
Lay Boards and Faculty in University Governance

By Jason Lee

*"[The businessman trustee] wishes very much, indeed, that a college could be carried on without professors, and has a vague notion that by some sort of improvement in organization this result may some day be attained." – Editorial from *The Nation* (1881)¹*

Not a month goes by in which the power dynamics among university boards, faculty, presidents, and legislatures, and along with it, the notion of shared governance, isn't questioned. Many state legislatures expect more responsiveness from higher education boards and voice skepticism over the basic tenets of academic freedom, tenure, and shared governance. At the same time, faculty at several institutions, including the University of Iowa, the University of North Carolina, and the University of Virginia, have sharply criticized their boards for a lack of transparency, sidestepping faculty input, or bowing to political pressure in selecting or removing presidents. New tensions play out regularly among the various participants in the shared governance of public higher education.

Although shared governance is rooted in historic tradition, it does not exist for the sake of tradition alone.² Shared governance—a process that disburses decision-making among boards, faculty, presidents, and to some extent staff and students—came of age in the 20th century and laid the foundation for American universities to become some of the best in the world.



About The Author

As WISCAPE's outreach programs manager, Jason Lee develops and guides the center's programming with a focus on issues relevant to postsecondary education in Wisconsin. He has extensive experience bridging higher education research, policy, and practice in public university settings.

Boards hold fiduciary responsibility for colleges and universities. They simultaneously sit atop the arc of a shared governance system that includes presidents and faculty in some decision-making and act as a “bridge to and buffer from” society and elected officials (in public institutions). Many perceive their influence as becoming more pronounced, while faculty influence is diminishing.

This Viewpoint broadly considers the relationship between boards and faculty, with particular focus on public university lay boards. It considers how this relationship has changed over time and the extent to which shifts in power have occurred, in order to facilitate better understanding of higher education decision-making today.³

Brief history of lay boards

A “legacy of the colonial colleges that has defined and shaped higher education in the United States to this day” is “the external board with a strong president.” – John Theilin⁴

Governing boards in higher education are “lay” boards—meaning they are intentionally composed of individuals from outside of institutions. Their role is older than American higher education itself, dating to the Reformation and, in particular, to Calvinist-influenced institutions with an ethos of moderation, social control, and republicanism.⁵ The idea was that the public interest is best served by placing oversight of certain entities, such as colleges, in the hands of public representatives. [Of course, lay boards were not exactly inclusive or representative of the public at-large, and one could argue they aren’t much more reflective of the public today. More on that later.]

Early American colleges were small and focused on the “development of character” and “moral discipline” in their students.⁶ Presidents, who were often clergymen, and powerful lay boards were charged with most decision-making, including decisions about curriculum.

America’s first college, Harvard University, once had two boards: an internal board, consisting of the president and tutors, and an external Board of Overseers. Tutors were young and usually recent graduates. Turnover among tutors was high and their influence weak. There was no faculty as we now conceive of them—real power rested with the Board of Overseers. Members of that board were “leading men throughout the colony,” generally white men with powerful business interests or ties to the church. Other early colonial colleges followed a similar structure.

Between 1785 and 1821, six of the original states chartered public colleges and mostly adopted the governing structure of the early private colleges, installing lay boards “under the control of the dominant religious group in the state.”⁷ Boards and their presidents retained a unique amount of governance and operational authority until the emergence of research universities and professionalized faculty in the 19th century.

“...however worthy and excellent they may be in their personal characters, and however distinguished in the line of their several pursuits and professions, [trustees] are no more qualified and entitled to advise and direct a college faculty within their peculiar department, than the client is to advise and direct his lawyer, or the patient his physician.”

– Jasper Adams, President of the College of Charleston, [1837]⁸

The advent of research universities, the expansion of graduate education, and increased specialization by faculty, angled faculty toward more professionalization by the late 1800s. With more professionalization, faculty had an interest and a platform to seek more control in the development of curriculum, educational decisions, and institutional governance.

By the late 1800s, faculty at Hamilton, Amherst, Princeton, Union, and Dartmouth petitioned their governing boards for more voice in the affairs



of their institutions. In 1889, Cornell created a University Senate that consisted of full-time faculty members and the president.⁹ The role of faculty in governance and oversight, in particular of curriculum, awarding of degrees, and occasionally selecting presidents, grew at other colleges as well, including Harvard, Columbia, Johns Hopkins, and Michigan.

