

GOVERNANCE IN HIGHER EDUCATION INSTITUTIONS: A GLIMPSE FROM THE US*

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* A previous version of the paper authored by Maria de Lourdes Machado (author of this paper) and her deceased husband James S. Taylor was published under: Taylor, J. S. & Machado, M.L. (2008). Governing boards in public higher education institutions: A perspective from the United States. *Tertiary Education and Management*, 14(3), 243-260.

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Publication Date: 29th December 2022

Abstract

All over the world, higher education (HE) is perceived to be crucial and strategic for the development of regions and nations. In this aspect, the United States (US) higher education plays an important role, and it is recognized for several enduring features that make it distinct from other HE systems throughout the world. The US higher education is diverse and dynamic, with a commitment to academic freedom and cutting-edge research, and a wide range of institutions and programs are available to students. The enormity of the system exceeding 4,000 institutions and serving around 20 million students is clearly one feature. Its emphasis on access and availability is another. In recent times, one might wish to add its, perhaps, overzealous affinity for a market-driven philosophy. Finally, the mechanism of control through governing boards consisting of citizen-trustees that has endured since its beginning at Harvard College must be highlighted.

The aim of this article is to present an overview on governance of higher education institutions (HEIs) in the US. We attempt to describe the main parameters around governance of public higher education, and we offer critical insights through a comparison with the private sector in the US and its European counterpart.

Keywords: *Higher Education Governance; American Higher Education; Higher Education*

Introduction

There is a greater demand for Higher Education (HE) to become embedded within the society (e.g. Rodrigues et al. 2021). Over the recent decades, the rapid expansion of the knowledge economy around the world has implied stronger responsibility for Higher Education Institutions (HEIs) on producing talent and being suppliers of knowledge (e.g. Machado et al. 2005; Taylor, Amaral & Machado, 2007; Teixeira et al., 2021).

Thus, given the centrality of universities in a knowledge society, the relevance and analysis of governance in HEIs assumes particular importance (e.g. Carvalho et al., 2013; Carvalho & Machado, 2011; Machado et al., 2005). In the literature, we can find different perspectives about HEIs governance, most of them are similar to the definition in OECD (2003, p.61):

“(...) a complex web including the legislative framework, the characteristics of the institutions and how they relate to the whole system, how money is allocated to institutions and how they are accountable for the way it is spent, as well as less formal structures and relationships which steer and influence behavior.”

The report GUNi (2022, p.106), entitled *New Visions for Higher Education Institutions Towards 2030*, refers:

“Higher Education Institutions all around the globe are at a critical turning point. Among other factors, extraordinary internal and external demands, structural financial troubles, large demographic changes, global challenges, and emergencies bring global and HEI governance into the center of the picture.”

Moreover, the report considers that, although there is not a unique, broadly accepted, definition of university governance, its most common elements are: decision-making, election

(authorities elected), autonomy, stakeholders, HE interactions (other universities, partnerships, alliances, networks), openness (relations maintained by the university) and funding (GUNi, 2022).

According to Shattock (2014), there are three main components of university governance: institutional autonomy, self-government, and funding. In particular, the author considers funding:

“[...] the most influential driver for change in institutional governance structures (...) because they provoke the need for new decision-making processes and demand greater attention to institutional strategies.” Shattock (2014, p. 12).

Nevertheless, Shattock (2014), emphasizes that the university governance structures, in order to respond to external pressures, are in a constant transition and adaptation process. For instance, Bleikie and Kogan (2007), refers to the university governance changes over the past few decades, namely from the notion of the university as a republic of scholars towards the university as a stakeholder organization.

