

# CHAPTER 8

## Activist Trustees in the University: Reconceptualizing the Public Interest

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Inappropriate external influences on a governing board have great potential to skew an institution's priorities and compromise its capacity to serve the public interest. They also may weaken a board's governing integrity by creating imbalances that favor certain interests over others ... the institution is made vulnerable to control by single interests—economic, political, ideological, or professional.

—Association of Governing Boards (AGB, 2001, p. 7)

In most states, the statutory authority for active trusteeship is unmistakable. The passive culture of trusteeship accounts for the fact that many governing boards believe their role is to acquiesce to the wishes of those inside their institutions—without questioning in earnest what is in the best interest of students, taxpayers, or the public at large, and without considering the larger purposes for which their universities exist.

—Phyllis Krutsch, former Regent, University of Wisconsin (1998, p. 24)

Trustee activism has been a hot topic in governance for more than 10 years, and yet it remains a poorly understood phenomenon. Although there has been a great deal of talk in general-interest magazines such as *The Chronicle of Higher Education* and *Trusteeship*, empirical research is only now emerging in the published literature (Bastedo, 2005a). Indeed, the role of external governance is not as well researched as it should be, considering the deep impacts it has on public universities and the changing nature of the social contract between policy makers and higher education (Kezar, 2004; Kezar & Eckel, 2004; Leslie & Novak, 2003; McLendon, 2003a, 2003b). This chapter analyzes the phenomenon of trustee activism, reviews previous discussion of its causes and major interests, and provides a new lens to examine the intentions of the major actors. Later, I will

argue that activist trustees see themselves as protectors of a public trust, one that must be reconceptualized in light of what they see as declining academic standards and broad failures of shared governance.

To date, there has been no consistent reasoning on the causes of trustee activism. Chait (1995) and Lazerson (1997) argue compellingly that shareholder activism and the revolution in corporate governance have translated to some extent into the sphere of higher education governance. The agents of this change are the trustees themselves, who in their capacity as CEOs and/or corporate board members in their own right are increasingly comfortable with boards that are constructively critical of the enterprises they oversee. The revolution in corporate governance has also reinforced, in the values and beliefs of trustees, the duties and obligations associated with trusteeship from fiduciary, legal, and public relations perspectives.

James Mingle (1998), the former head of the State Higher Education Executive Officers, argues that the characteristics of board members themselves have changed. "A new breed of board member is being appointed. Board service no longer is a leisure activity for the retired civic or business leader," he says. "Bright, busy, and often ambitious, these new board members want to see some impact from the time and energy they devote to board service." Some argue that these ambitious new board members may be more likely to serve single-interest constituencies or even use these positions as stepping stones for personal political gain (Novak, Leslie, & Hines, 1998).

Public debate, however, has been more clearly focused on the impact of politicized environments, particularly at the state government level. Former Virginia governor James Gilmore recently complained that his attempts to reform Virginia colleges failed because the trustees he appointed "went native" and sided with university administrators (Munro, 2003). Certainly governors and state legislators desire to have increasing influence over the trustees they appoint to state and university governing boards (AGB, 1998). Yet not all agree that policy makers are seeking to create activists in their trustees. "The underlying source is a troubled and self-doubting society that is skeptical and untrusting of *all* of its institutions," argues Richard T. Ingram (1996, p. 53), head of the Association of Governing Boards.

Whatever its source, institutions have emerged to nurture the development of this embryonic movement. In 1995, the National Alumni Forum was co-founded by Lynne Cheney to promote higher academic standards and accountability in higher education through the political mobilization of college and university alumni. Now named the American Council of Trustees and Alumni (ACTA), the group has developed over time as a national voice on governance issues and explicitly seeks to influence the course of higher education through trustee education. In 2003, ACTA opened its Institute for Effective Governance, promising an alternative to the Association of Governing Boards, whom ACTA argues is primarily interested in protecting institutional interests and presidential autonomy. ACTA accepts charitable donations and encourages membership from university

governing boards, and offers workshops and other forms of trustee education to its members (ACTA, 2004). Ostensibly bipartisan—ACTA's board includes Senator Joseph I. Lieberman and *New Republic* publisher Martin Peretz—the group has nonetheless been attacked for promoting a right-wing agenda through its attacks on shared governance and calls for established core curricula (Bérubé, 1997; Stimpson, 1998).

