# HOW TO GOVERN FOR INSTITUTIONAL AUTONOMY

A Practical Guide for Higher Education Boards



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### **AGB**

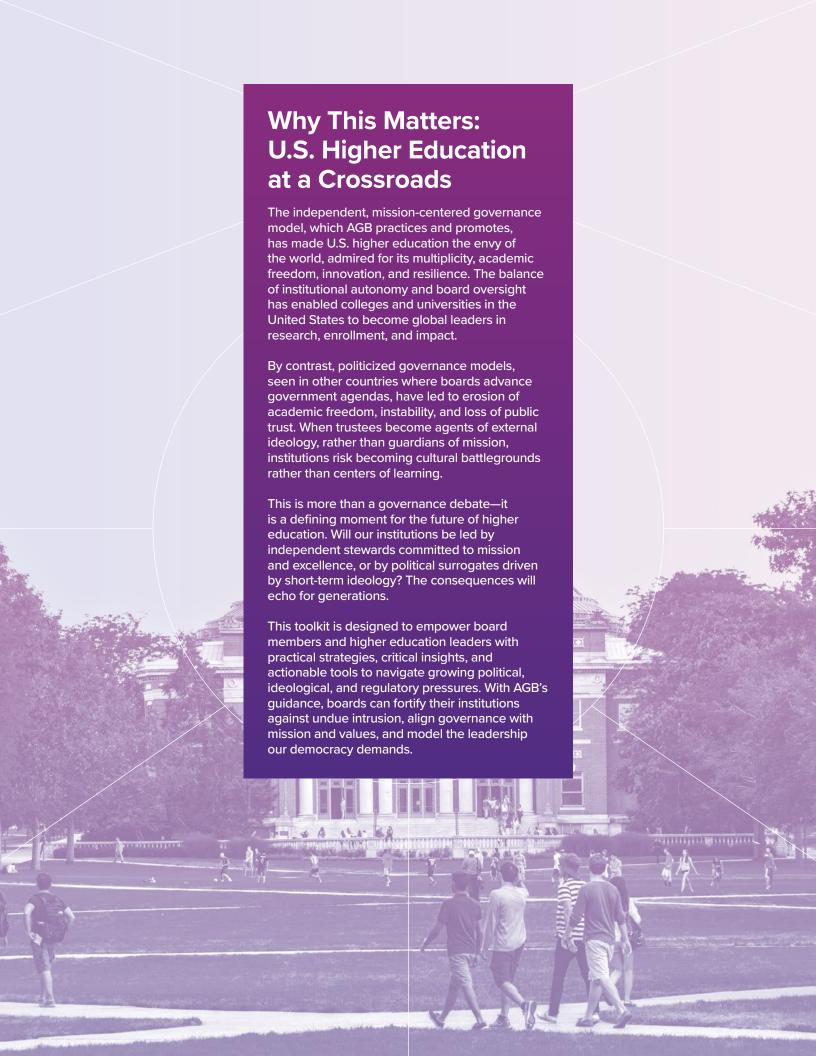


#### **Secure Higher Education's Promise**

cross the country, governing boards are facing unprecedented pressures, from political intrusion and public scrutiny to challenges around academic freedom, free speech, fiduciary duty, and institutional autonomy. These pressures are testing the very foundations of higher education. In response, the Association of Governing Boards of Universities and Colleges (AGB) developed this practical guide to help boards lead with clarity, courage, and integrity.

This toolkit is designed to be just that—a tool. Whether your board is clarifying its responsibilities, preparing for emerging threats, or navigating complex campus dynamics, this guide offers concrete resources to help. Inside, you will find information about AGB's governance best practices, diagnostic tools, checklists, sample resolutions, and curated strategies grounded in fiduciary duty and mission-centered leadership compiled from AGB's vast library of resources. Boards can use these resources to assess readiness, build alignment, identify risks, and take confident action to protect the academic freedom, autonomy, and resilience their institutions, and society, depend on.

AGB stands ready to support your board with customized guidance, education, and expert consultation. We encourage you to visit AGB.org/GovernNOW to explore additional resources and connect with our team.





Ellen-Earle Chaffee

## United We Stand: Govern NOW

HIGHER EDUCATION AND DEMOCRACY are interdependent. Democracies need informed, creative, skilled, values-oriented, proactive citizens to engage with government and contribute to society. Higher education needs intellectual and creative freedom grounded in a search for truth, knowledge, individual development, and social benefit.

Federal officials and political leaders in multiple states are issuing mandates that limit what students can learn about and teach them what to think, not how to think. They are removing student financial assistance programs for lower-income and middle-income students. Already well-funded and gaining steam, these political intrusions on board governance authority rapidly expanded and accelerated in 2025 due to the newly elected federal administration's unprecedented appropriation of powers.

Many of the new mandates are of questionable statutory or constitutional basis, subject to court challenge. Their logical conclusion is the end of the higher education-federal partnership that has built the nation's progress since at least the Morrill Act that established land-grant colleges in 1862.

Governing boards' authority has not been so challenged since the Supreme Court upheld a board's authority against intrusion by the state of New Hampshire (*Dartmouth College v. Woodward*, 1819).

#### **Governing Board Responsibility**

Each university, college, system, or supporting foundation governing board has fiduciary duty and authority defined in law to govern its organization. Its members are to hold the organization in trust for society, pursuing its best interests, addressing what it needs to fulfill its mission, exhibiting care, loyalty, and obedience. The duty applies to both short-term and long-term wellbeing, and it is all-encompassing, including but not limited to financial or conflict-of-interest issues.

This is an abstract from Ellen-Earle Chaffee, "United We Stand,"
Trusteeship 31, no. 5 (September/October 2023), to update the context from mid-2023 to mid-2025 and highlight risks and recommendations for governing boards. See the 2023 version in Trusteeship for extended explanations that remain relevant.

The goal of fiduciary governance is not survival at any cost; it is fulfilling the organization's mission. Boards need to understand, secure, and defend what the mission requires, including qualified faculty, safety, and free inquiry. Concessions and compromise may be appropriate to avoid or limit harm, but not if they become the first step on a slippery slope of losses or harm other institutions.

The stakes are historic. Democracy, the First Amendment, personal freedoms, and higher education itself are on the line. Every effort to prevent intrusions on board independence, institutional autonomy, free speech, and academic freedom is warranted, ideally to prevent the loss or at least to mitigate and slow the damage while legal challenges make their way through the justice system.

Freedom to learn is mission-critical in the United States. In authoritarian countries, the government ensures that all aspects of education are in line with the ideological wishes of whoever currently has political power. Loyalty to power is the litmus test for opportunity. People know what the head of state wants them to know; they believe and do what they are told to believe and do.

