

State Policy Brief

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Guidelines for Reviewing State Higher Education Governance Structures

From the Association of Governing Boards of Universities and Colleges

Across the nation at any given time, elected leaders in several states are likely to mandate a review or propose legislation to change the oversight of public higher education—to modestly alter or completely reorganize the statutory or constitutional bodies that were put in place to determine policies for public colleges and universities. These reviews and legislative proposals often lead to reorganizations that consolidate and eliminate citizen governing boards, or create new ones, with a resulting realignment of the oversight of some or all of a state’s public colleges and universities. The reviews and proposals may also lead to the reconstituting of an existing governing board in terms of its membership or extent of authority and responsibility without increasing or decreasing the number of institutions under its legal stewardship. Other actions can strengthen or weaken the authority of a state higher education coordinating or advisory body, or create or even eliminate the body altogether.

The reasons for reviewing or restructuring governance vary; they may include the need to reduce costs and “bureaucracy” by spreading scarce dollars more efficiently; to facilitate greater student success and increased degree-completion; create a governing system that is more effective in addressing student needs and expectations; or better focus the attention of governing boards on a specific set of institutions. External stakeholders may also feel a real or perceived lack of responsiveness from colleges and universities to state economic, social, or educational needs that they feel will be best remedied by restructuring the governance of those institutions. Excessive competition among colleges and universities for students and resources, as well as institutional missteps and scandals are additional reasons why state elected leaders may determine that restructuring is a viable option for change or reform. In other scenarios, one or more institutions might desire greater operational freedom from the real or perceived constraints imposed on them by the state or a multi-campus system structure, and thus become the initial champion and advocate for a change in governance. For all of these reasons, it is critically important that elected officials or blue-ribbon commissions gather evidence and data and hear expert opinions and dispassionate advice on the challenges or conditions to be examined or solved, as well as how they might proceed. It is critically important to fully understand the breadth of issues involved and any and all of their related complexities. Governance restructuring by anecdote is a prescription for failure.

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. For more information, visit AGB.org.

When contemplating a major change to public higher education governance, state leaders should bear in mind several guiding principles. Such principles can ensure that current and future students will have access to an affordable, quality postsecondary education. They can also help ensure that the state’s system of higher education meets public purposes and is effective, responsive, and accountable.

Principles

The following principles are based on years of research, observation, and experience by the Association of Governing Boards, and on the scholarly work of several nationally known organizations and experts.

1. Clearly understand and articulate the reasons and goals for pursuing changes in governance.
2. Explore less disruptive options that might achieve desired goals.
3. Determine whether the issue or challenge to be addressed is one of personnel or one of structure.
4. Gauge the popular and political support for change.
5. Support institutional autonomy and ensure strong institutional or system governing boards with sufficient independence.
6. Tailor the approach to the history, values, and needs of the state.
7. Create or sustain a statewide entity to develop and advance state policy leadership.

1. Clearly understand and articulate the reasons and goals for pursuing changes in governance. Any proposed reorganization or restructuring recommendation—be it a set of options or a single, specific recommendation—must be tied back to the reasons for the change. This is especially important since a proposed statutory or constitutional change will be debated in legislative chambers, the media, across the higher education community, and in some states, decided at the ballot box.

The several possible reasons for a change in governance can also be expressed as clearly stated goals. If, for example, colleges and universities are deemed inadequately responsive to state needs, one stated goal of governance restructuring might be to assure that governing boards marshal the resources and capacity of institutions to meet the state’s current and future economic development and workforce priorities.

Note: In recent decades, many states have either centralized their higher education systems by creating a single governing board for most or all public institutions, or decentralized their systems by eliminating a multi-campus board in favor of individual boards for most, if not all, institutions. Leaders in these very different reorganizations have both touted a goal or collateral benefit of cost savings and greater efficiency and effectiveness in institutional or system oversight and operations. Can the claims in both scenarios be right?

2. Explore less disruptive options that might achieve desired goals. When pondering major governance changes, state leaders may first wish to determine whether other, less disruptive, or less expensive actions may better achieve desired goals. States can wield considerable sway over colleges and universities. Foremost is altering institutional behavior through the budget process. Performance funding, now law in over 30 states, is a prime example of a budget tool to incentivize institutional change. Other legislative actions or threatened interventions include requiring colleges or university

systems to improve student transfer policies, or requiring regularly scheduled reviews of academic programs to minimize duplication.

3. Determine whether the issue or challenge to be addressed is one of personnel or one of structure. Prior to launching a full-fledged governance review it may be wise to determine whether a change in administrative or board leadership would better address a vexing issue or challenge. Shortcomings of institutional, system, or state higher education agency executive leaders may become an unfortunate and unnecessary impetus for governance reorganization. For whatever reason, a single individual in a key executive leadership position may no longer be effective. State elected officials, however, must be very careful when expressing a desire for a change in higher education executive level leadership. In all but a few states, hiring and firing decisions rest exclusively with citizen governing and coordinating boards. Governance restructuring should never be an implicit or explicit move to punish higher education, a single institution, or individual college or university leaders.

