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Association of Governing Boards of Universities and Colleges

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Association of Governing Boards  
of Universities and Colleges

# State Policy Brief

No. 1 September 2003

## Merit Screening of Citizens for Gubernatorial Appointment to Public College and University Trusteeship

### Executive Summary

This paper makes the case for establishing recruitment and screening panels to help governors appoint public college and university trustees. It offers ideas that can be adapted to the diverse traditions and cultures of state governments and public higher education systems. It also provides illustrative lists of the responsibilities of public governing boards and individual trustees as well as the qualifications to be sought in outstanding appointees.

In most states, governors have the responsibility and privilege to make appointments to many boards and commissions. But pressures from campaign donors and special-interest groups sometimes compromise efforts to identify the most deserving and experienced citizens for higher education trusteeships. The quality of *all* gubernatorial appointments is important, of course, but college and university trusteeships have such long-term and consequential effects on the economic, social, and cultural needs of citizens and the state that institutionalizing merit screening and recruitment is a good and timely practice.

No selection process is perfect, but a rigorous process sends the message to the public and to those being considered for trusteeships that the work of citizen boards matters and is consequential—to the public's welfare, the quality of life in the state, and to economic development. A thorough and transparent process also lets the public and the media know that elected political leaders are determined to practice effective governance.

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#### About State Policy Briefs:

AGB periodically publishes informal papers on timely topics that reflect best policies and practices in state government's relationship with public and independent colleges and universities. The papers are intended for governors, state legislators, and their staffs as well as organizations concerned about effective public policy. State Policy Briefs are published under the auspices of AGB's Center on Public Higher Education Trusteeship and Governance, which serves as an independent resource on the subject of this paper and others in the series. For more information about AGB and the center, visit [www.agb.org](http://www.agb.org). State Policy Briefs may be downloaded in .pdf format at [www.centerforgovernance.net](http://www.centerforgovernance.net). Copyright © 2003 Association of Governing Boards of Universities and Colleges, One Dupont Circle, Suite 400, Washington, D.C. 20036.

## **Why merit screening of college and university trustees?**

Although the process of trustee appointment is fundamentally a political process, its aim should be to place the most able, experienced, and deserving citizens on public boards of higher education. Universities ultimately are “owned” by the state’s citizens, and these institutions uniquely serve broad social, cultural, and economic purposes that have long-term effects on the citizenry’s quality of life. Therefore, it is vital that those responsible for university governance be as independent of political ideologies or partisan interests as possible. The United States has a long tradition of relying on citizen governing boards to be the ultimate determinants of university policies. This tradition reflects the delicate balance by which the state and the university have a reasonable “arms length” relationship.

Most bright and well-informed individuals called to this special public service lack a clear understanding of what is expected of them. Most do not understand why we have citizen governing boards, how boards exercise their sometimes ambiguous responsibilities, and what the demands on their time are likely to be. A mechanism for recruiting and screening candidates would help ensure that only the most talented, energetic, committed individuals are appointed to the boards of public higher education.

Governors and legislators (as well as candidates for those offices) who are interested in helping governing boards function more effectively as apolitical instruments of the public good have an opportunity to depoliticize the process of trustee selection. By sharing their appointive powers with panels whose members are charged with exercising due diligence in recruiting and screening outstanding citizens for gubernatorial appointment, governors can help ensure that all higher education boards are independent and nonpartisan in exercising their responsibilities.

## **What are some optional approaches for establishing a merit screening and selection process?**

Possibilities range from executive order to formal legislation. Preferably, a panel charged with recruiting and screening candidates for gubernatorial consideration (perhaps called the “Trustee Candidate Advisory Council” or “Citizens’ Committee on Trustee Selection”) would be quickly established and not subject to drawn-out debate.

A governor would not necessarily be required to select from among a specified number of candidates for each vacancy on a particular board. Ideally, however, governors consistently would respect the panel’s judgments and choose each candidate from among at least two (or perhaps three) candidates for each vacancy. If all candidates for a given vacancy were unacceptable, the governor could ask the panel to provide a new slate of candidates.