### POLITICAL CONSERVATISM

Particularly in its early stages, the national press portrayed trustee activism as primarily a political movement designed to promote a right-wing ideology on college campuses. From this perspective, the “Republican Revolution” of 1994, which elected hefty Republican majorities to both houses of Congress, gave new fire to the conservative movement that spilled into higher education governance. “A new group of public-college trustees is moving aggressively to transform the agendas of governing boards and to wipe out what some call ‘radical liberalism’ on their campuses,” said Healy (1996). “What separates these new appointees is their conservative, activist approach to stewardship and policy making. They have much in common with the governors who chose them. Both the governors and the trustees are fiscal and social conservatives, primarily white and male.”

Indeed, this perspective can be supported by a number of statements in the conservative press. The editorial page of *The Wall Street Journal*, for example, made this statement in 2001:

For years now the trustees of many colleges and universities have rolled over as academics and administrators within the institutions they're supposed to govern have run amok. While trustees turned a blind eye, faculty and administrators have politicized and dumbed down the curriculum, instituted draconian speech and sexual-conduct codes that they've enforced with all of the liberalism of the Court of the Star Chamber, and instituted an immoral and often unconstitutional system of admissions apartheid. (WSJ Editorial Board, 2001)

This passage displays both the sparkling language and political conservatism for which *The Wall Street Journal* editorial page is well known. Yet it quickly identifies three of the major criticisms that conservatives have of higher education: declining academic standards, preferential admissions, and “political correctness.”

One of the touchstones for activist trustees has been Ward Connerly, the former regent of the University of California and the leader of state movements to eliminate affirmative action. As regent, he persuaded the Board of Regents to pass SP-1, which eliminated the use of race in admissions at the University of California. Connerly subsequently led the battle to pass Proposition 209 in California in 1996 and a decade later is supporting the “Michigan Civil Rights Initiative” with Jennifer Gratz and Barbara Grutter, the litigants in the affirmative action cases against the University of Michigan. Connerly has used his position as a trustee as a platform from which to become a nationally known speaker on issues of race

and affirmative action in America. Indeed, he is now the chairman and founder of the American Civil Rights Institute, a not-for-profit organization that exists solely to oppose race and gender preferences.

Recently, there has been sympathy among some in the trustee activism movement for the “Academic Bill of Rights” promoted by conservative columnist David Horowitz. The Academic Bill of Rights would force colleges and universities to ensure that a range of political viewpoints is represented in all campuses and classrooms, through affirmation of the need for “intellectual diversity” in the selection of speakers, classroom topics, and in tenuring junior faculty. Academic Bill of Rights laws are being considered in state legislatures throughout the country. For example, a Florida bill, which passed a committee in its House of Representatives, would establish a student’s right to sue professors who do not teach ideas that represent the full range of the political spectrum.

Some in the conservative movement have labeled these demands for intellectual diversity as commensurate with demands for racial, ethnic, and gender diversity. Anne D. Neal, the new head of ACTA, sees this is an opportunity for trustee intervention. “Trustees should direct administrators and faculty to engage in an ‘intellectual diversity inventory’ to see whether students are exposed to diverse points of view in classroom readings, speakers series, etc., and whether partisan or ideological bias is influencing hiring and retention” (Neal, 2003). Fascinatingly, Neal has specifically employed the same terminology and approach as those who seek to root out other forms of discrimination.

Leftist academics see even more troubling machinations at work, and place trustee activism within a changing national and even global political context. One of the most prominent activist trustees was James F. Carlin, who led the Massachusetts Board of Higher Education from 1995 to 1999 (Bastedo, 2005a; Carlin, 1999). His detractors portray Carlin—a registered Democrat—as an ideological tool of right-wing factions that have assumed power in state legislatures in recent years. “[Carlin] represents the concerted effort on the part of conservative ideologists to dismantle the gains of the welfare state, eliminate public entitlements, and abolish all those public spheres that subordinate civic considerations and noncommercial values to the dictates of an allegedly ‘free’ market” (Aronowitz & Giroux, 2000, p. 333).

