Oregon State Board of Higher Education

Governance & Policy Committee

Thursday, July 21, 2011
9 a.m. –12 p.m.
Boardroom, PSU ASRC 515

Agenda

1. Call to Order ............................................................................................................... Chair Kelly

2. Review of Lessons Learned ....................................................................................... Pernsteiner

3. Key Questions and Ongoing Focus Areas ................................................................. All

4. Process and Next Steps .......................................................................................... Chair Kelly

5. Adjournment

Materials:
Report to Interim Committee: Overview of Institutional Governance Research................. 1
Introduction

The Oregon State Board of Higher Education Governance and Policy Committee and OUS Office of the Chancellor considered a broad range of public policy issues concerning institutional governance during the development of the OUS governance change proposal for the 2011 Legislative Session. The following compilation and analysis is intended to reflect some of the issues that were researched and considered by the Committee, and additional staff research on state and national issues for further consideration in Oregon’s continuing work on institutional governance reform.

Summary of Key Points

- Governance reform requires striking a balance between the needs of students, institutions, and public accountability
- Governance reform in some states has been driven by a misunderstanding of its role and, in some cases, produces little positive effect
- State structures differ and, thus, reform attempts to strike a specific balance within each state’s context
- Governance reflects a complex web of powers, responsibilities, and people—not a binary choice of institutional vs. statewide approach
- Institutional and statewide governance differ most significantly in terms of board direction—-as institutional advocates or statewide interest advocates
- For reform to be successful, it requires clear goals and widespread support

University Governance: A Challenging Balance

University governance is a complex, multi-faceted topic. In sum, public university governance involves a state’s attempt to strike an effective balance between the public interest and the needs of its students and universities. The governing board is a locus through which the state and the university meet, and governing boards oversee the “corporate” entity (whether a university or a system), select institutional leadership, ensure public accountability, act as a buffer between institutions and legislative bodies, own or manage property, award degrees and create programs, and perform other roles.¹
Despite the fact that no state undertakes governance reform lightly – due to all its attendant uncertainties and risks – there are at least 19 distinct higher education models of governance in operation across the United States today. Waves of reform regularly sweep over the nation in response to changing economic, societal, and political conditions.

Over the past months, the Oregon State Board of Higher Education’s Governance and Policy Committee has studied the range of governance models, experiences in other states, and related aspects of university organization. This report summarizes key findings related to institutional governance. It is critical to keep in mind, however, that the diversity of approaches used speaks to the difficulty of striking the proper public–institutional balance. Each state’s approach should be viewed as unique. Thus, it is useful to remember that:

In modifying governance models, a first principle is to determine which is sought through that model and, as a matter of application, how and when to do so. These considerations require an understanding of what the pre-existing governance model lacks and what a particular modification might accomplish.

### Historical Trends and Factors

It is difficult to find ideal types of public higher education systems. Each is a political artifact designed to respond to the local concerns of its state.

Oregon consolidated its public universities under a single governing board in the 1920s. During the early 20th century, the approach of a statewide governing board was a common response to concerns about destructive competition among institutions, the need for a body to ensure that statewide higher education goals were being addressed for all Oregonians, and the perceived need for greater accountability to taxpayers.

Over the following decades, Oregon responded to other national reform trends. Each wave saw fundamental changes to the System’s goals, expectations, and functions:

- 1950s-60s: Scientific management, statewide coordination, massive expansion
- 1980s: Entrepreneurialism, decentralization
- 1990s: Accountability and performance measurement, beginnings of major funding declines after impact of measures related to K-12, property tax limits, and prison funding
- 2000s: Addressing declining revenue, more institutional autonomy, more accountability, and changing demographics

Governance reform initiatives have been used by some states where the real focus of change has not been clearly identified. Governance structural reform can become a stand-in for “change is needed,” while better effects might come by dealing with a lack of coordination, or funding issues (changing governance does not create money).
Governance reform can also become a product of political turf battles. Florida is a prime example of the latter case:

- McCarthy-era “witch hunts” by the legislature spurred the statewide board to buffer schools
- State board made enemies; for example, by blocking creation of new programs
- State board abolished and institutional boards created in early 2000s by Governor Bush
- New state board was created by opponents of Governor Bush
- State board, institutional boards, and state legislature are now involved in decade-long dispute over balance of power, including multiple lawsuits
- Institutions pushing for 30 percent tuition increases

State culture and tradition also play a large role in determining governance structure:

- Institutional governance: Exists at institutions that often began as private schools, developed over centuries, and were absorbed into the state for various reasons; tend to be in the eastern U.S. (example: Virginia)
- Statewide governing boards: Developed in 20th century, sought to address problems of accountability and competition; predominant in the western U.S. (example: Oregon)

The multiplicity of models can be understood more clearly through two key concepts: the three basic models of governance and the balance of authority and autonomy.

