

**Conflicts, Commitments, and Cliques in the University:
Moral Seduction as a Threat to Trustee Independence**

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BIO STATEMENT

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ABSTRACT

The ability of trustees to make independent judgments in the best interests of the university is a fundamental characteristic of an effective governing board. Trustee independence is increasingly threatened, however, as the university becomes more deeply embedded in government, industry, networks, and the professions. This topic is investigated through analysis of qualitative interviews, focus group observations, and informant-produced documents from 59 public university presidents. It is argued that threats to trustee independence are produced primarily through a process of moral seduction that allows trustees to engage in self-interested decision making while maintaining an ethical self-concept. The article then provides a conceptual model to frame our understanding of how important social actors seek to capture and co-opt boards of trustees to serve external interests, and describes how the mechanisms of moral seduction differ across contexts.

The ability of trustees to make independent judgments in the best interests of the university is a fundamental characteristic of an effective governing board (Hall, 1999; Leslie & Novak, 2003; MacTaggart & Mingle, 1998; Novak, Leslie, & Hines, 2002; Smith, 1995). Trustee independence may be under threat, however, as the university becomes increasingly embedded in government, industry, networks, and the professions. Trustees may have conflicts between their financial or other personal interests and their obligations to the governing board (Leslie & MacTaggart, 2008; Orts, 2002; Slaughter & Rhoades, 2004). Trustees may also have political loyalties to their party or to the executive branch that breach their responsibility to protect the public interest (AGB, 2001; Duderstadt, 2004). In other cases, domination by individuals or cliques may lead to oligarchy or factionalization (Kerr & Gade, 1989; Freidson, 1988).

The early literature on governing boards tended to treat trustee independence in a relatively cursory manner, and was often quite naïve in its treatment of political factors and financial conflicts of interest. During much of the 20th century, it was not uncommon for boards to have trustees whose income derived, in part, from providing business services to the college (Rauh, 1971). Partisan politics was not yet seen as a serious problem “both because of internal resistance and of external forbearance” (Carnegie Foundation, 1962, p. 7). Autonomy and accountability were an overriding theme during the 1970s and 1980s, but discussion of political intrusion focused almost exclusively on maintaining the autonomy of the institution as a whole, rather than seeing trustees themselves as conduits for political agendas (Berdahl, 1971; Carnegie Foundation, 1982). It is now widely recognized that the independence of individual trustees has become a serious problem on some boards, particularly at public universities (Duderstadt, 2004; Floyd, 1995; Ingram, 1993; 1996; Kerr & Gade, 1989; MacTaggart & Mingle, 1998; Ostrower, 2007).

Concerns about trustee integrity have become prominent enough for major actors in the field of higher education to pay close attention to these governance shifts. In 2001, the Association of Governing Boards took the step of issuing a paper addressing these conflicts over “external influences.”

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. (AGB, 2001, p. 1)

Yet empirical research on these concerns remains quite rare (Kezar, 2006). There are substantial numbers of essays and analyses of these topics available, particularly related to the rise of neoliberalism, conservative interest groups, and the influence of shareholder capitalism (Chait, 1995; Giroux, 2002; Kezar & Eckel, 2004; Lazerson, 1997). However, the broader issues of trustee independence have yet to be studied. These concerns have obvious implications for governance in the contemporary era. The erosion of trustee independence threatens a fundamental assumption underlying quality decision making on university boards. If the trend continues the public’s trust in the university will be severely undermined, and without further elaboration, it remains unclear how college presidents should respond to these dynamics.

The literature suggests a related set of research questions. First, based on the perspective of insiders, who are the external interests that seek to influence public university governing boards and reduce trustee independence? Second, how do these external interests influence the

internal dynamics of governing boards? And finally, what is the organizational process by which trustees succumb to these pressures?

This article reports results from a major study of institutional governance funded by the Mellon Foundation and the Carnegie Corporation of New York, in cooperation with the Association of Governing Boards of Universities and Colleges (AGB). Four national meetings were held across the country during 2004-2005 with campus presidents who had individual responsibility to an appointed or elected governing board. Observation of focus group discussions was followed by individual telephone interviews with presidents, and analysis of their action plans for future improvement. The result is a rich set of data on trustee decision making and institutional governance from the perspective of public university presidents. After reviewing the history of trustee independence and related literature, the qualitative data is analyzed to provide an explanation for self-interested decision making by trustees, and to provide a conceptual model to understand the capture of trustee boards by external interests.

Historical Background and Definitions

It is not simple to trace the foundational philosophy of trustee independence, which is considered a bedrock of American university governance. The concept has both British and continental European origins, yet is completely its own animal, a distinctly radical and American innovation (Hall, 1999; Herbst, 1982). It required the evolution of legal ideas in early modern Europe recognizing the civil corporation as a separate entity from the individuals who comprised it, and was only made possible by the gradual autonomy from royal and papal oversight earned over time by medieval universities. In England, universities were charitable corporations chartered by the state to serve the public interest; on the continent, universities were civil

corporations with joint oversight by secular and religious authorities. Early leaders in the colonial colleges largely drew upon their personal educational experiences in Reformation-era Scottish, English, and Dutch universities, as well as their participation in a wide variety of voluntary associations, many of which had some form of external governing board comprised of prominent local citizens (Duryea, 2000; Herbst, 1982).

Still, the idea of institutional autonomy from state action took nearly 200 years to solidify in American higher education. The colonial colleges were chartered by states, which largely took the view, supported by English common law, that colleges were public entities whose charter could be altered or revoked at any time (Carnegie Foundation, 1982; Herbst, 1982). The membership of governing boards often included the state governor and/or other state and local political actors, who ensured that the universities remained aligned with state interests. The concept of a “private university,” as we think of it today, had yet to be fully developed either in society or in law (Whitehead, 1973).

The issue came to a head at Dartmouth College in 1815. President John Wheelock, the son of the founder, developed an antipathy toward his board of trustees, who saw him as arrogant and despotic. Wheelock constantly solicited the support of local alumni and state political figures to bolster his presidency, and he ultimately invited the legislature to intervene in the dispute (Duryea, 2000; Whitehead & Herbst, 1986). The trustees immediately deposed him by a ten-to-one vote. Wheelock sought out the state’s Republican governor, and the two convinced the state legislature to alter the Dartmouth charter to vastly expand the board to four state leaders and 21 others chosen directly by the state governor. In effect, the new “Dartmouth University” would be a fully public institution. The trustees sued to prevent the new charter’s enactment. In *Dartmouth College v. Woodward*, the U.S. Supreme Court, under Chief Justice John Marshall, ruled that the

original charter was a contract between the state and the college, protected by the commerce clause of the U.S. constitution, and therefore could not be altered or invalidated without the agreement of both parties.