This trend culminated with the formation of the American Association of University Professors (AAUP) in 1915, which laid the foundation of shared governance and academic freedom that became cornerstones of modern American higher education. The AAUP's 1915 "Declaration of Principles on Academic Freedom and Academic Tenure" defined the nature of faculty work in relation to boards. It stated that faculty were not "employees" of lay boards, and that "once employed, the scholar has a professional function to perform, in which the appointing authorities have neither competency nor moral right to intervene."

This declaration did not include all faculty or academic workers. The reverence for autonomous, peer-reviewed work was reserved for senior faculty only. To this day, the role of part-time, contingent, and junior faculty—not to mention other academic workers and students—in shared governance remains uncertain and inconsistent. (The struggle over shared governance, academic freedom, and tenure might look different today if it had been more inclusive of all faculty and academic workers from the beginning.¹⁰)

During the early 20th century Progressive Era, the work of university faculty was valued greatly within the public sphere. At the University of Wisconsin, for example, faculty research and the UW Extension helped improve the apparatus of state government, manufacturing, agriculture, and the environment, embodying what has become the Wisconsin Idea. Faculty research was seen as vital to American success in World War II and during the post-war economic recovery.¹¹

Throughout the 20th century, faculty influence grew nationwide, and an acceptance and respect for the values of academic freedom, tenure, and

shared governance was widely shared. It's worth noting, however, that even with the emergence of robust shared governance, faculty never gained full control of campus decision-making, and external boards and presidents have largely retained control over budgets and long-term planning. However, campuses solidified and embraced faculty leadership with regards to fulfilling their institutions' educational missions.

By 1966, the AAUP (representing faculty), the American Council on Education (representing presidents), and the Association of Governing Boards (representing boards) released a joint "Statement on Government of Colleges and Universities." This shared statement acknowledged and advocated for faculty power in institutional governance, especially in academic affairs. Shared governance was recognized as a linchpin and standard practice of American higher education at both private and public institutions, not only by faculty, but also by presidents and boards.

American universities rose in prominence during the 20th century and were widely regarded as some of the best in the world. Many commentators have noted that this corresponds to the time in which faculty became more professionalized and gained a stronger role in institutional decision-making. No longer did presidents or lay boards determine curriculum. Faculty were largely in charge of educational decisions as well as the system of autonomous peer-reviewed work, direction of research, decisions on tenure, and protection of academic freedom.

With the federal and state governments investing more in higher education, and as it became accessible to more people post WWII, the number and variety of stakeholders expanded. The role of boards, especially at public colleges and universities, became that of a "bridge to and buffer from society."¹² In the second half the 20th century, students and staff sought—and in many instances won—participation in the governance of their institutions as well.



A corporate ethos emerges

“...the growing deference to market forces, the increasing de-professionalization of large sectors of the faculty, and mounting pressures from governing boards and legislatures for colleges and universities to use externally imposed metrics for assessing performance have resulted in an overall weakening of the practices of shared governance that had developed over the previous century.”

– Larry G. Gerber¹³

In the past 40 years, much has changed. States have reduced funding for public higher education on a per-student basis, shifting costs to individual students and families. Higher education has become more entwined with markets and waded deeply into competition for resources and prestige within the markets they operate.¹⁴ Some institutions have embraced a top-down, corporate-like ethos of management, with the university chancellor or president exerting more oversight of faculty and staff, and reporting back to board members. And boards are putting a premium on business-like operations (and pressuring presidents to do the same): more efficiency, more flexibility for administrators, and less faculty decision-making. University of Wisconsin Regent John Behling hammered this point during the debate over changes to tenure in Wisconsin, saying, “As the needs of the workforce change, our campuses must have the flexibility to reallocate resources and staff when necessary... That’s why we need to move forward with common-sense tenure reforms that both allow our campuses to operate more like businesses and maintain their ability to recruit and retain faculty...”¹⁵

Many chancellors and presidents have begun referring to themselves as “CEO,” suggesting that they also are embracing the corporate ethos. For example, UW–Stout Chancellor Bob Meyer, speaking to the UW Board of Regents in defense of tenure last year, said, “As the CEO of this university, I want to retain my most talented people....”¹⁶ Though this may seem innocuous, for many faculty it is yet another indication of business-like

management that puts more power in the hands of the president and board and does not square with academic freedom, tenure, and the principles of shared governance.

Despite incredible breakthroughs in medicine, engineering, technology, the arts, humanities, and other fields, there appears to be a general skepticism about the work of faculty emerging among the general public, and as Jacob Stampen, an emeritus faculty member of higher education policy at UW–Madison, points out, a “popular preference for political rather than science-based solutions to perceived problems.”¹⁷ This has contributed to a willingness among lawmakers and administrators to favor business or corporate-like decision-making and management.

