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Higher Education Governance in the United States



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It can be sometimes difficult to understand the governing structure of American higher education, particularly the governance of public, government-owned colleges and universities. On the one hand, the structure appears impossibly complex – 50 different states, each with the legal authority to create and organize colleges and universities as it chooses, 50 different financing schemes to fund the colleges and universities, no national ministry of higher education, yet a significant federal government presence in and funding for scientific research and student financial assistance. But on the other hand, as one begins to examine the various states, one discovers that common policies and practices, and the underlying governance and management principles and legal requirements are quite similar.

This article outlines the basic dimensions of the governance and management of public colleges and universities, focusing primarily on the governing board and the college president, with discussion of other key internal and external stakeholders, namely the faculty and state elected officials. Occasional references will be made to American private colleges and universities.

1. Basic governing board responsibilities and the concept of citizen governance

The oversight of U.S. colleges and universities is firmly rooted in the concept of a citizen board of trustees – persons outside the institution who oversee the university or college but do not run it on a day-to-day basis. These citizens are not employees of the institution (although a small minority may be faculty and students), nor are they employees of state government (even though trustees are appointed by state government officials and in some cases elected by voters). Thus, citizen trusteeship is based on the principle that neither internal constituents – faculty, staff, or students – nor state governments, despite their ownership, will directly oversee colleges and universities. Instead, it is a group of citizens who are a designated surrogate for the people of the state (or the community if a two-year community college), whose duty it is to represent both the institution and all of the state’s or community’s citizens.

This is not to say that internal and external stakeholders, particularly faculty and state government officials, have no say in the direction of a university. Indeed they do, and

oftentimes their opinions and actions carry considerable weight. State legislatures hold considerable power because they also appropriate large sums of money to colleges. But it is the citizen governing board, working with the executive leadership of the university or college, namely the chief executive or college president, that in theory and often in practice serves as the ultimate authority for the institution.

A governing board of a public college or university (and a private one as well) has several important responsibilities. These include oversight of the institution's finances, its academic programs and standards, and its broad strategic direction. To successfully carry out these responsibilities requires an effective working relationship with the college or university administration, in particular, the president. Since the president's leadership is so critical to the success and effectiveness of the institution, the board's role in hiring, supporting, evaluating and, if necessary, dismissing the president, is a primary board responsibility.

A second governing board responsibility is confirming and sometimes redefining the mission of the college or university, that is, the academic scope and purposes of the institution, and then setting strategic direction. Since all public universities are created in state law, institutional purposes are spelled out by legislative language. However, as colleges and universities have evolved in recent decades, alteration and expansion of missions have occurred at most institutions. In most of the states, any dramatic mission change must be approved by some statewide approval authority and sometimes the legislature as well. However, requests for mission changes typically originate with the governing board of the institution.

Developing, implementing and monitoring a strategic plan are companion responsibilities to mission development. Strategic plans are multi-year agendas for advancing the college or university. The best developed plans are written by the president and the senior administration with the full participation of key faculty and staff, but guided by the board whose members participate at key points in the process. Strategic plans may also be part of a larger statewide or "multicampus" system plan that precedes the crafting of the institutional plan.

A third responsibility is review of academic programs and assurance of academic quality. Here, of course, the faculty play a central role in determining how the curriculum will be taught to students and how students will be assessed in their coursework, in conducting research, or providing services to state or community citizens. As citizen board members, trustees delegate most academic program decisions to the faculty and academic departments, and appropriately so. Nevertheless, an engaged governing board demands academic standards appropriate to the institutional mission and frequent student assessments that meet the standards, as well as the requirements of program accreditation, the voluntary and non-governmental external quality assurance process to which colleges and universities comply.

