

# Higher Education Performance and Governance Alternatives

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University of Nevada Las Vegas

By Richard C. Richardson, Jr.

Professor Emeritus of Higher Education

New York University

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Neither research nor field experience provide conclusive evidence that any specific state governance arrangement is superior to others under all conditions. While no governance arrangement is superior under all circumstances, some are better at achieving some tasks than others. A long line of research evidence on state governance of higher education stretching from Berdahl's 1972 *Statewide Coordination of Higher Education*, and culminating most recently in the 2014 book, entitled *The Attainment Agenda: State Policy Leadership in Higher Education*. In their book, Perna and Finney provide a five state study that emphasizes the importance of system design which makes use of coordinating structures with a primary responsibility for improving performance on state priorities in addition to governing boards, which inevitably and inescapably have institutional priorities at the top of their agenda. Perna and Finney note, "The Washington study also reveals the benefits to higher education performance of some type of coordinating entity. The state's community and technical college system, although not a governing board, is politically strong and works with the state's community and technical colleges to address statewide issues."<sup>1</sup>

Each state must invent its own arrangement and the process calls for extensive understanding of a state's political culture, priorities, and value preferences, in addition to information about governance alternatives. The purpose of this paper is to add to the understanding of possible governance arrangements most likely to achieve the goals and priorities important to Nevada leaders as they consider both the needs of the state and the aspirations of all stakeholders. To achieve this purpose, I provide selected examples from other state systems that taken together represent the range of options most states have chosen in dealing with issues similar to those confronting Nevada. I also define and discuss two key terms "coordination" and "governance" as they are used in this paper and recommend their use in our discussion today to avoid confusion.

## Coordination and Governance

Each state has some arrangement for connecting postsecondary institutions to the governor, the governor's executive staff and the legislature.<sup>2</sup> The design of the governance structure establishes lines of authority and accountability between state government and institutional providers. Design also: 1) defines responsibility for collecting and disseminating information about performance; 2) prescribes the framework for budgeting; 3) allocates responsibilities for monitoring program quality and redundancy; 4) establishes arrangements for encouraging higher education institutions to work together on such tasks as school to college transitions and student transfer; 5) defines missions by dividing responsibilities for achieving higher education goals among types of institutions, and determines the availability, quality, and location of educational programs and services. Taken as a group, these decisions establish the "rules of the game" that shape higher education performance.<sup>3</sup>

Leadership is also important. Good leaders can make a governance system work even when it is a poor match for current needs, but performance outcomes can suffer if a governance system was designed to achieve priorities different from those a state currently confronts. Apart from budgetary incentives or statutory requirements, changing governance structures or leadership are the primary tools through which states work to influence higher education system performance.

Governance structures historically have sought to balance institutional needs and preferences for independence against state priorities related to opportunity, efficiency, accountability, and economic development. Institutional independence is maximized when each institution has its own governing board and interacts directly with elected and appointed officials of state government. Michigan is the closest example we have today of state governing arrangements that leave each institution free to interact directly with state government without involving any intervening statewide agency. Beginning with the period of expansion immediately following WW II, accelerating during the 50's and 60's, and continuing to the present most states have established and/or modified state governance structures to assert state interests and priorities and to develop information systems that would help elected officials understand institutional performance in relation to state investment and goals.

Agencies representing statewide interests and priorities are typically called coordinating boards, committees, councils, or authorities to distinguish them from traditional governing boards. Responsibility for appointing, evaluating and removing institutional chief executive officers became the litmus test for distinguishing a governing board from one that exercised only coordinating responsibilities. Outside appointment of chief executive officers, states vary so much in the responsibilities and authority assigned to coordinating structures that it is difficult, or impossible, to create any hard and fast taxonomy that clearly distinguishes between coordination and governance. Regardless of how a particular state divides up the oversight authority for higher education, the establishment of any coordinating agency results in constraints on the freedom of action

of preexisting governing boards. It follows that governing boards do not welcome efforts at statewide coordination and have contested politically changes that are perceived to diminish their authority.

New York provides a good example of a state with a strong coordinating structure. Dating to colonial times, the Board of Regents of the University of the State of New York (not to be confused with the Trustees of the State University of New York or of the City University of New York – both governing boards) has coordinating responsibilities for all private (including for-profit) and public institutions of higher education, for basic (K-12) education and for libraries and museums among other cultural entities. The Regent's authority over the two public university systems is more constrained than for private colleges and universities to ensure that coordinating powers do not infringe excessively on public institutional independence.