Other conditions have contributed to eroding faculty influence in shared governance and an increase in board and presidential power. For one, the staggering reliance on part-time and non-tenure-track contingent faculty indicates a shift to a more flexible, less autonomous, and de-professionalized faculty workforce. In fact, less than a quarter of faculty today have tenure or are on the tenure track.¹⁸ Their part-time and contingent peers lack job security, benefits, and even office space. Most part-time and contingent faculty do not or cannot participate in shared governance.

Other factors include the increasing use of technology, the setting of differential faculty salaries across disciplines, and increased attacks on academic freedom and tenure.¹⁹ In addition, the rising number of administrative university employees, and their involvement in shared governance, has decreased faculty influence as well.

Struggles between boards and faculty today

Recent battles over tenure in Wisconsin, Connecticut, Maine, Florida, Illinois, Louisiana, and Pennsylvania²⁰ are, at their core, conflicts over shared governance. At stake is the protection



of academic freedom and tenure through shared governance in the face of what boards or elected officials increasingly say is a need for “flexibility” (aka: authority) for administrators. These flexibilities, they say, are needed in order to respond to years of declining state support and market forces. They don’t point out that in states like Wisconsin, decreased state support was a “self-inflicted” wound,²¹ caused mostly by tax cuts and changing political priorities. It’s also worth noting that university administrations have sometimes traded declining state support for increased administrative flexibilities.²² This has placed more power in the hands of administrators, at the expense of faculty.

This kind of “flexibility” tends to make it easier for administrators to lay off faculty for ill-defined financial considerations. Faculty advocates, including the AAUP, say this erodes real tenure and faculty oversight of the academic functioning of colleges and universities. It erodes shared governance and puts more power in the hand of boards and administrators.

The erosion of the faculty role in shared governance is only one by-product of increased administrative flexibility. As folks in Wisconsin now fear, it could also be used to discontinue programs or majors based on market-driven, not educational, considerations and to narrow the mission of colleges and universities to meeting workforce needs or promoting particular political ideologies.

As general secretary of the AAUP, Gary Rhoades observed the “declining presence of an independent faculty voice to weigh in on key issues, the increased fear of exercising that voice, and the heightened willingness of administrators and boards to claim that using that voice to comment on institutional policy is not an aspect of academic freedom.”²³ That was in 2009-11, before changes to tenure and shared governance in Wisconsin.

Lay boards already hold fiduciary responsibility for colleges and universities. However, if power could further coalesce into the hands of these boards, what should the public know about them? The public trust is meant to rest with these lay boards after all.

Despite what seems like in-fighting for power among boards, presidents, and faculty, one would hope that the public is well served by lay boards and that they ultimately protect the public’s interest and the well-being of systems of higher education.

Though it’s difficult to measure board effectiveness and how well they represent the public interest, the Association of Governing Boards has compiled information on the composition of boards and how they operate.

Composition of governing boards

If lay boards are meant to be a “buffer from and bridge to” society, one would hope their composition mirrors the larger society they represent. Unfortunately, according to a 2010 survey, lay boards do not mirror the larger public. They are overwhelmingly male, white, and older. Most members come from business or professional fields, and increasingly, their selection is highly political.

Table 1: Characteristics of Lay Board Members²⁴

White	74%
Male	72%
Between ages 50-69	69%
From business	49%
From professional fields (law, medicine, etc.)	24%
From education	15%
Appointed by the governor (public governing boards)	77%



Governors appoint most public lay board members. It's an inherently political process. The Association of Governing Boards (AGB) points to a need to put aside partisan politics in favor of selecting qualified, independent, citizen board members. AGB recommends a stronger legislative confirmation process, stronger reviews of board members before renewal appointments, and the possibility of independent nominating committees to mitigate overt political influences. "Public boards are not fulfilling the public interest if an expectation exists that they must be directly accountable to elected leaders, rather than to the broad citizenry."²⁴ The report that provides these recommendations also acknowledges an increasing distrust of lay boards among the public.

When it comes to shared governance, a national commission on board governance, also commissioned by AGB, stated, "We would want to invent such an approach even if we had not inherited it. It is good practice to delegate authority for decision-making to people who know the most about the work to be done and are responsible for carrying it out."²⁵

Despite this, one-third of board members report that they only "somewhat" understand the principles of shared governance and academic freedom, and one-quarter do not understand accreditation and tenure. And while 95 percent of public boards provide an orientation for new members, most (73 percent) do not mandate ongoing statewide education.²⁶ (It's worth asking, to what extent do faculty, presidents, students, and staff know about the history and role of shared governance as well?)