For public universities, the *Dartmouth* decision would create a tension that would persist for the next century. On one hand, the decision did not eviscerate legislative ability to oversee and regulate colleges and universities, but merely insisted that states reserve their rights when establishing corporate charters (Duryea, 2000). This principle was reinforced by later decisions that made it clear that legislative authority to safeguard the public interest was supreme. Yet due to continued public funding for the colonial colleges, the public/private distinction remained fuzzy until the 1870s (Whitehead, 1973). Thus the expectations for trustee autonomy declared in *Dartmouth* established the norm for the vast numbers of public and private universities founded during the 19th century, and institutional structures took root that sought to balance the autonomy of governing boards with legitimate state interests. Once states started to see public universities as “their own,” tendencies toward political interference were mitigated by the principles of institutional autonomy and governance that were already set for private universities. As a result, trustee independence in the 20th century was far stronger than it had ever been.

That said, political intrusion in public higher education is not merely a contemporary phenomenon, and primarily a question of degree. Transylvania University, arguably the first public university in the U.S. and the alma mater of Henry Clay, Stephen Austin, and John Marshall Harlan, was essentially destroyed by a political conflict between its trustees and the governor of Kentucky during the 1840s (McCormick, 2003). The University of Massachusetts, which has sought to attain world-class status since the 19th century, had its ambitions consistently thwarted by a state government that was often hostile or indifferent, and was more focused on

governance reorganization than on quality education (Bastedo, 2005). In recent decades, observers have seen everything from the Morrill Land-Grant Act of 1862 to the student activism of the 1960s as major agents of political interference (Duryea, 2000). What remains empirically unexamined is how these political intrusions operate within contemporary boards.

Conceptual Framework

Despite these historical precedents, early essays on governance treated trustee independence as an uncontested norm in American higher education. Prior research has tended to analyze boards of trustees as if they existed in a political vacuum, overlooking major external factors that influence trustee behavior (Kezar & Eckel, 2004). To balance the portrait, this article draws from the institutional tradition in organizational analysis, which treats the environment as the major factor that shapes organizational decision making. In particular, this article will address the political environments shaping the organizational dynamics of public university boards of trustees, uniting theoretical analyses of institutions with conceptions of power and politics, which has recently been a major focus of institutional analysis (DiMaggio & Powell, 1991).

With the political environment as the primary focus of analysis, institutional theory predicts that trustees will move their campuses to align with the expectations and values of political actors and resource providers, such as alumni, prominent business leaders, and well-connected community members. In the case of trusteeship, we can see significant institutional change, where trustees who were once assigned the task of protecting public colleges from the political environment are now expected to actively engage that environment by both governors

and institutions, and to make decisions in concert with the external demands by the public and powerful political actors (Bastedo, 2005).

In its traditional form, a primary concern of institutionalism was goal displacement, or the process by which the founding mission of an organization was transformed over time by adaptation to its environment (Selznick, 1949; Perrow, 1961). In his legendary case study of the Tennessee Valley Authority, Selznick argued that the agency's need to obtain local support and resources led to a co-optation of its mission, which simultaneously took the agency far from Roosevelt's New Deal principles but closer to the needs of farmers and the local black population. That investigation was followed by studies of similar phenomena in many non-profit agencies, including, prominently, Burton Clark's study of the precarious values threatened by the need to meet student demand in an "enrollment economy" (Clark, 1956). In retrospect, goal displacement is one of the primary and most common themes in organizational analysis, and similar issues resonate in educational organizations today around issues of state accountability, federal research funding, alumni influence, and many other areas.

Goal displacement is not simply a drift toward new goals, but a question of power. Individuals and internal groups may use their official position in organizations for the promotion of ideologies, organizational practices, and public policies that satisfy personal goals. Similarly, external groups, through formal authority and interest group mobilization, may seek to gain power over organizational decision making for their own ends. "We should always examine the possibility that organizational masters prefer unofficial goals to official ones... We should then search for extraorganizational interests that are served by, what appears to be, from a leadership perspective, drift or goal displacement" (Perrow, 1986, p. 263).

Recent research on activist trusteeship helps us understand the cognitive process by which organizational leaders come to prioritize external interests. Activist trustees have reconceptualized their role as trustees to prioritize their interpretation of the public interest ahead of traditional conceptions of governing in the institutional interest (Bastedo, 2006). They have come to believe in two fundamental principles: First, that serving the public interest is the primary responsibility of the university trustee; and second, that serving the public interest will ultimately save American higher education, thus serving institutional interests in the long run. Among activist trustees, Candace de Russy was a case in point; she publicly stated that her goal was not simply to govern the State University of New York, but to cause American higher education to focus on academic standards and other fundamental issues. “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). In de Russy’s view, her reconceptualization of a trustee’s role justifies the use of the governing board as a bully pulpit.

The prioritization of external interests is often a gradual process where participants come to believe more in the fundamental rightness of their own judgments than in the organizational mission as constructed by others. This process can be characterized as *moral seduction*, and there are many reasons why it may occur even among conscientious organizational leaders (Moore, Tetlock, Tanlu, & Bazerman, 2006). When making decisions, there are a number of cognitive biases that cause us to prefer our own judgments over others, and create rationalizations to justify our desired conclusions (Kunda, 1990). We tend to overestimate the value of our own experiences, and discount the value of the experiences of others, even those who have been in situations similar to the one we are facing (March, 1986; Gilbert, 2006; Moore & Cain, 2007).

We access information that is biased in our own favor, and employ reasoning styles that suit our needs at the time (Kunda, 1990; Tetlock, 1983). As these decisions snowball, we tend to escalate our commitment to the existing course of action, rather than pay the price for a change in course (Moore et al., 2006; Staw, 1976).

In short, even trained professionals struggle to disregard their self-interest and can honestly believe that their position deserves more consideration than others', even when the facts do not support their position. To make matters worse, evidence suggests that environments with high accountability demands exacerbate pressures toward moral seduction (Moore et al, 2006; Tetlock, 1983; 1992). When we are under a great deal of pressure and scrutiny, we tend to make arguments that will justify our prior actions, especially arguments that are congruent with the ideology and expectations of our political masters.

