

Notice of Meeting

UNIVERSITY OF HAWAI'I

BOARD OF REGENTS COMMITTEE ON PERSONNEL AFFAIRS

Date: Thursday, September 08, 2016

Time: 10:00 a.m.

Place: University of Hawai'i at Mānoa
Information Technology Building
1st Floor Conference Room 105A/B
2520 Correa Road
Honolulu, Hawai'i 96822

AGENDA

I. Call Meeting to Order

II. Approval of Minutes of the May 18, 2016 Meeting

III. Public Comment Period for Agenda Items: All written testimony on agenda items received after posting of this agenda and up to 24 hours in advance of the meeting will be distributed to the board. Late testimony on agenda items will be distributed to the board within 24 hours of receipt. Registration for oral testimony on agenda items will be provided at the meeting location 15 minutes prior to the meeting and closed once the meeting begins. Written testimony may be submitted via US mail, email at bor@hawaii.edu, or facsimile at 956-5156. Oral testimony is limited to three (3) minutes.

IV. Agenda Items

A. For Discussion

1. Board of Regents Policy, RP 9.205 Political Activity
2. New board policy on conflicts of interest and employment
3. Addition of governance under the purview of the Board of Regents Committee on Personnel Affairs

B. For Action: Recommend Approval of Methodology for Executive Management Salary Adjustments

V. Adjournment



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BOARD OF REGENTS

KALBERT K. YOUNG
VICE PRESIDENT FOR BUDGET & FINANCE
CHIEF FINANCIAL OFFICER

16 JUL 15 A9:10
July 14, 2016

TO: Randy Moore, Chair
UH Board of Regents

VIA: David Lassner
President

FROM: Kalbert K. Young
Vice President for Budget and Finance/Chief Financial Officer

SUBJECT: Discussion Item: Proposed Revision to Regents Policy,
RP 9.205 – Political Activity

UNIVERSITY OF HAWAII
PRESIDENT'S OFFICE

16 JUL 15 A9:08

RECEIVED

Attached is a proposed revised Regent Policy on Political Activity. This item is on the Board of Regents agenda for its meeting scheduled on July 21, 2016.

Background

The current Regent Policy 9.205 (RP 9.205) pertains to political activities of employees. RP 9.205 was last revised in 1982, but has been in effect since (before) 1966. Earlier this year, the Board of Regents discussed the possibility of revisions to the policy as part of our general legislative review. During the course of that discussion, Administration thought it advisable to delay any policy revisions pending the decision of the Legislature regarding related legislation.

Context

During the 2016 Legislature, a measure (House Bill 1556) was introduced that sought to restrict the University from establishing policies or practices that prevented or restricted the hiring of elected officials. The University of Hawai'i opposed the measure citing the Regents' desire that the University and employees avoid opportunities for conflicts of interest and incompatibility of responsibilities. House Bill 1556 failed to pass the 2016 Legislature.

However, in the course of the legislative session, constituents, representatives from UHPA and HGEA, and sitting legislators were able to express what they saw as issues with RP 9.205. As part of our post-mortem review of legislation that would have affected UH, the Administration has considered some of the identified issues. The proposed revisions to RP 9.205 reflect those areas where the Administration believes the Regents could consider amendments while still holding true to the original intent of the policy – namely, to avoid conflicts of interest and to explicitly express Regents'

expectation that University employees were, first and foremost, responsible to their public duties as University employees.

Proposal Discussion

The proposed policy makes revisions to accommodate the following areas:

- Defines “public elective office” to exclude certain offices like neighborhood boards which conduct business outside the standard hours of university employment.
- Identifies and defines the group or type of employees that would not be affected by the policy.
- Defines the types of political activities covered by the policy.
- Makes explicit that Regent sentiment is for employees to avoid incompatibility and conflicts of interest that would prevent them from effectively fulfilling their University duties.
- Establishes compliance protocols for covered political activity.

Next Steps

This proposed revision to RP 9.205 is on the Board of Regents agenda for its meeting on July 21, 2016. The Vice President for Budget and Finance will be leading the discussion of this proposed policy revision. There is no decision-making for the Board of Regents on this agenda item. Based on member sentiments expressed during the discussion, Administration could revise the policy draft to accommodate suggestions and bring the matter back to the Board at a future date for decision making.

In the future if this policy revision does move forward for decision making, Administration would intend to consult with affected government employee unions since the policy could affect work policies and may change existing operational practices.

This matter is hereby submitted for consideration by the Board of Regents.

Attachment 1: Current Regent Policy 9.205 – Political Activity

Attachment 2: Proposed (Revised) Regent Policy 9.205

Attachment 3: Redline version of Proposed (Revised) Regent Policy 9.205

c: University General Counsel
Vice President for Administration



Viewing Policy RP 9.205

Title

Political Activity

Header

Regents Policy Chapter 9, Personnel

Regents Policy [RP 9.205](#), Political Activity (See also the appropriate collective bargaining agreement)

Effective Date: Feb. 19, 1982

Prior Dates Amended: Aug. 30, 1966; Oct. 31, 2014 (recodified)

Review Date: August 2019

I. Purpose

To set forth policy regarding political activity.

II. Definitions

No policy specific or unique definitions apply.

III. Board of Regents Policy

A. The board believes that it is the right of employees as citizens to engage in politics so long as these activities do not interfere with their university duties or violate established rules of the university. Furthermore, the board has expressed the belief that political activities by employees, in accordance with the following statement, should result in no embarrassment to the university.

1. It is expected that university employees will use appropriate discretion in the exercise of the political rights which they share in common with other citizens; that they will be careful always to emphasize that their utterances and actions in political matters are theirs as individuals and in no manner represent the university; that they will always recognize that their first obligation is to the university; that they will accord the university administration the courtesy of prior notice of any political commitment which is likely to bring them into prominence.

2. Because of a conflict in interest and/or an appearance of impropriety in campaigning for and holding a public elective office and being employed at the university, the board has established the following policy in regard to campaigning for and holding such an office.

3. All employees under the jurisdiction of the board seeking a public elective office shall, without exception:

a. Request, or in absence of such request, to be placed on a leave of absence without pay in accordance with university policy upon actively seeking political office, but in no event later than the filing of nomination papers or the announcement of candidacy for such office;

b. Be subject to the general university policies governing appearances and activities of political candidates on campus;

c. Insure that they do not give the appearance that their views, utterances and/or actions are representative of the university; and

d. Be separated from university service through either resignation, or termination upon assumption of the elective office.

IV. Delegation of Authority

There is no policy specific delegation of authority.

V. Contact Information

Office of the Vice President for Administration, 956-6405, jgouveia@hawaii.edu

VI. References

A. <http://www.hawaii.edu/offices/bor/>

VII. Exhibits and Appendices

No Exhibits and Appendices found

Approved

approved as to Form: _____

October 31, 2014 _____

Cynthia Quinn

Date

Executive Administrator and Secretary of the Board of Regents

Topics

No Topics found.

I. Purpose

This Regents Policy affirms the right of University employees to participate in political activities so long as such political activities do not interfere or are not incompatible with the discharge of the duties and responsibilities owed by the employee to the University of Hawaii.

II. Definitions

“University Employees” for purposes of this policy only is defined as employees receiving a recurring salary, stipend or hourly wage as monetary compensation for work performed in a regular, ongoing appointment of one week or more, subject to the following exclusions:

- (1) Non-compensated employees;
- (2) Students who may be employed as student employees and/or graduate assistants; and
- (3) Individuals who are provided an honorarium to provide a single non-recurring service, and who do not qualify for employment benefits.

“Public Elective Office” will include all offices of the State of Hawaii or any of its counties or any of its agencies to which election is held on a Statewide or district basis, or at the federal level which election is held on statewide or national level. For the purpose of this policy, “Public Elective Office” shall not include unpaid, part-time State or county elective offices that operate outside normal business hours, such as elected neighborhood boards, or which occur outside the standard hours of the University Employee.

“Political Activities” is defined as campaigning for and/or being elected to a Public Elective office, endorsing, supporting or opposing a candidate for Public Elective Office, advocating regarding a voter referendum issue, or participating in partisan activities that should be done on personal time and outside of the workplace.

III. Board of Regents Policy

A. Pursuant to Chapter 84, Hawai'i Revised Statutes, the University and state employees must not use public resources including funds, equipment, and time to engage in Political Activities.

B. The holding of Public Elective Office is generally incompatible with serving as a University Employee. Issues include conflicts of commitment between multiple employers as well as conflicts of interest. For these reasons, a University Employee who is elected to Public Elective Office will resign or be separated from University employment immediately upon being sworn into office. Similarly, individuals who hold Public Elective Office will not be hired as a University Employee.

C. The board believes that it is the right of University employees as individual citizens to engage in political activities so long as these activities do not interfere with the University's mission and the performance of University duties and responsibilities, or violate established rules of the University or State law.

1. It is expected that all University employees will use appropriate discretion and judgment in the exercise of the political rights which such employees share in common with other citizens; that employees will be careful always to recognize and emphasize that their utterances and actions in political matters are theirs as individuals acting in their personal capacity and employees must clearly state and explain that they are not stating a University position or acting as representatives of the University; that employees will always recognize that their first obligation is to the University as their employer; and that employees will accord the University administration the courtesy of prior notice of any political commitment which is likely to bring them into prominence or perceived conflict of interest. Should a University employee choose to endorse a candidate or engage in similar Political Activity, that employee may not allow use of his/her work title or position, work resources or University affiliation in any way.

2. Before officially announcing as a candidate for or accepting any Public Elective Office, a University Employee must notify his/her official supervisor and administrator, and the Vice President for Administration promptly in writing and in no event later than the filing of nomination papers or the announcement of candidacy for such office.

3. As a candidate for Public Elective Office, the University Employee shall:

a. Be subject to general University policies and State laws governing conflicts of interest and appearances and activities of political candidates on University property which includes campus or off-campus locations that are deemed leased or owned by the University. Candidates must ensure that no real or perceived campaign activities or statements are made on any University property, in University meetings or classes, in or on University documents, or through any UH communication media including University phone, campus mail and electronic mail systems.

b. Scrupulously receive prior approval, sign out in advance for vacation or unpaid leave, and ensure approval by his/her official supervisor, to account for any time spent on Political Activities during the employee's normal working hours.

c. Ensure that he/she does not give the appearance or state that the University Employee's views, positions, utterances and/or actions are representative of the University or any University administrator or employee.

D. Any University employee shall notify his/her supervisor and Vice President for Administration of his/her appointment to a federal, State, or county board or commission.

I. -Purpose

~~To set forth policy regarding political activity.~~

This Regents Policy affirms the right of University employees to participate in political activities so long as such political activities do not interfere or are not incompatible with the discharge of the duties and responsibilities owed by the employee to the University of Hawaii.

II. Definitions

~~No policy specific or unique definitions apply.~~

“University Employees” for purposes of this policy only is defined as employees receiving a recurring salary, stipend or hourly wage as monetary compensation for work performed in a regular, ongoing appointment of one week or more, subject to the following exclusions:

- (1) Non-compensated employees;
- (2) Students who may be employed as student employees and/or graduate assistants; and
- (3) Individuals who are provided an honorarium to provide a single non-recurring service, and who do not qualify for employment benefits.

“Public Elective Office” will include all offices of the State of Hawaii or any of its counties or any of its agencies to which election is held on a Statewide or district basis, or at the federal level which election is held on statewide or national level. For the purpose of this policy, “Public Elective Office” shall not include unpaid, part-time State or county elective offices that operate outside normal business hours, such as elected neighborhood boards, or which occur outside the standard hours of the University Employee.

