



## The Regulation of Non - Publicly Funded Institutions of Higher Learning

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*This policy paper analyzes the current situation in Israel regarding the regulation of institutions of higher learning not funded by the Council for Higher Education (CHE) and its Planning and Budgeting Committee (PBC); contrasts it to the regulatory state in six countries boasting celebrated institutions of higher learning; and proposes a reform in this area.*

The **first chapter** traces the background, while the **second** describes CHE and PBC regulation of non-publicly funded academic institutions and the ensuing difficulties it produces.

The **third chapter** details the discrimination against non-publicly funded academic institutions in public funding, in their underrepresentation in regulatory bodies and in the regulatory violation of their independence, regulatory academic interference, and regulatory restrictions, while the **fourth** discusses the normative issues and failings arising from these circumstances.

The **fifth chapter** is a comparative study of the regulatory situation in the US, England, Canada, Germany, France and Japan, and the **sixth chapter** sets forth the recommendations for overhauling the higher learning regulation system.

### Summary:

Non-publicly funded institutions were established during the college revolution of the 1990's. Today, students in non-publicly funded institutions represent 18.5% of all students of higher learning.

The two primary regulators - the CHE and the PBC- discriminate in favor of the institutions receiving government funding, namely, veteran public research universities, and against those without such funding, meaning, non-publicly funded institutions.

Non-publicly funded universities and colleges are important to the state, to the economy and to society for several reasons: they serve as an alternative to the acceptable norms of publicly funded institutions; they serve as a refuge from academic conformity for those academics whose views fall outside the mainstream; they encourage a decrease of public funding for the higher learning system; and they promote, for all universities and colleges (both funded and non-funded), a free market that is expressed, among others, in differential pay leading to healthy competition and the development of a higher learning system marked by excellence and innovation.

It is difficult to justify the CHE and PBC's overly strict supervision of non-publicly funded institutions. A review of CHE and PBC decisions reveals they often intervene in non-publicly funded institutions' operations even long after they were accredited as institutions of higher learning authorized to award academic degrees. These institutions require CHE and PBC approval for every new academic program and any change to such programs' names or practice. Often, the CHE and PBC reject these institutions' requests, and the reasoning behind their decisions makes it clear that their

considerations are not always disinterested but aimed at protecting the interests of publicly funded universities and preventing free and fair competition.

A comparative review of the regulation of non-publicly funded institutions of higher learning in six countries whose institutions enjoy international reputations reveal the regulation in Israel to be significantly stricter and broader in the following aspects: in the difference between publicly funded and non-publicly funded institutions, in the accreditation process for each, in the level of supervision after accreditation, in the name change from college to university, in funding, in grants to students, in corporate and administrative directives and in the restrictions on senior positions.

#### **Recommendations:**

**Encourage competition** between institutions, competition being beneficial to higher learning. Non-publicly funded institutions of higher learning in particular should be encouraged to advance and develop and be released from unnecessary regulatory barriers. Ultimately, **decrease public funding** for higher learning in Israel.

**End the underrepresentation** of non-publicly funded institutions of higher learning in the regulatory bodies of the CHE and PBC.

Substantially **reduce the CHE's supervision** of non-publicly funded institutions after they have been duly accredited, and refrain from violating their institutional independence in all but extreme outlier cases.

The CHE should **publish recommended general guidelines** to accredited institutions that don't infringe on their institutional autonomy in academic matters as well as in corporate and administrative ones. These guidelines will apply **to all institutions** - universities and publicly funded and non-publicly funded colleges – **with the CHE refraining from the discrimination** it practices today.

**End restrictions on the corporate management of non-publicly funded institutions**, including the composition of its board of trustees, the number of the board's members and the institutions' presidents' tenure. Unless there are grounds to suspect an infringement on the institutions' independence, a conflict of interest or the like, maximum flexibility should be granted, as is customary in most countries.

The **authority to elevate** a non-publicly funded **college to** a non-publicly funded **university should not lie in the hands of the CHE or PBC**. A clear definition of requirements for the university title should be outlined, and any institution meeting the criteria may change its name to "university".

An extrabudgetary institution should not be regularly funded; however, **indirect funding** by public or local authorities other than the CHE and PBC **should not be prevented**. Criteria should be suggested for the higher learning budget distribution, reflecting **a fair allocation of public funds** to all citizens, preserving the principles of equality, fairness, and promotion of competition.

**Academic research funding should be based on academic excellence** and verified capability to conduct high level research, and **students studying at non-publicly funded institutions should be funded** as well as their counterparts, if they study nationally or economically desirable fields (best accomplished by the voucher system).