Explicating the process of moral seduction enhances our understanding of goal displacement. Institutional theory predicts that organizations will make decisions that align their choices with the values of resource providers, but the cognitive process by which organizational actors make those decisions is often a "black box" (Perrow, 1986; Scott, 2007). In the extreme, the result can be a caricature that portrays individuals as the mindless agents of powerful institutions. Conventional wisdom is often quite the opposite, portraying those who fail to live up to our standards as self-centered, Machiavellian, or even evil representations of the worst qualities of humanity (Moore et al., 2006). This article strives for a more nuanced approach that structures our understanding of these complex organizational dynamics without relying upon simplified or dichotomous portrayals of individual action, consistent with trends in institutional theory that flesh out these dynamics (Scott, 2007).

Research Method

This qualitative study relies upon individual interviews, observation of focus group discussions, and collection of informant-produced documents. The informants are a group of 59 U.S. public university presidents who reported directly to an institutional board of trustees or state governing board, and who volunteered to participate in one of three institutes conducted during 2004-05. The data were collected through observation at the three institutes held in various locations in the U.S., during follow-up telephone interviews, through collection of confidential, handwritten action plans generated by the presidents themselves, and by observation of a final “reunion” meeting designed to solidify the insights generated by prior discussions.

Setting and Recruitment

The University of Illinois, in collaboration with the Association of Governing Boards, established a Presidents’ Institute on Trusteeship for public college and university presidents and chancellors. The primary objective of the institutes was to strengthen the capacity of public college presidents and chancellors to educate and develop their governing boards. The secondary objectives were to assess the current state of public research university trusteeship and governance, and to foster the crafting of action plans by chief executives to improve the functioning of their governing boards.

The first Institute was held in Aspen, Colorado, in June 2004, and included 20 presidents and chancellors from 16 states and one U.S. protectorate. The second Institute, in Sarasota, Florida, in February 2005, included 20 presidents and chancellors of public universities and systems from 16 U.S. states. The third Institute returned to Aspen, Colorado, in June 2005, with

19 presidents and chancellors from 16 U.S. states. A final “reunion” meeting, in Orlando, Florida, brought back a voluntary group of 21 presidents paired with their governing board chair for a two-day review. All four events were co-sponsored by the American Association of State Colleges and Universities (AASC&U) and the National Association of State Universities and Land-Grant Colleges (NASULGC), and consisted of a mix of AASC&U and NASULGC presidents and chancellors.

The agenda for each institute consisted of an interactive program of plenary sessions on presidential leadership and the characteristics of effective governing boards, as well as break-out working groups charged with diagnosing and establishing performance goals and strategies specific to participants’ own boards. The institute program was designed to serve the multiple purposes of providing practical information for improving governing board relationships and performance, as well as eliciting information from the presidents regarding the contemporary state of governing boards. Each institute’s agenda included substantial periods of open discussion, facilitated by institute faculty (Stanley O. Ikenberry, president emeritus of the University of Illinois and the American Council on Education, and Richard T. Ingram, president emeritus of the Association of Governing Boards) or led by the presidents themselves in groups of three. At other times, presidents discussed issues in small groups of three or four among themselves. Each participating president or chancellor was responsible for crafting an institution-specific board development plan in their own handwriting. The institutes concluded with a session designed to help the presidents and chancellors move their specific plans into action.

Data Collection

Using lists provided by AASC&U and NASULGC, and combined with information held by AGB, all public university presidents who reported directly to an institutional or system governing board were identified, ensuring that each president had specific responsibility for managing a trustee board. Each of the identified presidents was recruited to participate in one of the institutes, and many were recruited for several of them, based on their availability and the capacity of the institute program. Although presidents were responsible for travel to the institute, foundation support covered all other program expenses, including meals and housing. Ultimately, a total of 59 presidents participated in the first three institutes, and every qualifying president who wanted to participate was accommodated.

[Insert Table 1 about here]

Background data on each president and governing board are presented in table 1, which were obtained from demographic questionnaires given to the presidents and from an analysis of their publicly available biographical statements. The participants were 83% male, 80% white, and had a median age of 57. Among the presidents, 80% were appointed to the presidency from outside their university, and 90% held an academic doctorate. These statistics are quite similar to the most recent national survey data (Maguire Associates, 2005).

The presidents were selected by boards with a median size of 11; 80% of the boards had members that were selected by gubernatorial appointment, very similar to national statistics at the time (Schwartz & Akins, 2004). Seventy percent of the presidents reported directly to an institutional governing board, while the remaining 30% reported directly to a system governing

board. Only 15% of the boards had term limits, significantly lower than the national average. Most of the boards had a voting student member (63%), but relatively few had a voting faculty member (20%). Approximately half were from land-grant universities with membership in NASULGC, and four-fifths were members of AASC&U, the primary association representing comprehensive public universities.

The author observed the open discussions conducted with these presidents, including small group discussions when possible. Notes on the observation were taken on a laptop computer during each institute, with quotes from presidents transcribed verbatim whenever possible. (Audio taping was not permitted by AGB due to privacy concerns.) Written notes were also taken by another project staff member to ensure the reliability of the author's observations. During breaks, the jottings taken down by the author were converted into full-fledged field notes to ensure the best representation of the data (Emerson, Fretz, & Shaw, 1995). Memoing was also used as the institutes progressed to solidify and record any insights that occurred during data collection. Although not intended to be an ethnographic study, these techniques are necessary to provide useful data (Suddaby, 2006). Ultimately, forty pages of single-spaced observation notes were generated for analysis.

Each president produced an action plan for future board improvement. With their signed permission, the presidents asked to provide a copy of their action plan to the researchers, and ultimately over 90 percent of the participants chose to do so. The action plans contained a list of objectives, concerns about board performance or dynamics that led to these objectives, and the actions that were planned to meet the objectives. Outside of the researchers and the presidents, very few people have had access to these documents, and they provide unique insight into the concerns and strategies used by presidents to address governing board problems.

Telephone interviews were conducted both to evaluate the success of the institutes and to probe insights that developed over the course of data collection (see the Appendix).

Approximately six months after each institute, the presidents were asked to participate in a telephone interview to discuss the institute, the progress of their action plan, and general issues that they have faced in their governing board relationships. The interviews were split between the author and an AGB staff member, Neal Johnson. Thirty-nine interviews were conducted with presidents participating in the three original institutes, yielding 90 single-spaced pages of notes. Like the observations, the interview data was transcribed whenever possible, but audio taping was not allowed.