It is not at all clear, however, what forms of political conservatism are in play. “The new paradigm combined business practices and political conservatism,” according to Burke (1999, pp. 77–78). “Conservatism contributed distaste for centralized authority, collective planning, and external mandates. In many ways this new decentralization reflects the conservative consensus that has captured Washington and most state capitols.” But some elements of decentralization reflecting the actions of activist trustees, such as the use of “carrot and stick” type approaches to policy implementation, may simply be enhancing presidential accountability to statewide governing boards (Bastedo, 2005b). Many observers see trustee activism as primarily a top-down, centralized, and authoritarian approach to governance oversight with political overtones (Lazerson, 1997). Indeed, trustee activists have

considerable faith in the ability of government to foment change. It is difficult to find any significant examples of “distaste for centralized authority” in the policy making promoted by these trustees.

Yet there are those on the left who have sympathy for the arguments being made by conservative trustees. “One senses that there are many in and out of academe who might not mind being called activist but who find the language of a James Carlin too crude for their taste. They still perceive deep problems in higher education related to bureaucratic inefficiencies, an unfocused mission, even perhaps a rather unsubstantiated view of academic freedom based on disciplinary integrity,” says University of Denver English Professor Eric Gould (2003, pp. 119–120). “One could argue even that if academe were not so good at parodying itself, less swashbuckling techniques from activist trustees might have more bite. But we need to remember that calls for change in higher education are not merely the jeremiads of conservative outsiders.”

Many governance experts agree with this assessment. “It would be a mistake to ascribe trustee activism to the Republican landslide of 1994 or to the wishes of any single or small number of conservative state leaders,” argues Hines (2000, p. 148). “What is being witnessed now is the confluence of rising public expectations and more conservative attitudes about the institutions of our society in combination with sharpened debate about what higher education should provide to students.... Higher education leaders need to be sensitized to the difference between involvement by politicians as policy leaders and political involvement, which tends to be motivated by political gain.”

A key issue is the appointment of new trustees, which many believe has become overly political. From this perspective, public colleges are susceptible to political efforts to change the appointment processes that “favor individuals who may be expected to represent or serve specific views” (AGB, 2001, p. 6). “Such interference often comes from ideological groups that seek not only to influence but also to dictate academic policy by, for example, bypassing governance consultation and collaboration to impose predetermined policies on the institution.” These views have been sharply criticized by conservative trustee activists, who see governors and state legislatures as the elected representative of the public interest, and, therefore, appropriately interested in public university governance (ACTA, 2004).

Political interference can create internal board problems as well. Political independence and nonpartisanship are seen by many as the basis by which civil discourse focused on the needs of the institution is built. “If individual trustees become too enmeshed in the political culture of the state while serving on the board, they risk dividing the board along party lines, rendering themselves impotent with members of opposite parties, circumventing the expressed wishes of the whole board, or worst of all, making decisions inimical to the needs of the institution” (Novak, Leslie, & Hines, 1998, p. 29). Thus, from this perspective, overly politicized trustee activism can create long-term problems for the institution, both substantively and politically.

### CORPORATE MODELS

Activist trustees have been widely criticized for implementing a number of initiatives that reflect not only political biases but also thrust unduly business-oriented models into university governance. This is not entirely new, of course. In his memoir, Vartan Gregorian describes his encounters with Paul F. Miller, Jr., the new chairman of the University of Pennsylvania board. “We will push hard for evidence of good management on campus,” Miller told *The San Francisco Chronicle* in 1979 (Gregorian, 2004, p. 243). “Trustees are the only people in an educational institution that are devoid of self-interest. I firmly believe that management monitoring, as practiced by corporate directors, is perfectly compatible with the educational world.” Indeed, Miller may be the first person to be described publicly as an “activist trustee” because of his desire to establish an office on campus.

These kinds of business-oriented approaches are the ones that Chait (1995) and Lazerson (1997) describe following the emergence of shareholder activism and reformation of corporate governance during the 1990s. Chait notes that these changes reflect the realities that corporate directors are increasingly accountable for the outcomes (e.g., profits) produced by business firms. As a result, he sees increasing attention paid to accountability and interest in assessments like graduation exams emerging from this kind of ethos.