The panel could operate on a small budget or with a modest annual appropriation commensurate with the seriousness of its mission and activities, as well as an appropriate individual already employed in state government (who may have other complementary

responsibilities), or it could be independently staffed on a part-time basis depending on the number of annual vacancies to be filled. Panel members should not expect remuneration for this public service, but it is a reasonable expectation to cover their travel and related expenses.

### **What should be among the panel's responsibilities?**

- Articulate and widely publicize its mission and responsibilities, procedural rules, membership and staffing, and office location.
- Articulate, publicize, and periodically review the qualifications to be sought in outstanding candidates.
- Develop and periodically review a generic job description for institutional governing boards and the statewide coordinating board, if one exists.
- Develop and periodically review a generic job description for individual board members (a statement of responsibilities and expectations; suggested do's and don'ts in the conduct of trusteeship).
- Confer periodically with the board chair and chief executive of each institution concerning how they view their board's current and future membership—composition needs (skills, experience, understanding of the university's purposes in society, geography, gender and minority balance, and the like).
- *Interview all candidates.*
- Develop policies and procedures to accommodate citizen applications (if this is part of the panel's mission; it need not be).
- Provide the governor with at least two (or three) names of candidates for each vacancy, including those being asked to fill unfulfilled or partial terms.
- Advise the governor's office or appropriate state agency on the content and process of an annual (or perhaps, more practically and effectively, a biennial) in-service education program for all public higher education trustees. The program typically includes updates on such matters as the state's financial picture, state priorities, and relevant state policies and regulations.

### **Who should serve on such a panel?**

Every state has outstanding senior public servants who are widely viewed as placing the broad public interest ahead of political party and special interests. Every state has citizens who in various ways have demonstrated their understanding of the special place that colleges and universities hold within the state and society.

We find these individuals, for example, especially among former and recent trustees whose reputations as conscientious board members are well known. We also find them among recently retired federal and state judges, former presidents and chancellors, former governors and senior legislative leaders, former U.S. congressional and business leaders. We find them among those who have had distinguished careers in medicine, law, and education—women and men with strong records of voluntary service. We find them in the sen-

ior ranks of nonprofit organization management and the military. And so on.

The chair, preferably selected by the panel's members to serve for a three-year term, might be a retired federal or state judge or former governor who was widely respected by political leaders on "both sides of the aisle." Alternatively, the governor could be extended the privilege of selecting the panel chair (or at least the first chair). In either case, the panel's credibility depends on a wise choice of leader. Numbering at least nine but not more than 15, the panel should be bipartisan in composition and nonpartisan in its work. Members should have six-year terms, renewable only once; the incumbent governor consistent with the terms of the enabling legislation or other guidelines should fill vacancies on the panel. No panel member would be eligible to serve as a trustee.

The panel would meet at least quarterly and, given the importance of protecting individual rights to privacy, its meetings should be exempt from the state open-meetings law. Members should understand that in accepting appointment to the panel they are signing on to a working group that requires appropriate time and energy.

#### **Which states have such a practice now?**

The Minnesota legislature established, by statute, two board recruiting and screening councils. In 1988, it created a Regent Candidate Advisory Council, which recruits, screens, and recommends candidates for appointment (by the legislature) to the University of Minnesota Board of Regents. Then in 1995, the legislature established the Board of Trustees Candidate Advisory Council, which recruits and screens candidates to the governor for the Board of Trustees of the Minnesota State Colleges and Universities System. Each council consists of 24 members appointed to six-year, staggered terms. One-half are appointed by the speaker of the House; one-half are appointed by the Senate. Both councils are staffed by full-time legislative staff.

North Dakota has a screening committee for the Board of Regents of the North Dakota University System, and Kentucky has a screening committee for all of the state's eight university boards and its community and technical college system board. In both states, the screening committees make recommendations to the governor.

