June 20, 2022

The Honorable David Argall
Chairman
Senate State Government Committee
171 Main Capitol
Harrisburg, PA 17120

Dear Chairman Argall:

We are writing to provide feedback on SB 488, which would amend the Right-to-Know Law for state-related institutions.

For many years, the General Assembly has been careful to treat the state-related universities differently than agencies of the state. The term state-related university has come to signify higher educational institutions that are instrumentalities of that Commonwealth, but not the Commonwealth itself. They have a public mission given to them by the state, and the funding that accompanies that mission, but are still legally organized as nonprofit corporations regulated by Pennsylvania's Non-Profit Corporation laws. As an integral part of the state's higher education program, state related universities receive over $500 million in state funding to provide substantial tuition discounts to over 100,000 Pennsylvania resident students, yet still require a two-thirds vote of both chambers of the General Assembly for that appropriation because they are not under the absolute control of the Commonwealth.

The character of state-related universities can be confusing, but it is the product of very careful consideration over many years by generations of legislators and governors. We last saw the evidence of that careful consideration when the General Assembly last enacted the Right-to-Know law, and established four different approaches to public access and accountability for state and local agencies, for the General Assembly, for the judiciary, and for the state-related universities. What is a public record and how the public may access those records are different for each of those four categories.

These four approaches were developed after careful review of the nature of those four types of institutions and their unique operating environments. The Right-to-Know law balances the public's interest against those practical considerations which place some limits on that access, while still making all of these institutions fully accountable for the taxpayer resources invested in them.

We agree that there is certainly room for improvement in the law that could expand the type and amount of information available for public inspection, but we firmly believe that the General Assembly got it right when it thoughtfully maintained separate approaches to fulfilling the objectives of the law when it set up the four different approaches to this important public accountability law. Institutions that require a two-thirds vote to earn their appropriations are, by definition, not state agencies. Institutions that have clearly defined limitations on how they use that appropriation so that it does not constitute an

obligation of the Commonwealth are not state agencies. Institutions that do not enjoy the legal protection of sovereign immunity afforded to all state and local agencies are clearly not state agencies. Given that these circumstances are not the result of random acts, but rather the result of the careful consideration of many successive legislative sessions, administrations and constitutional conventions, it seems most appropriate that state related universities remain in Chapter 15 of the Right-to-Know law, and that future changes would not overhaul, but rather fine-tune the law to enhance public access to information showing how state related universities continue to fulfill their public mission on behalf of the Commonwealth.

After careful consideration of SB 488, we believe that the bill represents a significant expansion of the type and amount of financial information from the state-related universities available currently for public inspection. However, the bill does maintain the careful balance referenced above. We appreciate the General Assembly's diligent approach to this important issue and will continue to work with our elected officials to ensure that we are accountable for the taxpayer resources invested in our institutions.

Sincerely,

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