Higher education in the US refers to the post-secondary educational institutions that provide academic degrees and professional training. These institutions can be public or private. The United States is home to some of the world's most prestigious universities, offering a wide range of undergraduate and graduate programs in a variety of fields, from business and technology to the arts and humanities, known for its diversity and quality, and attracts students from around the world. It is important to note that US higher education has many strengths, including a strong tradition of research and innovation, world-renowned institutions, and a diverse range of programs and degrees (Clark, 1986). These strengths have contributed to the US being a major destination for international students, who come from all over the world to pursue higher education opportunities in the US. Nevertheless, the

US universities dominate the world rankings. Also, Mintz (2022, p. 352-353) stressed:

“Roughly a fifth of all international students choose to study at an American college or university, more than twice the number that attend the UK, Canadian, or Australian universities and more than in France, Germany, Japan, and Spain combined. [...] American higher education’s most unique feature is that it is a highly competitive higher education marketplace, with institutions competing for students, faculty, resources, and reputation.”

This paper discusses governance of HEIs in the US. The article begins with a brief description of the American HE concerning type of institutions, number of students, funding, and tuition fees. Then, we describe the governance structures in the public higher education sector, their modes of operation and their responsibilities. The article concludes by arguing the true importance of an effective and efficient governance in HEIs, not only in terms of their constituent bodies but also as a crucial driver to move the higher education enterprise forward.

Brief approach to american higher education

The US has an extremely large and diverse postsecondary education system. American higher education is made up of numerous different types of HEIs, both public and private. The public HEIs are represented by Doctoral Universities, Master’s Colleges and Universities, Baccalaureate Colleges, Baccalaureate/Associate’s Colleges (includes four-year colleges), Special Focus Institutions (i.e. institutions where a high concentration of degrees is in a single field or set of related fields - Special Focus Two and Four years), Tribal Colleges (Colleges and universities that are members of the American Indian Higher Education). Private HEIs vary from the most prestigious to the least recognized. The overall hierarchy of American higher education is concisely described by the Carnegie

Classification, which periodically updates its categorizations, the most recent having been published in 2021 (Carnegie Foundation for the Advancement of Teaching, 2021).

The pre-eminent research universities, such as Harvard, MIT, Chicago, Stanford, California at Berkeley, Yale, and Princeton among others, are most often thought of and recognized throughout the world. Strong research funding helps elite American universities to dominate global rankings. They, of course, are most often noted because of their successes and notoriety in research, discoveries, and the prominence of the students they graduate. There is also a likely number of approximately 50 world-renowned liberal arts colleges in the US that stand apart from the majority. These stellar institutions represent a very small percentage of the total HEIs in the US (Taylor & Machado, 2008). There are over 4,000 public and private institutions, including non-profit and for-profit colleges and universities, 2- and 4-year schools, secular and religious institutions and fully online providers, and residential and commuter campuses (Mintz, 2022).

Several issues are confronting HEIs in the US. These issues include the accreditation system, entrance procedures, rankings, and the financial value of the degrees. Other concerns are race, ethnicity, and gender equality (Mintz, 2022). Nevertheless, families argue that HEIs are failing to teach soft skills and critical thinking. Rising tuition, increasing student loan debts and austerity in state spending are also concerns (Carnevale & Cheah, 2018).

Key features of US higher education are highlighted by several authors (e.g. Dill, 2023; El-Khawas, 2002; Mintz, 2022; Levine, 2022; Taylor et al, 2007; Taylor & Machado, 2008) as the following:

- 1) Diversity of institutions: there is a wide range of institutions, including public universities, private colleges and universities, community colleges, and trade schools;
- 2) Academic freedom: values academic freedom and encourages open inquiry and free expression;

- 3) Research-focused: universities are often at the forefront of new developments in a variety of fields, and they are known for their cutting-edge research programs;
- 4) Liberal arts education: many colleges and universities offer a liberal arts education, which emphasizes a broad range of subjects including the arts, humanities, social sciences, and natural sciences;
- 5) Extracurricular activities: colleges and universities offer a wide range of extracurricular activities, including sports, clubs, and student organizations;
- 6) Student support services: colleges and universities provide various student support services, including counseling, career services, and health services;
- 7) Technology integration: many institutions are at the forefront of technology integration in education, with a focus on using technology to enhance teaching and learning;
- 8) International student enrollment: colleges and universities are known for their diverse student body, with many international students enrolling in programs each year;
- 9) Student loan system: higher education is often criticized for its student loan system, which can lead to high levels of student debt.