“Political Activities” is defined as campaigning for and/or being elected to a Public Elective office, endorsing, supporting or opposing a candidate for Public Elective Office, advocating regarding a voter referendum issue, or participating in partisan activities that should be done on personal time and outside of the workplace.

III. Board of Regents Policy

A. Pursuant to Chapter 84, Hawai'i Revised Statutes, the University and state employees must not use public resources including funds, equipment, and time to engage in Political Activities.

B. The holding of Public Elective Office is generally incompatible with

serving as a University Employee. Issues include conflicts of commitment between multiple employers as well as conflicts of interest. For these reasons, a University Employee who is elected to Public Elective Office will resign or be separated from University employment immediately upon being sworn into office. Similarly, individuals who hold Public Elective Office will not be hired as a University Employee.

C. The board believes that it is the right of University employees as individual citizens to engage in ~~politics~~ political activities so long as these activities do not interfere with ~~their university~~ the University's mission and the performance of University duties and responsibilities, or violate established rules of the university. ~~Furthermore, the board has expressed the belief that political activities by employees, in accordance with the following statement, should result in no embarrassment to the university~~ University or State law.

1.- It is expected that ~~university~~ all University employees will use appropriate discretion and judgment in the exercise of the political rights which ~~they~~ such employees share in common with other citizens; that ~~they~~ employees will be careful always to recognize and emphasize that their utterances and actions in political matters are theirs as individuals ~~and in no manner represent the university; that they~~ acting in their personal capacity and employees must clearly state and explain that they are not stating a University position or acting as representatives of the University; that employees will always recognize that their first obligation is to the ~~university; that they~~ University as their employer; and that employees will accord the ~~university~~ University administration the courtesy of prior notice of any political commitment which is likely to bring them into prominence.

~~2. Because of a or perceived conflict in interest and/or an appearance of impropriety in campaigning for and holding a public elective office and being employed at the university, the board has established the following policy of interest. Should a University employee choose to endorse a candidate or engage in regard to campaigning for and holding such an office.~~

~~3. All employees under the jurisdiction of the board seeking a public elective office shall, without exception:~~

~~a. Request, or similar Political Activity, that employee may not allow use of his/her work title or position, work resources or University affiliation in absence of such request, to be placed on a leave of absence without pay in accordance with university policy upon actively seeking political office, but any way.~~

2. Before officially announcing as a candidate for or accepting any Public Elective Office, a University Employee must notify his/her official supervisor and administrator, and the Vice President for Administration promptly in writing and in no event later than the filing of nomination papers or the announcement of candidacy for such office;

~~b.~~ 3. As a candidate for Public Elective Office, the University Employee shall:

a. Be subject to the general university University policies and State laws governing conflicts of interest and appearances and activities of political candidates on University property which includes campus;

~~c. Insure~~ or off-campus locations that they do are deemed leased or owned by the University. Candidates must ensure that no real or perceived campaign activities or statements are made on any University property, in University meetings or classes, in or on University documents, or through any UH communication media including University phone, campus mail and electronic mail systems.

b. Scrupulously receive prior approval, sign out in advance for vacation or unpaid leave, and ensure approval by his/her official supervisor, to account for any time spent on Political Activities during the employee's normal working hours.

c. Ensure that he/she does not give the appearance or state that their the University Employee's views, positions, utterances and/or actions are representative of the university; and University or any University administrator or employee.

~~d. Be separated from university service through either resignation, or termination upon assumption of the elective office.~~

D. Any University employee shall notify his/her supervisor and Vice President for Administration of his/her appointment to a federal, State, or county board or commission.

~~IV. Delegation of Authority~~

~~There is no policy specific delegation of authority.~~

V. Contact Information

Office of the Vice President for Administration, 956-6405, jgouveia@hawaii.edu

VI. References

A. <http://www.hawaii.edu/offices/bor/>

Approved:

approved as to Form:

Cynthia Quinn — Date

Executive Administrator and Secretary of the Board of Regents



September 8, 2016

MEMORANDUM

TO: Jan N. Sullivan, Chair
Board of Regents

FROM: Cynthia Quinn, Board Secretary

SUBJECT: Draft new board policy on conflicts of interest and employment, Chapter 2, Administration, Regents Policy RP 2.206, Policy on Board of Regents as Employees

SPECIFIC ACTION REQUESTED:

None; draft policy on conflicts of interest and employment is for discussion only. Union consultation will need to be done prior to any approval of a draft policy.

PURPOSE:

The affairs and employees of the University are under the general management and control of the Board of Regents. Given the recent appointment of two employees to the Board of Regents, this policy was drafted to address proactively inherent conflicts of interest, to preserve the integrity of the Board and the University. There has been no prior need for this policy because no employees have been appointed to the Board of Regents until now. It is important to note that the two existing employee Regents ("Employee Regents") fully support and have been engaged in this effort.

While the benefit from having such employee perspective on the board is recognized, this policy identifies conflicts of interest that may arise where a regent is serving a dual role as employer and employee. Adoption of the draft policy would (1) affirm the board's support for its Employee Regents serving in both roles, and (2) proactively address potential conflicts of interest such that an Employee Regent's volunteer service on the Board of Regents does not interfere with performance of his or her duties and responsibilities as an employee.

BACKGROUND:

At the August 18, 2016 board meeting, the board referred to the Personnel Committee for further consideration a new draft board policy addressing potential conflicts of interests for University of Hawaii employees serving on the Board of Regents. This is believed to be the first time employees have been appointed to the

Board of Regents, and the board asked the Personnel Committee to further discuss the draft policy.

Regents are already subject to the State ethics code set forth in Chapter 84 of the Hawaii Revised Statutes (“Haw. Rev. Stat.”), including but not limited to those pertaining to confidential information, fair treatment, conflicts of interest, and disclosures. Regents are also subject to the provisions of Article X regarding “Conflicts of Interest” in the Bylaws of the Board of Regents of the University of Hawaii, as amended, that mandates members of the Board to place the welfare of the University above personal interests, the interests of family members or others who may be personally involved in affairs affecting the University. Further, it mandates that all decisions of the Board shall be made solely on the basis of a desire to promote the best interests of the University and the public good.

University employees, including Employee Regents, are likewise subject to the State ethics code, as well as Board of Regents Policies, Executive Policies, Administrative Procedures, and Haw. Rev. Stat. Section 78-4(b) which permits appointment of State employees on State boards and commissions, unless service on the board or commission would be “inconsistent or incompatible with or would tend to interfere with the duties and responsibilities of the other office, employment, or position held by the employee.” Haw. Rev. Stat. Section 78-4(c) states that if the employee must be away from the employee’s regular work because of service as a member on a board or commission, the employee shall not, as a result of the absence, suffer any loss of the employee’s “regular salary or wages”; the time spent in service as a board or commission member outside of the employee’s regular work hours shall not be considered as time worked.

Recognizing the potential conflicts of interest inherent in serving as a Regent and employee, board leadership and the Employee Regents themselves have expressed a desire to proactively manage those conflicts through a board-approved policy.

DRAFT POLICY SUMMARY:

The draft policy affirms the benefit of having employees as Regents on the board. It also holds Employee Regents to the duties and obligations of their employment, duties and obligations that non-employee Regents do not hold, so that Employee Regents and their supervisors are not placed in the untenable position of deciding on a day-to-day basis whether Regent duties are more important than employment duties. The text of the draft policy is provided in Appendix A. In summary:

1. Section III.A. of the draft policy sets forth the need for compliance with statutory mandates applicable to all Regents and employees of the University;

2. Section III.B. restates the process to manage conflicts set forth in board bylaws, including circumstances unique to a Regent Employee wherein the board must consider any matter which also directly impacts an Employee Regent's personal financial interest; and when the Board must consider any matter affecting bargaining units 1, 2, 3, 4, 7, 8, 9, and/or 10, as matters regarding one collective bargaining unit are likely to affect and/or impact all bargaining units; and

3. Section III.C. provides clarity around appropriate use of University time and resources in serving on the board, expressly authorizing Employee Regents to conduct board business during regular work hours for up to the equivalent of sixteen (16) hours in any given 2-week pay period, and sets forth the expectation that the Employee Regent will use available vacation hours for any additional time required for Board service that week, unless otherwise prohibited by a collective bargaining agreement. In addition, the draft policy encourages the Employee Regent to use best efforts to preserve the confidentiality of confidential board communications, and keep work email and communications separate from Regent email and communications. Finally, the draft policy requires the Employee Regent to address employment issues within his or her employing unit, not with the board or its staff.

Title

Policy on Regents as Employees

Header

Regents Policy Chapter 2, Administration

Regents Policy [RP 2.206](#), Policy on Board of Regents as Employees

Effective Date: _____, 2016

Review Date: _____ 2018

I. Purpose

To set forth policy on Regents who are also employed as employees by the University of Hawaii ("Employee Regents"). While the Board of Regents will benefit from having such perspective, the potential for conflicts of interest is clear. It is the policy of the Board of Regents to manage those conflicts in a manner that allows employees of the University to serve on the Board of Regents, while ensuring that the employee's service on the Board of Regents does not interfere with the employee's performance of his duties and responsibilities as employee. Employee Regents shall at all times, as both employee and as Regent, conduct themselves in a manner that preserves the integrity of the University of Hawaii, its Regents and its employees.

II. Definitions

No policy specific or unique definitions apply.

III. Board of Regents Policy

A. As employees of the University and as Regents of the University, Employee Regents are subject to and shall abide by (1) Section 78-4(b) of the Hawaii Revised Statutes ("Haw. Rev. Stat.") permitting service on State boards and commissions where service does not interfere with the duties and responsibilities of their employment, and (2) the State code of ethics set forth in Haw. Rev. Stat. Chapter 84, including but not limited to the requirements re confidential information, fair treatment, conflicts of interest, and disclosures. In assuming the duties of employee and Regent, the Employee Regent understands that the dual role is assumed voluntarily by Employee Regents, and that it is the Employee Regent's responsibility to comply with the provisions of State law.

B. Employee Regents are also required to abide by the provisions of Article X regarding “Conflicts of Interest” in the Bylaws of the Board of Regents of the University of Hawaii, as amended (“Bylaws”).

1. Members of the Board are expected to place the welfare of the University above personal interests, the interests of family members or others who may be personally involved in affairs affecting the University. All decisions of the Board shall be made solely on the basis of a desire to promote the best interests of the University and the public good [Article X, Section B. re “Fiduciary Responsibility”].

2. In the event the Board must consider any matter which also directly impacts an Employee Regent’s personal financial interest or bargaining units 1, 2, 3, 4, 7, 8, 9, and/or 10, or which creates a clear appearance of conflict of interest with his/her employment, the Employee Regent shall either (a) fully disclose the precise nature of the interest or involvement in writing to the Secretary who, together with the University General Counsel, shall be responsible for resolving questions about addressing the conflict, and if unsuccessful, for bringing the questions to the full Board to be resolved by majority vote at a Board meeting in compliance with Haw. Rev. Stat. Chapter 92 [Article X, Sections C. and D. re “Disclosures” and “Determination of Conflicts”, respectively]; or (b) declare the conflict of interest and recuse himself/herself from consideration of the matter before the Board [Article X, Section C. re “Disclosures”].

3. Any Board action favorable to an Employee Regent obtained in violation of this provision is voidable on behalf of the Board, and the Board may pursue all legal and equitable remedies and/or sanctions through the University’s legal counsel [Article X, Section E. re “Sanctions and Remedies”].