Not everyone is sold, however. “Corporate directorship is changing, but I would hardly call it a revolution,” says Ingram (1996, p. 53). “Most of the major changes in corporate directorship are far from being relevant to academic boards, and the foment in some corporate boardrooms is neither the source nor the cause of academic trustee restlessness.” One recent change that has made a great impression on trustees, however, is the Sarbanes-Oxley legislation that emerged following the collapse of Enron and the scandals at Tyco and Worldcom. Sarbanes-Oxley requires corporations to enact a set of financial accountability and governance mechanisms to prevent the kinds of mismanagement that led to those famous debacles. Increasingly, trustees see adherence to the principles of trustee independence and legal liability applying to higher education boards as well (Dreier, 2005).

Somewhat counterintuitively, Chait (1995) also sees the revolution in corporate governance leading to increasing influence for external constituencies:

Acclimated to the reality that the corporate board can no longer defensibly deny a request to meet with institutional investors on the ground that such sessions erode the lines of authority, trustees will be far more disposed to meet with student and faculty leaders. In today’s climate, would trustees dare decline a request, submitted by a coalition of parents concerned about tuition increases, to meet with the finance committee of the board? ... As with corporate boards, the niceties of conventional protocols are likely to yield to the new realities of governance and the redistribution of power. (pp. 15–16)

As a result, Chait argues, there will be a mechanism by which boards of trustees—and, therefore, colleges and universities more broadly—become

increasingly sensitive to their environment and to various constituencies. Yet over the past 10 years, one searches to find examples where campus constituent groups have organized themselves as effectively as shareholder or institutional investor activists in business firms.

For many left-leaning faculty, the influence of corporate models has been one of the most negative impacts of trustee activism, and James F. Carlin, the former Massachusetts board chairman, was once again the focus of criticism. “Carlin believes that higher education, like the corporations, should be subject to reorganization and accountability schemes, a strategy that quickly translates into a series of flawed policies designed to cripple the intellectual and economic freedom of faculty” (Giroux, 2000, p. 51). These criticisms delineate sharp and highly simplistic dichotomies that make firms the locus of “reorganization and accountability schemes” and universities the only place for “intellectual and economic freedom.” Both conceptualizations need more refined consideration.

This perspective also routinely fails to distinguish between the *rhetoric* of activist trustees and the *policies* that are actually developed and implemented. The rhetoric of trustees such as Carlin, Ward Connerly, and SUNY’s Candace de Russy can be as harsh as *The Wall Street Journal* editorial page and just as loud. These trustees are deeply frustrated with issues surrounding such hot-button topics as tenure, political correctness, and affirmative action, and this leads to equally passionate responses, particularly regarding the quality and necessity of faculty research programs (Carlin, 1999). “Carlin’s anti-intellectualism and animosity toward educators and students alike is simply a more extreme example of the forces at work in the corporate world that would like to take advantage of the profits to be made in higher education, while simultaneously refashioning colleges and universities in the image of the new multi-national conglomerate landscape” (Giroux, 2003, pp. 175–176).

But we need to distinguish—as Carlin always told his associates—between efforts and results. Carlin’s effort to dismantle faculty tenure failed, and he was deeply disappointed by the “toothless” post-tenure review processes that were implemented as a compromise (Carlin, 1999). Candace de Russy made a great deal of hay out of the women and sexuality conference at SUNY–New Paltz in 1999, but no faculty or administrators were let go or even admonished. And although Connerly was successful in passing SP-1, ultimately, the decisions in the Michigan cases support the continued use of racial and ethnic preferences in college admissions.

## FACULTY CONTROL

For many activist trustees, one of the primary problems facing higher education is faculty control over work environments, employment conditions, and performance measurement. Trustee activism on these issues is seen by many as arising from corporate conceptions of the appropriate role of workers or employees, ignorance about the faculty role, and a lack of respect for the nature of professional work.

If many trustee appointments become politicized and boards get very aggressive in their demands for “more efficient” academic management, we could see great pressure not only on administrative functions but also on traditional forms of academic organization, personnel and curricular decision making, and resource allocation, with the faculty’s role substantially circumscribed. Direct threats to academic freedom are also possible. (Zumeta, 2001, p. 163)

These concerns question not only the efficiency demands of activist trustees, but also get at the heart of the teaching and learning enterprise. This is particularly true regarding the use of performance measurement to assess student learning outcomes and faculty productivity.