The author analyzed the data after each institute, and again after the conclusion of data collection. Additional memos were generated that discussed possible themes for further analysis, and the research questions addressed in this paper emerged over the course of the project. As the questions were clarified, the institute agendas and interview protocols were altered to provide opportunities to discuss related questions at greater depth. Care was taken to ensure that both interviews and discussions were open-ended, and did not lead participants in any particular direction. After the conclusion of the institutes, the observation, interview, and plan data were open coded to develop emerging themes from the data, using techniques drawn from grounded theory (Strauss & Corbin, 1998; Suddaby, 2006). Axial codes were used to orient the major themes (discussed below) around the primary research question, and a selective code (in this case, moral seduction) emerged through further analysis and interaction with theoretical literature in organization theory and decision making.

Additional measures were taken to ensure the validity of the analytic categories and the study as a whole (Maxwell, 1992). The study was reviewed by the three other co-investigators in

the project, two of whom were able to provide substantial commentary on the analysis of the data. The third co-investigator was a peer debriefer with the author during the four observations, where we reviewed our notes continually and revised our notes when necessary (Lincoln & Guba, 1985). We also shared the task of interviewing the presidents after the institutes, and each time reviewed the results of our interviews, discussed how we were taking notes on the interviews, and made changes to the interview protocol. On a few occasions, member checking occurred during data collection with presidents to clarify their comments or to engage in further discussion of an issue. The study has been shared subsequently with many of the participating presidents to further the member checking process, but to date none of the presidents have responded. As a result, it was particularly important to provide disconfirming evidence of the major themes discussed in this paper, and I have done so whenever possible to provide a more balanced analysis.

Limitations

Considering their intimate connections to governing boards, college presidents are in an excellent position to report on the dynamics they observe on a routine basis. But they are by no means objective; they have their own interests and agendas as well, many of which were revealed in the data. Ultimately, I have chosen to embrace the subjectivity of the informants, as they provide the best data we have on the important dynamics discussed here, and understanding their perceptions is vitally important to comprehending contemporary governance. The researcher is also a subjective observer, and as an academic and former staff member to a governing board, I am sensitive to issues related to my professional background, knowledge of the literature, academic interests, and experiences. I am sympathetic to the needs of the

governing boards, have witnessed the immense pressures placed on university presidents, and believe in the wisdom of lay governing boards and trustee independence. As a faculty member at a public research university, I also have a vested interest in ensuring the autonomy and vitality of public systems of higher education.

Potential sources of bias in the informant group are not easy to identify. Statistically, the group is very similar to the national population of public universities, and the entire population of potential informants was recruited to participate in the study. However, those who chose to participate are not likely to be entirely random on unobserved characteristics. Those who had stronger previous ties to the AGB did seem more likely to participate than those who did not, so presidents who were more engaged in governance concerns may have been more likely to attend. In addition, the staff of the institutes did note that the informants tended toward the edges of the spectrum of experience; that is, the presidents seemed either very experienced and successful in managing governance, or quite inexperienced and attended to seek help and advice. It is difficult to say whether this is substantially different from the national population of public university presidents. It is also important to note that these findings are generated from data on presidents of four-year public universities, and may not translate well to private universities or community colleges.

Confidentiality was a major issue throughout the data collection process. It was decided at the beginning of the project that audio taping of the proceedings would restrain the participants from providing candid observations on their governing board relationships, a sensitive and private topic for many presidents. Great care was taken to ensure the confidentiality of these discussions and documents. The list of participants and the data collected has never been revealed to anyone outside of the institutes and the funders. In this paper, quotations from

presidents will not be associated with any particular person, institution, or region. In a few cases, minor details (such as gender or title) have been changed to ensure confidentiality, particularly when issues were discussed that are widely known in governance circles. Nonetheless, each quotation comes directly from the president of a major public university with direct responsibility to a system or institutional board of trustees.

Results

The data revealed presidential concerns in five primary areas of trustee independence. Presidents described trustees whose primary political loyalty was to their political party or to the governor who appointed them. They reported conflicts of interest between trustees and the university's business and financial interests. Within the board, they saw a domination of board decision making by individuals claiming expert competencies, usually in the areas of management, finance, and law. They saw cliques of trustees that emerged to control decision making by building majorities or controlling board committees. Finally, they saw trustees driven by idiosyncratic personal agendas that placed their personal and family interests over the interests of the university.

Further analysis revealed that behind each threat to trustee independence was an external interest that sought to control the university and served as a credible source of reasoning to support decisions. State governors and political parties sought to use trustees as agents of political control over universities that are ostensibly autonomous and buffered from political interference. Firms sought to use relationships with trustees to extract financial benefits that would otherwise be unavailable to them. Lawyers and CEOs drew upon their professional legitimacy and knowledge to monopolize decision making within their spheres of influence.

Cliques formed around networks of the influential and powerful who found that common benefits could be extracted by exerting control over board decisions. Finally, individual trustees found that their power as a board member could be used to pursue family, individual, and other external agendas. Thus in certain cases, these groups utilized external sources of power and legitimacy to transform boards of trustees into organizational weapons to serve illegitimate extraorganizational interests, a structure or practice used by “a power-seeking elite in a manner unrestrained by the constitutional order of the arena within which the contest takes place” (Selznick, 1952, p. 2).

Individual trustees were seduced into serving external interests through common decision-making biases that allow us to justify illegitimate decisions in our own minds (March, 1994; Moore et al., 2006). Trustees whose loyalties lay outside the university believed that their superior political ideology would serve the public interest in higher education better than the parochial interests of the university. Trustees with conflicts of interest believed that their personal morality would never allow these conflicts to interfere with their governing responsibilities. Trustees who dominated board decisions through their professional competencies believed that their expert knowledge facilitated better decisions. Trustees in cliques used techniques to build networks and majorities that were legitimate in other political contexts and would allow them to exclude other trustees they saw as dangerous. Trustees who pursued personal agendas used forms of motivated reasoning that allowed their need to attain a particular outcome to justify their behavior.

The degree to which any given governing board suffered from these threats varied tremendously, from those who rarely if ever saw these threats emerge to those who dealt with these problems on a nearly daily basis. When threats to trustee independence did emerge, they

had substantially negative implications for governing board performance and presidential attention to substantive problems. In several cases – by no means all, but some – presidents believed that compromised trustee independence seriously threatened the health and stability of their institution. In many of these cases, subsequent events proved that their assessments were accurate, as their university was embroiled in a public and embarrassing imbroglio.

Threats to trustee independence can be difficult to categorize and disentangle, as the following quote from a particularly beset president demonstrated.