A strategically focused board ensures that the academic programs align with the institutional mission and strategic plan, noting any and all budgetary implications, and that academic or research performance outcomes are benchmarked against earlier performance, and sometimes against the performance of other colleges or universities. A board must not overstep its academic responsibilities, but respect faculty prerogatives and work with the faculty and university administration to ensure that quality is maintained and that those inside the university most responsible for quality and excellence are held accountable.

A fourth major governing board responsibility is securing financial resources. This includes working with state authorities to secure adequate annual operating appropriations and monies

for buildings and facilities. It also includes responsibility to set fair but necessary levels of student tuitions and fees and to help to raise private dollars from individual donors, corporations, and foundations that can close any funding gaps necessary for continued quality and program offerings. While trustees must ensure that the institution has adequate financial resources, at public institutions the president most often takes the most active role in advocating to the legislature for support.

A fifth major responsibility is ensuring good management, particularly in regard to the use of resources and in the monitoring of the institution's financial condition. The governing board will carry out this responsibility heavily dependent on data and information gathered and presented by the college or university administration. Any successful board, many whose members come from the business community, realizes that the long-term success and viability of the institution they oversee, no matter how strong it may be academically, will be dependent on sound fiscal stewardship. The board must assure financial accountability to citizens and private donors – confirming that their tax dollars and donations are being put to their intended use. Although not a business, an institution should have sound business practices and trustees can see that this occurs. Another aspect of good management, is ensuring that the institution has policies that oversee the faculty and staff, including sound faculty tenure and promotion policies.

Collectively, these responsibilities point toward what is one of the most critical governing board responsibilities – protecting and preserving the independence and autonomy of the institution. The legal basis for such an important role has its origins in English corporate law going back to the 16th century that was then refined in the American colonial period and solidified by state and federal laws and the courts. In all states, a large modicum of independence is granted to colleges and universities and their governing boards, even though as public institutions they must still adhere to several parameters written into their founding legislation or in regulations developed by governments over time. The institution is not a sovereign entity and should never expect complete autonomy, but nonetheless, it is overseen by a recognized and independent corporate body, the governing board, that is the legal authority for all that has, is, and will occur at the institution.

Examples of threats to independence and autonomy include gifts from individual donors intent on altering institutional mission, partisan lawmakers calling for the resignations of university administrators, board members, or faculty members, or intrusions on the academic freedom of certain faculty to pursue knowledge and teach subject matter as they see fit. Occasionally internal groups, such as employee unions, threaten the academic independence of the institution as well. Governing boards, sitting as both a part of the institution and as a representative of the broad public interest, must be strong in deflecting these actions and addressing any institutional shortcomings internally that may have led to the external threats in the first place.

2. Concerns about citizen governance

While citizen trusteeship generally reflects the decentralized approach to decision making that is part of American political culture, the system is by no means perfect. Among the major concerns about the efficacy of governance dominated by citizens is uneven trustee quality. For public colleges and universities, the vast majority of individual trustees are appointed by a political authority, or in some cases, particularly at two-year community colleges, elected by citizens in general elections. By contrast, all private college boards can choose their own successors. There are, however, many instances when the appointing authority, usually the

governor or state legislature, doesn't appoint the most qualified individuals to the board and where politics or personal relationships rather than qualifications lead to selection. Some states have tried to rectify this by formalizing a process whereby consideration of qualifications and merit become primary criteria for board appointments, along with necessary gender and racial considerations. Although most individuals chosen for public boards are citizens of stature, a lack of constituency in trustee quality still plagues several states.

Another concern is inadequate orientation and education of board members. Most trustees come to their board service with a proven track record in business, civic life, or other areas of education. Yet their familiarity with higher education may be limited to their time as a student several years ago or to isolated interactions since that time. The expectations of being a trustee in terms of time commitment, comportment among a group of peers, as well as an understanding of the higher education issues to monitor and be concerned about all require an amount of new learning. Informative orientation and regular board education programs held at the college or university as part of regular board meetings and periodic statewide gatherings of all public trustees can be the best and most cost-efficient ways to provide this necessary board training. Unfortunately, many colleges and universities and states do not consistently or adequately provide it.