With citizen trustees, U.S. higher education is based on freedom of inquiry and expression driven by expertise, facts, research, and reasoning, not ideologies or partisan politics. Subject-matter experts determine the learning experiences of students, free of administrative or governmental control.

Universities and colleges have been able to operate freely in the context of a nation that was founded on replacing authoritarianism with government "of, by, and for the people." The founders put government in the hands of popularly elected representatives. Civil society organizations, including education and religion, have their own independent governance arrangements, all of which provide for collective wisdom from diverse, caring people. Term limits prevent long-term accretion of power to one individual.

Systems are in place to hold boards and their institutions accountable. Postsecondary institutions are subject to federal, state, and accreditation authorities who have legitimate public purposes. These accountability, quality, and compliance requirements represent established public policy, not political ideology. They focus on standards, processes, and outcomes, not on academic and managerial decisions.

What is happening now is very different.

In early 2023, PEN America identified 25 bills in 15 state legislatures that challenged academic freedom, and the *Chronicle of Higher Education* counted 37 bills in 21 states to limit diversity, equity, and inclusion (DEI) programs. In another state, a single bill contained mandates on DEI, divisive concepts, intellectual diversity, China, mission statements, equal opportunity, strikes, post-tenure faculty reviews, faculty workloads, course syllabi, and graduation requirements.

Curriculum, academic content, standards, personnel policies, and management are the responsibility of trustees, executive leaders, and faculty, not politicians or government officials. Politicians advance their preferred ideology. Governing boards advance freedom and opportunity to learn. Only the latter is compatible with democracy.

The ideological intrusions to date fall into two general categories.



They prevent a college or university from fulfilling its mission.

Colleges and universities are for exploring oneself, others, and the world; for discovering new interests; and for coming to terms with being wrong or misguided sometimes.

Paying tuition is like buying a ticket to access professors' expertise and skills. Censoring or directing academic content for ideological or political purposes destroys the value of the ticket and devalues the institution.

Ideological or political intrusions prevent students from expanding their minds and skills through informed discussion and debate: Professors avoid controversy, and students are not allowed to disagree. Colleges and universities are not allowed to do what they were created to do.



They prevent governing boards from fulfilling their fiduciary duties.

Accreditors require higher education institutions to have an independent governing board whose members are fiduciaries. Members are to hold the university or college in trust on behalf of society.

The board hires, evaluates, and supervises the president, who also acts as a fiduciary. The institution's success depends on their mutual understanding and respect. Selecting, supervising, and replacing the president is the core function of most boards. In 2025, the president of the University of Virginia resigned due to federal government pressure. Whether the governing board was involved at all is not yet clear. What should have happened? Does it matter whether the president was a high performer or not? (He was.) What would you do as a board member?

Boards need a clear understanding of who has legal authority for what, both within and beyond the board itself. Boards must deal with any attempts to preempt decisions that belong to them.



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#### **Tipping Point for Freedom**

Many quiet Americans are ready for positive change. With leadership and wise courage, history can record that Americans united and restored democracy, freedom, and uncensored learning to the nation.

### Identifying and Dealing with Ideological Intrusions

Not all influence is intrusion. Intrusion is influence that undermines the best interests of the institution.

#### Questions that help differentiate the two:

- Does this proposal or requirement interfere with the institution's ability to carry out its stated mission?
- Does it violate or compromise the governing board's authority? Does it infringe on institutional autonomy?
- Does it limit academic or educational freedom, including opportunities to freely study, research, and express diverse ideas?
- Does it threaten or violate U.S. constitutional freedoms?
- Does it threaten the institution's ability to maintain and improve success for all students?
- Does it violate accreditation requirements?
- Does it impose financial, reputational, or other burdens?

To deal with intrusion, preventive and nonconfrontational options such as education, evasion, and negotiation can be effective even for serious threats. However, board members should also be aware of more forceful options, including outright noncompliance or legal action. They need to decide together what lines, if crossed, would justify invoking an escalating series of opposing actions.

## The governing board and president should prepare, build confidence, and earn trust in ways like this:

- Clearly understand the extent of the board's roles, duties, and authority and that of other entities that can advance or harm the institution.
- Foster a strong, candid relationship between the board and the president, with explicit agreements on roles and expectations in the event of ideological or political intrusion. Plan ways to help maintain mutual understanding and agreement.
- Develop contingency plans such as a small task force with a clearly defined, board-approved charge and carefully selected members, and a robust internal and external communication plan.
- Stay informed about relevant incidents elsewhere and maintain connections with state, regional, and national sources of information, support, and inspiration. Build alliances with other postsecondary institutions and counterparts such as schools and libraries. Alliances can be bolder than individual entities.
- Governing boards with sunshine laws should address the fact that thoughtful and candid discussions almost always lead to better decisions and greater trust. The risk of being candid in public discussion might be far less than the risk of failing to halt a threatening intrusion.
- Governing board members could expand their relationships with community and state leaders or sponsor a public symposium series featuring thought leaders on higher education governance, academic freedom, and the democracy movement. Mobilize alumni and donors. Ask students to tell their stories in every setting.

#### **United for Freedom**

Standing up for freedom in higher education takes courage. It is risky for institutions and individuals. Governing board members need to deal with any misgivings they might have. Those who do not believe that their fiduciary duty is to advance the best interests of the institution over all else need to come to terms with their misunderstanding. Those who cannot risk potential personal consequences need to protect themselves without harming the institution, even if it means they must resign from the board.

Higher education and democracy owe a great debt to citizen trustees, all of them generous volunteers, who work hard to understand and fulfill their role. Thank you. We need even more from you now. The gravity of these challenges requires leaders who can work with each other to create a unified position and strategy that will keep independent governance in the hands of fiduciary citizen trustees and secure institutional autonomy, free expression, and academic freedom throughout the institution. How you proceed now, individually and collectively, will impact the course of history.

Today, governing boards are the ultimate line of defense to secure higher education as a critical force for democracy. How will your college or university contribute to the joy of the occasion, locally and nationally, on July 4, 2026?

Ellen-Earle Chaffee, Ph.D., was president of Valley City State University and served nine years simultaneously as president of Mayville State University. She then spent a term as president in residence at Harvard University. Earlier, she served as academic vice-chancellor for the North Dakota University System and director of organizational studies at the National Center for Higher Education Management Systems. She was president of the Association for Institutional Research and the Association for the Study of Higher Education, as well as the public member of the American Council on Pharmaceutical Education. She is a past member of Des Moines University's board of trustees and served as board member and chair of a major health care system. Dr. Chaffee earned her master's degree and PhD from Stanford University.