More recently, Virginia Governor Mark Warner honored his campaign pledge by establishing, by executive order, an independent, bipartisan panel charged with recommending to him deserving candidates for appointment to the governing boards of Virginia's public colleges and universities, the state board for community colleges, and the State Council of Higher Education (statewide coordinating board). It remains to be seen whether legislation will be introduced to "institutionalize" the process for future governors, who are limited to one term in Virginia. Among the criteria are "merit, experience, sound judgment, and proven leadership."

The fact that only four states have taken such initiatives illustrates the apparent and

understandable reluctance of most governors to share their appointive powers with anyone. One governor recently remarked: "You're asking me to sacrifice one of the only real powers that I have!" And there is the cynical cliché, "To the victor go the spoils."

It is conceivable, on the other hand, that most governors or gubernatorial candidates haven't really thought about this reform because they underestimate the importance of each and every appointment, generally haven't considered why we have citizen boards for colleges and universities in the first place, underestimate the price we pay when these boards are dysfunctional or ineffective, or simply have had too many other and more immediately consequential decisions to make. The bottom line is: Selecting academic trustees on merit is not a sexy, high-profile topic in the media or in the minds of the general public. Yet it is essential.

### **Where should these panels look for candidates for trusteeship?**

There are many places to look, but foremost among them is within the board membership of foundations affiliated with public universities and within the ranks of the most distinguished college and university alumni. Such successful men and women are most likely to have a deep understanding of complex organizations and large budgets, a deep affection for the institutions that helped launch their careers and professions, and an understanding of higher education's unique place in a free and diverse society. It is inevitable that effective search and screening panels will consult with many different groups, including alumni-association leaders, state and metropolitan business organization leaders, and other nonpartisan enterprises. It also is perfectly appropriate to at least *consider* individuals who are suggested by university governing board leaders.

The objective is not to seek people who are uncritical of the university or higher education generally. Indeed, trustees who are devoid of discernment in this regard are as inappropriate as those who would come to their trusteeships with only criticism and personal agendas. There is a balancing act to perform between accountability and advocacy that should guide the selection of nominees (something that can be probed in interviews). Also, candidates should provide evidence that they understand that individual board members have no authority or special privilege; by law, only the trustees as a corporate body—as a board—have legal authority to act as, and on behalf of, the institutions they serve.

It cannot be overstated that the real test of a panel's effectiveness is its ability to recruit outstanding people and to cultivate their interest in serving as trustees or regents. It often is the person who does not seek this privileged form of public service who grasps its nuances and contributes effectively to the board's work. These may not be women and men who know the governor personally, who aspire to political office, or who seek the public spotlight. The panel should also take into account a given board's balance on several fronts: geography, gender, and diversity.

## What are some other considerations and relevant issues?

In-service orientation and education of trustees as well as periodic self-assessment of governing boards are important contributors to effective trusteeship. Such initiatives are properly the responsibility of chief executives and board leaders. However, annual or biennial *statewide* education programs designed for public trustees also are important to supplement institutional initiatives. Accordingly, search and screening panels can advise the governor's office or appropriate state agency concerning the agendas of such programs. These should include updates on state priorities that higher education might be encouraged to address, the state's financial outlook, and various objectives to foster communication and mutual understandings between state government and higher education's citizen trustees and chief executives.

For example, at one end of the continuum, Oklahoma requires participation of all public trustees in annual continuing-education programs, and the state board of regents tracks progress with a credit-recording system. Unfortunately, the majority of states provide no opportunity for trustees to gather in their capitals for educational and informational purposes. Between these extremes, however, a growing number of states have started or are considering periodic programs of trustee education and development. (Note: This topic is the subject of a forthcoming paper in this series.)

## Available Resources

AGB has advocated for merit selection for nearly 25 years and has produced the following papers that may be of interest. All are available from AGB.