Competing demands can often times be difficult for public boards and if demands are not balanced judiciously, problems can be created. Some public governing boards have been criticized for being too much a perceived agent of state government while others have been criticized for being too much an advocate for colleges or universities and ignoring the state's fiscal constraints and overall priorities. The need for balance and a broad perspective is critical for public trustees. Some are criticized for ignoring this and are perceived as a representative within the board for a particular political point of view or special interest. Trustees must always understand that they represent both the institution and the broader public interest and public good. They must also understand that as an individual trustee, they have no authority to act unilaterally or demand special attention. The authority rests legally and unambiguously with the board, as a corporate body, and not its individual members. Too often, trustees forget this important difference.

3. Multicampus governance and state coordination

How a state should best organize its colleges and universities under governing board authority remains a persistent concern in some states, and a problematic and controversial one in several. American public higher education at the four-year and two-year level is dominated by multicampus system structures, where one board governs multiple institutions. Some systems are statewide, in that one board governs most if not all two and four-year colleges and universities in the state, no matter their diversity of mission. Examples are the University of Wisconsin System with its 26 colleges and universities and the State University of New York System with its 64 colleges and universities. In other systems, the institutions governed are all of similar mission, such as the University of California System or the Kentucky Community and Technical College System. Other smaller systems are regionally based, such as the Southern Illinois University and North Texas University Systems. Systems are led by a system executive (most often a president or chancellor) and the constituent campuses of the system are led by campus presidents.

There are several advantages to systems: resource sharing and economies of scale, a unified voice for advocacy, the ability to leverage change at multiple institutions, greater ease in student transfer and mobility among institutions, and a collective enterprise for economic

development. Yet others feel that multicampus systems make it too difficult for governing boards leaders to know, support, hold accountable, and advocate for multiple institutions at once – that governance becomes cursory, lax, or too dependent on the system executive and campus presidents. System structures are nevertheless the governance preference in two-thirds of the 50 states.

An additional complexity in higher education governance is statewide coordinating agencies. They tend to exist in states that have only one or two small multicampus systems or in states with one governing boards for each single institution. These agencies are also overseen by citizens who comprise the membership of a statewide coordinating board. In some states they play a limited advisory role. But in just under half the states, these boards and agencies are significant actors when it comes to state policy development and regulation. They do not govern institutions or have the full responsibilities that governing boards possess, but they mediate institutional disputes, set overall higher education policy, approve new academic programs, and serve to request and disburse monies from the state to higher education. The most successful agencies and boards balance institutional aspirations with state needs and priorities. With an astute staff and good data on overall statewide higher education performance, they can be persuasive in leading a positive statewide higher education agenda for both public and private two-year and four-year institutions. Several responsibilities of these coordinating agencies and boards, in reality, are quite similar to the responsibilities of the governing boards in statewide multicampus systems when it comes to working with colleges and with state government. Where they have the most authority and influence, these state agencies function like a state higher education “ministry.”

4. Presidents

The college president is not a rector elected by the faculty to lead the institution or the institution’s internal advisory council. He or she is hired and evaluated by the governing board as are the system presidents or chancellors of multicampus systems. (The hiring and evaluation of campus presidents within systems is shared between the board and the system executive). The president may have risen through the faculty ranks at one or several institutions and worked his or her way into academic administration, either as a dean or academic vice president or provost. In some cases, the president comes directly from business, government, and even the military. At most institutions, the president is held in high esteem, and indeed at America’s colleges and universities, presidents are often seen as leaders in their states and communities, and often times the nation, if they are from a prestigious institution.

A president is the lead manager and lead spokesperson, and with a cabinet of vice presidents in key positions (for academic affairs, business, student affairs, development and external relations, for example), he or she leads the academic administration – academic deans and department chairman – as well as the faculty, toward the strategic goals established approved by the governing board. It is the president and the cabinet who must work very closely with the governing board and it is to the president that the board delegates considerable authority. The president, in turn, has a responsibility to be the prime educator of the board, orientating and educating members to the important issues facing the institution or multicampus system.