C. Employee Regents are required as employees to comply with all policies and procedures applicable to all employees of the University, and not allow service on the Board to interfere with the duties and responsibilities of employment with the University.

1. Employee Regents are expected to adhere to applicable policies and procedures regarding outside employment and appointments, including but not limited to RP 9.207.

2. When an Employee Regent is required by Board service to be away from work during regular work hours, the Employee Regent must obtain prior supervisory approval for absences. When an Employee Regent is required by Board service to be away from work during regular work hours for more than the equivalent of two (2) days or sixteen (16) hours in any given pay period, in accordance with Haw. Rev. Stat. Section 78-4(c), it is expected that the Employee Regent will use available vacation hours for any additional time required for Board service during that pay period, unless otherwise specifically prohibited by applicable collective bargaining agreement. Best efforts should be made to document time spent on Board of Regent duties during regular work hours. No time spent on Board of Regent business shall be considered as time worked for purposes of overtime calculation.

3. Board of Regent duties should be performed to the extent possible, in a secure environment not accessible to the public or other employees. Email and/or other communication for work should be kept separate and apart from email and/or other communication for Board business, and Employee Regents should make clear in their communications in which capacity they are communicating, i.e., as Regent, or as employee.

4. Travel expenses relating to Board of Regent business shall be processed by the Office of the Board of Regents, in accordance with its travel reimbursement policies and procedures; collectively bargained benefits shall not apply to travel for Board of Regent business.

5. Any employment issues arising from the Employee Regent's employment shall be addressed with and by the human resources personnel in the Employee Regent's employing unit. Any issues arising from service on the Board of Regent shall be addressed with and through the Office of the Board of Regents.

IV. Delegation of Authority

There is no policy specific delegation of authority.

V. Contact Information

Office of the Board of Regents, 956-8213, bor@hawaii.edu

VI. References

A. <http://www.hawaii.edu/offices/bor/>

VII. Exhibits and Appendices

No Exhibits and Appendices found

Approved

Approved as to Form: _____, 2016

Cynthia Quinn

Date

Executive Administrator and Secretary of the Board of Regents

Topics

Board of Regents; conflicts of interest

DISCUSSION DRAFT

AN AGB
SURVEY

Shared Governance: Is OK Good Enough?

AGB ASSOCIATION OF
GOVERNING BOARDS
OF UNIVERSITIES AND COLLEGES



Shared Governance: Is OK Good Enough?

About AGB

Since 1921, the Association of Governing Boards of Universities and Colleges (AGB) has had one mission: to strengthen and protect this country's unique form of institutional governance through its research, services, and advocacy. Serving more than 1,300 member boards, 1,900 institutions, and 40,000 individuals, AGB is the only national organization providing university and college presidents, board chairs, trustees, and board professionals of both public and private institutions and institutionally related foundations with resources that enhance their effectiveness.



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ACKNOWLEDGMENTS

The Association of Governing Boards of Universities and Colleges is grateful to the over 2,500 governing board members, presidents, and chancellors who completed this survey. AGB also thanks the author of this report, Andy Louder, director of special projects, and acknowledges the research assistance provided by Kelly Cowdery.



The TIAA Institute helps advance the ways individuals and institutions plan for financial security and organizational effectiveness. The Institute conducts in-depth research, provides access to a network of thought leaders, and enables those it serves to anticipate trends, plan future strategies, and maximize opportunities for success.

To learn more about the TIAA Institute's research and initiatives for higher education leaders, please visit their website at <https://www.tiaainstitute.org>.

INTRODUCTION

Despite the diverse ways that colleges and universities, their faculty, and their boards are organized, nearly all have shared governance in common. Shared governance—the principle that acknowledges the final institutional authority of governing boards and distributed authority to the administration and faculty—is a basic tenet in higher education. When working well, it brings a wealth of ideas to critical conversations and creates a sense of inclusiveness that strengthens support for decisions.

In a time of serious challenges to higher education—among them declines in enrollment and funding, shifting demographics, and public critiques of value—shared governance can be an essential institutional asset.

But how well is shared governance working today? Is it holding up in the face of changes in the faculty workforce, shifting market demands, and scarce resources? Do the traditional partners in shared governance—presidents and chancellors, faculty, and governing boards—understand each other, respect each other’s roles, and have

constructive dialogues? Are shared governance policies and practices sufficiently clear and current to provide effective guidance and transparency for institutional decision making? Or is shared governance in some places a 20th-century practice that is ill-suited for 21st-century challenges?

To understand how well shared governance currently functions, AGB conducted two surveys: one of presidents and chancellors (hereafter, “presidents”) and one of governing board members. Both surveys focused on policies, practices, and perceptions related to shared governance. More than 300 presidents completed the first survey. Nearly 2,250 governing board members completed the second. Respondents to both surveys represented AGB members from public and independent institutions and systems of higher education. Table 1 describes the survey respondents.

TABLE 1

SURVEY RESPONDENTS BY SECTOR

	Independent Institutions	Public Institutions
Board Members	84%	16%
Presidents and Chancellors	72%	28%

Shared Governance: Is OK Good Enough?

The key finding from the surveys is that most presidents and board members from both public and independent institutions believe that shared governance is working adequately but could be more effective. More than 95 percent of board members reported that shared governance is a very important or moderately important component of decision making at their institutions. Similarly, more than 95 percent reported that it is very important or moderately important to higher education overall.

Most presidents and board members reported that the board and faculty recognize and support each other's authority—the board's authority for overseeing the entire institution or system and the faculty's for overseeing academic programs. The majority of presidents and board members also reported that discussions of difficult matters among the board, faculty, and administration are conducted in good faith and with trust. The survey also made clear that presidents think boards and faculty could significantly improve their understanding of each other's roles.

The survey identified one specific area of concern in how the changing academic workforce affects shared governance. Full-time faculty now account for just over half of all U.S. faculty, down from over three-quarters a generation ago. Tenure-track and tenured faculty account for only about one-quarter of faculty. Despite these trends, more than 50 percent of presidents and chancellors at public and independent institutions reported that board policies related to shared governance have not changed.

The report that follows provides a more detailed look at the survey results, displaying them by public and independent respondents. It also highlights where presidents and board members hold similar views, and where they see things differently. Those distinctions deserve attention.

According to the survey data, shared governance is not perfect but it is generally "OK" on most campuses. Yet that raises the question: In today's challenging environment, is "OK" good enough?

BOARD, PRESIDENT, AND FACULTY SUPPORT OF SHARED GOVERNANCE

The Shared Governance They Want

A number of experts have examined shared governance in the broader context of challenges facing higher education. Augustana College President Steven C. Bahls provides a useful framework for how shared governance functions in his recent book *Shared Governance in Times of Change* (AGB Press, 2014). Figure 1 on page 4 shows board member and president characterizations of the current state of shared governance in their institutions based on Bahls' four "Shared Governance Perspectives."

Shared Governance Perspectives

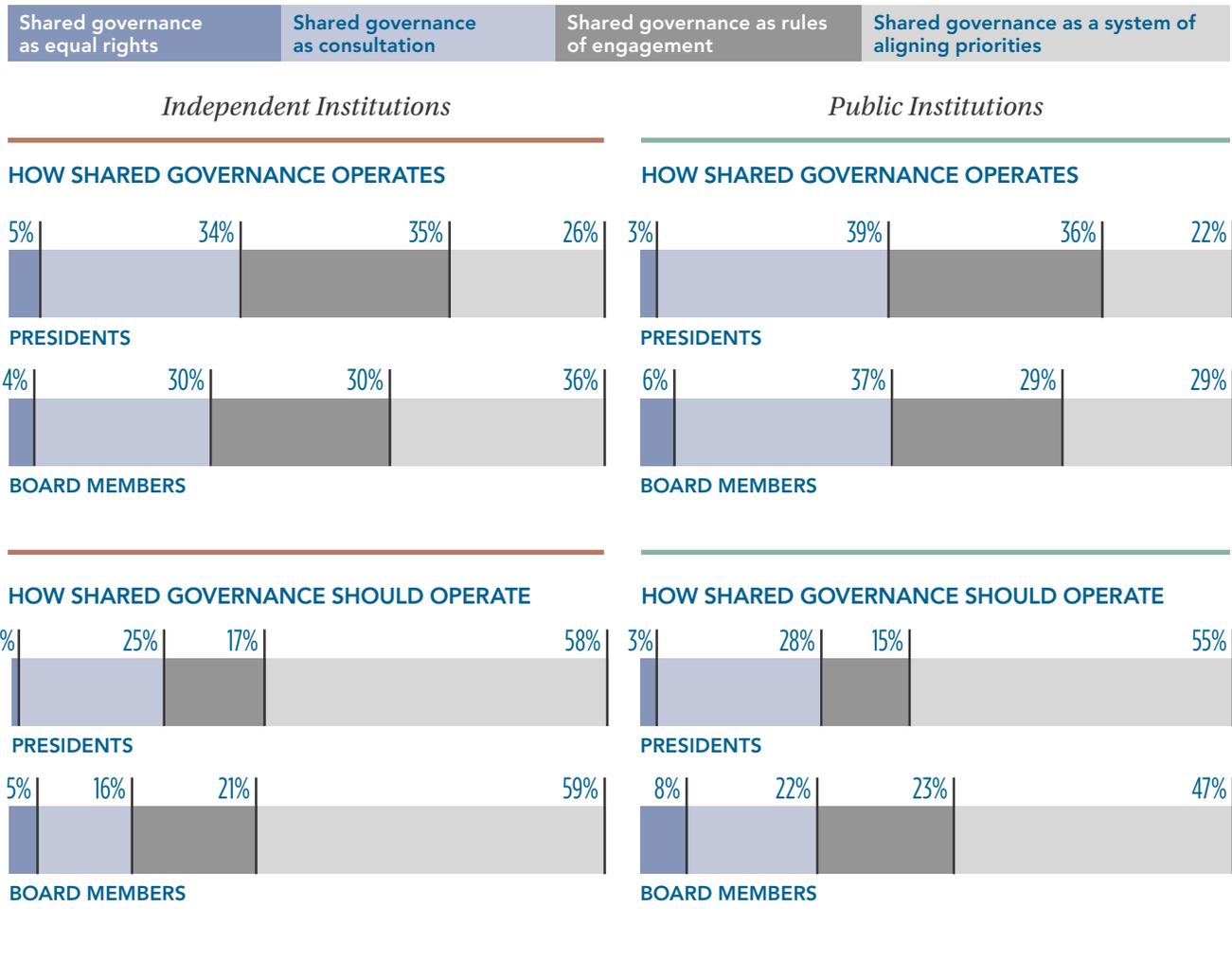
In *Shared Governance in Times of Change: A Practical Guide for Universities and Colleges*, Steven C. Bahls offers four perspectives on shared governance that the survey questions referenced. Each of the perspectives was defined as follows in the surveys:

- A. Shared governance as equal rights.** Shared governance ensures that faculty, staff, and administration have equal say in all governance matters, including budgets, academic directions of the institution, and strategic planning. Decisions are not made until a consensus is achieved.
- B. Shared governance as consultation.** Shared governance requires that those parties responsible for making decisions consult with others and consider their positions.
- C. Shared governance as rules of engagement.** Shared governance is a set of rules about the various roles and authority of the board, faculty, and administration in such things as academic decisions, budget decisions, selection of the president, and other operational decisions. Shared governance also describes rules of engagement when faculty, board members, and administrators disagree.
- D. Shared governance as a system of aligning priorities.** Shared governance is a system of open communication aimed at aligning priorities, creating a culture of shared responsibility for the welfare of the institution, and creating a system of checks and balances to ensure the institution stays mission-centered.

