

BLUEPRINT FOR REFORM

THE JAMES G.
MARTIN
CENTER
FOR ACADEMIC
RENEWAL

University Governance

“The liberties of a people never were nor ever will be secure when the transactions of their rulers are concealed from them.” —Patrick Henry, The Virginia Convention of 1788

“Everything secret degenerates, even the administration of justice; nothing is safe that does not show how it can bear discussion and publicity.” —Lord Acton, Letter, 23 January 1861

Why is governance reform needed?

Public university governing boards exist to serve the people of their states. It should, therefore, be easy for the public to know what governing bodies are doing. University governance, however, isn't always as transparent as it should be.¹

Often, the public is given little advance notice of when and where meetings will be held and what issues will be discussed. In North Carolina, for example, meeting times and agendas for the University of North Carolina's Board of Governors are often sent out a mere two or three business days ahead of time.

In addition, it can be difficult to get in contact with specific board members. Both individual

email addresses and physical mailing addresses are often unavailable. If opportunities for public comment are offered, members of the public must sign-up in advance of the meeting. However, the timeframe to sign up for public comment is often narrow and unspecified. The UNC System's website, for example, vaguely says that the “next opportunity to submit comments will be in advance” of the upcoming meeting.² The Nevada System of Higher Education is similarly vague about when public comments will be accepted.³ Furthermore, since the pandemic, the UNC System no longer holds in-person public comment sessions. The University of California System, on the other hand, allows public comments to be made in person, by phone, and written comments can be sent to a designated email address.⁴

2. UNC Board of Governors Public Comment

3. Public Comment, Nevada System of Higher Education: “Upcoming meetings are not yet accepting public comment. Public comment will be available for the next meeting once the agenda for that meeting has also been made available.”

4. Guidelines for Public Comment, University of California Board of Regents

1. To read more from the Martin Center about the importance of governance transparency, visit: <https://www.jamesmartin.center/tag/governance/>

One of the silver linings of the pandemic was an increase in governance transparency. Governing boards began live-streaming meetings that hadn't previously been available for remote viewing. Many meetings, including committee and subcommittee meetings, became publicly available via live stream. Some schools even recorded and posted those meetings for later public viewing online.

This was a positive step in transparency because, aside from a global pandemic, members of the public do not always have the ability to physically attend meetings in person. Before the pandemic, if people wanted to know what happened during a meeting, they either had to go in person or rely on second-hand accounts.

Another positive practice adopted during the pandemic was the policy of conducting votes by roll call. The nature of video conferencing makes it difficult to know how many people vote in favor or against a given motion. Taking votes by roll call, and later recording those votes in the meeting minutes, ensures accuracy. Taking votes by roll call is also valuable for in-person meetings. Even with everyone in the same room, it can be difficult to know how each individual board member votes amidst a unison of "yeas" or "nays."

Unfortunately, as universities transitioned back to meeting in person, some of the gains in transparency have been abandoned. Those practices should be restored and made permanent board policy, along with additional transparency measures.

The stewards of public universities should be eager to be as open as possible with the people they serve. Good board governance requires transparency.

Recommendations

The Martin Center recommends that legislatures, university boards, and faculty governing committees take steps to improve the transparency of governance at public colleges and universities.

Universities should:

- Make staff and board members' email addresses easily accessible online.
- Make board members' office or university mailing addresses publicly available.
- Record and post online all publicly held meetings including committee, subcommittee, and special meetings.
- Make meeting notices publicly available to the public at least one week in advance.
- Make meeting minutes publicly available as soon as they are approved.
- Take votes by roll-call and provide them online in the meeting minutes.
- Provide orientation and ongoing training for board members.
- Allot time during full board meetings to hear public comments.

Model university policies:

Transparent contact information for every board member:

- [The University of Minnesota Board of Regents](#)
- [University of Wyoming Board of Trustees](#)
- [East Carolina University Board of Trustees](#)

Record meetings (video/audio):

- [UNC Faculty Council Meeting Archive](#)
- [Appalachian State Board of Trustees Meetings](#)
- [The University of Missouri System](#)

Meeting materials available a week in advance:

- [New College of Florida](#)

Public comment period:

- [New College of Florida](#)
- [The University of Maine System](#)
- [The University of Minnesota Board of Regents](#)
- [The University of California Board of Regents](#)

Policymakers should:

- Require that universities adopt transparent and responsible governance practices (see “Universities should,” above).
- Require governing boards to have their own staff person.
- Attach public boards to the institution, not the institution’s private foundation.
- Require that foundations attached to universities be subject to public records requests.
- Improve the internal process for preventing and identifying conflicts of interest among board members.