In terms of enrolments, over the past few decades, the total number of college students (undergraduate and graduate) in the US has increased significantly, going from just 13.8 million in 1990 to nearly 20 million in 2020 being nearly 75% of students enrolled in public colleges and approximately 25% students enrolled in private institutions. Concerning the international student population, the total number exceeds a million, with most students coming from China, India, South Korea, and Saudi Arabia (NCES, 2023).

Education, including HE is responsibility clearly demarcated for the 51 state parliaments (Clark, 1986; Helms et al., 2018). US colleges and universities receive their funds from many sources, including tuition, federal funds, state funds, and endowments. In the last decades, states have slashed HE funding. The funding decline has contributed to higher tuition and

HEIs have had to balance budgets by reducing faculty and limiting courses/programs offerings. Thus, over the time and particularly in the last 25 years, students have assumed much greater responsibility for paying for public higher education. Public colleges have both steeply increased tuition and students are paying more through increased tuition and are taking on more debt. Presently, students provide nearly as much revenue as state and local governments (Johnstone 2007; SHEEO, 2017).

According to Levine (2022, p. 369):

“At the periphery of mainstream higher education, a grab bag of diverse and independent postsecondary institutions, organizations, and programmes, for-profit and not-for-profit— have mushroomed in the past quarter-century. They are knowledge organizations, ranging from libraries and museums to media companies and software makers as well new universities and entrepreneurial start-ups that have entered the post-secondary marketplace, offering content, instruction, and certification. They have abandoned key elements of traditional higher education—emphasizing digital technologies, rejecting time and place-based education, creating low-cost degrees, adopting competency or outcome-based education, focusing on the growing populations under-represented in traditional higher education, offering pioneering instructional designs such as boot camps, and alternative certifications.”

The author continues stating:

“The universe of higher education providers will expand dramatically to include not only traditional institutions but also a far larger number of non-traditional content producers and distributors, including non-profits and for-profits, ranging from corporations and museums to television networks and social media platforms” (Levine, 2022, p.371).

Higher education in the US is highly stratified, competitive, and also distinctive for their diversity, both in terms of the types of institutions that exist, and the range of programs and services offered. This diversity allows students to choose from a wide range of institutions and programs, ensuring that they can find an education that meets their specific needs and interests. The competition involves students, faculty, resources, and reputation, presenting distinctive features from its European counterpart, namely in terms of mission, size, and cost (Mintz, 2022, p.353):

“[...] features of American higher education include profound differences in mission, size, and cost. The higher education ecosystem in the United States includes technical institutes, military academies, music conservatories, religious seminaries, and art schools, as well as specialised institutions that train healthcare workers, airline pilots and mechanics, and information technology specialists. Institutions range in size from fewer than a thousand students to online institutions with enrolments that top 140,000 learners. The cost of attendance ranges from substantially less than \$10,000 a year to \$70,000 and more annually.”

Nevertheless, accrediting bodies are responsible for evaluating the quality of institutions and ensuring that they meet certain standards (Gregory & Machado-Taylor, 2014).

Governance of american higher education institutions

The governance of HEIs in the US is designed to be a collaborative and democratic process that involves a variety of stakeholders and decision-makers. This structure is meant to ensure that the institutions are able to meet the needs and interests of all members of the community, while also promoting accountability and transparency (Mintz, 2022; Taylor & Machado, 2008).

Typically, within each of these HEIs categories, institutions are overseen by governing bodies. These governing bodies represent the ultimate authority for the institutions, and thus have an extremely important role to play with respect to overall policy and direction. The general hierarchical structure for American higher education institutions is illustrated in Table 1 (El-Khawas, 2002).