Shared Governance: Is OK Good Enough?

FIGURE 1

HOW DOES SHARED GOVERNANCE OPERATE AND HOW SHOULD IT?



Board members and presidents of independent institutions differed in their assessment of how shared governance functions at their college or university. Over one-third of board members said they believe shared governance operates as a system of aligning priorities. A little over one-quarter of presidents said they think shared governance now operates that way. However, nearly identical proportions of board members and presidents—well over 50 percent—said shared governance *should* function as a system of aligning priorities.

In public institutions, there is little difference between board members' and presidents' views of how shared governance currently operates. However, as with the independent board chairs and presidents, a much greater proportion in both public groups asserted shared governance *should* operate as a system of aligning priorities. The number of public presidents who said shared governance should operate as a system of aligning priorities was roughly two-and-a-half times the number who said it currently operates that way.

Board members and presidents of both independent and public institutions did not differ substantially in their responses, although more independent board members than public board members said shared governance should operate as a system of aligning priorities. Overall, survey data suggest many presidents and board members of both public and independent institutions would prefer a shared governance system that functions differently from the one they have. If they were to pursue change, the majority of presidents and nearly half of all board members responding to the survey aspire to a shared governance system that focuses on effectively aligning priorities.

Shared Governance: Is OK Good Enough?

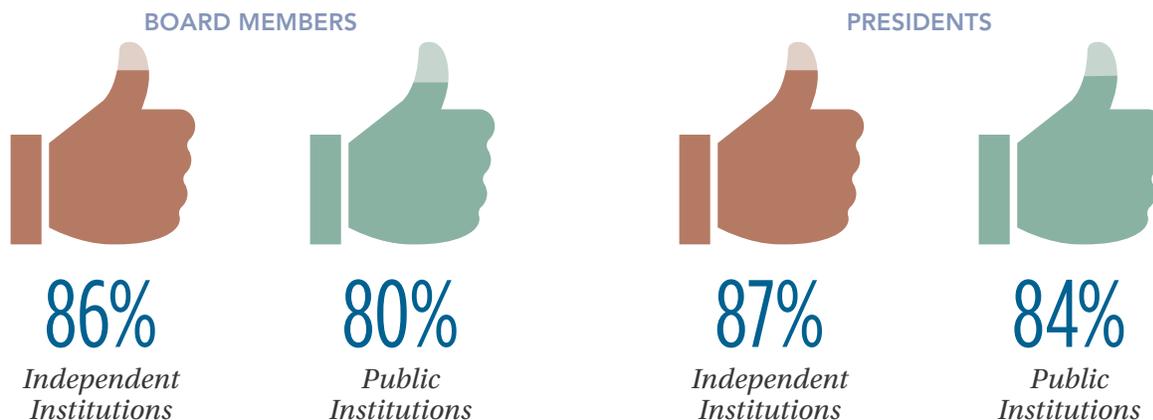
Acknowledgment of Each Other's Roles

How shared governance now operates may not be ideal, but the majority of survey respondents said that boards and faculty recognize and respect each other's role in it. Figure 2 summarizes respondents' perceptions of board support for faculty authority and faculty support for board authority.

FIGURE 2

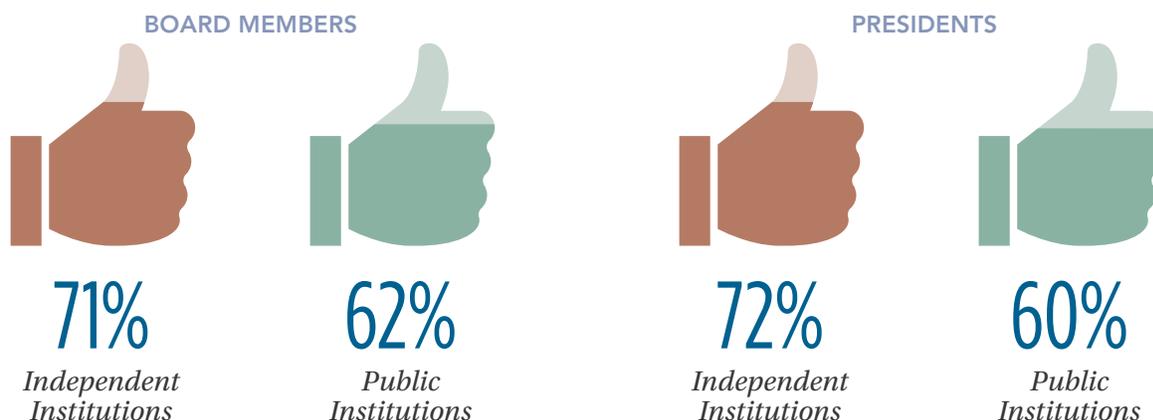
HOW SUPPORTIVE ARE BOARDS?

Respondents agree or strongly agree that the board recognizes and supports the faculty's authority in overseeing the academic programs:



HOW SUPPORTIVE ARE FACULTY?

Respondents agree or strongly agree that the faculty recognizes and supports the board's authority in overseeing the entire institution/system:



Presidents and board members generally agreed that boards recognize the faculty's authority for academic programs and that faculty members recognize board authority in overseeing the entire institution or system. But while respondents saw support of each group by the other as substantial, they suggested that boards are more likely to recognize faculty authority than faculty are to recognize board authority. Presidential assessments of faculty recognition and support for the board's authority were more favorable in independent institutions than in public institutions.

Administrator Support of Shared Governance

The board member survey also asked about presidents' and chief academic officers' support for shared governance more generally. (See Table 2.) Board members broadly agreed that top administrators show support for shared governance. However, a larger portion of board members at independent institutions than at public institutions said they strongly agreed with this assertion.

TABLE 2

BOARD MEMBER PERCEPTIONS OF ADMINISTRATOR SUPPORT FOR SHARED GOVERNANCE

		Independent Institutions	Public Institutions	All Institutions
The president and chief academic officer demonstrate support for shared governance at my institution/ system.	Strongly Agree	45%	33%	43%
	Agree	43%	50%	44%
	Neutral	8%	11%	9%
	Disagree	3%	4%	3%
	Strongly Disagree	1%	2%	2%

Shared Governance: Is OK Good Enough?

Shared Governance Under Stress

The surveys also asked about respondents' confidence in the strength of shared governance under stress. Specifically, board members and presidents were asked whether discussions of difficult matters among the board, faculty, and administration occur in good faith and with trust. (See Table 3.)

TABLE 3

BOARD MEMBER AND PRESIDENT PERCEPTIONS OF COLLEGIALLY IN TRYING CIRCUMSTANCES

Discussion of difficult matters among the board, faculty, and administration are done in good faith and with trust.

	Independent Institutions		Public Institutions	
	PRESIDENTS	BOARD MEMBERS	PRESIDENTS	BOARD MEMBERS
Strongly Agree	16%	30%	22%	21%
Agree	44%	45%	40%	49%
Neutral	25%	16%	22%	16%
Disagree	12%	7%	13%	8%
Strongly Disagree	3%	2%	3%	6%

While over 70 percent of board members said that boards, faculty, and administrators maintain trust and good faith in discussions of difficult matters, a smaller majority of presidents agreed (about 62 percent of public and 60 percent of independent presidents). Nearly one-quarter of presidents were neutral on the durability of trust and good faith among the three parties during difficult discussions.

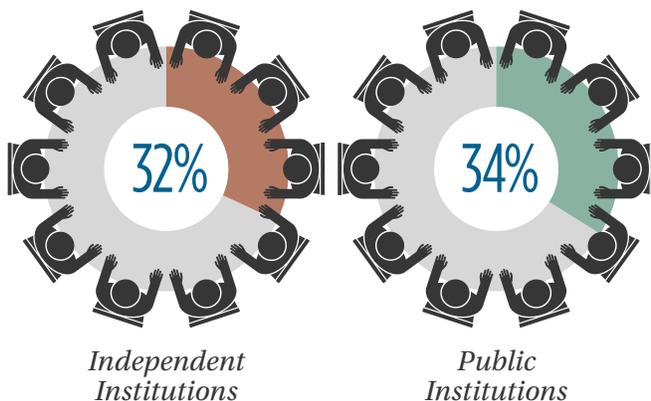
Understanding Each Other's Work

In addition to mutual acknowledgement of authority between boards and faculty and general support of shared governance by top administrators, the survey also examined board and faculty understanding of each other's responsibilities. Figure 3 compares presidents' responses about whether typical board and faculty members understand each other's work.

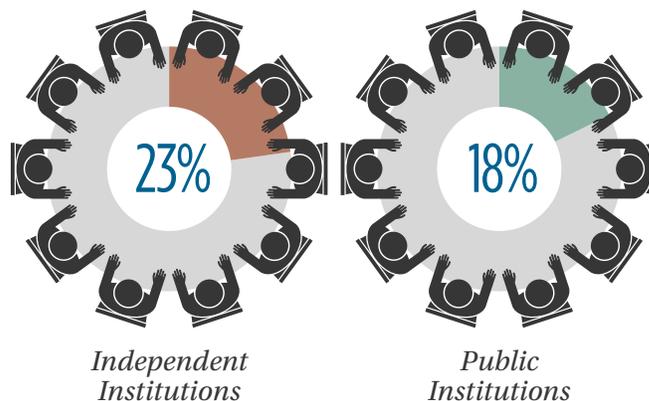
FIGURE 3

HOW WELL DO BOARDS AND FACULTY UNDERSTAND EACH OTHER?

Presidents who state that a typical board member understands the **work and responsibilities of faculty** well or very well:



Presidents who state that a typical faculty member understands the **responsibilities and authority of the governing board** well or very well:



Shared Governance: Is OK Good Enough?

Only about 30 percent of presidents reported that the typical board member understands the work of the faculty well or very well, and only about 20 percent said that the typical faculty member understands the work of the board well or very well. That is, presidents perceived board members to have greater awareness of faculty responsibilities than the reverse, although in neither case was the answer impressive. Perhaps more remarkable is the tepid degree to which presidents believed members of either group typically understand the work of the other.

Noteworthy differences in the responses of public and independent presidents include:

- Independent institution presidents were more likely than public institution presidents (51% vs. 40%) to say their typical board member understands faculty work and responsibilities “fairly well.”
- Public institution presidents were more likely than independent institution presidents (37% vs. 26%) to say their typical board member understands faculty work and responsibilities “slightly.”

While most board members and presidents aspire to high-functioning shared governance, and support for shared governance among the three groups appears relatively broad, most presidents reported that board members and faculty do not have a strong understanding of each other’s contributions.

BOARD-FACULTY INTERACTION

Modes of Interaction

If governing boards and faculty do not understand each other's important work as well as they should, then it is worth considering how the two groups work together. Governing board-faculty interaction can take a number of forms in both independent and public institutions; this is

important because structured opportunities for board members to meet and work with faculty can prove helpful in developing durable, trusting relationships.

Table 4 outlines a variety of ways that presidents said their boards and faculty work together.

TABLE 4

PRESIDENTIAL INVENTORY OF BOARD-FACULTY INTERACTIONS

In which of the following ways do members of the governing board and faculty at your institution interact?