I have eight board members, and I have five with conflicts of interest. One of my trustees, after she left the legislature, led the Board of Realtors, a driving force behind reforming government behind the “price of government” model. We are compromised by dealing with a trustee who is a strong supporter of that process.... I have a union rep who was named by the governor recently. Prior to being the union rep, he was the person who oversaw our prevailing wage law for all of the unions... he spoke with our counsel and he has removed himself from overseeing that process. The former governor’s chief of staff takes slams at the governor as a trustee of the university. And right now one of our trustees is running the campaign for the mayor. We have a relationship with the current mayor’s mother, who has been helping us obtain federal support in various ways. Who knows how this will play out.

One analytical problem is a tendency to call almost anything a “conflict of interest,” which is true in the broad sense, but leads to confusion under further scrutiny. In the situation quoted

above, there are political conflicts of interest, financial conflicts of interest, and personal conflicts of interest, and often even these simple categories break down as multiple conflicts occur simultaneously. Disentangling these conflicts requires us to distinguish between foreground and background issues, between the subject and object of trustee action, and between who does and does not currently hold political office. For example, when a trustee “takes slams at the governor as a trustee of the university,” she is pursuing a personal agenda on behalf of herself and others to pursue her own political ends. (If she wrote letters supporting the governor’s attempt to slash higher education funding, this would be conflict in loyalties.) Thus although the results are organized into five major analytical categories, in reality these threats to trustee independence often overlap and require substantial effort to resolve.

Political Loyalties

In recent essays addressing trustee independence, conflict in political loyalties is by far the most commonly expressed concern, particularly related to trustee activism (AGB, 1998; Lazerson, 1997). Loyalty to external political actors violates the trustee’s duty of loyalty to the organization to which the trustee has been entrusted (Orts, 2001; Smith, 1995). Political interference has been seen as largely the result of an emerging right-wing agenda for higher education, as expressed by organizations such as the American Council of Trustees and Alumni (ACTA), which has openly stated that it seeks to transform trustees into agents of change (Bastedo, 2006).

Our presidents, however, saw conflict in political loyalties as a general problem that could emerge from either political party, depending on who was most recently in power. Overall, presidents reported that most trustees have independence from the governors who appointed

them or other external political actors, and felt generally that they could manage any external influence on the board by politicians. Yet for many boards and presidents, trustee independence was a major issue, and conflicts in political loyalties were the most common threat discussed by presidents.

For the vast majority of public campuses, trustees are selected by the governor, with or without input from the campuses or other constituents. As a result, trustees may vary in quality, but their commitment to the governor, financial or otherwise, is a constant. One president reported, “The governor said to me, ‘I gotta reward these people who got me here. I know they’re not competent, but I will try to balance those people out with people who are.’” Another president saw a clear trend in the appointments by his governor. “They tend to be financial supporters of the political party of the governor, they are activists, they have served on corporate boards, but few are alumni.”

Not all presidents were powerless in the face of appointments. “The governors are going to appoint their friends, because these are highly sought-after appointments,” one president noted. “But you can influence who among those friends are selected.” Sometimes the president’s recommendations for the board are communicated directly with the governor when positions open, and sometimes presidents have access to key staff members – chiefs of staff, appointment secretaries – who convey those opinions to the governor. In one case, a relationship with the governor’s appointments secretary led to a great deal of influence, since it was the secretary herself who very often made the ultimate selection.

Many other presidents, however, reported that they have no influence on trustee selection, despite their intense efforts, yet the choices were not necessarily partisan.

We have no role in the selection of board members; this governor is a little different than what we've had in the past, we learn who is appointed when the public does. That's just the way he operates. Some have been appointed who don't even know the governor, for some reason they were picked to be on the board. It doesn't seem to be ideological.

Indeed, this president came to see the benefit of his lack of influence, because it reflected lower politicization of the process in general.

For some presidents, the governor's apolitical appointments positively influenced board behavior, and these presidents were often the happiest with their boards of any of the participants. "My board is the most prestigious board in the state," one president said. "Politically it is a very highly tuned board, people are highly aware of what is going on, but it is not a partisan board. On the board, people check their party affiliations at the door." For another, an equal political balance on the board led to harmony. "[The] board is half Republican, half Democrat. They are very egalitarian in nature, and they all got to where they are through higher education."

For many other presidents, however, the politicized nature of their boards led to real problems in board performance and a great deal of presidential stress and anxiety. Due to recent changes in the political environment across the country, many presidents saw their boards becoming increasingly tied to conservative governors and state political parties. "All of our boards are far more conservative than they were before, and they believe there are all these efficiencies to be gained, and they want to deliver that to governors, legislators, etc. But how do we engage them in the moral and practical implications of that?" one president asked.

In one case, a governor's political agenda required control of the boards of trustees, and he actively interfered in the governance process.

We have a high-profile governor, he wants to control the universities. When he came in, he asked all of the trustees to resign. It's not selection based on ability or pre-disposition, it's loyalty to [the governor]. I end up spending a lot of my time with the group who is in power.

This was not the only case where the governor was actively hostile to the universities, and sought to restrict managerial autonomy through his selections to the governing board. Unlike the previous president, however, this president decided not to accept the status quo, and instead sought to socialize the governor's appointees into what he believed to be appropriate conceptions of trusteeship.

I keep edging them on the role of public college trustees. The governor says the board does not work for the college, the role is to protect the state from the college. He wants board members that are solely loyal to him. He brought in a consulting group about how the president can destroy a college and what they could do to stop it. So we have to go through some process of reeducating them.

In both of these instances, the governor was the major actor leading to conflicts in political loyalties and lack of trustee independence. Other presidents, however, find themselves directly in the middle of state political conflicts where parties are vying for control of state

politics. “In my state, the governor is a Democrat in her [first term], both houses are Republican. The board chair is a longtime friend of the governor, so [the board is] seen as increasingly partisan in the state. Increasingly we’re placed in the middle between the Democratic governor and the Republican legislature.”

Other presidents reported difficulties with trustees who sought to use the resources of the university for political gain. It was common for presidents to rebuff requests to appoint the politically connected to well-paying but ultimately useless jobs in university administration. Another common request was for admission of a politically-connected young man or woman to the university, so common, in fact, that presidents had developed a standard response, which was to provide early information on whether the student would be accepted. Others had to deal with trustees who used existing staff for political purposes.

Recently one of our trustees had a short-lived run for public office, and in his preparation for that, attempted to use the resources of the university to build a plank in his political platform. It was more annoying than anything else. It was taking advantage of the staff to write these political papers, and then taking credit for them when they were composed by the university staff.