## AGB's Approach to Higher Education Governance

For more than 100 years, AGB has served as the trusted source for advancing the U.S. model of higher education governance. Our approach is grounded in legal and fiduciary responsibility, academic integrity, and institutional autonomy—developed through a century of research, experience, and collaborative leadership with governing boards, college and university chief executives, and scholars across the country.

AGB's guidance is informed by decades of successful practice and expertise, not partisan political strategy. We believe that governing boards should act with integrity as stewards of mission and public trust, not as ideological operatives. We emphasize partnership, accountability, and independence—cornerstones of the governance model that has helped make U.S. higher education the gold standard worldwide for research, creativity, innovation, and education.

Today, however, we face a rising tide of efforts to recast trustees as partisan operatives, directed to advance externally driven reform agendas. These politically driven governance models undermine institutional stability, erode public trust, and diminish merit-based successes—ultimately curbing critical thinking skills, jeopardizing educational quality, and threatening the independent self-governance of colleges and universities.

## Competing Models of Board Governance: Mission-Driven Stewardship vs. Ideological Control This comparison highlights the critical difference between these two visions—and the consequences they carry.

	Independent, Fiduciary Leadership (AGB Model)	Externally Driven, Ideological Model
Core Mission and Governance Model	Strengthens institutions through fiduciary governance rooted in tradition, autonomy, and mission alignment.	Promotes external change in higher education through trustee activism and partisan alignment.
Fiduciary Duty	Governing boards are accountable to the broad public interest and public trust, bearing a special duty to preserve and enhance their institutions for future generations. Trustees must act as stewards not only for their own institutions but also for the public good, ensuring that higher education fulfills its societal responsibilities.	Trustees are framed as accountable to "the public" but defined through ideological or government officeholder lenses rather than the citizenry or society at large.
Trustee Authority and Boundaries	Trustees function as strategic overseers who maintain clear boundaries between governance and management—boards govern, leadership manages.	Trustees act as direct agents of change who make managerial decisions and influence daily operations such as admissions, hiring, and curriculum design.
Board and Individual Trustees	Trustees function most effectively when they view themselves as part of a collective, cohesive body—encouraged to voice their own ideas and positions in board meetings but supportive of final board decisions.	Individual trustees are "deputized" to be openly disruptive in board meetings, disregarding consequences that could affect the board's ability to function effectively.
Partnership Versus Confrontation	Boards and executive leadership work in partnership to advance the college's or university's mission, strategic goals, and aspirations.	Trustees are encouraged to take a confrontational and skeptical stance toward college or university administration, often marked by distrust and lack of strategic dimension.
Campus Culture and Discourse	Upholds freedom of speech as integral to academic freedom while supporting inclusive, respectful dialogue through proactive policy and planning in order to promote civic education and engagement.	Emphasizes selective speech primarily as a means of correction, often promoting punitive approaches to perceived bias while reshaping the campus environment through top-down mandates.
Inclusive Values	Ensures diverse, fair, and welcoming environments that support student success and academic excellence.	Views inclusive excellence as politicized; advocates eliminating related offices and programming.
Faculty Role and Academic Freedom	Honors faculty expertise and respects faculty as essential stewards of curriculum, research, and student learning, and as key partners in shared governance with the board and the administration.	Promotes changes that override or marginalize faculty input—challenges tenure norms, policy, faculty curriculum control, and shared governance.
Policy Recommendations	Encourages fiduciary responsibility and issue resolution through collective wisdom generated by practices such as shared governance planning, civil discourse guidance, and policy oversight.	Pushes structural mandates—core curriculum redesign, elimination of DEI units, speech viewpoint enforcement rules, and trustee-led administrative and management oversight.

#### CHECKLIST

#### Does Your Board Govern with Integrity—or Ideology?

#### Core Mission and Governance Model

- Our board consistently focuses on the institution's mission as the guiding principle for decision-making.
- Our board explicitly rejects partisan or ideological agendas that are not consistent with mission fulfillment, institutional norms, or long-term sustainability.

#### **Fiduciary Duty**

- All trustees understand and practice their duties of care, loyalty, and obedience.
- Board decisions reflect a long-term view of promoting sustainability and public trust.
- Trustees act as stewards of the public trust and understand their role in advancing the public good through higher education.
- The board rejects efforts to redefine "the public" as a narrow ideological audience.
- The board reinforces fiduciary education during orientation and through ongoing development.

#### **Trustee Authority and Boundaries**

- Trustees act as strategic partners—not managers or ideological agents.
- Trustees are equipped to engage in highlevel policy, planning, and oversight.
- Trustees respect institutional expertise and collaborate with leadership appropriately.

#### **Board and Individual Trustees**

- Trustees understand that they serve as part of a collective body and not as individual actors with separate agendas.
- All trustees are encouraged to speak openly during board discussions but commit to publicly supporting final board decisions.
- Individual trustees do not use their role to grandstand, disrupt proceedings, or pursue personal or partisan aims.
- Board culture encourages respectful disagreement and unified commitment once a decision is made.
- Board leaders proactively address behaviors that undermine cohesion or institutional trust.

#### **Partnership Versus Confrontation**

- The board approaches the president and senior leadership as partners in advancing institutional goals.
- Trustees engage in critical questioning without adopting a tone of hostility or distrust toward campus leadership.
- Board discussions are strategic in nature not focused on micromanaging or "catching" leadership in errors.
- A culture of mutual respect and shared purpose exists between the board and administration.
- Tensions or disagreements are addressed professionally, with a focus on the institution's mission and long-term success.

#### **Campus Culture and Discourse**

- The board supports freedom of speech as a foundation of academic freedom and democratic education.
- The board promotes inclusive, respectful dialogue across differing viewpoints—not just tolerance but genuine civic engagement.
- Campus climate discussions are framed as opportunities for learning, inclusion, and growth rather than control or punishment.
- Board-level policies around campus culture are designed to enable inquiry and participation, not to restrict or censure expression.
- Trustees understand fostering civil discourse is a long-term leadership responsibility, not a tool for ideological correction.

#### Inclusive Values

- The board views inclusive excellence, defined as ensuring diverse, fair, and welcoming environments, as mission aligned, and integral to student success.
- Trustees support the civic role of higher education and democratic participation.

#### **Faculty Role and Academic Freedom**

- Faculty stewardship of curriculum and research is respected.
- The board understands and protects academic freedom and faculty consultation.
- Board policies ensure faculty play a key role in shared governance.

#### **Shared Governance**

- The board embraces shared governance as essential to institutional credibility, resilience, and advancement.
- The board engages faculty, administration, and students in decisions of strategic importance.
- The board recognizes the primacy of faculty leadership in matters of curriculum, academic progress, and student assessment.