	Independent Institutions	Public Institutions	All Institutions
Faculty membership on institution-wide committees (e.g. planning, budget/resources, accreditation, facilities, etc.)	91%	91%	91%
Faculty membership on the presidential search committee	88%	88%	88%
Faculty presentations to board and committees	83%	81%	83%
Faculty membership on board committee(s)	59%	27%	50%
Faculty participation in assessment of the president	39%	48%	42%
Board member involvement (e.g. participation, membership, etc.) on individual academic department or division advisory entities	20%	12%	18%

According to the presidents surveyed, boards and faculty most commonly come together when faculty serve on institution-wide committees, a presidential search committee is convened, or faculty members present to the board. While these kinds of experiences are important, they are irregular and therefore unlikely to build and sustain deeper understanding between faculty and board members. Data from the American Council on Education show that presidents turn

over once every seven years on average, and search committees tend to be small. Presentations to the board seldom sustain interaction over time. Service on institution-wide committees may be the most promising area for substantial interaction.

Notably, the percentage of independent institution presidents who reported that their faculty interact with governing board members through membership on board committees was more than twice that of public institution presidents.¹

¹ AGB's publication, *Policies, Practices, and Composition of Governing and Foundation Boards 2016*, indicates that about 21 percent of public governing boards and about 31 percent of independent boards include faculty members (voting and non-voting). Note: Governing board membership and committee membership may be distinct in some institutions.

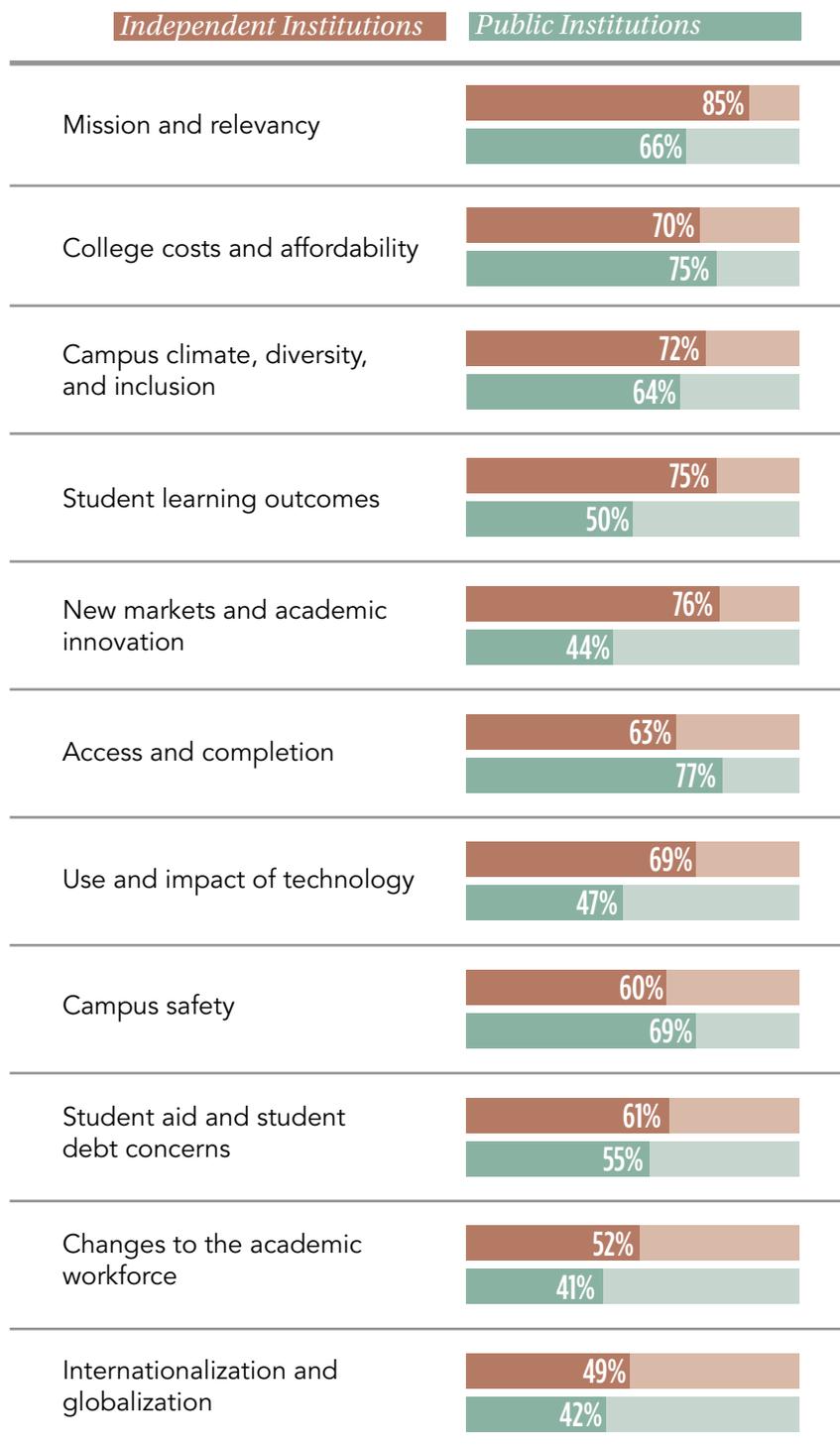
Shared Governance: Is OK Good Enough?

Issues for Interaction

While opportunities to work together are important, the nature and content of those interactions often hold additional implications for strengthening shared governance. Accordingly, presidents were surveyed regarding the strategic issues around which board-faculty collaboration occur. (See Figure 4.)

FIGURE 4

WHEN DO FACULTY MEMBERS AND BOARDS COLLABORATE?



Strategic issue-focused collaboration can take a variety of forms, such as task forces, advisory panels, working groups, and special committees. Such collaboration can provide an appealing avenue for meaningful interaction between board members and faculty. Survey data suggest that opportunities for expanding this sort of work are available at many institutions.

Public and independent institution presidents differed when it came to the specific issues their boards and faculty focus on together. Three-quarters of public institution presidents reported that their faculty and governing board are engaged cooperatively on the subjects of access and completion, while less than two-thirds of independent institution presidents said the same. This is not surprising given public institutions' heightened focus on increasing degree completion to meet state and regional needs.

Presidents of independent institutions were more likely than presidents of public institutions to report that their faculty and governing board are engaged cooperatively on:

- New markets and academic innovation
- Student learning outcomes
- Use and impact of technology
- Mission and relevancy
- Changes to the academic workforce

On one hand, some of the differences between public and independent institutions may seem surprising. For example, although state governments increasingly demand that public institutions demonstrate productivity and effectiveness in exchange for important budget subsidies, presidents of those institutions were less likely to report that their boards and faculty are working together to address student learning outcomes. Likewise, state officials often see technology as a key tool to improve efficiency in higher education, but less than 50 percent of public institution presidents reported that their public boards and faculty are engaged on that subject. Additionally, changes in the academic workforce affect public and independent institutions equally, yet their boards and faculty are not working together at the same rate on this issue.

On the other hand, the differences between public and independent institutions in areas such as new markets and missions are more understandable. Many independent institutions, especially those with small enrollments and narrow missions, are pressed to innovate and adjust their missions to secure enrollment and financial health.

Shared Governance: Is OK Good Enough?

FUELING EFFECTIVE SHARED GOVERNANCE

Board and Faculty Orientation

Shared governance runs on time, attention, and expertise—human resources. Though it is difficult to pinpoint why faculty and board members may not always understand each other’s work, insufficient education may play a role. Presidents responding to the survey were asked about new board member orientation. (See Table 5 and Figure 5.)

Overall, orientation is typically offered and largely required of new governing board members. However, nearly one-quarter of public institution presidents reported that their board’s orientation program is optional.

TABLE 5

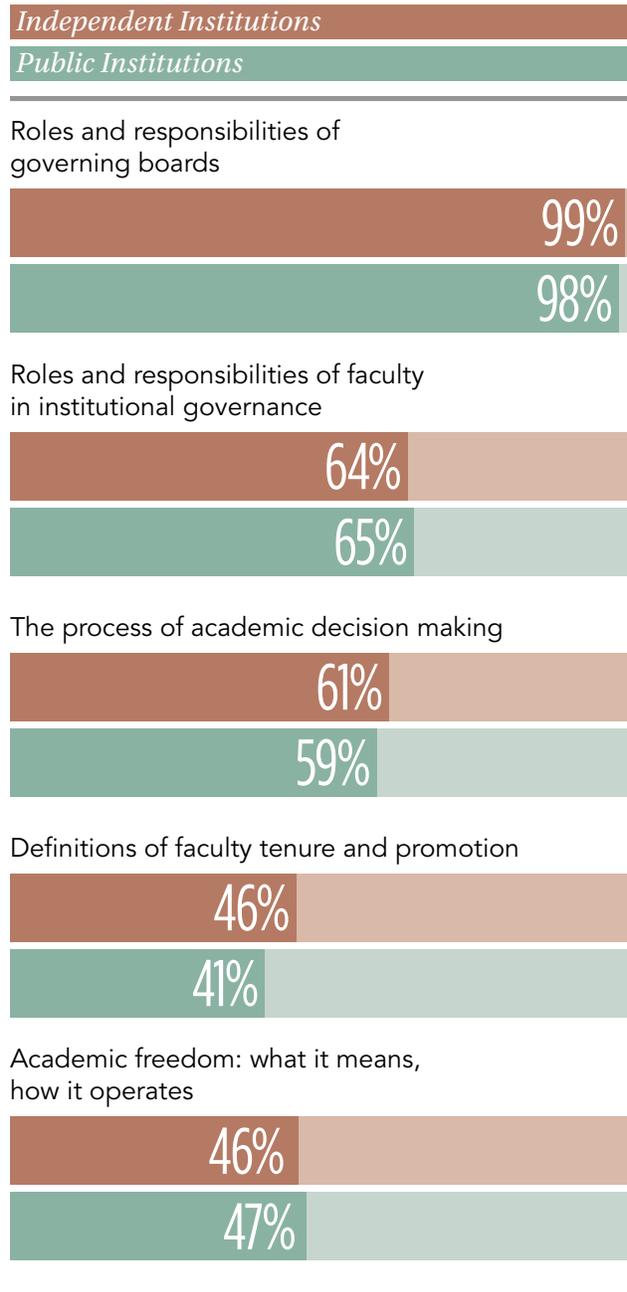
PREVALENCE OF NEW BOARD MEMBER ORIENTATION

Is an orientation program provided for new members of the board?

	Independent Inst.	Public Inst.	All Inst.
Yes, required	82%	54%	74%
Yes, not required	12%	24%	16%
No	5%	4%	5%
Don’t know/NA	1%	17%	6%

FIGURE 5

WHAT’S COVERED IN ORIENTATION FOR NEW BOARD MEMBERS?



While virtually all presidents reported that board orientation covers the board’s own roles and responsibilities, less than two-thirds reported that their boards receive some orientation about faculty roles and responsibilities. About two in five boards receive no orientation to academic decision-making processes, and more than half receive no information about faculty tenure, promotion, and academic freedom. With little information about faculty work, board members beginning their service are unprepared to support effective shared governance over time.

Fully 80 percent of public institution presidents and over 90 percent of independent institution presidents reported that faculty orientation is required in some form.² Figure 6 shows the extent to which presidents report faculty orientation addresses fundamental shared governance policies and practices.

In a notable minority of public and independent institutions (nearly one-third), orientation to the faculty’s own responsibilities and opportunities regarding shared governance is overlooked. Moreover, while many new governing board members learn little about faculty work during orientation, new faculty members also appear to learn little about the work of governing boards.