Some presidents recognized that there are ironies in their complaints about political loyalties. While they decried the politicization of trustees in general, they also actively pursued political advantage and influence where they could. Indeed, they often tried to utilize the political connections and backgrounds of individual trustees when they suited institutional interests, even as they recognized that this could produce less trustee independence in the long run.

I testified in front of the House finance committee, and my two board members were there. They had never done that. One of my members is part of the Republican central committee, which is *the* party in [my state], and he liked the attention. I've asked them to identify members of the legislature to work with, but some of my members aren't all that politically connected, even though they are politically appointed. They are happy to help, but I have to tell them how to do that. Which is OK by me, because then I have a little bit more control over what they are doing. You know how it is.

For these presidents, however, the best-case scenario was a board that proved its independence by using its political influence to serve *institutional* interests as opposed to *state* or *party* interests. From the presidents' point of view, this was not self-serving, but part of their assiduous pursuit of the best interests of the university.

Conflicts of Interest

Traditionally, conflicts of interest occur when a trustee's personal financial interests conflict with the trustee's duty as a fiduciary of the organization (Orts, 2001; Stark, 2004). Decision-making biases play a strong role in how people respond to conflicts of interest. When presented with situations where personal self-interest is contrary to moral or ethical behavior, self-interest is most likely to be our immediate response, while the moral choice requires higher levels of thinking (Moore & Loewenstein, 2004). As a result, self-interest is a cognitively powerful force that influences the judgment of even highly ethical people, and creates an

unconscious intrusion of bias that makes it difficult to recognize that self-interest is the primary decision factor. Thus self-interest may play a role in reinforcing the bounded rationality and heuristics of actors that bias even normal decision making (Chugh, Bazerman, & Banaji, 2005; Simon, 1957; Tversky & Kahneman, 1974).

Conflicts of interest were one of the most difficult problems for presidents to handle. Many conflicts of interest fall into a gray area, not necessarily a clear violation of state law, but rather a possible conflict with the trustee's role as a servant of the public interest. As a result, unless the trustee acknowledges that the conflict exists, it is difficult for the president to resolve. As one president noted, "It's the shades of gray... until they're willing to own some of that, it's impossible to deal with that conflict." Conflicts of interest also vary greatly and can be somewhat unpredictable, and difficult to distinguish from simply undesirable connections to outside agents. "One of our members is the head of the Chamber of Commerce, and one of their goals is to cut taxes," one president said. "We were trying to get the legislature to spend more on our capital spending projects. Is that a conflict of interest?"

Our presidents reported that trustees are increasingly sensitive to fiduciary conflicts of interest due to their service on corporate boards. The Sarbanes-Oxley Act, passed after the corporate scandals at Enron and Tyco, among others, has forced corporate boards to reexamine many of their governing policies and practices (Dreier, 2005). The influence of corporate interlocks, or network connections between trustees and corporations, has led to substantial application of Sarbanes-Oxley mandates in university governance, despite the fact that the Act does not legally apply to non-profit organizations (Mulligan, 2007). A substantial proportion of trustees sit on corporate boards; initial research suggests that close to half of research university trustees currently hold a seat on a corporate board (Pusser, Slaughter, & Thomas, 2006). Due to

these engagements, and because the comparison with corporate boards is so salient for these trustees, the ideas engaged in that sphere diffuse to the non-profit organization to which they are also entrusted. Among private colleges, for example, the rise of shareholder activism in the 1990s is believed to be one of the causes of more engaged trusteeship in recent years (Chait, 1995). Our presidents reported that many trustees were now concerned about their personal liability for decisions made as trustees, which is one of the consequences for corporate directors after Sarbanes-Oxley.

Nonetheless, fiduciary conflicts of interest persist on many boards, presenting substantial challenges for presidents, and consuming a great deal of time, energy, and political capital to resolve. “I have one trustee that I got removed due to a conflict of interest,” one president reported. “He was majorly invested in a start-up company that was developed by one of our faculty members. I talked to the governor and she forced him to resign from the board.” One president described how the self-interests of his board chair resulted in a “bounded ethicality” that was difficult to address.

This guy’s problem with me was that I would not accede to a lot of demands that he had pertaining to contracts he wanted with people he wanted to do business with or appointed to positions that he wanted, and I just didn’t think it was appropriate to yield to that stuff. So over time, along with running roughshod over the board, most people felt that they don’t have any say over anything. A number of political appointees are not as sensitive to the ethical issues as the people who are paid to do this stuff are. By the way, he didn’t think it was unethical – this was

a way to help people who were good to him or good to the board. Often this was a *quid pro quo* for something someone did for us, and he saw it as good business.

In this case, bounded ethicality intersected with the need to accommodate business interests; practices that would be acceptable to facilitate business transactions often do not translate well to universities. But this trustee seemed to have blinders about determining what was appropriate in the university setting. A similar situation developed at another campus, where the board chairman saw an opportunity to serve his political and business interests simultaneously through an upcoming sale of university property.

We had a campus in the suburban county that is [the chairman's] home county and the governor's home county as well. They were going to take property from the campus and have it given over to a private developer. There was a committee established to make sure this was paid for, executed properly, etc. [The chairman] announced that he and a close personal friend of the governor's would serve on this committee. And I said, they will point at you and say this was a setup to benefit the governor's friends, you're setting yourself up for public criticism. This is the most valuable land in a rich county.... Over time, he would get offended by [my criticism], he would want to do his kind of thing.

Unfortunately, this situation ended in a significant public scandal that led to the removal of the board chairman.

Another conflict of interest directly involved a previous university president, in collusion with his board chairman and local business interests.

There was a major scandal involving my predecessor, basically the president making arrangements so that business interests on the council were given a preferred position in regard to contracts. So I came in saying we're not going to that, and a couple of people whose terms were up asked not to be reappointed by the governor. The place suffered a really heavy blow, there was an ethics investigation that ended abruptly because the president quit.

Nevertheless, it is important to note that there were also cases where business and university interests collided, yet presidents and trustees found mechanisms to resolve the conflict. "We have one board member who lives in town with our flagship, she has real estate interests in the town, but she always discloses any conflicts that may come up." Another president reported, "We have one board member with interests in minority purchasing; she asks for a lot of data from our campuses but does not intervene on behalf of any individual vendor. It hasn't been a problem."

