Accreditation and Board Governance: Keys to Your Next Accreditation Visit
TCL’s holistic solutions

Planning, Implementation and Change Management

- Governance
- Accreditation
- Organization Redesign and Culture
- Building Leadership Capacity
- Turnarounds and Mergers
- Marketing and Branding
- Distance Learning
- Post-Crisis Recovery
Higher Ed Governance is Changing
Financial crises changed governance

- 2000s -> greater changes in corporate governance / operations
  - Enron -> Sarbanes/Oxley
  - 2008 Great Recession -> Dodd/Frank
- Governance is changing
  - BRT statement on purpose of corporations

**BUT**
- Boards still manage finances to satisfy shareholders / stakeholders
- Corporate (and academic) boards are becoming more activist
- Boards set direction and tone, determine institutional mission and set high-level strategy
- Long term risk management
- Practice good governance
University boards have followed suit

- Boards still fundraise
- Boards still hire and fire presidents / chancellors / CEOs
- Boards also actively participate in
  - Institution-wide policy setting
  - Strategic planning
  - Governance at every level
  - Risk assessment
  - Management

Where do university boards stack up?
A sampling of academic issues

1. Sexual harassment / assault  
   • Penn State / UC Berkeley / Mich State / BYU
2. Student cheating  
   • UNC / Harvard
3. Research scandals  
   • ISU – AIDS data / UMn – psych experiments gone wrong
4. IT systems hacked / personal information disclosed  
   • Rutgers / UCF
5. Financial issues  
   • Howard University / Sweet Briar
6. Closures  
   • 54 private NPs have closed and 82 merged since 2010  
   • 75% of all higher ed institution CFOs are concerned about finances

Where were Boards of Trustees BEFORE these events?
Key Messages of the 2019 Report

The new mandate of the board leader

1. A new mandate for board leaders is emerging as a fundamentally different operating reality emerges as a result of deeply connected and intensifying megatrends:
   - Regulation
   - Global competition
   - Climate change
   - Technology

2. The pace and scale of change are redefining how organizations create and preserve value, requiring a new board governance model.

3. Board leaders must transform how the board is composed, operates, interacts with the business, and holds itself accountable.

4. This transformation to meet the demands of the future requires 5 shifts:
   - Deeper, more proactive board engagement on entirely new and fast-changing drivers of strategy and risk
   - A more strategic, forward-looking approach to board renewal through the lens of the shifting needs of the business
   - More dynamic, flexible board operations and structure
   - Increased internal and external transparency about the workings of the board
   - More rigorous accountability for board and individual director performance

5. Orchestrating these shifts, in collaboration with the full board, requires a new leadership quality.
Boards duties are individual and collective

Each board member is personally responsible and legally liable for his/her own

- Actions
- Errors
- Omissions

The whole board shares responsibility (and liability) to broadly ensure that

- The university fulfills its mission
- The university remains legally compliant
- The university remains financially sound
Board members are *fiduciaries*

- Fiduciaries hold special position of trust
- Fiduciaries must act with the highest good of the organization in mind
- Fiduciaries have a higher standard of care than professional staff (this includes the university president)
- Fiduciary responsibilities are collective and personal, and cannot be delegated away
- Three legal duties of fiduciaries
  - Duty of care
  - Duty of loyalty
  - Duty of obedience
Duty of Care

- Treat the university’s affairs with the same care as your own
- Understand the university’s mission and rules
- Attend Board meetings and conference calls
- Don’t stay on the surface
- Don’t ignore issues
Duty of Loyalty

• Put the university’s interests first
• Practice personal integrity and transparency
• Adhere to the conflict of interest policy and disclose any conflicts
• Support final Board decisions
• Put Board policies ahead of committee agendas
• Avoid inappropriate use of university opportunities for personal gain
• Put personality conflicts aside
  • Learn to love your skeptics
• Do not disclose confidential information about the university and its operations
  • Get it in writing as to what can be disclosed
• NY Times test
Duty of Obedience

- Ensure compliance with all applicable federal, state and local laws
- Ensure substantial compliance with its bylaws and duly-adopted policies
- Act as guardians of the university’s mission
- Oversee the university’s compliance with good governance principles
- Support the administration in principled decisions
ABHE – COA Standard 4: Authority and Governance Requirements
4. Organization Structure

The institution is legally constituted as a nonprofit organization or is a nonprofit subsidiary of a parent organization, authorized by its state or province to operate as an educational institution and grant all degrees and/or offer credentials. The institution has its own governing board with legal and fiduciary responsibility to exercise appropriate oversight over institutional integrity, policies, resource development, and ongoing operations.