Among AGB recommendations is for boards to improve shared governance and "reinvigorate" faculty governance. That's not simply to abrogate faculty concerns, but because strong shared governance produces the best outcomes in higher education. If a significant portion of board members do not understand principles of shared governance, it is difficult to imagine they will ensure its continued strength.

A good start would be a selection process that results in board members who are diverse with regard to race, age, gender, and professional background. Public higher education has many critical issues with which to wrestle. The cost of producing quality education, the price charged to students (which keeps many out), and rising student debt are just some of the challenges. Recent research suggests that higher education not only fails to reduce social inequalities, it may, in fact, solidify and replicate them. In order to address these immense challenges, and many others, public colleges and universities need board members who are more representative of the publics they are sworn to serve.

Colleges and universities also need board members willing to learn about the history and role of shared governance throughout the U.S., and in their states; who understand and want to learn about the relationship and history of their particular board to their presidents, faculty, and legislature; and who are willing to protect the system of public higher education in their state without political interference.

In a public system, this may require the public's representatives to demand a more robust confirmation and re-confirmation process for board members. It may also require students, staff, faculty, and presidents to call out board actions that work against the public interest.²⁷

Conclusion

Higher education in the United States includes some of the best institutions in the world, built upon the bedrock of tenure, academic freedom, and shared governance. Shared governance enhances, not diminishes, the role of lay boards, faculty, and presidents. If boards or influential board members subvert the influence of faculty to make decisions, especially about curriculum, tenure, promotion and other academic affairs, the quality and scope of American higher education suffers. This is likewise the case if faculty don't step up to meaningfully engage in shared governance.



Without robust shared governance, will faculty organize and enhance their power through other means, such as labor unions? Or will they validate the slide with inaction and continue to concede power to lay boards and presidents? How will lay boards and presidents use their expanded power if faculty, students, and the broader public don't demand more of them? Faculty votes of no confidence in their presidents are increasing, for instance, in the University of Wisconsin System, where several campuses recently voted no confidence in the current president and regents.

The 1881 editorial from the *The Nation* at the beginning of this post was highly suspect of the motivations of board members and likely resonates with the views of some faculty today. Is that notion alarmist or prescient?

Lay boards clearly hold the fiduciary responsibility for their institutions. But it's through robust participation of faculty, staff, and students in shared governance that American higher education became the standard-bearer for the world.

Thanks to WISCAPE staff, Prof. Emeritus of Higher Education Jacob Stampen, and Andrew Louder at the Association of Governing Boards for reviewing earlier drafts of this Viewpoint. Views, errors and omissions are mine alone.



Endnotes

- 1 Quoted in Gerber, G.G., *The rise and decline of faculty governance: Professionalization and the modern American university*. (2014). Baltimore: Johns Hopkins University Press.
- 2 John Behling, UW Regent and chair of the UW System Task Force on Tenure, offered a different view in a recent op-ed: "A reformed tenure policy that provides flexibility and accountability while remaining consistent with our higher education competitors is a critical tool that will help each of our institutions...." See: http://host.madison.com/news/opinion/column/guest/article_7480cba0-aca6-5130-8c21-33c0143daeec.html
- 3 My focus is on the role of institutional and system-wide governing boards in public institutions, not statewide coordinating boards or private boards.
- 4 Quoted in Gerber, G.G., *The rise and decline of faculty governance: Professionalization and the modern American university*. (2014). Baltimore: Johns Hopkins University Press.
- 5 Kerr, C. & Gade, M. (1989). *The Guardians: Boards of trustees of American colleges and universities: What they do and how well they do it*. (Out of print, provided by AGB).
- 6 Ibid.
- 7 Ibid.
- 8 Quoted in Gerber, G.G., *The rise and decline of faculty governance: Professionalization and the modern American university*. (2014). Baltimore: Johns Hopkins University Press.
- 9 Duryea, E.D. (1973). "Evolution of University Organization." In Perkins, J.A., ed., *The University as an Organization* (New York: McGraw-Hill, 1973).
- 10 Christopher Newfield argues that the current approach to defending tenure is inadequate and does not resonate with the larger public. He argues that faculty need to expand the argument to include other workers, and to "explain the value not only of their own job security but also of job security in the workplace as a whole." See: <https://www.wiscape.wisc.edu/wiscape/home/blog/wiscape-blog/2015/07/22/time-for-a-new-strategy>
- 11 Stampen, J. (2016). "Delivering Good Government to Wisconsin: Examining "Rule-by-the-Few" Government Using Worldwide Governing Indicators." *WISCAPE Working Paper*. See: <https://wiscape.wisc.edu/wiscape/publications/working-papers/wp016>
- 12 Perkins, J.A. "Conflicting Roles of Governing Boards," in Perkins, J.A., ed., *The University As an Organization* (New York: McGraw-Hill, 1973), pp. 203-214
- 13 Gerber, G.G., *The rise and decline of faculty governance: Professionalization and the modern American university*. (2014). Baltimore: Johns Hopkins University Press.
- 14 Slaughter, S., & Rhoades, G. (2004). *Academic capitalism and the new economy: Markets, state, and higher education*. Baltimore, MD: The Johns Hopkins University Press.
- 15 John Behling, UW Regent and chair of the UW System Task Force on Tenure, offered a different view in a recent op-ed: "A reformed tenure policy that provides flexibility and accountability while remaining consistent with our higher education competitors is a critical tool that will help each of our institutions...." See: http://host.madison.com/news/opinion/column/guest/article_7480cba0-aca6-5130-8c21-33c0143daeec.html
- 16 Emerson, J. (2015, June 5). Leaders at UW-EC, UW-Stout concerned about tenure proposal. Retrieved from: <http://www.leadertelegram.com/News/front-page/2015/06/05/Tenure-plan-stirs-concern.html>
- 17 Personal communication from Jacob Stampen, Prof. Emeritus of Higher Education, UW-Madison.
- 18 Gerber, G.G., *The rise and decline of faculty governance: Professionalization and the modern American university*. (2014). Baltimore: Johns Hopkins University Press.
- 19 Ibid.
- 20 Education Advisory Board (2015). Connecticut regents, faculty union negotiations hit standstill over tenure. Retrieved from: https://www.eab.com/daily-briefing/2015/12/07/connecticut-regents-faculty-union-negotiations-hit-standstill-over-tenure?elq_cid=1271184&x_id=003C000001SzrOnIAJ