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- A board (of governors, regents, trustees, visitors, etc.)
 - The CEO and administration
 - Major sub-units (schools, colleges devoted to specific academic areas)
 - Academic departments, centers, institutes, and similar entities
 - Academic senate (serving the entire institution)
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Table 1 The Organizational Hierarchy of American HEIs

Governance of HEIs is typically a shared responsibility between the Board of Trustees, the President, and the faculty. The Board of Trustees, also known as the governing board, is responsible for overseeing the overall management and direction of the institution. This includes setting policies and procedures, approving budgets, and selecting the president. According to Dill (2023), HEIs evolved shared governance over the 20th century and historically the authority granted by boards of trustees, besides to be a unique strength of the US, assures social outcomes in public interest. Neither Federal or State governments regulate HEIs internal governance. Other authors as McGuinness, (2000) strengths that the greatest power to exercise legitimate governance responsibilities resides with the governing boards.

In terms of HEIs governance, the combination of state, rather than national control, and the use of lay boards is highly used to lessen the extent of government intervention (Johnstone, 1997). The term “lay board” refers to the fact that members are laypersons, meaning they do not necessarily have a background or expertise in the governance of HEIs. This creates

both opportunities and challenges. These boards are given responsibility for final authority with respect to policy development. Governing boards work directly with the CEO of each HEI, who reports to and is accountable to them (Dill, 2023; Taylor et. al, 2008).

It is assumed that governing boards will delegate to and through the HEIs leadership, responsibility for issues surrounding the management of the institution. They are accountable for the institution's fiduciary and legal well-being. Boards are also the final decision point regarding the appointment of the institution's chief executive officer, or CEO (president or chancellor). The CEO of each institution is the President with substantial influence. The President is responsible for implementing the policies and vision set by the Board of Trustees, as well as managing the day-to-day operations of the institution. The President works closely with the faculty, who play a significant role in the governance of the institution by participating in shared governance committees and serving on decision-making bodies. After the Second World War, many universities implemented the role of Provost. The Provost is the chief academic officer, has responsibilities for the academic affairs and collaborates with the President in setting overall academic priorities (Dill, 2023).

Generally, the governing board is entrusted with protecting, defending, and advocating the best interests of the institution to its various publics. A report prepared for the Colorado Department of Higher Education (NORED, 2000) suggests an institutional board has six broad functions:

- 1) assumes responsibility for the overall welfare of the HEI,
- 2) serves as a buffer between the HEI and external groups,
- 3) assumes the role of final arbiter in institutional disputes,
- 4) promotes change in what is typically a conservative institutional environment,
- 5) assumes responsibility for the financial well-being of the HEI, and
- 6) provides institutional governance.

Fisher and Koch (1996) expand upon these functions by including several others:

- 1) appoints the CEO (University' President),
- 2) evaluates the HEI,
- 3) assesses board policies,
- 4) reviews the performance of the CEO,
- 5) approves strategic plans, and
- 6) determines board performance.

Besides the hierarchical structure inside HEIs, there are several types of authoritative bodies in American higher education – consolidated governing boards, coordinating boards (regulatory and advisory), and planning services or agencies. It is worthwhile to note that the greatest power to exercise legitimate governance responsibilities resides with the governing boards (McGuinness, 2000).

Important distinctions should be drawn between governing boards for private and public institutions. In the private sector, board members are typically alumni of the HEI with loyal ties, and also influential corporate and foundation leaders. They are selected for their institutional loyalty or influence with important outside groups and always for their ability to contribute financially in significant fashion to the institution's prosperity. Their mission is more focused and their assistance more predictable. Public governing boards represent a much more complicated situation. The public board often comprises political appointments. Often, they are selected by the governor of the state where the institution resides. As a result, their motivations can often be directed at pleasing their political constituencies more than serving the HEI. Agendas designed to promote themselves personally or their constituents collectively can easily override their commitment to the institution. Beyond personal misdirections, public boards have other constraints that hamper their ability to lead and direct their institution(s). Some states have what are termed "sunshine laws" that require all minutes from meetings, all discussions, and all documents to be open and available for public scrutiny. This essentially

negates the possibility to have candid and open dialogue regarding issues of a sensitive nature surrounding the HEI they govern (Taylor & Machado, 2008).