Similarly, a board's failure to carry out its fiduciary responsibilities may appear to be an issue requiring structural change, when it's quite possible that new board leadership would result in a higher performing and sustainable organization. That may happen in due time, since, here again, state elected officials do not have the authority to remove board members, nor should they. Nevertheless, state elected leaders (governors especially) can and should work diligently to ensure the quality of boards and their members. They can support effective board orientation and education programs to help build high-performing boards, and base board-appointment decisions more on an individual candidate's merits than on political considerations.

4. Gauge the popular and political support for change. Governors are key for leading or supporting most successful changes in governance. The political strength inherent in their position can often get restructuring proposals over the finish line. Regardless of who champions a change in governance, the political benefits and disadvantages must be weighed before embarking on change too quickly. For university systems and institutions that have long been embedded in state constitution or statute, public—as well as political—support is essential before a governance change can be seriously considered and implemented. State leaders should be sure that the regional higher education accrediting association is aware of potential restructuring plans and that these changes comply with accreditation criteria.

Input should be sought early on from all internal stakeholders to the maximum extent possible, especially from those who will be most affected by a reorganization of governance. It goes without saying that board members and campus or university system executives should be high on the list, but faculty, staff, and student leaders should be engaged early in the process so that their concerns and ideas can be heard. Because of fears about job security; new and different responsibilities and reporting lines; or other concerns, governance restructuring can create great uncertainty for college and university employees. Several affected employees may have political connections that could hamper a governance change, so it makes sense early in the process to smooth any potential rough waters.

5. Support institutional autonomy and ensure strong institutional or system governing boards with sufficient independence. Public colleges and universities serve public purposes by educating students for meaningful careers and civic responsibilities; by providing services to employers, businesses, government agencies, and others; and by producing research and innovation that

helps drive state economies. The ability to serve public purposes is facilitated by an important level of institutional autonomy and independence that is not afforded to other state organizations or agencies, and for good reason. Autonomy can free colleges and universities from certain bureaucratic controls and enable them to better manage their operations and academic affairs. Restructuring efforts must be careful to not abridge this autonomy. This does not mean that institutional autonomy is synonymous with a college or university having its own single, independent governing board. Robust levels of autonomy can and does exist within university system structures.

As legal surrogates for the state, governing boards require an appropriate level of independence and must be able to make decisions unencumbered by undue outside influence by government leaders, politics, special interests, donors, corporate sponsors, or others. Any restructuring proposal that directly affects an existing (or new) governing board—such as changing its composition or reducing/increasing the number of colleges or universities it oversees—must be carefully written to ensure that the board’s independence and statutory or constitutional authority is not abridged.

6. Tailor the approach to the history, values, and needs of the state. A “one-size-fits-all” model does not apply to state-level higher education governance, yet valuable lessons can be learned from other states. As noted by higher education scholar Terrence MacTaggart, each state’s governance structure is a unique combination of history, institutional strengths, resources, values, and public-policy goals. Although state structures can be grouped into several meaningful categories, state leaders must bear in mind that each state and its higher education governance structure is different. Nevertheless, exploring the recent history and experiences of other states can be instructive.

Reorganizations and restructurings of higher education governance have occurred in some 15 states since the early 1990s. Many other states have reviewed their structures but did not, or have yet to, make changes. Although no two states are identical, reaching out to peers may prove extremely helpful for advice and strategy, particularly those from states with similarly organized higher education systems or with similar economies and demographics. It is also important to study states that have long-standing, effective governance structures to understand the leadership characteristics and legal underpinnings that have enabled stability and success.

Governance restructuring is a means, not an end. If reorganization is done to alleviate problems, clarify accountability, or accelerate reform, be aware that the slow pace of change within the inner workings of institutions and systems may persist until new boards or executives have a chance to settle in and lead.

7. Create or sustain a statewide entity to develop and advance the state policy agenda. Establishing sound institutional or university system policies through appointed or elected governing boards is essential for the success of colleges and universities. Both types of boards can work towards fulfilling state needs via strong governance and leadership. But equally essential is the state’s own capacity to address statewide policy concerns and priorities.

Most states have a statewide coordinating or governing body with various levels of authority over all public institutions, but only a handful of states have an entity like that envisioned by the National Center for Public Policy and Higher Education. The National Center advocated for creating credible, independent, non-partisan organizations that could ensure a broad, inclusive, dispassionate, and non-parochial view and assessment of a state’s colleges and universities, and that would be charged with

advancing a common, broadly agreed-upon statewide policy agenda for higher education. The entity could be a statewide, multi-campus governing board that oversees all public two- and four-year institutions with a central office or administration; a statewide coordinating agency guided by a coordinating board or commission; or a hybrid body with combined governing and coordinating functions. As seen by the National Center, it would have several tools at its disposal: sufficient budgeting authority to direct resources toward key policy priorities; an analytical capacity to study and evaluate aggregate statewide and institutional performance; and the staff leadership and capacity to engage corporate, state, and civic leaders, as well as leaders in government and higher education, on issues of statewide policy. Sustaining or creating such an entity—be it an organization with an independent board or an office in the executive branch, can be difficult—especially in times of increasing political partisanship. Partisanship and politics notwithstanding, many see such entities as critically important to long-term effectiveness and success.

References and Resources

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