

Asset Contribution Structures in Higher Education: A Valuable Tool in the M&A Playbook

As the higher education sector continues to confront enrollment declines, financial pressures, and shifting market demands, mergers and acquisitions (M&A) have emerged as a strategic path for institutional sustainability and growth. Within this landscape, asset contribution structures, a transactional model in which one institution transfers selected assets and liabilities rather than executing a full legal merger, have gained attention for their unique benefits.

Asset contribution structures allow for the targeted transfer of real estate holdings, endowments, programs, intellectual property, and other defined assets from a challenged institution to a stronger enterprise. Unlike full mergers, these arrangements can offer greater precision and control, particularly for institutions seeking to preserve mission-aligned resources while avoiding inherited risks and liabilities. In asset contribution structures, most assets and liabilities can be contributed to the surviving entity prior to the “acquired entity” closing. The “acquiring entity” receives such assets and liabilities, in effect, rehiring selected identified staff and faculty.

Pros: Mitigating Legacy Liabilities and Streamlined Regulatory Process

One of the most compelling advantages of asset contribution structures is their ability to mitigate complications tied to legacy employees and historical labor obligations. In traditional mergers, collective bargaining agreements, tenure contracts, and long-standing personnel policies often carry over to the acquiring institution, introducing operational constraints and long-term cost implications.

By contrast, asset contributions enable institutions to restructure and mitigate legacy labor relationships. This clean-slate approach provides flexibility in staffing, compensation models, and organizational structure, facilitating more strategic integration aligned with the acquiring institution’s culture and goals. For institutions concerned with legacy pension obligations or inflexible union agreements, asset contributions can offer a risk-mitigated structure.

Additionally, as outlined in our prior thought piece ([Higher Education Mergers and the Two-Step Process](#)), the current higher education merger approval process requires two steps: (1) accreditor approval; and (2) U.S. Department of Education (ED) approval. These two steps can be lengthy and uncertain, further complicating the already challenging higher education M&A process. In this context, asset contribution structures present a compelling, streamlined alternative path that sidesteps the second, regulatory phase: ED approval.

Unlike traditional mergers, asset contribution structures require only accreditor approval for execution. This distinction can significantly reduce transaction time and uncertainty, enabling more agile and strategic decision-making.

Note: As of the publication of this article, the administration has indicated intentions to dismantle the ED, although the ED remains operational. As such, the ED’s Two-Step Process remains in effect. The regulatory outlook is fluid, with material consequences tied to the ED’s evolving mandate and authority.

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Cons: Operational and Legal Complexity

Despite these advantages, asset contribution structures introduce significant transactional complexity. Unlike full mergers, where legal ownership and liabilities transfer wholesale, asset contributions require identification, valuation, and legal conveyance of each included asset and liability. This can increase administrative burden and introduce a myriad of decision-making requirements prior to closing.

For example, transferring an endowment may require donor/estate or state attorney general approval. The by-laws of the endowment may introduce required action prior to its transfer. Leases must be assigned or renegotiated, often triggering landlord consent clauses. Commercial banking relationships, debt instruments, third-party contracts, IT systems, and intellectual property portfolios must each be evaluated and transitioned independently, each with their own regulatory and contractual implications. This level of granularity demands meticulous planning, legal oversight, and financial analysis, especially to ensure that assets are transferred in a way that aligns with both institutional goals and compliance obligations.

	Asset Contribution Structures	Mergers
Pros	<ul style="list-style-type: none">• Ability to mitigate legacy labor liabilities (e.g., tenure, collective bargaining agreements, pensions)• Streamlined regulatory approval process• Certain assets and liabilities may be transferred post-closing, providing flexibility to resolve outstanding issues over time	<ul style="list-style-type: none">• Simplified legal framework and upfront planning• Simpler asset and liability transfer (wholesale)• Mitigates contract assignment requirements
Cons	<ul style="list-style-type: none">• High legal and administrative complexity• May require third-party consent for certain asset, contract and liability transfers• May be less appealing to some stakeholders	<ul style="list-style-type: none">• Limited ability to mitigate legacy labor liabilities• Longer and more uncertain regulatory process• All transaction terms must be finalized at closing

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A Strategic Tool in a Changing Landscape

As more institutions face existential questions about scale, scope, and sustainability, asset contribution structures can help improve preservation of mission-critical programs, improved financial profiles, accelerated approval timelines, and mitigation of untenable liabilities. When deployed thoughtfully, this one-step approach offers a powerful alternative to the traditional two-step merger process. For leaders navigating the complex terrain of higher education transformation, asset contribution structures may represent the most viable path to long-term sustainability. While they reduce regulatory burden and help avoid complex liabilities, they require careful planning and diligence to execute effectively. As institutional leaders consider the next phase of sector transformation, asset contributions deserve a prominent role in the M&A playbook. Not as an afterthought, but as a deliberate structure for sustainable impact.

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