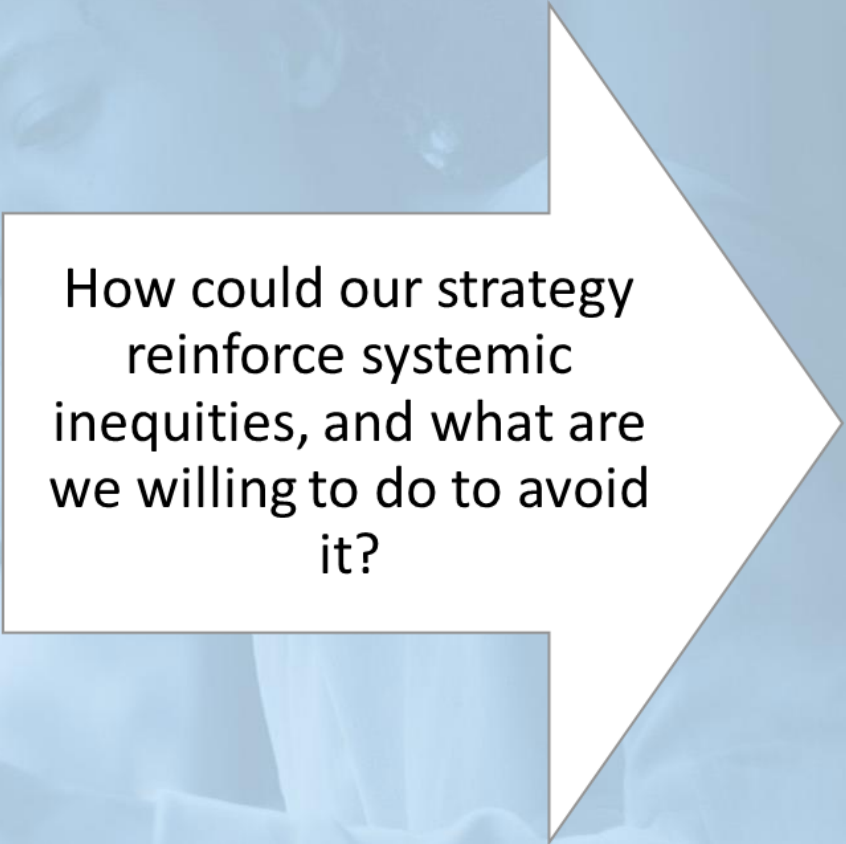


How would this impact all of the players and dynamics within our ecosystem? Will it help us – as an ecosystem – do the most good?

Principle #3: Equity mindset



How will our strategy
advance our mission?



How could our strategy
reinforce systemic
inequities, and what are
we willing to do to avoid
it?

Principle #4: Authorized voice and power

What do we* think is best?

*without intentional
reflection on how who “we”
are informs our perspective

Are we as a board populated
in a way that ensures our
power is authorized by the
community impacted by the
org’s work?

Questions - ???

Thank you