This is reminiscent of the directive that is coming down from the Massachusetts Board of Higher Education that community college faculty produce a list of student proficiencies that must be attained by the time of graduation. How far away are we from a mandate that these proficiencies, *that faculty, themselves, have designed*, be made measurable by standardized tests? Then, how far away are we from looking back to see that we have been duped into participating in our own and our students’ defeat, as faculty performance is evaluated by our students’ achievement or lack of achievement? (Kiefson, 2004, p. 148)

For most people—members of the public included—the idea that faculty should be insulated from evaluation of their students’ “achievement or lack of achievement” is patently ridiculous. But one of the most fascinating outcomes of reviewing faculty commentary on trustee activism is how it is primarily focused on parochial concerns about faculty job security and employment conditions. Student impact may be considered, but largely as background to an overall story of faculty victimization. It is not hard to see how activist trustees see faculty as largely out for themselves. “Trustees and administrators must provide bold, innovative solutions—in spite of faculty members’ objections, and even if, in the short term, those changes run contrary to the faculty’s economic interests” (Carlin, 1999). Faculty lose a great deal of legitimacy by ceding the high ground of public interest to narrow self-interest.

## STANDARDS

Any discussion of academic standards or program productivity by trustees is often construed as undue influence into faculty purview of the curriculum (Stimpson, 1998). For activist trustees, however, academic policy is one of the primary responsibilities of conscientious trusteeship, both morally and in their role as institutional fiduciaries.

Great public costs—fiscal, academic, and goodwill—have been incurred when quiescent governing boards have deferred to those who shortened academic calendars, reduced teaching loads and general education requirements, paid insufficient attention to increases in time and credits to degree, and allowed mission creep. Further costs were meted out by those who presided over the proliferation of a curricular and organizational structure that wrongly favored



the interests of those who teach instead of favoring what students should know and be able to do when they graduate. (Krutsch, 1998, p. 25)

This has been the major issue pursued by Candace de Russy during her time as a trustee at SUNY. “Trustees need not apologize for seeking to encourage high academic standards and for more closely monitoring academic performance,” she writes (de Russy, 1996, p. 10). “Academic freedom does not preclude broad, constructive academic oversight by trustees.”

### SHARED GOVERNANCE

For Marvin Lazerson (1997), the key to providing a constructive solution to the problem of activist trusteeship lies in resuscitating shared governance. He offers a set of practical options for campus presidents who are facing problems of trustee independence:

A resuscitated shared governance would give presidents greater protection from the most extreme demands of marauding trustees. Some presidents have begun to recognize this. Taking a page out of the trustee’s play book, they are giving to faculty the same hard data they now provide trustees, engaging faculty in their presidential cabinets, coaching faculty on how to talk with trustees, and bringing trustees and faculty together in more honest ways than before, when faculty “show and tell” was the order of the day. (p. 15)

He notes, however, that “faculty have difficulty defining and working toward common goals. One businessman I know who served on an otherwise all-faculty strategic planning committee was shocked at the individualistic nature of the conversations. It was, he said, as if the primary purpose of the institution was to serve each individual faculty member.”

As a result, it often falls to presidents and senior administrators to argue that there is often a confluence between what is perceived as faculty self-interest and the appropriate needs of an effective university. Faculty demands for additional resources, for example, may lead to further research that stimulates knowledge and economic development. Faculty whose lives are embedded in disciplines and academic programs are often better suited to make decisions about the future of the curriculum, which shapes the knowledge that will be imparted to society. Yet these concerns can be seen as faculty simply defending their turf or protecting their privileges. Reframing these issues from faculty self-interest to public interest produces a more even playing field—at the level of ideas and politics—and enhances the legitimacy of faculty concerns with activist trustees and other policy makers.

### COMPETING CONCEPTIONS OF THE PUBLIC INTEREST

The kinds of interactions between trustees and faculty described by Lazerson lead activist trustees to see themselves as the primary defenders of the public interest within the university. “Trustees who act vigorously to safeguard the public interest—*activist* trustees—will be the most credible and effective advocates and

protectors of their institutions in the years ahead” (de Russy, 1996, p. 10). This view is supported by ACTA. “The American Council of Trustees and Alumni believes that it is the obligation of governors to appoint trustees who will represent the public interest, not just advocate for their institutions. This is a trend not to be denounced, but to be honored” (Martin, 2003).