#### **Policy Recommendations**

- The board engages in policy development that reflects shared governance and inclusive planning processes.
- The board uses structured tools (such as scenario planning, board workshops, and stakeholder engagement) to address complex issues.
- The board seeks to understand underlying drivers of challenges before proposing structural solutions.
- Trustees avoid mandates that override institutional expertise or bypass faculty, administration, or shared governance bodies.
- Civil discourse and mission alignment guide approaches to hot-button or politically charged topics.

#### CHECKLIST

## Is Your Board Ready to Meet Its Fiduciary Responsibilities?

A governing board with qualities like the following can recognize influences that may conflict with its mission and priorities and is prepared to deal with them appropriately. How well do these qualities describe your board?

Fiduciary Decisions  Governing board decisions reflect the duties of care, loyalty, obedience, and the best long-term interests of the institution, system, or foundation.	
All board members thoughtfully assess, share, revise, and act on their independent judgment as to what course of action is in the best interest of the institution, system, or foundation.	
The governing board has a strong and consistent culture of focusing on fiduciary responsibilities.	
Board members are sufficiently aligned with each other and the administration to recognize and converge on decisions that fulfill the mission and are in the best interest of the institution, system, or foundation.	
Board members understand and support shared governance and the faculty's role in academic decision-making.	
The governing board ensures that the academic institution or foundation cultivates fiduciary understanding and positive relationships with key constituencies, especially those that have or feel a sense of ownership in the institution, system, or foundation.	
The governing board seeks and thoughtfully considers input from its constituencies that could benefit the best interests of the institution, system, or foundation.	
Legal Authority  The governing board exercises its legal authority to confirm its fiduciary responsibilities and protect the responsibilities of the administration and faculty.	
Board members are clear about the nature, extent, and boundaries of their legal authority.	
The governing board understands any authority held by other individuals and entities that could impact board governance decisions. Those individuals and entities may include state or federal officials, legislatures, the U.S. Congress, and sponsoring organizations, for example.	
Governing board members are aware of how other individuals and entities might be tempted to influence the institution, system, or related foundation. They seek to establish mutual understanding with those individuals and entities to align their expectations with the organization's strategic priorities.	

	Independence	The governing board works and acts independently within a framework of legal documents and formal agreements that comport with the best long-term interests of the institution—such as the institution's founding charter, bylaws, federal laws and regulations, state constitutions and statutes, and accreditation requirements. Foundation boards should reference the terms of their memorandum of understanding with the affiliated institution and other applicable institution or system policies.
	authority or elector	rs direct their loyalty to the institution they hold in trust, not to their appointing orate. They uphold the governing authority of the board and the authority of and faculty. They recognize and address influences that are not aligned with .
	or that could com	ard is aware of and addresses any impending action that goes against policies promise reputation—such as an agreement with a donor that violates institution uses and gift acceptance policies.
	The governing bo responsibilities, or	ard addresses influences that encroach on its independence, fiduciary legal authority.
	The governing bo	ard recognizes and addresses influences that impact institutional autonomy edom.
	The board alone,	acting collectively, makes the decisions that fall within its legal authority.
Qu	estions for Board	d Self-Assessment on Independence and Fiduciary Responsibility
		re designed to help board member examine their role in safeguarding institutional uciary duties, and upholding the core values of higher education.
	Why is the concept	of board independence increasingly important in today's environment?
		y understand and commit itself to remaining independent; do we understand reach of us as board members and for the board as a whole?
	Do all board membe	ers have a thorough awareness of our fiduciary duties and responsibilities?
	Are sufficient standa	ards in place to hold board members accountable to maintain independence?
		red to put "independence" for our governance processes ahead of any external that essential fiduciary responsibility?
	Are each of us suffice	ciently aware of the concents of (and distinctions between) academic freedom

and freedom of expression? Are our related policies appropriately supportive of each of these core

Are we familiar with how our accreditor monitors board independence and institutional autonomy;

are we appropriately engaged in the accreditation process and able to demonstrate our

values; should each of these be strengthened?

independent governance?

## Is Your Board Ready to Protect Institutional Autonomy?

U.S. colleges and universities are facing intensifying political scrutiny and intervention. Recent events have raised urgent questions about who governs our institutions, and how. While governing boards always have the ultimate responsibility for mission stewardship and institutional strategy, they are now being tested in unprecedented ways that can undermine the foundations of board independence and institutional autonomy that have long defined U.S. higher education.

In moments like these, governing boards must not defer; they must lead. This tool offers trustees a proactive, principled framework to defend governance integrity and uphold their fiduciary responsibilities when faced with external pressure.



#### Reaffirm the Board's Fiduciary Duties and Mission-Centered Governance

Governing boards must remain grounded in their fiduciary responsibilities:

- Duty of care: Make decisions based on full, informed deliberation.
- Duty of loyalty: Act in the best interest of the institution—not external entities.
- Duty of obedience: Remain aligned with the institution's mission.



**RECOMMENDATION:** Convene a board session to revisit fiduciary duties and reaffirm the board's role as an independent quardian of the institution's mission and values.

#### Seek Independent Legal and Governance Counsel Early

When facing government scrutiny or proposed legal agreements:

- Engage external counsel with expertise in higher education governance.
- Ensure legal advice prioritizes the board's independent authority—not only institutional compliance.



**RECOMMENDATION:** Avoid relying solely on internal or politically aligned legal teams whose perspectives might not fully reflect governance concerns.

#### **Insist on Clarity and Transparency in Legal Settlements**

Consent decrees or legal settlements must not:

- Undermine board authority over hiring, leadership evaluation, or strategic direction.
- · Create vague, open-ended oversight arrangements.
- Displace mission-aligned decision-making with politically imposed mandates.



**RECOMMENDATION:** Insist on precise language that protects board jurisdiction and includes time-bound, clearly scoped oversight mechanisms.

#### **Mobilize Peer Institutions and Trusted Networks**

Political pressure is not just a legal challenge; it is a governance crisis.

- Connect with peer institutions to present a united front.
- Engage nonpartisan networks and policy leaders to advocate for the preservation of board independence.
- Raise the profile of these threats through coordinated communication efforts.



**RECOMMENDATION:** Issue public statements and collaborate across institutions that call attention to government overreach and reinforce sector-wide norms.

#### Communicate Transparently with Internal and External Stakeholders

Trust and clarity are critical in politically charged moments.

- Proactively share the board's rationale for governance decisions.
- · Reaffirm the institution's mission and long-term values.



**RECOMMENDATION:** Frame communications around the college's or university's public purpose and its role in sustaining democratic society and intellectual freedom.

#### **Document and Institutionalize Lessons Learned**

Preparedness is a key pillar of resilience.

- Create internal protocols for responding to legal and political crises.
- Include contact strategies, board engagement procedures, and stakeholder communication plans.