- "Policies for Improving Trustee Selection in the Public Sector." AGB Occasional Paper No. 13. 1992.
- *Considerations for Reforming the Selection Process of Public Higher Education Governing Boards*. 1992.
- *Effective Trusteeship: A Guide for Board Members of Public Colleges and Universities*. 1995.
- "Changing State Policies to Strengthen Public University and College Trustee Selection and Education." AGB Public Policy Paper 95-2. 1995.

In addition, the Minnesota Regent and Trustee Candidate Advisory Councils are accessible at [www.rcac.leg.mn](http://www.rcac.leg.mn) and [www.tcac.leg.mn](http://www.tcac.leg.mn). The sites include information on statutory responsibilities, members, staff, and the councils' duties.

## Attachments

1. Responsibilities of Public Governing Boards
2. Responsibilities of Individual Trustees
3. Qualifications to Be Sought in Outstanding Appointees

## Attachment 1

### Responsibilities of the Governing Board

Legislation that sets the responsibilities of public institution and system governing boards typically does not reflect the full range of contemporary expectations and sometimes confuses management with governing functions. Laws that have been on the books for many decades should be reviewed and, if necessary, clarified and expanded. It is good practice to include a contemporary “job description” in board bylaws (one that is not inconsistent with existing laws, of course) that explains board responsibilities and helps reduce confusion and ambiguity. The following is a generally accepted list of responsibilities that can be adapted to fit institutional or multicampus settings. It may be used to help in the process of recruiting promising candidates for board membership.

- Approve (determine, reaffirm, or change) the institution’s statement of mission after consultation with appropriate internal and external constituencies and agencies.
- Appoint, support, assess the performance of, and terminate, if necessary, the chief executive (president, chancellor, or executive director).
- Approve and periodically review the appropriateness and consequences of all major institutional policies. These include decisions concerning the addition or discontinuation of major academic programs and major services consistent with the institution’s mission and financial capacity.
- Ensure that good planning is done periodically by management and faculty, participate in the process, assess the quality of the outcomes, approve final plans, and monitor progress against goals.
- Fulfill fiduciary responsibilities by approving and monitoring the annual budget, protecting the institution’s financial and capital assets, ensuring responsible and prudent investment of all restricted and unrestricted funds, and ensuring a competent and comprehensive annual audit process.
- Ensure accountability on behalf of all citizens who support and depend on the institution. By monitoring the institution’s performance, the board helps ensure that the institution enjoys a large measure of autonomy, an arm’s-length relationship with state government and partisan politics, and otherwise serves its broad public trust.
- Ensure adequate resources and their effective management. This includes setting a good collective example in personal philanthropy commensurate with personal means and otherwise serving as advocates for institutional needs with government leaders; the board also should assist the foundation in its work on the institution’s behalf.
- Interpret the institution to the public that contributes to its purposes and defend the institution, when necessary, from inappropriate intrusion. Conversely, the board also helps interpret society’s needs and expectations for the institution’s faculty and management. It serves as both a buffer and a bridge.
- Ensure that the board’s reputation is exemplary in the course of meeting its responsibilities. By keeping its own house in order, the board contributes to the institution’s reputation and standing in the community and state.
- Ensure that the institution serves as a good citizen in its relationships with other social, educational, and business enterprises through appropriate collaborations and partnerships.
- Periodically assess the board’s performance through an appropriate process that helps ensure objectivity and an action agenda for follow up.



## Attachment 2

### Responsibilities of Individual Trustees

All higher education boards should adopt their own standards of conduct to clarify the expectations their members hold for one another. In a similar vein, panels empowered to search for and screen candidates for trusteeship should agree on the substance of a generic trustee job description. This helps inform the panel's identification of the qualifications to be sought in outstanding candidates. It also helps candidates understand the obligations of the position. The following list can be adapted and expanded, but it is a place to start for this unique form of public calling.