Source: ABHE Commission on Accreditation Manual

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Standard 4: Authority and Governance

Five qualifiers

1. Legally constituted
2. Nonprofit
3. State authorized as an educational institution
4. State approval to grant all degrees / credentials offered
5. Own governing board

Source: ABHE Commission on Accreditation Manual
Standard 4: Essential Element #1

Enabling documents that establish the institution as a nonprofit legal entity in its state or province; protect its mission/purpose, tenets of faith, and control; and provide a basis for governance and administration. Where an institution is a subsidiary of a parent organization, it must have its own enabling documents.

- Legally constituted in state / province w appropriate enabling documents
  - Constitution / charter / articles of incorporation
  - State authorization as an educational institution
  - Bylaws
    - Mission of institution
    - Tenants of faith or doctrinal statement
    - Ownership of institution (board)
    - Roles and responsibilities of board, officers, and administration
    - Committees
  - IRS nonprofit affirmation letter

Source: ABHE Commission on Accreditation Manual

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Standard 4: Essential Elements #2

Evidence that the institution is authorized to award the credentials that it offers in all of the jurisdictions in which it operates.

- State approval to grant degrees / credentials offered
- Distance learning: NC-SARA and California

Source: ABHE Commission on Accreditation Manual

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A governing board that has the necessary authority and exercises legal power for the operation of the institution. Where an institution is a subsidiary of a parent organization, the institution must have its own governing board, including representatives from a broader pool than the sponsoring organization alone, and autonomy over institutional decisions.

- Board independence
- What is the evidence of this?

Subsidiary of parent organization
- Own governing board
- Public / independent board members
- Autonomy

Source: ABHE Commission on Accreditation Manual
Standard 4: Essential Element #4 & 5

Board membership that excludes all employees except the chief executive officer

- Only the CEO may sit on the board
- Officers do not include the chief executive officer
- Refreshing members – use of Board Skills Matrix
- Size of the board
- Board volunteers

A governing board with officers that does not include the chief executive officer

- Who / how are board officers designated
- Differences between board and corporate officers

Source: ABHE Commission on Accreditation Manual
Standard 4: Essential Element #6

A governing board that assists in generating resources needed to sustain and improve the institution

- Fundraising
  - Personal and/or business donations
- Introductions of potential major donors to CEO
- Grant opportunities
- Sponsoring fundraising activities
- Etc.

Source: ABHE Commission on Accreditation Manual
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A conflict of interest policy for board members that addresses issues such as financial interests, contracts, employment, family, or other personal interests in the institution

- Actual or appearance of conflict
- Board manual
- How to deal with a COI
- Annual renewal
- Process for adjudicating COIs?
- Actions speak louder than words

Source: ABHE Commission on Accreditation Manual

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Conflicts of interest

Criteria

- Board large enough so a small group cannot control the interests
- Employees of institution
- Board of equals / not subordinate to employees
- Arms-length relationships (family members)
- Renumeration, including family members
- Business or other contractual relationships
- Relationships that compromise impartiality
  - Appointed by other entities

Institutions are encouraged to adopt the guidelines of the Canadian Council of Christian Charities (www.cccc.org) or the Evangelical Council for Financial Accountability (www.ecfa.org)
Conflicts of interest

• Refreshing the board – but not too much at once
• Sponsoring organizations appointing board members
• Voting records of individual board members
• Church membership or denominational affiliation and public members
• Independence on subsidiaries of parent organizations
• Control by minority factions

Source: ABHE Commission on Accreditation Manual
Dealing with conflicts of interest

- Annual reporting and discussion
- Role of Nom/Gov board committee
- Recusing
- Conflict of interest policies published
- Compensation of board members
A governing board appropriate in size to operate efficiently and sufficiently diverse in ethnicity, gender (where theologically appropriate), and professional competencies to serve the constituency effectively

- Minimum of 5 members
- 67 percent must be independent / 33 percent permitted appointed from another entity
- How determine independence?
- Diversity
  - Ethnicity
  - Gender
  - Professional competencies

Source: ABHE Commission on Accreditation Manual
Board engagement and organization

- Meeting frequency and bylaws
- Quorum
- Minutes
- Engagement and removal of board members
- Role of Executive Committee
- Numbers of ex-officio board members vs. board members
- Role of Executive committee
- Sponsoring organization board member limits
  - Church affiliation
- Voting record of board members
- Public vs. sponsoring org board members
- Conducting virtual board meetings / email votes

Source: ABHE Commission on Accreditation Manual
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Standard 4: Essential Element #9

Evidence for the ongoing assessment of the effectiveness of the board and its members

• Annual assessment and training is required
• Developing metrics is important
• Who does this?