Nevada occupies a space at the other end of statewide interests/institutional independence continuum. A single board has both governing and administrative oversight for all public institutions of higher and postsecondary education. There is no separate coordinating structure. The Board is elected, further assuring institutional independence from state government. Georgia is sometimes identified as having governing arrangements similar to Nevada, but there are important differences. In Georgia, the governor appoints the higher education governing board with the advice and consent of the senate. Georgia also operates a system of postsecondary technical institutes under the auspices of its Board of Education to address local job skill training needs never adequately addressed by its university-managed community colleges. Arizona, also sometimes compared with Nevada, has a single governing board for all public four-year institutions and locally elected governing boards for community colleges. The governor and legislature oversee coordination between the two- and four-year systems largely through the budget process.

Changing the performance of a higher education system requires changing the rules under which it operates. A state's capacity for changing rules depends primarily on the type of governance structure it has established. More than most states, Nevada has insulated itself from rule changes that do not originate from within its higher education system. Rule changes that do occur are likely to be incremental and place more emphasis on preserving existing culture, values, and ways of doing business than on emerging needs.

A governing board typically assesses state needs and priorities on the basis of information provided by the system and institutional chief executive officers they appoint, evaluate, and remove. Institutional advocacy is a primary task for governing boards and they have historically tried to manage or limit information that would place any of the institutions they govern in an adverse light. Coordinating boards are also advocates for higher education, but they are expected to balance advocacy for higher education with information about institutional performance to aid elected officials in making funding decisions in the public interest. State governance structures that include both governing and coordinating bodies provide more complete information and better tools for changing the rules that influence performance. Nevada does not perform well on the higher education attainment of its citizens in comparison with other states.<sup>4</sup>

Coordinating bodies have historically been established by states confronted with the need for more than incremental change in higher education opportunities and outcomes.

Various combinations of state coordinating and institutional governing boards operate across the 50 states. A few like Nevada (mostly smaller in population) have a single governing board for all levels of higher education including community colleges. Some state coordinating boards (Texas and Tennessee) have responsibility for all levels of higher education including community colleges, while others (California and Illinois) have used a coordinating board exclusively for community colleges (with their own local governing boards either elected or appointed), in addition to a coordinating board for all of higher education. Typically, state governing boards and state coordinating boards have focused exclusively on publicly subsidized institutions with some important exceptions (Illinois and New York).

### **Examples from Five State Higher Education Systems**

The following five examples reflect a range of structures invented by states to: 1) divide responsibilities for governing different types of institutions among separate boards or 2) limit the authority of one or more institutional governing boards by establishing a separate coordinating agency responsible for representing state interests in monitoring and changing system performance. The examples have been arranged roughly in order of the powers assigned to a statewide coordinating agency or the number of separate governing boards with New York (the strongest) first and Michigan (the weakest) last. Nevada does not fit within this classification system because all of its higher education institutions report to a single highly autonomous and popularly elected governing board. Utah, a state where the governance system looks like Nevada's, makes clear in its description of responsibilities that the Board is responsible to the legislature. And, 16 of its 19 member board are appointed by the governor.

#### ***New York***

The University of the State of New York conceptually includes all institutions, both public and private, offering education in the State. A sixteen member Board of Regents, elected by the Legislature, oversees an extensive staff bureaucracy charged with performing these responsibilities. The Board's Office of Higher Education (OHE) coordinates New York state's higher education system encompasses colleges and universities as well as non-degree proprietary schools. OHE manages the licensing and certification of teachers, coordinates the State's efforts to ensure standards for academic excellence and performance in higher education; implements the statutory requirements that protect the educational and financial interest of students attending New York State institutions; and administers a variety of the State's grant programs that provide access to higher education for those individuals who are underrepresented and under-served.

Two boards govern all public institutions. The governing board for the City University of New York (CUNY) directly oversees all baccalaureate-granting colleges and universities and all community colleges within the boundaries of New York City. The governing board for the State University of New York (SUNY) directly oversees all public

baccalaureate-granting colleges and universities outside the boundaries of New York City. SUNY community colleges, in addition, have individual institutional boards of trustees appointed jointly by the Governor and the county legislatures. The SUNY Board of Trustees serves as coordinating board for SUNY community colleges. Each public system manages its own information system, but must collaborate by furnishing performance information to the OHE. Obtaining performance information that identifies specific institutions has historically been a contentious issue.