Many presidents believed that increased conflicts of interest were the result of privatization trends driven by the inability of states to keep pace with university needs and ambitions. "As the state shrinks, and more and more money comes from outside sources, institutions need to develop guidelines for trustees," one president noted. The expanding economic development role of universities has also provided opportunities to generate substantial conflicts of interest with university-supported research parks, start-up companies, and

economic development entities. “You have private developers, faculty, and technology transfer. This has gone from a minor function to a major function, and we’ve got a lot more vulnerability on the economic development function than we are dealing with.” These increasing interlocks among college trustees and affiliated entities was a major area of concern for our presidents. “We have trustees that sit on the foundation board, the hospital board, the public radio board, the technical college board, the [college] radio board,” one president said. “I don’t know if we’ve tried as a field to analyze what that means.”

Domination by Expert Competencies

Professional authority is one of the most powerful forces in modern societies, providing both specialized knowledge and associated claims to legitimacy not available to general citizens (Abbott, 1988; Brint, 1996; Freidson, 1988). Professionals of all types, but especially lawyers and chief executive officers (CEOs), are especially sought out as trustees because of their ability to contribute to the university’s knowledge of legal and business issues, and their access to vital political and financial networks. Although universities have legal and financial professionals of their own, presidents feel it is vitally important to have members of the board who understand the complexity of their role, and who can provide insider information on future trends and emerging issues that may impact the university.

On the flip side, domination by professional authority is a threat to trustee independence. Individual board members who claim enhanced legitimacy because of their professional expertise can come to dominate board decision making. Lawyers may believe that they have a monopoly on legal expertise that makes them the singular authority on legal matters that face the board. Those with experience leading large business enterprises may see themselves as the

authority on management issues, financial matters, or presidential compensation. The board may even look to the student member as the singular representative of the student perspective on important issues. The problem occurs when, in the face of their colleagues' specialized knowledge, other board members defer to their judgment, limiting discussion and consideration of alternatives.

According to one president, it is no less than the board's governing authority that is at risk. "When you've got a cohesive board, and you've got people with expertise or perceived expertise, there's a danger of giving up some of the board's authority because of perceived expertise," she said. Another responded immediately, "You could have a board where all of the competencies are in one person, or they could be spread out among the members... if your board chair is the only person who has these types of competencies, you have an aristocracy that has to be controlled." One president believed that trustees should take account of the distribution of competencies among board members, and encourage the governor to make adjustments when needed. "The board chair needs to reflect upon the range of talents on the board and give some consideration about where are we vulnerable."

Where with cliques there is a monopoly of votes within a single, exclusive network, in cases of expert domination there is a monopoly of information. The effect on the board is similar. Declining trustee independence reduces consideration of alternatives, and the collection of information from other sources, leading to poorer decision making. Paradoxically, in the hope for the best information, boards place the whole of their authority in a single individual, who is inevitably more fallible than an entire board. And because it is difficult to see alternative consequences, it can be difficult for boards to ascertain the costs of relying upon a single voice.

Presidents speak articulately about these threats to independence, yet simultaneously seek to minimize the range of voices that is represented on their boards of trustees. While lawyers, accountants, and CEOs present some difficulties, many of our presidents would prefer if their boards had *only* members from these groups as trustees. Faculty, students, union representatives, and community leaders were widely believed to create different, and possibly more difficult, problems to manage: They see themselves as representatives of particular constituencies, not as representatives of the university as a whole. Moreover, the problems that trustees from these groups tend to produce are relatively unpredictable, as they are more likely to talk openly with the media and their constituents about board business.

Conversely, the problems produced by lawyers and business leaders are relatively predictable, largely micromanagement of various kinds over legal and financial affairs, and are balanced by significant skills in these same areas. Importantly, these individuals are more likely to understand the challenges of managing very large organizations, and to be naturally supportive of managerial prerogatives.

I'd argue that some of the most effective board members are ex or former CEOs.

They have had lots of responsibility, they understand dealing with complex issues, and they can be very supportive of us... It takes a lot to figure out the learning styles of those kinds of board members, but they are often the most supportive of me.

This theme came up repeatedly among the presidents. "This is the best board I've ever had. They are all senior leaders in big business and major law firms... [the governor] appointed real

business leaders to the board. They know how to be board members.” Another president responded, “I have a couple of bad boys, but for the most part I have a really good board, they are CEOs and retired CEOs, understand what a big enterprise is like, most of them do understand what the magnitude is.” On the other side were presidents who lamented that their boards did not have enough of the CEO type. “We have no one on the trustees who have ever run anything, large business or small business.” But at least one president saw a danger in this philosophy for the academic enterprise.

It’s really easy where we get into these positions, where faculty senates dig in their heels, to side with the CEOs and those who support us [on the board]... I think it’s incumbent upon us to keep protecting the academy... we bring in faculty members to talk to the board about their lives and what they do on a daily basis.

Indeed, the governors were likely to support the president’s strong preference for CEOs and lawyers by appointing these types to their board. On this issue, there is an interest convergence between presidents and governors, who can simultaneously reward campaign contributors and the politically connected – disproportionately lawyers and business leaders – and be assured by university presidents that they are appointing “good” trustees.

Cliques

Under normal conditions, goals and objectives in organizations are set through a political process of negotiation among a dominant coalition of actors (Cyert & March, 1963; Pfeffer &

Salancik, 1974). It is usually a mistake to assume that any individual, even the most charismatic leader, is singularly responsible for agenda setting. Instead, it is more realistic to describe the organization as a confluence of interest groups that compete to set organizational direction and control decisions. Therefore, cliques are usually normal and unremarkable subgroups of the organization pursuing common interests, and no single clique can expect to gain so much power as to completely determine the goals, objectives, or activities of the organization. In addition, the information needed to make decisions is relatively available to members across coalitions.

Governing boards are an unusual organizational case, however, whose primary functions are threatened by clique formation. Governing boards contain relatively small numbers of trustees who interact infrequently and whose sole duty is pursue the interests of the organization as a whole. As a result, it is relatively simple for a clique to gain nearly total power over the board. Cliques can also use their influence over the president and board committees to control information flows to board members, solidifying their influence and making it difficult for outsiders to penetrate the clique's power. From a decision-making perspective, the clique's overriding influence reduces the already small number of perspectives represented on the governing board, and making poor decisions more likely. "A plurality of perspectives on the board provides a counterbalance to the impulses of an individual or a like-minded bloc. In fact, renegades and cliques often circumvent established procedures precisely because the prospects are bleak that the majority of the board will concur with them" (Chait, 2006, p. B6).