The Three Basic Models of Governance

Although each state has a different governance system for higher education, American public governance structures can be usefully simplified into three types:

1. **Statewide or System Governance**: One governing board, multiple institutions, without institutional boards (examples: UC – Berkeley, Stony Brook (NY), U of Minnesota – Twin Cities, U of Nebraska – Lincoln, U of Wisconsin – Madison)

2. **Delegated Governance**: One governing board, multiple institutions, with delegated institutional boards (examples: North Carolina, Utah, Florida)

3. **Institutional Governance**: One governing board, One institution (examples: Virginia, Washington, Kentucky, Michigan)

States also vary in whether they have a single structure for all higher education or multiple parallel systems (example: California’s UC system and Cal State system).

Nationwide, 70-80 percent of public higher education students attend a school under system governance.
Authority and Autonomy

Beyond the basic organizational structure, governance incorporates many seemingly disparate elements; and, thus, treating reform as a simple matter of picking a model is likely to cause problems in the short- and long-term. If instead governance is treated as a range of factors interacting to serve the unique needs of a system and state, then reform becomes more selective. Rather than a massive restructuring, elements can be packaged together in different ways for different effects to create a custom fit.

One critical area is board membership. Depending on the state or system, members are selected by governors (most common), state legislatures (North Carolina), public elections (Michigan, Nebraska), elections among alumni (Indiana University), or other means. Students and faculty are usually represented, although often without a vote. Oregon may be somewhat unique in that the student and faculty members have full voting rights the same as all Board members.

Many other factors may be considered part of governance; the practical reality is that a state’s higher education system often does not reflect how it appears in its charter. Virginia provides a good example:

- Schools are traditionally autonomous, institutionally-governed schools (on paper), yet:
  - Tight state regulations developed over the past century (over hiring and firing, wages, tuition-setting, and procurement, etc.)
  - 2000s-era reforms loosened controls, including over tuition, subject to compacts
  - Schools sought to use their tuition power to raise rates by up to 25 percent – the legislature and governor withheld state funding, negating the schools’ de jure power

Specific critical governance powers can be transferred, reformed, or delegated while leaving the overall structure intact:

- Tuition-setting authority
- Institutional president’s selection, review, and dismissal
- Selection of board members
- Enforcement mechanisms and regulatory oversight
- Performance-based autonomy (example: Virginia’s unique system of qualifying for one of three tiers of autonomy)
- Changes to funding model, including performance-based funding or student vouchers (example: Colorado)
- Employee status (state or university), benefit and retirement plans, and collective bargaining conditions can be dealt with separately

Changes can also occur without legislative action:

- Existing boards can elect a more active policy leadership role over an exclusively regulatory role
• Specific powers can be delegated to institutional leaders or boards while retaining final authority at a higher level
• Boards and institutional leadership can aim to develop more effective working relationships

The key questions facing reformers thus revolve around:
• The state’s goals: what is its vision for higher education?
• The state’s challenges: what are the problems facing higher education?
• Which package of policy levers to select to reach the goals

Likely Effects of Adopting Institutional Governance

The effect of governance changes will be felt differently depending on where one falls in the system of higher education. Changes have their greatest effect on those who currently fill governance roles.

The role of faculty and students and aspects of university life—such as teaching, research, or even private dollar fundraising—do not differ significantly between institutional governance models. These roles are carried out in the same manner in private institutions and in public institutions of all governance types and there are excellent and poor examples of each type. xvii Governance reform is highly unlikely to cause the quality or reputation of a university to rise or fall substantially.

The largest effects are in state-institution relations and the governing board’s basic orientation toward its role. The key difference between the two poles of governance lies in whether the governing board is likely to tilt towards institutional advocacy or public interest/statewide goals advocacy.