**RECOMMENDATION:** Develop a "Board Response Playbook" to guide actions during future episodes of political interference or regulatory escalation.

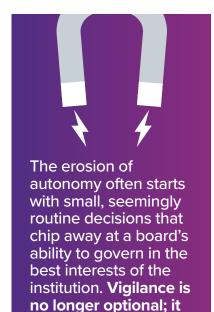
## Is Your Board Facing Intrusion?

Governing boards are increasingly operating in an environment where political agendas can threaten their ability to function independently and in alignment with their institution's mission. While governance has always required balancing interests, today's pressures—from partisan interference to externally imposed mandates—are more pervasive, more coordinated, and more consequential.

The erosion of institutional autonomy does not typically begin with a dramatic overhaul; it often starts with small, seemingly routine decisions that chip away at a board's ability to govern in the best interests of the institution. That is why vigilance is no longer optional; it is essential. Board members must be equipped to recognize the early warning signs of political intrusion and have the courage and clarity to act before such interference compromises educational quality, fiduciary duty, or public trust.

#### **Examples of Sources of Tension**

Colleges, universities, and institutionally related foundations might face situations that further complicate their efforts to advance and strengthen mission-focused outcomes. Governing boards that have or might encounter conflicts should update their governance policies, practices, risk management frameworks, and communications plans to proactively address these potential situations:



is essential.

Example #1: When members of a governing board sense their fiduciary duties conflict with an appointing authority's expectations.



**RECOMMENDATION:** Seek to establish mutual understanding of expectations with the appointing authority. Maintain board independence and uphold fiduciary duties and principles of trusteeship. Think independently, act collectively.

Example #2: When a board member believes their purpose for serving is to advance an agenda that is not aligned with what the full board believes represents the institution's, system's, or foundation's best interest.



**RECOMMENDATION:** Help the board member understand the potential implications associated with their perspective, continue board education and development efforts focused on fiduciary duties and principles of trusteeship, and potentially engage the board chair and legal counsel to explore additional options. Explore the applicability of conflict-of-interest procedures or other legal options if the board member violates fiduciary duties.

Example #3: When the board does not control the selection of new board members who need to reflect the perspectives, skills, expertise, and competencies that support the mission and strategic priorities of the institution, system, or foundation.



**RECOMMENDATIONS:** Establish a coordinated process for communicating with the appointing authority and/or appointment advisory group to advise them about the vital connections among board composition, effective leadership, and mission fulfillment. As stated in AGB's *An Anatomy of Good Board Governance in Higher Education*, effective board governance requires the right people focused on the right issues at the right time.

Request opportunities to share AGB's recommended criteria for board member appointments as part of the recruitment and selection process.

Update the board's composition matrix to demonstrate where there are gaps and opportunities.

Example #4: When foreign and domestic governmental entities or individuals provide funds that greatly impact the institution or foundation and create concern if the governing board or institution does not comply with the influencers' objectives.



**RECOMMENDATIONS:** Call for a pause in the agreement; solicit analyses of fiduciary duty, authority, and other issues. Engage the governing board in thoughtful, strategic discussion to determine if the objectives of the influencer are aligned with priorities, and subsequently respond to the influencer.

Determine alternative sources of funding that can support strategic and operational priorities.

Example #5: When a foreign government or company expresses a desire to invest in campus research or programming and requires intellectual property and knowledge from the research and programming to be shared with the investing authority.



**RECOMMENDATION:** Ensure compliance standards are understood and followed so as to avoid jeopardizing national security interests and federal research funding.

Example #6: When athletic booster clubs offer to provide financial support for current and prospective students, coaches, and programs that might not align with institutional goals or when athletic conferences seek organizational transitions.



**RECOMMENDATION:** Ensure governing board policies and standards are current, known to senior administrators, and implemented appropriately. Funding for special interests should never outweigh core mission responsibilities, immediate needs, and identified goals.

Example #7: When a major donor indicates they will withhold a substantial donation unless the institution adopts a particular policy or public stance on a controversy, or the chief executive resigns or is removed.



**RECOMMENDATION:** Reaffirm the board's responsibility to do what is in the long-term interest of the institution, including maintaining board independence, fiduciary duties, and principles of trusteeship. Ensure robust communications plans are in place that anticipate potential dissent. Consider the impact of responding to the donor publicly or privately.

#### Identify and Manage Intrusion\*

Intrusion also involves disharmony with the best interests of the institution. Healthy governing boards interact routinely with constituents who bring proposals to them, typically with good intentions. To determine whether they are facing an ideological or political intrusion, executives and board members can ask themselves questions such as the following:

- Does this proposal or requirement interfere with the institution's ability to carry out its stated mission?
- Does it violate or compromise the governing board's authority? Does it infringe on institutional autonomy?
- Does it limit academic or educational freedom, including opportunities to freely study, research, and express diverse ideas?
- Does it threaten or violate U.S. constitutional freedoms?
- Does it threaten the institution's ability to maintain and improve success for all students?
- Does it violate accreditation requirements?
- Does it impose financial, reputational, or other burdens?

<sup>\*</sup>Excerpted from Ellen-Earle Chaffee, "United We Stand: An Urgent Call for Leadership," Trusteeship 31, no. 5 (September/October 2023).

## Is Your Board Ready to Take Action?

Recognizing political intrusion is only the first step. The true test of board leadership lies in what comes next.

In a time when external pressures can erode institutional values and disrupt mission-driven decision-making, boards must not only stand firm; they must act. Upholding institutional autonomy, freedom of speech, and academic freedom is not just a philosophical stance. It is a fiduciary

imperative. It requires deliberate choices, clear policies, and public commitments that reinforce the board's role as a steward of independent, mission-centered governance.

Too often, boards delay action until the threat becomes a crisis. But strong boards do not just resist interference; they proactively affirm their principles and prepare to defend them. That includes adopting formal positions, aligning institutional policy, and joining forces with like-minded peers to elevate a shared commitment to higher education as a public good.

Now is the time for boards to move with clarity and purpose—to take visible, values-based steps that signal not just where they stand, but what they stand for.

Recommendations from the AGB Board of Directors' Statement on Influences Impacting Governing Board Independence and Leadership\*

Governing boards must balance their responsiveness to valuable ideas and input while safeguarding their independence. To ensure this practice, it is AGB's recommendation that all governing boards continue to uphold the following principles outlined in the 2012 statement:

- » Preserve institutional independence and autonomy.
- » Demonstrate board independence to govern as established in charter, state law, or constitution.
- » Keep academic freedom central and be the standard bearer for the due-process protection of faculty, staff, and students.
- » Assure institutional accountability to the public interest.

While these four principles are still bedrock, governing boards need fresh guidance on how to apply them currently.