Without education, neither board members nor faculty can be expected to fully understand each other’s role in shared governance. Importantly, a substantial number of survey respondents noted the need for greater role clarity among those involved in shared governance, something that can be addressed in orientation.

FIGURE 6

WHAT’S COVERED IN ORIENTATION FOR NEW FACULTY MEMBERS?



² Presidents reported at rates of 38 percent for independent institutions and 53 percent for public institutions that part-time faculty are not required to attend orientation. By contrast, more than 90 percent of public and independent institution presidents reported that tenure-track and full-time non-tenure-track faculty are required to participate.

Shared Governance: Is OK Good Enough?

Faculty Contingency, Collective Bargaining, and Shared Governance

Today's faculty is distinct in important ways compared to the faculty of a generation ago.³ While the shift toward increased reliance on adjunct labor in the classroom has been gradual and uneven across higher education, its impact on both the culture and the practice of shared governance is now considerable at many institutions. To explore that impact, the survey asked presidents about the growth of non-tenure-track faculty at their institutions over the past five years. (See Table 6.)

TABLE 6

RECENT GROWTH IN NON-TENURE-TRACK FACULTY

Over the past five years, to what extent have the numbers of non-tenure-track faculty grown on your campus?

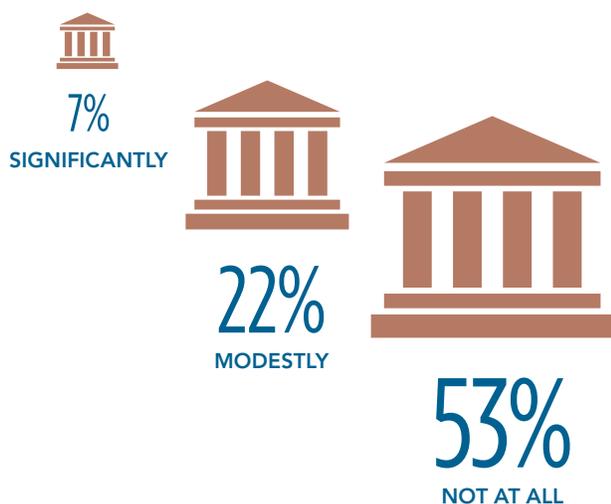
	Independent Institutions	Public Institutions	All Institutions
Significantly	9%	9%	9%
Modestly	48%	65%	53%
Not at all	43%	26%	38%

³ U.S. Department of Education data indicate that between 1970 and 2013, U.S. full-time faculty fell from over three-quarters of the total to just over half, and only about one-quarter of the national faculty is now on the tenure track.

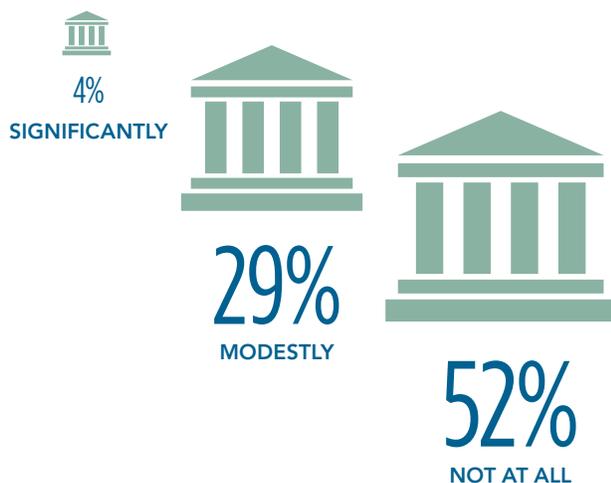
FIGURE 7

HOW MUCH HAS THE BOARD'S POLICY ON SHARED GOVERNANCE CHANGED TO REFLECT THE CHANGING ACADEMIC WORKFORCE?

Independent Institutions



Public Institutions



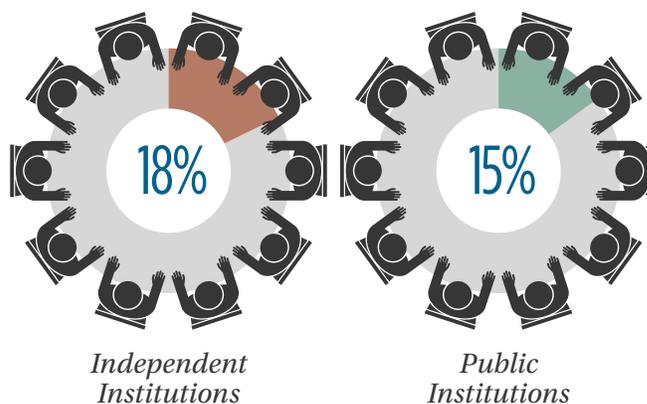
The small proportion of presidents that reported significant growth in non-tenure-track positions (about nine percent over the last five years) is unsurprising. The growth in these positions across higher education has occurred steadily over the course of more than four decades. Yet, nearly two-thirds of presidents of public institutions reported that their non-tenure-track faculty has continued to grow, compared to slightly less than half of presidents of independent institutions.

The survey of presidents asked whether shared governance policies have changed as a result of these shifts in the academic workforce. (See Figure 7.)

While one-quarter of all presidents reported modest changes in recent years, most reported that their board's policies on shared governance remained static in response to changes in the academic workforce. More than one in six presidents reported they had no board policy or statement on shared governance. (See Figure 8.)

FIGURE 8

MY BOARD DOES NOT HAVE A POLICY OR STATEMENT ON SHARED GOVERNANCE:



Shared Governance: Is OK Good Enough?

For many institutions, a disconnect appears between what is required for shared governance to be effective and the number of faculty members available to participate.⁴ Often, responsibility for faculty shared governance is now more concentrated within a declining proportion of full-time and tenure-track faculty, and shared governance policies have not been adjusted in the face of these widespread changes. In that vein, AGB's National Commission on College and University Board Governance warned: "If the faculty voice continues to come only from relatively small, homogenous groups, then we should expect tensions to escalate further in the coming years."

However, reduced faculty capacity for shared governance represents only one hazard related to contemporary faculty work structures. Part-time faculty expansion and recent legal decisions on

the status of full-time, non-tenure-track faculty in independent institutions have both contributed to growth in faculty collective bargaining. A key distinction between faculty collective bargaining and shared governance is that unions advocate in the interest of a particular group, whereas shared governance advances broader institutional goals. Presidents were surveyed about the presence and impact of collective-bargaining agreements on shared governance. (See Table 7.)

As might be expected, presidents at public institutions were more likely than independent institution presidents to report at least one faculty collective-bargaining agreement. More public institution presidents also reported that a collective-bargaining agreement affects shared governance.

TABLE 7

INFLUENCE OF COLLECTIVE-BARGAINING AGREEMENTS ON FACULTY PARTICIPATION IN SHARED GOVERNANCE

Is faculty involvement in institutional governance determined or affected by a collective-bargaining agreement?

	Independent Institutions	Public Institutions	All Institutions
Yes	3%	30%	11%
No (there is a collective-bargaining agreement in place but it has no effect on shared governance)	12%	19%	14%
Does not apply (no collective bargaining for faculty)	84%	51%	75%

⁴ In response to this survey, only 43 percent of independent presidents and 39 percent of public presidents reported that part-time faculty are permitted to participate in their faculty governing body. These numbers should not be interpreted to reflect the degree to which those who are given the opportunity actually do volunteer their time. Unlike full-time faculty, part-time faculty are compensated on a per-course basis, so any participation in shared governance constitutes unpaid service to the institution.

FIDUCIARY LEADERSHIP FOR EFFECTIVE SHARED GOVERNANCE

As legal fiduciaries, governing boards not only hold responsibility for making wise decisions, but they also must ensure the currency and reliability of policies that facilitate decision making, such as those guiding shared governance. Accordingly, the survey asked board members about the importance of shared governance as a component of decision making at their institutions and in the governance of American higher education more generally. (See Figure 9.)

The vast majority of all board members responded that shared governance is either very important or moderately important at their institution. However, fewer than half of all board members said it is very important in American higher education.

What these paradoxical data mean is not entirely clear, although they are reminiscent of the opinion that “I like my Congressman but dislike Congress.” Do a considerable portion of governing board members believe their institution is exceptional in how it employs shared governance? Were some board members more tactful regarding the importance of shared governance in their institutions compared to higher education generally? Some board members may not be enamored of the concept of shared governance, but see it working sufficiently at their institution, so as the adage goes: “If it’s not broken, don’t fix it.”

FIGURE 9

AMONG BOARD MEMBERS, HOW IMPORTANT IS SHARED GOVERNANCE...

In decision making at my institution?



VERY IMPORTANT



MODERATELY IMPORTANT



NOT AT ALL IMPORTANT

In colleges and universities across the U.S.?



VERY IMPORTANT



MODERATELY IMPORTANT



NOT AT ALL IMPORTANT

Shared Governance: Is OK Good Enough?

Many important institutional policies and practices undergo regular review to ensure they remain well suited to the challenges of the day. The survey asked presidents whether their shared governance processes receive regular evaluation. (See Table 8.)

Less than one-third of presidents affirmed that their institution regularly reviews shared governance processes for effectiveness.

TABLE 8

PRESIDENTIAL ACCOUNTING OF SHARED GOVERNANCE POLICY REVIEW

My institution/system regularly reviews the effectiveness of its shared governance processes.

	Independent Institutions	Public Institutions	All Institutions
Strongly agree	5%	8%	6%
Agree	27%	21%	25%
Neutral	31%	27%	30%
Disagree	30%	42%	33%
Strongly disagree	8%	3%	6%

In addition to asking presidents about shared governance assessment, the survey of governing board members asked about the durability of shared governance in respondents' institutions. Specifically, the survey asked board members whether their institution's shared governance model holds up under unusual situations. (See Table 9.)

TABLE 9

BOARD MEMBER PERCEPTIONS OF THE DURABILITY OF SHARED GOVERNANCE

My institution's/system's shared governance model holds up under unusual situations.

	Independent Institutions	Public Institutions	All Institutions
Strongly agree	23%	20%	23%
Agree	47%	43%	47%
Neutral	20%	23%	21%
Disagree	7%	9%	8%
Strongly disagree	2%	6%	3%

Nearly seven in 10 governing board members reported confidence in their shared governance models when tested. These data are difficult to interpret when juxtaposed with information from presidents indicating that less than one-third of institutions regularly evaluate the effectiveness of their shared governance processes. The difference suggests at least some board members' confidence in shared governance rests in something other than a formal assessment.

AGB's National Commission on College and University Board Governance recommended boards take steps to intentionally reinvigorate faculty shared governance:

"Every board must ask for a review of the institution's policies and practices of shared governance with faculty in order to ensure that such policies are appropriate to the realities of the current workforce, reinforce the delegated authority of faculty for academic policy, and ensure that processes for consultation are clear and are routinely followed by all responsible parties. Boards must ensure that their policies for shared governance include means of addressing topics that transect faculty, presidential, and board responsibility (such as program closures)."

Shared Governance: Is OK Good Enough?

A Note about Shared Governance at Public Universities and Systems

Results of special significance to public university boards, faculty, and administrators surfaced throughout the two surveys. These results paint a less upbeat picture of shared governance in public higher education. On many of the survey questions, presidents and board members of public institutions and systems gave fewer positive responses and more neutral or negative responses than did their counterparts at independent institutions.