Source: ABHE Commission on Accreditation Manual
A process for effective recruitment, orientation, and development of board members to ensure stability and new membership

- Executive or Nom/Gov committee
- Involvement of members and/or CEO
- Use of a skills matrix
Board member qualifications

- Expertise of board members
- Commitment to the institution
- Knowledge of higher ed
- Financial skills and knowledge
- Board experience and development
- Publication of qualifications
Board independence

What prompted your organization to add independent directors to its board?

n=156

- To serve as a source of new ideas: 70.5%
- To share experience running profitable businesses: 53.2%
- To increase knowledge of the company’s market or competitors: 35.3%
- To expand the company’s networking system: 21.8%
- To enhance the company’s ability to obtain financing: 14.7%
- To provide a public company perspective while considering an IPO: 8.3%
- To serve as a bridge between older and newer generations: 5.1%
- To mediate or arbitrate family disputes: 4.5%
- Other: 19.9%

Source: 2018-2019 NACD Private Company Governance Survey
Board independence

- Refreshing the board – but not too much at once
- Sponsoring organizations appointing board members
- Voting records of individual board members
- Church membership or denominational affiliation and public members
- Independence on subsidiaries of parent organizations
- Control by minority factions
## Skills matrix

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<th>Strat Plan</th>
<th>Academics</th>
<th>Ops</th>
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# Skills matrix

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## Scores

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Standard 4: Essential Element #11

A process for providing updates for board members on issues relative to institutional mission, finances, and programs

- Board meetings
  - How many per year
  - How long each meeting
  - Can fulfill fiduciary duties in time allotted?
- Committee structure / charters / responsibilities
- Information flow in the board and committees
- Regular meetings with CEO
- Board manual

Source: ABHE Commission on Accreditation Manual
The old model (that doesn’t work any more)
The new model

- President / Administration
- Faculty
- Students
- Alumni
- Parents
- Community
Sample board committees

- Executive Committee
- Strategy and Marketing Committee
- Academic Affairs Committee
- Finance Committee
- Audit and Risk Committee
- Nominations and Governance Committee
- Fundraising Committee
- Athletics Committee
- University Life Committee
Standard 4: Essential Element #12

Board policies and practices that clearly distinguish board and staff roles and that define the authority of the board and its limitations

- NIFO
- Bylaws
- Board manual
- Practices consistent with policies?

Source: ABHE Commission on Accreditation Manual
It’s not the board’s role to micromanage but…

“You know, I REAL-L-L-L-L-Y hate it when he micromanages.”
This model doesn’t work either . . .
Standard 4: Board manual guidance

Board manual

- Meant to expound on bylaws, resolutions, policies, and other governing documents, not duplicate

Sample sections

- Introduction
- History
- Purpose and Mission
- Doctrinal Statement and Statement on Life, Marriage, and Sexuality
- Section 1000: Guiding Principles of the Board
- Section 1100: Organization
- Section 1200: Roles of the Board of Directors, Committees, and Officers
- Section 1400: Board – President Relationship
- Section 1500: Board Business Processes
- Section 1600: Board Calendar, Training, and Evaluation
- Section 1700: Board Enacted and Endorsed Management Policies Exhibits

Source: ABHE Commission on Accreditation Manual
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Summary
Effective boards...

- Think strategically, not tactically
- Attend to good governance
  - Transparency
  - Accountability
  - Disclose real and potential / appearances of conflicts of interest
- Respect the administration
- Bring best judgment to all Board actions
- Recommit regularly to their duties
  - Board tenure
Effective boards...

• Fulfill their fiduciary duties
• Foster courtesy and candor
• Ask great questions without micromanaging
• Consider their constituencies
• Help the administration succeed
• Think strategically for a sustainable future
Effective boards...

- Review and adopt or reaffirm the institution’s mission and vision statements and key institutional policies
- Set, approve, and broadly oversee implementation of the university’s strategic direction and policies
- Create a culture of continuous improvement, including evaluating itself for effectiveness
- Monitor student achievement indicators, including retention and graduation rates, student learning, job placement, etc.
- Maintain the university’s financial and governance strength
- Assess culture and risk, including cyber security
- Hire and hold the university president and through the president, the staff, accountable for results
Board members should

- Familiarize themselves with university bylaws, policies and mission
  - Are the appropriate committees in place and functioning
- Attend Board meetings and conference calls
  - Come prepared and weigh in
- Broadly manage university finances
  - Fundraising
  - Financial controls in place
  - Audit committee
- Risk management
- Institution culture
“In hindsight, I believe that our oversight was shortsighted, at least that’s my insight.”
Questions
Thank you for your participation!

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