According to a national survey of state policy makers in both governor’s offices and legislatures, this conceptualization of trusteeship may have a great deal of political support.

Virtually every political leader we interviewed agrees that governing boards must balance their roles as advocates for the institution and as guardians of the public trust. Most do not think the public university boards are achieving an appropriate balance. They say boards are favoring the role of “institutional advocate” in favor of “guardian of the public trust.” (Ruppert, 1998, p. 75)

If policy makers see faculty and administrators abdicating these roles, they are likely to support trustees who decide to step into the vacuum, particularly on issues that have a great deal of public support. At the same time, legislators remain conflicted about the appropriate role of trustees as a “change agent”—those in more politicized contexts see trustees as overly intrusive, while those from less politicized contexts would like trustees to have a firmer hand. What policy makers want from governance is an appropriate *balance* between institutional and public interests.

This is supported by reports sponsored by the Association of Governing Boards, but there is no consistent message about which interest should take priority. In *Pursuing the Public’s Agenda*, for example, MacTaggart and Mingle (2002, p. 12) say that effective governance structures “foster close ties between a governor’s office and a state or system board, but ensure enough distance so that the university or system does not become a state agency.” How that distance should be defined is not clear. “To deliver for the people of their states, trustees must believe that a public agenda, however defined, is more important than academic self-interest,” MacTaggart and Mingle argue. This would lead you to believe that public college trustees are primarily responsible to the public interest rather than to institutional interest. Most AGB documents, however, make it clear that institutional interests must and should come first. “The ultimate responsibility for the institution rests in its governing board. Boards cannot delegate their fiduciary responsibility for the academic integrity and financial health of the institution” (AGB, 1998, p. 3). It would be understandable if trustees leave conversations like this confused about the appropriate balance of priorities.

Activist trustees have no such confusion. They see themselves primarily working for students, taxpayers, and the public interest. Carlin said publicly that he never went to sleep without thinking about how he could reduce the cost of college to students (Bastedo, 2005a). For de Russy, the public interest lies primarily in the establishment of academic standards and the elimination of extravagance or

waste. That, in turn, meant that she did not see her role as helping to provide additional resources for the institution to expand or grow.

In fulfilling those fiduciary responsibilities, it is not necessarily in the interest of the public or the institution for trustees reflexively to press for ever-higher government subsidies for the colleges and universities they oversee, even though some administrators and faculty members see that as the trustees' primary responsibility. (de Russy, 1996, p. 7)

If this type of thinking became common among trustees, it would be truly revolutionary—and potentially highly damaging to the fiduciary health of public institutions. It seems important to consider, however, how inconsistent such an approach is with the corporate models discussed earlier. This is notable for many reasons. First, we need to consider that many of these logics about standards, the public interest, and faculty roles can work in concert or in competition. Simply labeling an idea or approach “activist” does not mean it will be widely accepted. Second, there is not necessarily a consistency in ideas among activist trustees. Carlin, for example, happily oversaw substantial increases in appropriations for Massachusetts colleges during his tenure as board chairman—his primary concern was lowering the cost of education to *students*, not the state (Carlin, 1997a, 1997b). Connerly, for his part, has not shown substantial leadership on any of these issues, while Carlin declares himself a “mild supporter” of affirmative action. How these trustees define the public interest remains as contested as it is for those who reside within higher education.

## IMPLICATIONS

If the concept of the public interest remains contested, the real issue of activist trusteeship is not academic standards or tenure or any other specific policy problem. The issue is *how* these preferences are expressed by activist trustees and what these preferences mean for the power dynamic among faculty, administrators, and trustees. It is no coincidence that each side routinely accuses each of the others of arrogance and indifference to the real problems facing the university.

For various historical and organizational reasons, faculty and campus presidents have largely abdicated any role they have played in debates over the public's interest in higher education. (My own university is a notable exception in debates over affirmative action.) The story is familiar: The demands upon campus presidents to continually seek new sources of revenue and to remain sensitive to touchy political environments make engaging the public interest a reluctantly low priority. Prestige-seeking faculty at elite universities are increasingly specialized and research-driven; faculty at lower-ranked universities are increasingly underpaid and overworked, leading to unionization, the increased use of adjuncts as contingent labor, and other forms of deprofessionalization (Rhoades, 1998). One of the few constituencies that may have the time in the university to engage in public interest debates are the trustees, who are often retired, independently wealthy, or both.

