

## University of Minnesota Constitutional Autonomy

The University of Minnesota has a special legal status, known as constitutional autonomy, that is of continuing interest to the legislature. Most frequently, members ask whether a proposed bill provision affecting the university would violate constitutional autonomy. At times, the validity of an existing law on the university is questioned. This short subject is an introduction to constitutional autonomy. It describes the relevant territorial act and constitutional provision and lays out four principles established by Minnesota cases on the university's autonomy.

### Definition

Constitutional autonomy is a legal principle that makes a state university a separate department of government, not merely an agency of the executive or legislative branch. A university with this status is subject to judicial review and to the legislature's police and appropriations power. However, its governing board has a significant degree of independent control over many university functions.

### Statute and Constitution

The University of Minnesota was incorporated and its powers were set out in an 1851 act of the Territorial Assembly. (Territorial Laws 1851, ch. 28.) The act established a Board of Regents, provided for the legislature to elect the board, and gave the board general authority to govern the university. Specific powers granted to the board in the act include: the ability to appoint faculty, set faculty salaries (with legislative approval), grant degrees, determine tuition, and erect buildings.

When Minnesota became a state in 1858, the constitution carried into statehood the university's legal status. This recognition of the university's original charter is known as constitutional autonomy. ("All the rights, immunities, franchises and endowments heretofore granted or conferred upon the University of Minnesota are perpetuated unto the university." Minn. Const., art. XIII, § 3).

### Essential Case Law Principles

The Minnesota Supreme Court first decided a case on the constitutional status of the university in 1908. A handful of cases decided since then have resulted in the following four rules to use in evaluating legislation that affects the university.

- **The Board of Regents alone is empowered to manage the university, except as qualified below.** Case law prohibits either the legislative or executive branch from participating in internal management of the university. Cases especially reject broad legislative or executive branch control over university finances. *State ex rel. University of Minnesota v. Chase*, 175 Minn. 259, 220 N.W. 951 (1928).
- **Judicial relief is available if the regents abuse the management powers granted by the state constitution.** The Minnesota Supreme Court has ruled that the judicial branch is also prohibited from interfering with internal university management. However, parties such as students or taxpayers may obtain relief from the courts if the university fails to follow its own rules or violates a valid law in such matters as procedures for student expulsion.

*Gleason v. University of Minnesota*, 104 Minn. 359, 116 N.W. 650 (1908).

- **The legislature may place conditions on university appropriations, if the conditions do not violate university autonomy.** A condition is more likely to be found valid if it applies equally to all public agencies and the court finds that it (1) promotes the general welfare, and (2) makes very limited intrusions on the regents' management duties. The Minnesota Supreme Court has said it is willing to review any conditional appropriation to determine whether these tests are met. *Regents of University of Minnesota v. Lord*, 257 N.W.2d 796 (Minn. 1977).

- **The university is subject to the general lawmaking power, to the extent that it does not impede the regents' ability to manage the university.** The Minnesota Supreme Court has indicated some factors it considers in upholding application of regulatory laws to the university: (1) the law promotes the general welfare, (2) it applies to all state and local government agencies, and (3) it does not affect internal management of the university. *Star Tribune v. University of Minnesota Board of Regents*, 683 N.W.2d 274 (Minn. 2004).

### **Other States with University Constitutional Autonomy**

This concept has the most effect in California and Michigan. Other states with cases on the subject are Alabama, Florida, Georgia, Hawaii, Idaho, Louisiana, Montana, Nebraska, Nevada, North Dakota, and Oklahoma. See *University of Minnesota Constitutional Autonomy*, Minnesota House Research Department, Appendix 2 (2004).

**For more information:** Contact legislative analyst Deborah K. McKnight, 651-296-5056. Also see the House Research Legal Analysis, *University of Minnesota Constitutional Autonomy*, October 2004.

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