21 See: http://host.madison.com/news/local/govt-and-politics/difficult-state-budget-a-self-inflicted-wound/article_0b2c23bf-6222-52dd-ba0f-3fafd7b8eb89.html

22 Hanson, L., Noterman, E., Schirmer, E. (2015). "The high price of a public authority in Wisconsin." *WISCAPE Blog*. Retrieved from: <https://wiscapewisc.edu/wiscapewisc/home/blog/wiscapewisc-blog/2015/02/27/the-high-price-of-a-public-authority-in-wisconsin>

23 Legon, R., Lombardi, J., & Rhoades, G. (2013). "Leading the University: The Role of Trustees, Presidents, and Faculty." *Change: The Magazine of Higher Learning*.

24 Association of Governing Boards. (2013). "Building Public Governing Board Capacity: Suggestions and Recommendations to Governors and State Legislatures for Improving the Selection and Composition of Public College and University Board Members." Retrieved from: http://agb.org/sites/default/files/legacy/State_Policy_Brief_June2013.pdf

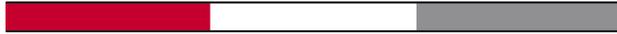
25 Association of Governing Boards. (2014). *Consequential Boards: Adding Value Where It Matters Most: Report of the National Commission on College and University Board Governance*.

26 Association of Governing Boards. (2014). *The 2014 AGB Survey of Higher Education Governance*.

27 Association of Governing Boards. (2013). "Building Public Governing Board Capacity: Suggestions and Recommendations to Governors and State Legislatures for Improving the Selection and Composition of Public College and University Board Members." Retrieved from: http://agb.org/sites/default/files/legacy/State_Policy_Brief_June2013.pdf



WISCAPE



Wisconsin Center for the Advancement
of Postsecondary Education

University of Wisconsin–Madison
353 Education Building
1000 Bascom Mall
Madison, WI 53706-1326

Telephone: 608-265-6342
Fax: 608-262-4881
Email: wiscap-info@education.edu
Website: www.wiscap.wisc.edu

The Wisconsin Center for the Advancement of Postsecondary Education (WISCAPE) promotes the creation and sharing of ideas for addressing Wisconsin's postsecondary education challenges. The production and dissemination of publications are a major part of this effort.

WISCAPE Viewpoints are insightful essays showcasing expert perspectives on postsecondary education issues.

Editing and Layout: Kari Dickinson

Send questions about WISCAPE publications to:
Kari Dickinson, Communications Manager, 608.265.6636, kadickinson@wisc.edu

Recommended citation for this publication:

Lee, Jason. (2016). Lay Boards and Faculty in University Governance. Madison, WI: University of Wisconsin-Madison, Wisconsin Center for the Advancement of Postsecondary Education (WISCAPE).