For example, 33 percent of public board members strongly agreed that the president and chief academic officer support shared governance, compared to 45 percent of independent board members. According to presidents, faculty and board member understanding of each other's responsibilities and authority are lower at public institutions than at independent institutions. One-quarter of public institution presidents reported that their board members have slight to no understanding of faculty responsibilities, compared to 17 percent of independents. Over one-third (37 percent) of public institution presidents said that faculty had little to no understanding of board responsibilities, compared to just over one-quarter (27 percent) of independent institution presidents. With new member orientation less often required for public institution boards than for independent institution boards (54 percent compared to 82 percent), there is less opportunity to

increase the board's understanding of faculty responsibilities and role in shared governance at public institutions.

Public institution presidents reported greater growth in the number of non-tenure-track faculty in the last five years, greater presence of collective bargaining, and fewer reviews of shared governance processes—a combination of factors that can present special challenges to effective shared governance. They also reported that many faculty and board members do not collaborate in addressing some of the most critical issues facing higher education—campus climate, student learning, academic innovation, use of technology, and changes to the academic workforce.

In key ways, public institution governing boards, presidents, and faculty face fundamentally different challenges than their independent counterparts when it comes to shared governance. For example, mandatory board member education often requires enactment by a state legislative body, and the difficulty of maintaining clear distinctions between collective bargaining and shared governance can be substantial. The special challenges of shared governance pertaining to many public institutions may serve to emphasize the importance of increased collaboration on a host of crucial subjects among governing boards, presidents, and faculty.

AN ESSENTIAL ASSET, OK PERFORMANCE

Modern understandings of shared governance have been influenced by the vast and enduring impact of the American Association of University Professors' 1966 *Statement on Government of Colleges and Universities*. Fifty years ago, AGB had the opportunity to help shape this seminal statement, and we are committed to ensuring the effectiveness of shared governance in the years to come.

Governing boards, presidents, and faculty can do more to develop shared governance systems that facilitate everyday decisions and strengthen extraordinarily difficult ones. Along with presidents, boards can collaborate with faculty more often on substantive matters. Presidents can promote strong shared governance by ensuring that boards and faculty understand the work of the other and its value to the institution.

More challenging—for boards, presidents, and faculty together—will be addressing the significantly reduced faculty availability for shared governance in many institutions. Boards can contribute practical suggestions and political cover to ensure that administrators and faculty work together to find creative solutions to this complex problem.

For some institutions, solutions to the faculty capacity issue may require multi-year efforts to adjust faculty contracts and expectations to better meet the needs of shared governance. For others, presidents and boards might encourage faculty to examine their governance structures and bylaws to ensure that they reflect new realities. Some

institutions have begun efforts to better incorporate full-time, non-tenure-track faculty and even part-time faculty into shared governance. Boards should understand and have the opportunity to inform those strategic decisions as well. While such endeavors may prove challenging, they address an overarching need in many institutions to strengthen shared governance.

Many boards may find it helpful to consider the care of shared governance as one component of their fiduciary responsibility of care for the institution. Most board members responding to the survey expressed support for their faculty's delegated authority, acknowledged the importance of shared governance to their institution, and showed confidence in their systems of shared governance, but not all of the data tell the same story.

Many presidents reported less confidence than board members in the durability of their shared governance systems, and most reported that their shared governance processes do not undergo regular review. It remains unclear whether board members' expressions of confidence in shared governance are evidence-based, or whether their default appraisal is that shared governance is "OK" unless proven otherwise.

Governing boards' fiduciary duty of care for their institutions entails ensuring that decision-making policies—including those guiding shared governance—are sound. Reasonably, boards attending to the care of such policies might conduct assessments, make changes from time to time, and

Shared Governance: Is OK Good Enough?

ensure that shared governance is implemented as intended. Whether boards exhibit sufficient care for shared governance, and whether board members' expressions of confidence in their models of shared governance are based in appropriate knowledge or experience, remains unclear. As of the time of this report's publication, AGB is assembling focus groups and case studies to shed light on the nuanced ways in which shared governance works in practice and how it can be strengthened.

If it ever worked easily in the past (and such an assumption is speculative), in today's environment, shared governance requires

renewed effort to function well. Governing boards and presidents report strong interest in developing high-functioning shared governance. Data from these two surveys point both to the goal and to steps for improvement.

Shared governance should be an essential institutional asset, but careful board, president, and faculty leadership is needed to prevent it from becoming a liability. We encourage governing boards, along with their presidents and faculty, to question whether OK performance is good enough when it comes to shared governance.

Questions for governing boards and presidents to consider:

1. Have governing board members received sufficient information regarding the nature of faculty work, including the faculty role in shared governance? Have members of the faculty been sufficiently educated as to the governing board's role?
2. How well do members of the governing board understand the value that faculty bring to institutional decision making through shared governance?
3. How might the governing board ensure a rigorous assessment of shared governance policies, practices, and functioning at the institution?
4. In what ways—and on which important subjects—might the institution benefit from more robust collaboration among the governing board, administration, and faculty?
5. If change regarding shared governance policies or practices is important, how can the board set the table for a constructive process?

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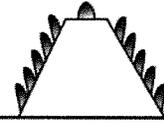


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Shared Governance: Is OK Good Enough?

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SAMPLE COMMITTEE CHARTER: GOVERNANCE COMMITTEE

Overall Roles and Responsibilities

The Governance Committee provides for the board's effectiveness and continuing development.

Responsibilities

The specific responsibilities of the Governance Committee include:

- Recommending to the board policies and processes designed to provide for effective and efficient governance, including but not limited to policies for:
 - Evaluation of the board and the chairperson.
 - Election and reelection of board members.
 - Board orientation and education.
 - Succession planning for the board chair and other board leaders.
- Reviewing and recommending a position description detailing responsibilities of and expectations for board members and the board chairperson.
- Recommending nominees for election and reelection to the board. To facilitate this responsibility, the committee will:
 - Develop and recommend to the board a statement of the competencies and personal attributes currently needed on the board, to be used as a guideline for recruitment and election of board members.
 - Conduct a "gap analysis" to identify succession planning/recruitment needs.
 - Develop and regularly update a list of potential board members regardless of whether a current vacancy exists.
 - Oversee a process for vetting the fitness of prospective nominees.
 - Develop and oversee a plan for enhancing board diversity.
 - Evaluate the performance of individual board members eligible for reelection.
- Conducting a succession planning process for the board chairperson and other board leaders. Nominating board officers for election by the full board.
- Reviewing the corporate bylaws annually and recommending any needed changes to the full board.
- Advising management on plans for board education, including new member orientation, education of board members, and an annual board retreat.

- Overseeing the board's self-assessment and improvement process every one or two years.

Meetings

The Governance Committee meets at least four times a year or when necessary at the call of the committee chair. Meeting dates and times should be specified a year in advance.

Members

The committee charter should include a list of the committee members as well as the staff supporting the committee.

(Note: Some boards follow the convention of having the board's chair-elect serve as the chair of the Governance Committee because of this committee's key role in selecting and preparing future board members.)

The CEO, as the organization's lead ambassador to community leaders and the board's chief educator and staff person, should be involved with the Governance Committee. However, in this era of increasing focus on board independence, many boards are limiting membership on the Governance Committee (like the Audit and Executive Compensation Committees) to independent directors. Therefore, nowadays CEOs are often nonvoting members of, or staff to, the Governance Committee.

Reports

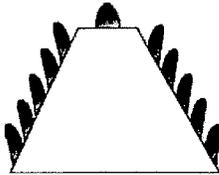
The committee will receive and review the following reports:

- Competency matrix. Profile or matrix of the board's current makeup compared to its list of needed competencies, plus an analysis showing areas to emphasize in recruitment of new members.
- Backgrounds of prospective board members.
- Annual board education plan.
- Participation summary. Annual review of average attendance, and each director's attendance, at board meetings, committee meetings, education sessions, and (if possible) community events.
- Board self-assessment. Report of the full board's self-evaluation survey (every one or two years).
- General counsel's report. Written report or briefing from the general counsel on current legal and regulatory issues affecting governance, plus analysis of whether any changes are needed in board bylaws or policies.

Annual Committee Goals

The Governance Committee will establish annual goals specifying its principal work focus areas for the coming year. Typical examples might include:

- Developing a definition of and standards for independent directors.
- Reviewing and revising the conflict of interest policy.
- Conducting a comprehensive evaluation of the responsibilities and structure of subsidiary boards and making recommendations to the full board for needed changes.
- Developing a mentoring program for new board members.
- Developing a plan to increase the ethnic and gender diversity of the board.



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16 SEP -1 P2:51

September 1, 2016

UNIVERSITY OF HAWAII PRESIDENT'S OFFICE

16 SEP -1 AMO:20

RECEIVED

MEMORANDUM

TO: Jan N. Sullivan Chairperson, Board of Regents
FROM: David Lassner President

Handwritten signature of David Lassner

SUBJECT: RECOMMENDATION OF EXECUTIVE AND MANAGERIAL SALARY ADJUSTMENT METHODOLOGY

SPECIFIC ACTION REQUESTED:

Act 119, 2015 Session Laws of Hawaii, Relating to the State Budget, appropriated \$3,804,477 in general funds for salary increases and other cost adjustments for state officers and employees excluded from collective bargaining unit 7 (i.e., our executives and managers (E/M)) as part of the biennium appropriation of funds for collective bargaining. After accounting for the adjustments and salary increases granted in FY16 that are to be paid in FY17, there remains approximately \$1,100,000 in FY17 appropriated general funds for FY17 salary adjustments for (excluded from Unit 7) E/M's. Act 119 also authorized increases to the appropriation ceilings of UH special funds and revolving funds for related salary adjustments. However, any adjustments to E/M salaries that are fully or partially paid by non-general funds will continue to be paid with non-general funds.

The Administration requests the Board of Regents approval of a methodology and guidelines from which to effectuate salary adjustments for executive and managerial personnel in FY17.

RECOMMENDED EFFECTIVE DATE:

Retroactive to July 1, 2016.

BACKGROUND

In 2015, the Legislature appropriated general funds in the amounts of \$17,239,533 for year 1 (FY16) and \$33,200,874 for year 2 (FY17) as part of the FY16 & FY17 biennium budget to fund collective bargaining increases negotiated with the University of Hawaii

Professional Assembly (UHPA). Of the total amount appropriated in general funds, \$1,836,174 for FY16 and \$3,804,477 for FY17 was appropriated specifically “for state officers and employees excluded from collective bargaining unit 7.” This method of appropriation is a typical legislative approach for all state departments to fund excluded members of bargaining units in alignment with associated increases. In the case of the University, for UHPA, unit 7, this approach relates to executive/managerial (EM) personnel throughout the University system.

APPLICABLE REGENTS POLICY:

Regents Policy 9.212, Executive and Managerial Personnel Policies, provides:

F. Salary Adjustments

1. To ensure that EM salaries are competitive, salary adjustments may be granted based on merit, subject to the availability of Board-authorized funds for salary adjustments.
2. The Board shall establish guidelines and approve salary adjustments for positions reporting directly to the Board. The President shall establish guidelines and approve salary adjustments for all other positions, an authority which shall not be further delegated. The President shall report to the Board on guidelines used for salary adjustments for positions under the President’s delegated authority.

DISCUSSION:

As previously stated, the legislature appropriated approximately \$3,804,477 in FY17 general funds for salary increases and other cost adjustments authorized for state officers and employees excluded from collective bargaining unit 7. After accounting for that portion of the appropriation that funds adjustments previously granted in FY16 (year 1), the Administration estimates that approximately \$1,100,000 is available for salary adjustments in FY17 (year 2).