### *Massachusetts*

The Board of Higher Education is the statutory agency in Massachusetts responsible for defining sector missions and coordinating the Commonwealth's [system of public higher education](#) and its institutions. The sixteen member Board's core responsibilities include: academic policy and program approval, financial aid, fiscal and capital planning, research and performance measurement, workforce development, and overseeing the Commonwealth's optional retirement program. The Board of Higher Education is also increasingly engaged in pre-K-16, college, and career readiness initiatives; as well as general advocacy on behalf of the system.

The Massachusetts system includes: 15 community colleges, nine state colleges and five university campuses. Each of the state colleges and each of the community colleges has its own Board of Trustees. A single board governs the five-campus University of Massachusetts system. The Board of Higher Education has greater authority in relation to the governing boards of the state and community colleges than over the governing board for the University of Massachusetts campuses.

### *California*

The 1960 Master Plan for Higher Education required a central body responsible for coordination and planning for higher education. Institutional governing boards and their executive officers blocked the formation of a coordinating structure until 1974 when the state established the California Postsecondary Education Commission (CPEC) with responsibilities for integrating policy, fiscal, and programmatic analyses; "to assure the effective utilization of public postsecondary education resources, thereby eliminating waste and unnecessary duplication, and to promote diversity, innovation, and responsiveness to student and societal needs through planning and coordination." After thirty-six years of operation, on June 30, 2011, the Governor eliminated by line item veto the entire \$1,972,000 legislative allocation for CPEC. In his veto message, Governor Brown described the Commission as "ineffective." The Commission closed its doors on November 18, 2011.

Within the last month, the Assembly approved by 77 to 1 a bill to reestablish a planning and coordinating agency similar to CPEC with one important difference. CPEC's ineffectiveness was attributed by many to the presence on its board of representatives chosen by each of the three public higher education segments. The proposed California Higher Education Authority (CHEA) would eliminate the University of California, California State University and community college representatives from the board, a provision that is being strongly contested by institutional interests. The proposed CHEA

would continue to focus on independent evaluations of institutional performance including how they deliver services to students. Maintaining the prized database on institutions established by CPEC, which has been archived but not updated since the demise of CPECC, would be a first order of business.

The California public higher education system includes 72 community college districts and their associated 110 colleges; each with its own locally elected governing board. A Board of Governors of the California Community Colleges coordinates this segment. A single statewide governing board appoints the president of the University of California and chancellors of the ten campuses. A second statewide board appoints a Chancellor for the California State University and presidents for its 23 campuses. The Governor with the advice and consent of the Senate appoints both Boards.

California has experienced consistent problems in getting the three public higher education segments established by the 1960 Master Plan to work together leading to consistent legislative interventions aimed at correcting perceived problems with governance and articulation. The Governor negotiates budget allocations directly with the chief executive officers for the UC and CSU systems in return for pledges from them to achieve segmental performance goals. Community colleges are formula-funded providing very little in the way of incentives for them to pursue state priorities.

### ***Wisconsin***

Thirteen four-year universities, 13 freshman-sophomore college campuses, and the Statewide UW-Extension make up the University of Wisconsin System (UW). An 18-member Board of Regents governs the UW system; 16 of whom are appointed by the Governor. The Board appoints the President of the UW System, the chancellors of the 13 universities, the chancellor of UW-Extension and UW Colleges, and the deans of the 13 colleges. The Board also sets admission standards, reviews and approves university budgets, and establishes the regulatory framework within which the individual units operate.

The 16 districts (geographic areas) of The Wisconsin Technical College System (WCTS) are coordinated (they use the term shared governance) by a system-wide board of 13 members, most of whom are appointed by the Governor. The WTCS Board is statutorily responsible for the initiation, development, maintenance, and supervision of programs with specific occupational orientations below the baccalaureate level, including associate degrees, training of apprentices, and adult education below the professional level. In addition, the state board is charged with determining the organization, plans, scope, and development of technical colleges in Wisconsin.

Each of the 16 technical college districts has a nine-member individual governing board. Each district board has its own appointment committee, which selects Board replacement members from those who complete a formal application. Statutes specify the required composition of the system board and each district board by such attributes as job titles (employee, school district administrator, elected official), minority status, and gender. District governing boards are empowered to levy taxes on property within specified limits.

Wisconsin has no formal arrangement (beyond the statutes specifying missions of the two systems) for encouraging collaboration or articulation between the University of Wisconsin and the Wisconsin Technical College System.