In American higher education, the most successful institutions have an effective working relationship between the board and the president. Strong boards hire and encourage strong presidents, and strong presidents welcome a strong board who will support yet challenge them and hold them accountable for leading an agreed upon institutional (or multicampus system) agenda. If the relationship sours for whatever reason, the situation must be addressed

quickly or negative effects on the university community will result. Annual evaluations and more in-depth evaluations conducted by the board every four to five years are essential for clarifying expectations and keeping the relationship on the right track, as well as for establishing long-term goals for the president. It is also vital that a special relationship exist between the chair of the board (the board's chosen leader) and the president. The two of them must build a strong and effective working relationship to, in turn, keep the board strong and effective.

5. Governance partners: the faculty

The faculty are the third internal governance stakeholder along with the board and the president that are critical to successful institutional governance. A term commonly used in American higher education is shared governance. This form of institutional governance is based on a principle that ultimate responsibility rests with the governing board but that authority can and should be delegated for various kinds of decisions. It is a good practice for governing boards to state explicitly who has the authority for what decisions. For example, regarding academic and curriculum decisions such as tenure and promotion or creating a new degree, the governing board will likely delegate responsibility to the faculty but reserve the right to review and ratify their recommendations. Timeliness in decision-making is critical, especially if institutions are to respond strategically to internal and societal challenges. It is therefore important that the board, president, and faculty create a process that not only respects the prerogatives of each, but ensures that decisions are made promptly so opportunities or strategic advantages are not sacrificed.

In addition, the governing board needs to know its faculty – what they do, what they've recently accomplished, and what their opinions are about critical institutional education issues. This can and should occur informally at board social occasions, but such knowledge can also be gathered at formal board meetings, either through a faculty representative to the board, by inviting faculty to serve on board committees, or by simply having faculty members make presentations to the board.

6. Educational challenges and talk of reform

The concerns cited above lead many to question whether governance structures undergirded by citizen boards are adequate for 21st century challenges facing U.S. higher education. These challenges are centered around helping to improve early childhood, elementary, and secondary education, including preparing more and better teachers, especially in science, technology, engineering and math; increasing college degree production (U.S. numbers lag behind leading OECD countries); narrowing the education achievement gaps of minority populations; better controlling costs to students and families; and building greater research capacity. Other challenges are evident in the new competitive, market-based environment due to the integration of educational technology, the internet, and new education providers – some for-profit institutions and others internationally based. Many question whether citizen governance can cope with these challenges and help leverage positive outcomes for colleges and universities, as well as for students and society.

Talk of reforms to strengthen governance and its ability to lead strategic responses to these challenges (which manifest themselves to varying degrees in all states) are increasing in frequency. Some of these conversations have been about the necessity of an entity in each state that focuses on the above challenges and that has the authority to leverage action to address them (that is, encouraging all 50 states to create a ministry-type structure); about the

feasibility of a broader public governance structure that would encompass all levels of public education – preschool through graduate school; about greater accountability and transparency for improved educational performance; and in some states about retaining or eliminating multicampus systems or single-institution boards. These, as well as financial reforms of state appropriations and tuition policy will grow in intensity over the next several years.

American higher education governance is deeply rooted in the ideals of American democracy. Allowing for high degrees of institutional freedom and autonomy could only exist in a mature democratic society where respect for institutional boundaries and freedom of decision-making co-exist. Although subject to criticism about their selection, training, and commitment to either the broad public interest or the institution, and despite concerns about their effectiveness for the 21st Century challenges confronting colleges and universities, citizen governing boards that are engaged, strategically focused, and who judiciously use their authority and powers of delegation, remain one of American higher education's best features.

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