Model Legislation

Higher Education Governance Transparency Act

University Foundations:

CO Rev Stat § 24-72-202 (2016): "Public records' means...for an institutionally related foundation...all writings relating to the requests for disbursement or expenditure of funds, the approval or denial of requests for disbursement or expenditure of funds, or the disbursement or expenditure of funds, by the institutionally related foundation... to, on behalf of, or for the benefit of the institution or any employee of the institution."

GA Code § 50-18-72 (2021): “Public disclosure shall not be required for records that are...maintained by public postsecondary educational institutions in this state and associated foundations of such institutions that contain personal information concerning donors or potential donors to such institutions or foundations; provided, however, that the name of any donor and the amount of donation made by such donor shall be subject to disclosure if such donor or any entity in which such donor has a substantial interest transacts business with the public postsecondary educational institution to which the donation is made within three years of

the date of such donation. As used in this paragraph, the term "transact business" means to sell or lease any personal property, real property, or services on behalf of oneself or on behalf of any third party as an agent, broker, dealer, or representative in an amount in excess of \$10,000.00 in the aggregate in a calendar year; and the term "substantial interest" means the direct or indirect ownership of more than 25 percent of the assets or stock of an entity.”

Further Reading

From the Martin Center:

- [Does the Governance Commission Care About UNC Governance?](#) By Ashlynn Warta (April 13, 2023)
- [Who Shall Run the Universities?](#) By Jay Schalin and Ashlynn Warta (October 10, 2022)
- [The UNC System Can—and Should—Be More Open with the Public](#) By Ashlynn Warta (March 21, 2022)
- [Did You Know? Governors Question Transparency, Oversight of Project Kitty Hawk](#) by Jenna A. Robinson (February 17, 2022)
- [The UNC Board of Governors Has Always Been Political](#) by Jenna A. Robinson (May 30, 2022)
- [Public Comment to the UNC Board of Governors](#) by Martin Center Staff (June 2, 2021)
- [Don’t Rock the Boat: UNC BOG Members Rarely Vote ‘Nay’](#) by Shannon Watkins (February 22, 2021)
- [A New Chapter in UNC Board Governance](#) by Shannon Watkins (February 24, 2020)
- [Heavy Is the Head that Wears the Crown](#) by Jay Schalin (November 16, 2020)
- [Bolstering the Board: Trustees Are Academia’s Best Hope for Reform](#) by Jay Schalin (July 14, 2020)

- The Board Ain't Broke, So It Don't Need "Fixin'" by Jay Schalin (February 4, 2019)
- University Foundations: A Convenient Way to Bypass Oversight by Shannon Watkins (August 13, 2018)
- University Foundations Enable Waste, Fraud, and Abuse by Jenna A. Robinson and Joseph Warta (March 26, 2018)
- Public Universities as Commercial Landlords: Where Do We Draw the Line? by Jenna A. Robinson (October 2, 2017)
- The UNC Board of Governors Needs Its Own Staff by Jay Schalin (June 5, 2017)
- How to Make University Foundations More Transparent by Alex Contarino (April 17, 2017)
- No Accountability: UNC System Foundations Operate in Secrecy by Dan E. Way (February 16, 2016)
- A coalition for transparency at the UNC Board of Governors is building by Jenna A. Robinson (April 6, 2015)

Other Sources:

- Connecticut Act Requiring Board Member Training
- Pennsylvania Senate Bill Provision on Meeting Minutes
- College Governing Board Accountability Assessments: Virginia (July 2022)
- College Governing Board Accountability Assessments: Virginia (July 2021)
- Governing in the Sunshine: Tips for Board Chairs at Public Meetings by the Association of Governing Boards of Universities and Colleges
- Principles of Trusteeship by the Association of Governing Boards of Universities and Colleges
- Oregon Senate Bill 854, 2021
- University System of Maryland – Board of Regents – Transparency and Oversight Bill Provisions on Video Streaming, Public Comments, and Meeting Minutes

For More Information

For supplemental data or additional research on this topic, please contact the Martin Center by phone or email. You can reach us at 919-828-1400 or info@jamesgmartin.center.

To read more from the Martin Center about the importance of civics education, visit: <https://www.jamesgmartin.center/tag/governance>

About the Martin Center

The James G. Martin Center for Academic Renewal is a private nonprofit institute dedicated to improving higher education policy. Our mission is to renew and fulfill the promise of higher education in North Carolina and across the country.

We advocate responsible governance, viewpoint diversity, academic quality, cost-effective education solutions, and innovative market-based reform. We do that by studying and reporting on critical issues in higher education and recommending policies that can create change—especially at the state and local level.

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