To implement those principles, AGB offers the following recommendations—practices that can help governing boards be prepared to make appropriate fiduciary decisions even when doing so may be difficult.

Engage in thoughtful discussion, decision-making, and policymaking to build shared understanding of the core concepts and values that underline exemplary governance and the board's work, while continuing to have meaningful learning experiences together about foundational principles, not just current campus matters.

Too often, boards delay action until

they proactively

and prepare to

defend them.

affirm their principles

the threat becomes a crisis. But strong boards do not just resist interference:

One way to begin this process could be reinforcing that governing boards are accountable for:

Protecting the mission. Assessing and evolving the mission of the institution guides a governing board's work and how it addresses its responsibilities. Governing boards have a fiduciary responsibility to advance the institution's mission and to promote its integrity and quality. They also have a responsibility to reexamine and reshape that mission as needs and conditions may require. Foundation boards should be guided by their fiduciary obligations to honor donor intent, serve as prudent stewards of charitable assets, and advance the mission priorities of the institution.

\*Excerpt from AGB Board of Directors' Statement on Influences Impacting Governing Board Independence and Leadership, (Washington, D.C.: AGB, 2023), 4-8.

- » Safeguarding the transcendent values that guide and shape American higher education. Among those abiding values are self-regulation and autonomy, academic freedom and due process, shared governance, educational quality, transparency, and fiscal integrity. Governing boards are responsible for protecting such values not only on behalf of their own institutions and foundations but also for American higher education in general. In the case of church-affiliated institutions, guiding values may also include certain tenets of the relevant faith community.
- » Reinforcing the public's interest and trust. The American people entrust control of higher education institutions to citizen-led boards and to the independent judgment of their members, rather than to senior public officials or bureaucracies. All governing boards are accountable for the achievement of public purposes. Thus, governing boards incur a special duty to preserve and enhance the institution for future generations. Governing boards of independent colleges are accountable not only to the sources of their founding authority, but also to a government-issued statement of authority, such as a charter that describes some of the basic public expectations for the institution. For those boards whose members are elected by the public or appointed by a governor or legislature (in whole or in part) authority derives from, and accountability pertains to, relevant state laws, charters, or other governing documents.
- » Enforcing the legitimate and relevant interests that various constituencies represent. These include alumni, community leaders, donors, faculty, parents, staff, students, local government officials, unions, labor groups, among others. A governing board must exercise its best judgment to accommodate such interests, but it is the board that makes the ultimate decision in light of the institution's mission, values, strategic priorities, and the law. The board bears ultimate responsibility for weighing conflicting claims of interested parties and the long-term benefits and priorities of the institution. Foundation boards should collaborate closely with institution leaders when considering gifts that may not advance the mission, values, or priorities of the institution.

Further, AGB's principles for exemplary governance state that governing boards should:

- » Focus on what matters most, including success for all students and the fulfillment of the institution's or foundation's mission over the long term.
- » Carry out the fiduciary duties of care, loyalty, and obedience.
- » Protect academic freedom, board independence, and institutional autonomy.
- » Understand and support shared governance.
- » Engage in thoughtful discussion and decisionmaking based on sound information and collective wisdom.
- » Establish an effective partnership with the chief executive officer.
- » Document consensus and build on board learning experiences by maintaining a written, regularly updated inventory of policies and procedures for board governance.

In general, each board should apply a shared understanding of such core concepts as: the best interests of the institution; institutional autonomy; academic freedom and due process; shared governance; board independence; the fiduciary duties of care, loyalty, and obedience; and board accountability. It should continually educate its members on all aspects of their fiduciary responsibilities, with a focus on key principles and how best to apply those principles.

- Make structural and procedural changes that reinforce the governing board's fiduciary duties and authority.
- » Dedicate time at every meeting to purposeful, ongoing education and discussion about board governance. Discuss how AGB's *Principles of Trusteeship* (AGB, 2021) applies to carrying out one's fiduciary duties.
- » Ensure that new board members and their nominating or appointing authorities understand their fiduciary duties.
- » Include a session on identifying and addressing external and internal influences in new-boardmember orientation programs. In addition, provide continuing education on the topic for all board members, even seasoned ones.
- » Determine the board's options for identifying and navigating efforts by influencers that may conflict with board-approved strategic priorities.

Listen, learn, and lead. Recognize that all governing boards and their organizations need to adapt and improve. Listen with open minds to constituents' concerns and suggestions.

- » Support and encourage discussion of diverse viewpoints to expand mindsets, sharpen thinking, and make well-informed decisions.
- » Listen with open minds to citizens and officials from domestic and foreign entities. Consider whether their concerns are well-informed, legitimate, and merit board discussion and potential changes to institutional policies and practices.
- » Build important relationships by regularly and appropriately communicating with key constituencies through coordinated efforts throughout the year, not only when a problem occurs or during a particular cycle of events.
- » Consider and discuss stakeholders' ideas, including whether the input merits potential changes to policies and practices.
- Establish policies and practices that discourage individuals or groups from going over the heads of senior administrators and going uninvited to the board directly with their grievances and concerns. Boards must be careful to avoid being used in this way, as it can create legal and other challenges.

Recognize that fiduciary duty belongs to each member of the board and to board actions.

» As stated in AGB's Principles of Trusteeship, each board member should think independently and

- act collectively on what matters most to support the long-term vitality of a college, university, or related foundation. Governing boards, reflecting the aggregate actions of board members, are responsible for advancing the institution's or foundation's best interests, as is each member of the governing board.
- » Understand that governing board members have no authority as individuals; authority rests in the formal, collective actions of the board as a whole—the board's collective judgment. Individual board members' courage to make hard decisions will come from understanding their profound governance responsibilities and accountability for supporting the institution's or foundation's mission.

Address inappropriate influences that interfere with the governing board's independence, authority, or fiduciary commitment to the long-term success of the institution or foundation.

- » Prepare to address, in open meetings with the public, if necessary, influences that are not aligned with the governing board's aggregate belief about the institution's or foundation's longterm interests, so as to reinforce its mission and strategic priorities. Collective wisdom requires candid discussion.
- » Consider a phased approach or scenario planning when the potential for confrontation exists. Specifically, ensure the chief executive officer and board chair understand the potential challenges, and clarify messaging with influencers. The board chair speaks on behalf of the board, and the chief executive officer speaks on behalf of the institution, system, or related foundation.