Since public board members are usually appointed for political reasons, there is no assurance they have either an understanding of or commitment to higher education, let alone the institution they have been entrusted with (Taylor & Machado, 2008). Studies show stronger ties to the finance industry (Stensaker, 2023). Many bring a strong, bottom-line mentality from the business sector that fails to recognize the nuances inherent in higher education governance. This is not a problem if the HEI has a strong, authoritative CEO (Johnstone, personal communication, 2003). Typically, however, that is not the case. Without a solid grounding in the world of higher education, lay board members often try to institute simplistic solutions to complex problems.

It is important that governing boards properly embrace the concepts of academic freedom and shared governance. Academic freedom provides professors with the right to teach and interpret their subjects without restriction. Shared governance allows professors to contribute to institutional decision-making (Taylor & Machado, 2008). Nevertheless, the role of the academic faculty is quite important as mentioned by Dill (2023). In more and more instances, boards have been seen granting extended rights to faculty, staff, and students in the name of "campus democracy" that have traditionally been privileges granted only by the president. When academic freedom and shared governance are allowed to operate beyond the bounds of reason, the presidency becomes weakened, and the HEI tends to drift unproductively (Dill, 2023; Mintz, 2022).

Attracting the right people to assume roles on public governing boards is difficult. Many competent and capable individuals who would serve HEIs with distinction decline to do so. As Duderstadt states (2000, p. 245),

"They refuse to be a part of politicized boards that function in all ways and at all times in the public fish-bowl and operate under the heavy regulatory hand of state bureaucracies".

The public governing board is often relatively small as compared with the private institutions, and thus, has more limited expertise to draw upon for policy development and decision-making. As is true with all group interactions, the influence of one assertive individual is magnified as the size of the group is reduced, thus an imbalance of leadership becomes a potential problem. It is not uncommon to find public governing boards that oversee several HEIs. Often, they govern all public institutions, or those of a particular type, within a statewide system. Limited understanding and expertise by board members can also result in blanket policies that are applied to all HEIs within the group uniformly.

Nevertheless, public boards are seen as less effective than desired, and it has spawned many recommendations for change. The Association of Governing Boards of Colleges and Universities (AGB) published recommendations on *Merit Screening of Citizens for Gubernatorial Appointment to Public College and University Trusteeship* (AGB, 2003). In essence, the AGB advocates the establishment of an independent council charged with screening worthy prospects and ultimately providing the governor (or other appointing entity) with a minimal list of, perhaps, three candidates for each vacancy. Naturally, it would be possible to decline an appointment for all recommended candidates and request a new screening process.

While governing boards represent a strong and enduring tradition in American higher education, they are not unique to the US. Historically, lay boards have been used in Italy, the Netherlands and Scotland. When Oxford and Cambridge were governed by senior faculty (to the serious detriment of the institutions), government intervention resulted in the

establishment of lay governing boards. Since then, all universities established in England have lay boards (Amaral, Jones, and Karseth, 2002).

In addition, there are several other groups and organizations that play a role in the governance of higher education institutions in the US. Faculty members also play a crucial role in academic governance, which involves making decisions related to curriculum, academic programs, and faculty appointments. This is typically accomplished through the faculty senate, which serves as a representative body for the faculty (Dill, 2023).

From an international perspective, it is more common to find control of institutions coming from the government in the form of ministries. The approach in the US is designed to protect HEIs from this potential political interference (Duderstadt, 2000). Maassen and van Vught (1994) suggest two governance models that effectively differentiate continental Europe and US, the state control model, and the state supervising model. The former model reflects the European governance structure dominated by the authorities of the government bureaucracy and faculty guilds. The latter model more closely represents the US approach where far less governmental influence and interference is seen (Taylor & Machado, 2008). For instance, in Portugal, Law 62/2007 of 10 September (RJIES), establishes the legal framework for the higher education system and its institutions. This law forces the existence of a general council at each public HEI with 15–35 members, depending on the size and complexity of the institution, with at least 30% of its members being external. The council elects its president from the external members, and it also elects the rector/president of the university/polytechnic institute.