When moving from statewide governance to institutional, universities would likely experience:
• A more sharply tilted position in favor of institutional needs over statewide needs. Larger tuition increases are one possible result (if authority is granted) xviii xix xx
• Greater autonomy and flexibility (if these are not restricted by state regulations)
• Loss of a buffer from state politics; some issues currently dealt with at state board-level will move to the institution which will deal directly with the legislature xxi
• Increased in-state competition for resources, students, legislative attention, etc.
• Loss of economies of scale for functions currently done at a statewide level (e.g., audits, payroll, Treasury functions)
• Greater divergence from current levels of statewide standards and coordinated goals and strategies
• Development of (unplanned) two-tier system in which larger and smaller universities are less aligned.
The aspects of governance reform explored above, and the cost and challenges associated even with successful reforms, give rise to some recommendations to consider.

**Recommendations**

Develop a clear understanding of the problems in current higher education governance and their roots.

1. Develop a clear vision of the outcomes that the state needs – what will/should higher education look like 10 or 20 years from now in order to meet those needs? Integrate state goals such as 40-40-20 objectives into this plan.

2. Ask if governance reform is the right fulcrum for change?
   - Examine non-structural options for reform, such as:
     - Delegate certain authority conditionally to institutions
     - Changes to funding model
   - Perhaps governance is the necessary site of reform, as in situations where:
     - The issue is the balance between state and institutional interests
     - There is a desire to resolve or stimulate competition among universities
     - There is a desire to change who selects university leadership
     - There is a desire to delegate tuition-setting authority to the institution

3. Develop a clear plan to reach goals.
   - Governance reform should only be considered if it furthers a specified goal
   - Clear enforcement mechanisms and incentives should be built into the structure of the System if institutions gain greater autonomy
   - Vary the governance model for different institutions within the System – powers, autonomy, etc. – for varied conditions (research universities vs. regional, Virginia’s 3-tier plan)
   - Avoid Florida’s mistakes, resulting in gridlock, unchecked tuition increases, and lawsuits because responsibilities and power were never clearly defined

4. Ensure that any plan has widespread support, input and vetting, to avoid loss of employee morale and uncertainty, and to gain legislative and public support over the long-term.

**Conclusions**

It is unlikely that the choice of an institutional board or other organizational structure for Oregon’s universities is the most significant factor in their success or failure. There are top tier universities of all organizational types and nearly all are struggling with reduced revenue, technological and economic revolutions, decreased citizen support, and other challenges.
That is not to say that governance policy does not impact the internal functions of a university at all. Governance is the mode through which funding is negotiated, programs are regulated, assess and affordability are ensured, synergistic activities take place, and institutional leadership is selected, among many other critical functions.

This research indicates that many of these factors can be treated or reformed separately. In most cases, it is probably not necessary to alter the basic structure to achieve desirable systemic change, any more than it is necessary to demolish and rebuild a house that is sound but creaky.

For understandable reasons, such as a board’s perception of its role, and simple proximity to the campus, institutional boards tend to act as institutional advocates without the ‘checks and balances’ tendency of a statewide board to integrate the institution’s individual needs and desires with statewide needs. Issues such as higher rates of tuition increases, harm to access and affordability, lack of checks and balances functions, or destructive competition emerges logically in such contexts. Conversely, there is the possibility that institutional governance—or a delegated governance model that mixes aspects of statewide and local governance—could help by stimulating new approaches to addressing higher education’s challenges.

Either way, if Oregon’s governance structure were to be changed, it would involve fundamental questions of how Oregonians consider and relate to their universities. Before focusing on specific policy options, it may be necessary to have a serious conversation about what citizens want from their universities and what they are willing to pay for this either as taxpayers, tuition payers, donors, or some combination of the above.

Hopefully, this report will help further the governance discussion by highlighting the fact that governance policy is never a simple binary decision (statewide or institutional), but rather a complex and nuanced balancing act involving many players and elements, and also – fortunately – a wide range of options for action.


x Lombardi, et al. (2002)


xiii University of Nebraska Administration – Board of Regents. Retrieved from http://www.nebraska.edu/board.html


xvi Couturier (2006)

xvii Lombardi, et al. (2002)


xxi Lombardi, et al. (2002)

xxii McGuinness (2002b)

xxiii Couturier (2006)

xxiv Couturier (2006)