#### **Additional AGB Resources**

AGB#

## ACR Board of Directors' Statement on Influences Impacting Governing Board Independence and Leadership BOARD STATEMENT AGB Board of Directors' Statement on Influences Impacting Governing Board Independence and Leadership

### AGB.org/Knowledge-Center



#### воок

Principles of Trusteeship: How to Become a Highly Effective Board Member for Colleges, Universities, and Foundations

## **Board Advocacy FAQs: Understanding Your Role and Opportunities**

Board members are not only fiduciaries—they are influential ambassadors. These frequently asked questions help board members appropriately leverage their networks, volunteer status, and passion to impact public policy in ways that align with institutional values. By understanding what is permissible, strategic, and effective, board members can amplify their institution's voice, build goodwill with key stakeholders, and help safeguard the autonomy that enables colleges and universities to serve students and society.

## Can board members be effective higher education advocates?

Yes, board members can play an important role to institution, system, or foundation advocacy efforts. As corporate and community leaders, board members are uniquely positioned to engage in advocacy with their professional, social, and personal networks, as well as with policymakers and the public, to strengthen higher education.

Specifically, board members should play an active and supporting role as ambassadors on behalf of their institution—active in terms of being ready, willing, and able to reach out to individuals and supporting in terms of following the administration's lead on issues, messages, and timing.

Source: Principles of Trusteeship: How to Become a Highly Effective Board Member for Colleges, Universities, and Foundations, AGB 2021.

## How do boards organize and initiate their advocacy efforts?

Led by the chief executive and senior staff, boards should regularly discuss a public policy or advocacy strategy that includes short-term and long-term priorities. This overarching strategy can include a list of priority issues (which may change throughout the year in response to new developments) and share how often the board will be informed about policy issue updates, as well how these issues will be addressed by particular board members or specific committees.

During the discussion, board members and staff may identify board leaders who can speak to and connect with a broad cross section of constituencies in support of the policy priorities. The strategy may also include a process by which board members can participate in outside coalitions and organizations that support the institution's advocacy goals. The board should

As corporate and community leaders, board members are uniquely positioned to engage in advocacy with their professional, social, and personal networks, as well as with policymakers and the public, to strengthen higher education.

talk with the president and senior staff about appropriate opportunities for education or professional development that will enable its members to effectively represent the organization.

Typically, the government relations staff will organize any strategy to lobby policymakers. Other kinds of advocacy, such as advocating the institution's value proposition, may go through external relations or communications staff. The chief executive and staff will decide how to best leverage board member voices as part of the strategy for maximum effect.

## What is the role of foundation and alumni boards in advocacy?

Similar to their institutional board counterparts, foundation and alumni boards can be valuable partners when engaging in advocacy. Foundation board members can inform lawmakers about endowments or fundraising or reinforce the benefits of education for students. Alumni board members can pair with a recent graduate to demonstrate the longevity and long-term success of the institution. Administrative staff coordinate messaging among the institution and affiliated organizations to avoid confusion and promote key priorities.

### On what issues should a board member advocate?

Traditionally, "advocacy" is often used in a public policy context. Board members can leverage their networks, volunteer status, and passion to sway policymakers. In concert with government relations staff, they focus on the federal and state, and oftentimes local issues, that have the greatest impact on student success and institutional vitality.

Beyond the policy arena, board members can also communicate and promote the value of postsecondary education for their communities, regions, and beyond. As volunteer leaders, board members have credibility with constituencies that other advocates may lack.

Sources: Principles of Trusteeship: How to Become a Highly Effective Board Member for Colleges, Universities, and Foundations, AGB 2021. Top Public Policy Issues Facing Governing Boards 2025-2026, AGB 2025

AGB Statement on External Influences on Universities and Colleges, AGB 2012.

## What can board members do to make good advocates?

#### **Board members should:**

- » Advise and support crafting an advocacy agenda and strategy.
- » Collaborate and coordinate with the chief executive and senior administrative staff as part of a larger advocacy effort.
- » Identify who on the board can connect with a broad cross section of communities and constituencies in support of the advocacy strategy.
- » Work with senior administrators and staff to affiliate with coalitions and organizations that might help to advance public policy priorities.

#### **Board members should not:**

- » Create a personal agenda and act on it independently. Doing so is likely to dilute or harm the institution's strategy.
- » Act in any way that is not congruent with the needs of the institution or its students.

#### Is board member advocacy common?

According to the 2018 Trustee Index, board

member respondents engaged in advocacy with federal lawmakers, but also with community and business leaders about an issue affecting higher education.

Contacted a member of congress about an issue facing higher education	25%
Contacted <b>local community leaders</b> about an issue facing higher education	34%
Contacted <b>local business leaders</b> about an issue facing higher education	34%
Written an <b>op-ed</b> about an issue facing higher education	<b>5</b> %

The index also revealed that board members' political ideologies are distributed fairly and evenly.

VERY CONSERVATIVE	4%
CONSERVATIVE	24%
MODERATE	41%
LIBERAL	24%
VERY LIBERAL	<b>7</b> %
DON'T KNOW	1%

Source: The AGB 2018 Trustee Index, AGB 2018.

## What are some examples of board members engaging in advocacy on behalf of their institutions, foundations, or higher education?

Consider these examples of institutional advocacy that include board member engagement:

- » The Colorado Trustee Network is a coalition of board members working together to elevate the issues of greatest impact to higher education in Colorado. The founding committee of trustees has one board member from every public institution or system in the state.
- Susan Jandernoa, the vice chair of the Grand Valley State University (GVSU) Board of Trustees, provided testimony before the higher education appropriations subcommittee in the Michigan House of Representatives. Joined by the GVSU president and vice president of the student senate, Jandernoa emphasized her expertise as both a fiduciary and as an elementary school teacher to build credibility with lawmakers. GVSU's bid in 2021 for additional support was ultimately successful.

- » The Regional College and University Presidents' Alliance of Philadelphia takes advantage of relationships among public and private higher education leaders and the business community to provide opportunities for collaboration and advocacy. While primarily a vehicle for presidential collaboration, board member engagement is welcome and encouraged.
- The Beaver Caucus and Now-4 OSU-Cascades are advocacy organizations committed to supporting Oregon State University and its branch campus in Bend. Both have worked closely with the OSU Foundation and the institution to champion Oregon's students and institutional priorities. In fact, board members of the foundation also serve on the board of the Beaver Caucus.

### Why is board independence important in relation to advocacy efforts?

While boards should respect, encourage, and welcome all stakeholders' involvement, they must also ensure that their decision-making procedures are free of undue external stakeholder pressure, including public officials, policymakers, donors, alumni, and others. Governing boards are legal entities and have oversight responsibility for ensuring the purpose, priorities, reputation, and viability of their institutions, foundations, and systems. It is imperative that boards and the colleges, universities, and foundations they serve remain aligned and operate independently from external influences.

Sources: "External Influences" FAQ, AGB 2021.
AGB Statement on External Influences on Universities and Colleges,
AGB 2012.