Critiques of trustee activism have tended to focus on the implications of trustees' *rhetoric* on faculty employment conditions and job security, overlooking real changes in *policy* that will have far more long-term impacts on the university and society. In particular, if one looks at policies that are actually passed and implemented by boards dominated by activist interests, there is a distinct pattern: the policies tend to increase the inequality of students and institutions in the public higher education system (Bastedo, 2003, 2005b; Bastedo & Gumpert, 2003; Gumpert & Bastedo, 2001). Policies to increase admissions standards and reduce remedial education at four-year colleges serve to increase the legitimacy of the system with policy makers, but also to concentrate students in the community college system. This "cascading" effect will ultimately reduce baccalaureate attainment in society because of the lower probability of graduating after attending a community college (Dougherty, 1994); and it will be no surprise that the students who are cascaded down the higher education system are disproportionately minority and low-income (Bastedo, 2003; Perna, et al., 2005). In Massachusetts, more than three-quarters of the Latino students in the public higher education system attend community colleges (Bastedo, 2003).

Focusing attention on the rhetoric of activist trustees about tenure, accountability, speech codes, faculty productivity, and gender studies is ultimately a distraction unless this rhetoric is translated into actual policy. These more extreme changes in the higher education system—ones that would require real intrusion into the domains of faculty and presidents—are heavily mitigated by the political environment, the realities of university complexity, and the role of staff in policy development (Bastedo, 2005a). Tenure is a good example; widely unpopular among the public at large, tenure would seem to be easy pickings for an activist trustee seeking to control the faculty, reduce costs, and increase managerial flexibility. But reality quickly intrudes—any university that eliminates tenure will be at an immediate competitive disadvantage, and the cost of "buying out" the tenure of thousands of faculty is clearly prohibitive. Faculty unionization is an extremely powerful barrier to change. Although faculty may feel less powerful and respected than in prior years, they are far more influential than students who, to date, lack the political connections and resources to wield real power.

Pushing back against the trend to make trustees more politicized is nonetheless an important step toward balanced and effective governance. To make trustee appointments less ideological, the Association of Governing Boards is promoting the idea of bipartisan, merit selection of trustees (AGB, 2003). A pilot project in collaboration with Virginia's Governor Mark Warner has been a well-publicized success, and he has made it a priority to institutionalize the process through statute prior to the end of his term. The goal of AGB's initiative is to encourage a thoughtful appointment process that results in the selection of "seasoned partners well qualified to serve the public trust" (Johnson & Clark, 2003). But those in favor of activist trusteeship remain skeptical of these proposals. "If this had been written about a Fortune 500 company, it would sound a lot like code for someone who's not going to ask uncomfortable questions about the corporate jet" (WSJ Editorial Board, 2003).

The definition of merit for trustee appointments will, of course, be politically constructed and evolve over time. The problem is that the proper role of trustees—the appropriate balance between public and institutional interests—has yet to be resolved. Considering the wide range of actors and interests in governance, a complete consensus hardly seems possible. We might also consider whether the trustees that faculty and administrators find the most distasteful would or would not survive a state-level “merit selection” process. Merit selection of trustees may do many things—increase legitimacy and credibility, make it clear to governors that the appointment of trustees is a special and important process—but it seems unlikely to screen out those who may become activists.

## CONCLUSION

Given the contested nature of the public interest, trends in corporate governance, the importance and impact of the higher education credential, and the increasingly politicized environment for higher education, there is no reason to believe that trustee activism will depart anytime soon. This will be particularly true for those institutions—flagship public institutions, especially—where flash-point issues of social, moral, and political importance are likely to be in play. It will be the job of campus presidents and senior administrators to try and mitigate the most negative institutional effects of this behavior, but also to give serious and thoughtful consideration to the concerns being raised. But it will be the job of all of us in higher education—researchers, faculty, students, and administrators alike—to closely monitor the policy responses to trustee activism and measure the impact they have on universities and society.

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