### ***Michigan***

Michigan has 15 public four-year colleges and universities and 30 public two-year colleges, as well as approximately 60 private institutions. Each public institution has its own governing board with the exception of the two branch campuses of the University of Michigan (UM). The University of Michigan, Michigan State University (MSU) and Wayne State University (WSU) have nine member boards elected by the public in statewide contests. The governor appoints board members for the remaining four-year institutions. Each public community college has a regionally elected governing board. All four-year institutions in Michigan have constitutional autonomy designed to ward off legislative or gubernatorial involvement perceived to be the domain of the faculty and university administration. Based on the language establishing such autonomy, each institution sets its own tuition and determines how its state appropriations will be spent.

Michigan has no statewide agency, board, or commission responsible for the coordination of higher education. In response to public concern about accountability, a 1963 revision to the state constitution gave its state board of education responsibility for planning and coordinating institutional policies in ways that do not impinge on the constitutional status of four-year institutions. The same revision also gave the state board responsibility for leadership and general supervision of community colleges without altering the authority of their elected boards. Any effort by the state board to exercise any of the authority conferred by the 1963 revision was met by institutional challenges that such actions violated constitutional immunity so few if any changes resulted from the revisions, as probably intended. As with New York, the state board of education actually has more authority over private than public institutions since they must approve changes in the charter of private institutions, when they petition to add a new degree level. The same is not true for public four-year institutions. Michigan lacks any information system designed to assist elected officials in understanding institutional performance.

### **Governance Insights From Other States**

The state governance examples reflect the range of governance structures found in the United States. New York has the most comprehensive state agency for governing higher education with broad powers and an extensive staff. In contrast, neither Wisconsin nor Michigan have any single statewide agency with authority for providing institutional performance information, planning, program review and approval, or making fiscal recommendations to the Legislature on issues related to postsecondary education. This does not mean they ignore statewide issues. In place of an agency of state government, Wisconsin uses very detailed statutes to establish boundaries between its two public systems of higher education and tightly defines responsibilities and memberships of a coordinating board for technical colleges and a governing board for the University system. Michigan relies on the budget or voluntary institutional actions as its primary tools for influencing higher education priorities and performance. Overall, institutional

perspectives dominate higher education priorities in Michigan and Wisconsin leading to systems, which equate the public interest with the collective interests of higher education institutions and makes decisions in the absence of much information about institutional performance.

Massachusetts has a relatively strong coordinating board, which defines the higher education system and holds that system accountable. The Board also approves the appointment and removal of state and community college presidents (largely a rubber stamp operation) by locally appointed governing boards, and ensures a rational and equitable statewide tuition plan. The Board has no responsibility for private higher education. After its governor defunded a relatively weak coordinating agency, primarily noted for the research and data it provided, California is now rethinking the wisdom of allowing its higher education decisions to be dominated by institutional interests and data. A coordinating board works to bring some coherence to the nation's largest community college system, long noted for giving relatively limited attention to any statewide concerns not specifically embedded in statute.

While states make a variety of governance structures work, we are still left with a number of important questions for Nevada. Whose interests are best served by each of these alternatives and how well do they address data requirements for credible performance evaluation? What are the costs in required resources and in performance outcomes that fall short or ignore the priorities of tax-paying stakeholders? Are there governance alternatives that could improve higher education performance for Nevada on current priorities without infringing on the independence colleges and universities require for protecting academic quality and effectiveness and preventing undesirable political interference?

The intent of these questions and the paper is to generate discussion. How can Nevada best achieve its goals related to workforce development, better performance on participation and graduation indicators, more equitable distribution of resources between research, teaching, and local needs for a trained workforce without jeopardizing past successes in promoting the development of the state's universities and in achieving articulation between two- and four-year institutions? The central question confronting this audience is whether a different governance structure might produce different resource allocation patterns and more attention to some of the state's emerging needs. Governance structures are all about who makes the rules and who benefits. Who should make the rules in Nevada, for whose benefit, and at what costs?

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<sup>1</sup> Perna, Laura W. and Joni E. Finney (2014), *The Attainment Agenda: State Policy Leadership in Higher Education*, Baltimore, Maryland: Johns Hopkins University Press, p 210.

<sup>2</sup> For an expanded discussion of these concepts, see Richardson, R.C., K. Bracco, P. Callan, and J. Finney (1999). *Designing State Higher Education Systems for a New Century*. Phoenix, AZ: American Council on Education, Oryx Press.

<sup>3</sup> Research reporting links between "rules of the game" and higher education system performance is available in Richardson, R.C. and M. Martinez (2009). *Policy and Performance in American Higher Education*. Baltimore, Maryland: The Johns Hopkins University Press.

<sup>4</sup> Perna and Finney, (2014), pp. 18-19.