The authors acknowledge that, in the last decades, the trend in European higher Education has been to create a central governance body (board or council) with representation of external stakeholders while authority is reinforced at central level and collegiality is weakened. The composition of the

boards of European universities, whenever they exist, tries in general to combine a representation of both internal and external stakeholders or at least involves a consultation with the university when the minister appoints all its members. Interesting to note that for instance in Netherlands and Sweden the external stakeholders dominate the board; in Norway internal stakeholders dominate the board and there is apparently an equilibrium situation in Austria. Additionally, European boards (with the exception of Netherlands) include in general some representation of internal stakeholders (academic and non-academic staff and students) (Taylor & Machado, 2008; Taylor, Machado & Peterson, 2008).

However, there are variations in boards in Europe, the key characteristic is the presence of external members, representation of students and non-academic staff and variation in the board size (Pruvot & Estermann, 2018). Authors such as Edlund & Sahlin (2022), suggest that external representation may strengthen corporate influence and social embeddedness. Stensaker (2023), refers that external representation includes public and civic sectors, private sector companies, often CEOs, leaders of civic organization, distinguished professors, etc. and political representation is reduced.

Gornitzka et al. (2017), identified the main changes and features in university governance structures in Europe as i) replacement of democratic councils by executive directors, ii) increased external involvement in universities governance, iii) shift from collective to individual responsibility and iv) centralization of formal decision. Dill (2023) stressed that European policies on internal governance are substantially different from the US. The US universities have freedom to select students, set curriculum and appoint professors. This is universal across US states. The discretion to control budgets allows HEIs to hire the staff they want. Research universities have greater authority and increased competition.

Nevertheless, as European universities are affected by national reform agendas, it reduces the strategic capability of

university boards that have little impact on decisions related to teaching and learning. A recent trend in Europe is to establish strategic advisory boards at central level appointed by the institutions, sometimes informal appointments as an attempt to balance the influence of formal university boards (Stensaker, 2023).

Comparing boards of European universities with their US counterparts, it is possible to conclude that they are following a path that is midway to that of the two extremes of public and private boards in the US. In general, the composition of the boards in Europe tries to find a balance between pure political appointment as in public boards in the US and total institutional choice as is the case with private boards in the US, with members selected for their institutional loyalty or influence with important outside groups (Dill, 2023, Taylor & Machado, 2008).

Moreover Stensaker (2023), contends that studies in the US indicate boards with private sector connections are associated with better performance. According to the author in general, there are particular characteristics associated with board performance: conflict of interest rules, independence, relationship between the board and the president/rector, the danger of the agenda being dominated by routine matters reducing the strategic capacity of the board.

Concluding remarks

The aim of this paper has been to analyze governance of higher education institutions (HEIs) in the US. The governance and management of HEIs within such a large and complex national system like the American is highly challenging (Gregory & Machado-Taylor, 2014; Taylor & Machado, 2008). Over the recent past years, there has been a growing scrutiny of HE returns on investment and heightened political criticism. There are perceptions that a college education is very important. For instance, among all age groups since 2013, about half of U.S.

adults (51%) consider a college education to be “very important,” (Marken, 2019). Thus, governance of HEIs is crucial for ensuring their continued success and ability to fulfill their mission of providing quality education and promoting academic excellence (e.g. Bleikie & Kogan, 2007; Shattock, 2014; Taylor, Machado & Peterson, 2008).

Effective governance helps to ensure that universities are responsive to the needs and concerns of all their stakeholders, including students, faculty, staff, alumni, and the broader community. Good governance ensures that universities maintain high academic standards and provide a quality education to their students. It also ensures that resources are allocated effectively to support research, teaching, and student services. Therefore, in our days, it has become vital for institutions to have governing boards that function properly, professionally, and with the needed expertise to oversee the success and vitality of the institutions. Governing bodies can serve a vital role (Taylor & Machado, 2008).

Overall, the governance of higher education institutions in the US is designed to promote collaboration, autonomy, accountability, and diversity, and to ensure that institutions are able to provide high-quality education and services to their students and communities. The bottom line and the prime objective for higher education is to create functional, effective, efficient, and defensible leadership that will drive the higher education enterprise forward.

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