Unlike the scheduled across-the-board salary increases associated to unit 7 for FY17, the Administration intends to assign FY17 salary adjustments via a criteria that considers individual performance and is not a general across-the-board methodology. This approach helps University E/M employees remain on par with their “included” bargaining unit counterparts. However, unlike these counterparts, it is determined that across-the-board increases are not consistent with the President’s vision of a high

performing organization. As such, by way of this memorandum, it is recommended that salary adjustments be based exclusively on performance and/or internal equity.

BACKGROUND – THE LAST 8 YEARS:

A. E/M Adjustments

Except for increases authorized by the Board for FY16, the last salary increase for the E/M class of employees was July 1, 2008.

Since 2008, the Board authorized temporary reductions, across the board, for E/M personnel effective September 1, 2009 through June 30, 2011. As a result, the President had a salary reduction of 10% and all other E/Ms had salary reductions ranging from 6% to 9% based on their evaluation ratings. The average resulting reductions during FY 2010 and FY2011 was 5.48% and 6.57%, respectively.

Then, for FY 2011 and FY2012, the Board of Regents again authorized temporary salary reductions of 5% for E/Ms, with the President's temporary salary reduction of 10% remaining in effect for the period July 1, 2011 through June 30, 2013.

The salaries for E/Ms were restored to 2009 rates in FY2014.

In August 2015, based on funding authorized in Act 119, the board approved a methodology that adjusted salaries based on: (1) recognition of service from 2008; (2) internal equity; and (3) meritorious performance.

For comparative purposes only, the following are non-E/M salary adjustments that occurred via established collective bargaining agreements over the same corresponding period of time.

B. Faculty Adjustments

Pursuant to the 2009-2015 Unit 7 agreement effective January 1, 2010 through June 30, 2011, existing faculty received temporary pay decreases for the appropriated fund portion of their salaries of approximately 6.667%. New hires during the period received a 5% salary reduction.

Effective July 1, 2011, the base salaries of all faculty members, subject to the temporary reduction, were restored to the December 31, 2009 rate. Effective August 1 of years 2012, 2013 and 2014, the faculty members subjected to the temporary salary reductions received the equivalent of 25% (2012), 25% (2013) and 50% (2014) of the total

reduction of compensation in the form of one-time, lump sum payments. Thus, the faculty received lump sum payments that totaled the amount of their pay reductions.

In addition and pursuant to the 2009-2015 and 2015-2017 Unit 7 agreements, faculty received or will receive the following adjustments:

- Effective July 1, 2013, 3% across-the-board increase
- Effective July 1, 2014, 3% across-the-board increase
- Effective July 1, 2015, 4% across-the-board increase
- Effective July 1, 2016, 4% across-the-board increase

C. Administrative, Professional and Technical (APT) Adjustments

Effective November 1, 2009 to June 30, 2010, APT employees received temporary pay decreases for the appropriated-funded portions of their salaries equivalent to 7.5%. Effective July 1, 2010 through June 30, 2013, temporary salary decreases were equivalent to 5%. During the periods of pay reduction for fiscal years 2010, 2011, 2012 and 2013, a total of 13 days per fiscal year were provided as supplemental time off days for appropriated-funded APT personnel, which was equivalent to the salary reduction. Effective July 1, 2013, salaries were then restored to previous levels.

Pursuant to the 2013-2015 agreements, APT employees received salary increases as follows:

- Effective July 1, 2013: a 4% across-the-board increase (new salary schedule). For appropriated-funded APT personnel who received a pay reduction in fiscal year 2012, a maximum of 4 days as supplemental time off/professional development was also provided.
- Effective July 1, 2014: a 2 step adjustment (equivalent to a pay increase of 4%). For appropriated-funded APT personnel who received a pay reduction in fiscal year 2013, a maximum of 4 days as supplemental time off/professional development was also provided.

Pursuant to a December 1, 2015 binding arbitration award, APT employees received salary increases as follows:

- Effective July 1, 2015: a 4% across-the-board increase (new salary schedule).
- Effective July 1, 2016: a 4% across-the-board increase (new salary schedule) and a one-time bonus of \$2,500.

RECOMMENDATION:

RP 9.212 (F) permits salary increases for EMs based on merit and subject to the availability of Board-authorized funds for salary adjustments. In the instant case, the administration is proposing adjustments based on performance against the following criteria:

Quality: The result of carrying out an activity which approaches an ideal outcome of fulfilling the purpose of the activity. This criterion is characterized by completion of identified projects, programs, goals and objectives in a manner which is judged relative to success, creativity, innovation, leadership, organizational abilities, problem-solving, judgment and planning.

Quantity: The amount produced, expressed in terms of activities completed, impact on the institution, and/or units available for other activities.

Planning and Timeliness: Plans and prioritizes activities to support goals and objectives. Completion of activities or results produced at the earliest possible time, on-time, or by maximizing the time available for other activities.

Resource management: The use of the organization's resources, including all financial, technological, human and material resources, in an effective way to maximize results in obtaining the highest gain, reduction in loss or improved use of resources available, with consideration given to the impact on other programs. Exercise accountability, transparency and effectiveness in resource management and use.

Interpersonal impact: Promotes collegiality, cooperation, consideration and goodwill amongst colleagues, peers, subordinates and critical constituents in a positive work environment. Understands and fosters effective working relationships with internal and external constituencies. Supports, mentors and develops subordinate faculty and staff.

Decision-making: Ability to recognize when a decision is required and the impact of the decision; makes appropriate decisions; acts effectively and expeditiously.

Equal opportunity/affirmative action/gender equality: Demonstrates commitment to the University's goals of diversity, equity, equal opportunity, and affirmative action.

EMs are also subject to a “360” assessment. To this end, an anonymous online survey is sent to an EM’s peer-group, constituency, and subordinates for rating against the following criteria on a scale of 1 – 7:

Leadership: Provides vision and direction in a positive environment supporting the University’s mission; encourages innovation and creativity, inspires confidence and motivates faculty and staff to achieve excellence; supports scholarly and professional activities; fosters effective collegial relations to accomplish goals and objectives supporting the University’s students and community; and responds and adapts to changing circumstances, and leads in uncertain situations.

Relations With Others: Cultivates effective working relations that have positive impact on the University, campus or program; establishes and maintains supportive working relationships with colleagues within the UH system, Board of Regents, and other relevant external organizations and agencies; functions in a collegial manner as a team member when appropriate; and assists with resolution of conflicts towards a positive outcome before escalation.

Planning: Forecasts and projects future directions so that the University, campus or program is poised to effectively respond to identifies tasks; identifies priorities and short-term and long-term needs, plans for operational, financial, physical and human resources; monitors progress toward planned objectives and takes appropriate actions as needed; and allows for contingencies in plans and effectively modifies as needed.

Decision Making: Acts effectively and expeditiously supporting best interests of the University and its mission; is accountable for decisions made; clearly identifies issues and seeks necessary expert advice prior to decision making, understands the impact of decisions made including operational interrelationships, internal and external support, and programmatic impact; recognizes when immediate decisions are required to accomplish University’s mission; and takes informed risks and embarks on new and innovative directions as needed to support the University’s mission.

Problem Solving: Anticipates and identifies trends and issues that may affect academic and/or administrative programs or areas of responsibility; guides and/or participates in assessment and processes to ensure relevant facts, issues and concerns are addressed; uses creativity and initiative to “problem solve” with the best interests of the University fully considered; and seeks common ground even in most challenging situations.

Communication. Effectively represents the University to faculty, staff, external agencies and community; articulates clearly and concisely, and communicates in a timely manner; seeks, listens and considers other perspectives and views; and has manner, style and presence that a makes positive impression.

Organizational Abilities: Organizes and prioritizes projects and assignments; deals effectively with competing priorities and heavy workload demands; uses resources in an optimal fashion; and delegates work as appropriate.

EEO/AA: Demonstrates commitment and leadership in advancing and supporting the equal employment opportunity and affirmative action programs of the college/campus or unit; and provides opportunities for the recruitment, development and mentoring of underrepresented groups, women, minorities, person with disabilities and veterans.

Work Environment. Promotes a positive work environment; fosters and supports respectful discussions that contribute to achieving goals and objectives; develops, recognizes, and builds capacity of faculty and staff; and addresses safety issues and takes appropriate preventive action.

Student Success: Fosters a positive, supportive learning environment for students; supports high quality student advising and other services necessary or increased academic progress, retention and graduation; and encourages student applied learning experiences.

Annually, all EM personnel are evaluated against pre-establish goals and objectives that align with the University's long-term strategic directions, as well as those of the respective unit. Based on the outcomes of this evaluation process, all EMs are given a rating of one of the following:

Outstanding: Performs work that is outstanding in the accomplishments of program activities and projects relative to the quality, quantity, timeliness, cost-effectiveness, interpersonal impact, and accountability of decision making.

Superior. Exceeds performance expectations relating to quality, quantity, timeliness, cost-effectiveness, interpersonal impact, and accountability of decision making.

Satisfactory: Performs work as a competent executive/manager in the area of expertise and responsibility; meets performance expectations relative to quality,

quantity timeliness, cost effectiveness, interpersonal impact, and accountability of decision-making; and actively promotes collegiality, cooperativeness and consideration among coworkers, subordinates, peers and critical constituents.

Less Than Satisfactory: Has not performed work that meets the performance criteria as it relates to quality, quantity, timeliness, cost-effectiveness, interpersonal impact, and accountability of decision making.

Based on this process, the administration proposes salary adjustments for only those EM personnel in a permanent position as of December 31, 2015, and:

- If received a performance rating of superior, then an additional increase of 1% of original base salary; or
- If received a performance rating of outstanding, then an additional increase of 2% of original base salary; and
- If received a performance rating of satisfactory or greater, then an increase of \$2,000.

In the aggregate, this methodology results in an overall average increase of approximately 3.5%, subject to variation based on performance and internal equity.

Additionally, there are less than ten (10) individuals who are being recommended for increases based on internal equity purposes at West O'ahu and the Community Colleges. Primarily, these are in the student affairs discipline and the recommendation seeks to elevate this discipline to be on par with their academic counterparts.

OTHER COMPARABLES:

In addition to faculty and APT increases, the following salary survey information is provided for reference purposes for both the local and higher education markets.

Hawai'i executive data. Hawai'i Employers Council reported in its 2015 Salary Adjustment Survey that the median for the actual increase for period July 2014 to June 2015 in Hawai'i for executives was 3%, which is same as the national median reported in their report. For the period July 2015 to June 2016, the projected median reported for executives in Hawai'i and nationally was each 3%. Specifically, the actual pay adjustments reported for executives in Hawai'i for previous years were 0% (2009), 0% (2010), 1% (2011), 1.5% (2012), 2% (2013), 3% (2014), and 3% (2015).

Higher education institutions. The CUPA-HR Administrators in Higher Education Salary Survey for the 2015-16 academic year reports that the median salary

increase for public institutions was 3.8% (2009), 0% (2010), 0% (2011), 1.5% (2012), 2% (2013), 2.5% (2014), 2.5% (2015) and 2% (2016). This 2015-16 survey was completed by 1,180 higher education institutions, where 49% were public institutions.

ACTION RECOMMENDED:

It is important to recognize the achievements and performance of executives and managers who, as a class, have experienced only one salary increase over the last 8 years. Based on the methodology set forth herein, an overall average increase of approximately 3.5% is recommended, subject to variation based on performance and internal equity. To this end, it is requested that the Board of Regents approve the expenditure of those funds appropriated in Act 119 for salary adjustments for E/M personnel, pursuant to the methodology set forth herein.