- To have the time and energy necessary to faithfully and diligently prepare for and participate in the board's meetings. This includes certain ceremonial and special meetings that require the trustee's presence between regular board meetings. In [your state], trustees are expected to devote approximately \_\_\_ hours each year to their responsibilities (or the equivalent of \_\_\_ days).
- To believe in the institution's mission and responsibilities to serve the diverse society that supports and depends on it.
- To ask substantive and timely questions of management and colleague board members in the course of committee and board meetings.
- To speak candidly but also to be willing to support decisions and policies approved by the board's majority—even if the trustee did not vote for them. Only the collective board has legal authority; individual trustees have none. In a similar vein, trustees should avoid asking the administration for special favors. Although trustees are afforded respect and occasional expressions of appreciation for their volunteer and philanthropic service, they are due no special prerogatives.
- To remember that only the board chair speaks for the board and ordinarily is presumed to be delegated the responsibility to address controversial issues or board decisions with the media. In a similar vein, the chief executive ordinarily speaks for the institution. Individual trustees should not presume to speak for the board or the institution.
- To avoid personal agendas or being seen as a representative of any internal or external constituency, special-interest group or cause, community, or specific part of the institution. All trustees have a responsibility to use their best judgment and conscience in the interests of the institutional as a whole. "Single issue" trustees are ineffective trustees.
- To support the chief executive while at the same time exercising critical judgment as an active, discerning, energetic, and probing trustee. Board members should be able to distinguish between management and governance issues.
- To communicate any significant concern or complaint promptly to the chief executive. Trustees should be mindful of protocols and procedures for handling of such matters (ordinarily at the lowest appropriate levels of administration). Substantive matters that may affect the chief executive should be called to the board chair's attention.
- To be respectful of the opinions of others and to restrain from public criticism of them or their views. At the same time, do your part to contribute to a trust relationship among board members and help the board to "keep its house in order."
- To avoid any possibility of even the perception of a possible conflict of interest with their financial, personal, and family interests. Trustees should inform the board chair and chief executive promptly of any such possibility. Early disclosure is essential.
- To defend the institution's and the board's autonomy while working with other trustees to provide accountability and advocacy in equal measure.

## Attachment 3

### Qualifications to Be Sought in Outstanding Appointees

Serving as a trustee or regent is one of our society's highest callings. It signals achievement, accomplishment, influence, success, selflessness, prestige, and many other things we value in our culture. Although many citizens think they would like to serve on a board, trusteeship is not—and should not be—for everyone. Enormous responsibilities accompany each and every appointment. Further, the sheer size and complexity of the public university requires that only the most able, committed, deserving, and experienced citizens be considered. Finding the best individuals cannot be done haphazardly. There are essential and specific qualifications that should be sought in candidates. Among them, in no particular order of importance, are the following.

Recruitment and screening panels should look for men and women for whom there is *evidence* that they possess:

- Experience with large, complex organizations and an understanding of how to interpret the financial condition of such organizations.
- An ability to recognize the sometimes ambiguous distinction between management and governance.
- A record of particular interest in higher education that presumes a deep understanding of its place in our diverse society, particularly some connection with the institution they may be privileged to serve as a board member—for example, as an alumnus or member of the institution's affiliated foundation.
- Intelligence, wisdom, breadth of vision, and a record of independent judgment.
- An inquiring mind and an ability to speak articulately and succinctly.
- A capacity to function within a collegial group as a team member; to be a good follower as well as a leader.
- A record of accomplishment in his or her life and career or profession.
- A record of understanding of the importance of advocacy and philanthropy in ensuring institutional vitality, responsiveness, and progress in meeting private and public needs.
- The time and energy required to be a conscientious and attentive board member.
- Willingness to forego partisan political activity in trustee service that could prove detrimental to the institution's and the board's reputation as fundamentally nonpartisan enterprises.
- An ability to consistently sustain a total institutional perspective in his or her and the board's work, without allegiance or commitment to anything except the broad public good.