#### Additional AGB Resources





#### **BOARD STATEMENT**

AGB Board of Directors' Statement on Influences Impacting Governing Board Independence and Leadership



#### воок

Principles of Trusteeship: How to Become a Highly Effective Board Member for Colleges, Universities, and Foundations



#### REPORT

Top Public Policy Issues Facing Governing Boards in 2025–2026



#### FAQ

Board Independence and Leadership



#### **FAQ**

Institutional Neutrality or Engagement? Definitions and Process Considerations



#### PODCAST

Trusteeship Podcast Episode 53: Board Independence and Neutrality

Aired: January 23, 2025



#### **PODCAST**

Trusteeship Podcast Episodes 41 and 42: Board Independence Under Fire, Parts I and II

Aired: January 31, 2024



#### **GOVERN NOW VIDEO**

Fiduciary duty isn't just best practice—it's the law.

Aired: August 1, 2025

## Sample Board Resolution Affirming Commitment to Institutional Autonomy and Board Independence

It is more important than ever for boards to assert their commitment to institutional autonomy and independent decision-making. This sample resolution is a tool to help boards publicly affirm their responsibility to act in the best interests of their institutions. It reinforces core principles of academic freedom, mission-centered leadership, and fiduciary duty. Boards are encouraged to adopt or adapt this language to signal clearly—to policymakers, the public, and institutional stakeholders—that the governance of higher education must remain free from undue interference.

Using this resolution is not a symbolic act. It is a statement of resolve. A board that affirms its autonomy helps ensure its institution remains a place where inquiry is protected, innovation thrives, and mission-driven leadership prevails.

### <Institution Name> Board of Trustees Resolution AffirmingCommitment to Institutional Autonomy and Board Independence

WHEREAS, the landmark United States Supreme Court decision in Dartmouth College v. Woodward (1819) affirmed that the governance of higher education institutions must remain free from political interference;

WHEREAS, the board of trustees recognizes that institutional autonomy and board independence are fundamental to academic freedom, educational excellence, and the fulfillment of our fiduciary duties; and

WHEREAS, recent developments in the national and state political environments have introduced new threats to the independence of colleges and universities through attempts to condition funding or impose governance requirements;

#### NOW, THEREFORE, BE IT RESOLVED THAT:

- The board of trustees reaffirms its unwavering commitment to maintaining the independence of this institution's governance.
- » The board asserts that its decisions will continue to be made in the best interests of the institution's educational mission, students, faculty, and public service, free from external political pressures.
- The board calls on all stakeholders—policymakers, higher education leaders, and the public—to defend the autonomy of U.S. colleges and universities as essential to a thriving democracy and economy.
- » The board authorizes the chair and president to communicate this commitment publicly and to advocate for policies that protect board independence and institutional autonomy.

Adopted by the < Institution	Name > board of trustees on <date></date>
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<Signatures>

## Community Letter Reaffirming the Independence of Higher Education Governance: A Call to Action

AGB is leading a national effort to uphold the independence of higher education governance and fortify the principles that have long underpinned academic excellence and democratic vitality.

The U.S. Supreme Court's 1819 decision in *Dartmouth College v. Woodward* established enduring protections for institutional autonomy, shielding colleges and universities from shifting ideological and political influences. Building on this legacy, AGB is leading a national coalition to reaffirm and strengthen the essential principles of governance independence and institutional autonomy in higher education.



By signing a letter in support of the initiative, institutional leaders affirm their responsibility to resist undue influences and their commitment to preserving the values essential to higher education. **Read the letter:** 

In the landmark case of *Dartmouth College v. Woodward* (1819), the Supreme Court affirmed the sanctity of educational charters and the autonomy of private institutions from political interference. Though initially limited to private colleges, the decision came to embody a broader presumption of institutional independence that extended to public institutions. This principle has since safeguarded the ability of higher education to serve society impartially, fostering discovery, innovation, and civic leadership free from transient political pressures.

Today, the independence of governing boards—the foundation of institutional autonomy—faces renewed and expanding challenges. These include not only efforts to condition public funding on political compliance or ideological conformity, but also attempts to control fundamental institutional decisions that are the rightful purview of boards, such as determining whom to admit, whom to hire, and how to fulfill an institution's mission in service to its students and communities.

We, the undersigned, affirm:

- » That governing boards must retain independent authority to fulfill their fiduciary duties without political interference.
- » That higher education's strength lies in its diversity of thought, freedom of inquiry, and insulation from political orthodoxy.
- » That preserving institutional autonomy is essential for the vitality of American democracy, economic innovation, and global leadership.

- » Indeed, it is this very independence of governance and mission that has made U.S. higher education the model for the world. The freedom to govern without political interference has enabled American colleges and universities to lead in research, produce top talent, drive prosperity, and serve as beacons for scholars across the globe.
- » To preserve the integrity and global standing of American higher education, we call on leaders, advocates, and stakeholders to stand together in the following commitments:
  - » Defend the independence of college and university governing boards as a cornerstone of constitutional freedoms.
  - » Reject political interference that undermines academic excellence and fiduciary stewardship.
  - » Reaffirm the principles of charter sanctity and institutional autonomy articulated in *Dartmouth College v. Woodward* as vital protections for our nation's future.

The future of higher education and the democracy it serves depends on our collective vigilance, an unwavering commitment to these principles, and unified action.

#### **Ross Mugler**

Interim President & CEO
Association of Governing Boards of Universities and
Colleges (AGB)



## Take the Next Step: Strengthen Your Board's Commitment to Mission-Aligned Governance

If your board's responses to the checklist signal areas of concern, you're not alone—and you're not without support.

AGB's time-tested approach to higher education governance is built on more than a century of collaboration with governing boards like yours. Whether your board is seeking to recalibrate its role, re-center around fiduciary principles, or navigate partisan governance challenges, AGB is here to help you lead with confidence and integrity.

#### **AGB Can Help Your Board:**

- » Clarify and recommit to fiduciary responsibilities
- » Reinforce the line between governance and management
- » Restore board unity and build a culture of trust
- » Address disruptive behaviors or partisan interference
- » Strengthen shared governance and strategic leadership capacity

#### **Get Support Now**

#### **Connect with AGB Membership:**

Explore board development resources and peer learning. Membership@AGB.org

#### **Request Governance Consulting:**

From workshops to board assessments, AGB's experts are ready to guide your board. Consulting@AGB.org

#### **Explore Our Resources and Tools:**

Visit: AGB.org or AGB.org/GovernNOW

Your board has the power—and the responsibility—to model the principles that define U.S. higher education leadership. Don't wait for a crisis. Invest in your board's strength and your institution's future.

Let AGB help you govern with clarity, insight, courage, and mission fidelity.

#### AGB.org/GovernNOW

## AGB



**Secure Higher Education's Promise** 