Presidents who faced the problem of cliques tried to reinforce the need for trustee independence. "I would say in executive session that no one member could act as the board, that [the board] could only act as a corporate entity. The chairman agreed with that, except as it

pertained to him,” one president noted, followed by hearty laughter around the room. Another president said that at his university, “There are at least three presidents, not including me.” Unfortunately, once the clique mentality had taken hold, it tended to infect the entire board. “The board is dominated by two attorneys, and no one has the courage to stand up to them. It is a tyranny of a minority,” one president said bitterly. “Two other regents control the academic affairs committee and have refused to approve any academic programs over the past three years, just to spite [the attorneys].”

Another president described a board with a decades-long history of factionalization that had systematically terrorized a succession of presidents at the university.

I have a very challenging board... I’m the seventh president in twenty years. The board is full of former legislators and political operatives. The board is dominated by two groups, one including the chair, who is the least reflective person on the board. The other [group] treats the board as a legislative committee, with inquisitorial hearings, where they treat us as a bureaucracy that needs to be beaten over the head. They refuse to see how their behavior impacts the institution. They have lots of back channels of information, and they’d believe what they heard at a cocktail party more than what they hear from the administration.

Notably, this president, a highly respected woman who had previously held senior posts in both universities and federal government, was forced to resign by her board of trustees within a year, and subsequently left university administration completely.

Presidents sought to address the issue of cliques by establishing clear expectations for trustee behavior. “We just got two board members to resign. The board chair and vice chair met with these two board members and established expectations *in writing*,” one president reported. “Then we met and said, you aren’t meeting these expectations, and thank you, but we think you should resign.” Another president believed that the key was to set the board’s focus on important strategic issues facing the university. “I see loss of independence and loss of focus as symptomatic of the board not knowing what issues the board has to face,” this president said. “Political associations become stronger than they should be, and the smaller the community, the worse this is.”

Personal Agendas

The influence of purely personal agendas on governing boards threaten board performance for many of the same reasons as political loyalties, cliques, and professional domination, but the problem generates from an individual level. Trustees with agendas may cloak themselves in politics or professional authority, but ultimately they seek only to exploit the university for their own benefit, to gain personal recognition for their status as a trustee, and to make the institutional interest subservient to their own. The presidents made a clear distinction between conflicts in political loyalties and the personal agendas of board members, even if those agendas are political or ideological in nature. As one president put it succinctly, “It doesn’t have to be influence from the legislature, but also from the ideological beliefs of individual board members.”

The unusual authority relationship between presidents and trustees makes personal agendas particularly difficult to manage. It is widely believed that after their responsibilities as

fiduciaries of the institution, the board's most important task is the hiring and firing of the president (Bowen, 1994; Mortimer & Sathre, 2007). The board has direct authority over the president, and can hire and fire the president at will. Yet most boards also expect the president to set the agenda of the board, manage communication among the trustees, and corral board members who are not meeting expectations. This creates a thorny problem for a president who is facing a board member who is difficult, negligent, or generating a conflict of interest. On the one hand, the board expects the president to manage the problem; on the other, the president knows that the problem trustee could become an enemy for life, and a future vote for termination in tough times.

As a result, the board chair often plays a seminal role when personal agendas become endemic to the board, as presidents delegate the unpleasant task of confrontation. The importance of having a supportive board chair comes through in the following case, where a member of the board engaged in a one-man campus investigation of the president, because he wanted the president's position for himself.

Before I took the job, one of the board members wanted the job very badly, and he got the vice chairmanship as a compromise. And he was trying to get me out from day one. How do you get [the board] to understand that there's a real ethical problem here, and that you know something the board has been hiding from you? I told her, it has to stop, you have to confront him, and you have to tell him that this is unethical and unacceptable. She confronted him, and we had a happy moment, but then he started up again. Then they told him that he had to resign, and about two weeks ago he did.

Relying upon the board chair can be difficult, however, for boards where the chair changes every year and, consequently, each member comes to feel entitled to time in the chairmanship. The policy of revolving chairs signals a subtle but important shift in the role, as the privilege of attaining the board chairmanship trumps the best interests of the board and the institution, making personal agendas more acceptable. As one president remarked, “Each person comes on with his or her agenda, because I have one year to make my mark, and by God I’m going to do it.... Some are good, but others come in with a purely personal agenda.”

The personal agenda of a trustee is often connected to community politics. Trustees who are politically active at the local or state level often see the board as an opportunity for personal advancement, which can cause serious conflicts of interest between the trustee and the university. “The former governor’s chief of staff is still politically involved and every two weeks he critiques the governor in the media, and he’s *on my board*,” one president emphasized. “And he refers to himself as a trustee of my university.” Another president had a similar problem. “We had a trustee who was writing a political newsletter identifying herself as a university trustee, and causing all kinds of trouble with the legislature. The board chair pulled her in and shut it down.” As one president noted, personal political advancement is rarely a problem among private university trustees. “There have been very few governors or public officials who have made their way to the top on the backs of a private university board.”

Sometimes the conflict is between the strong ideological views of a board member and university policy. For trustees in these cases, opposing the university becomes a matter of personal integrity that supersedes university interests.

We had a serious problem with one of our former trustees, a very religious person, with the stance we had taken on nondiscrimination against gays and lesbians. This guy is very wealthy and very powerful, got the Attorney General on our case...

We had a number of showdowns where I was literally on the phone with the governor counting votes. All in all, a very unpleasant experience.

This was not the only trustee who openly and directly opposed the university's stated interests.

"I've had members who've gone individually to members of the legislature and taken the opposite position of the university," one president said. "It was really, really destructive." But at other times personal agendas are simply about accumulating and exercising power over the board and the university.

The problem was the chairman, but that was as much with the board as a whole as with me as president. He believed that he alone ran the university, and so a number of members of the board were simply at times actually verbally abused or threatened that they wouldn't be reappointed if they did not comply with his wishes. It was a very difficult relationship and one that was unintentionally encouraged by the governor's office because of their support for existing political relationships.

In this case, as in many others, the board chairman was seduced into believing that he alone would do a better job running the university than the president and the board.

Discussion

The conventional wisdom about violations of trustee independence is that there are individual trustees that lack the moral character or political will to resist immoral behavior. The predominant frame is one that focuses on individuals as the source of the problem, and therefore the solutions tend to be individualistic as well: to eliminate problem trustees, to establish codes of conduct, and to require transparency and disclosure of conflicts of interest. This article makes a qualitatively different argument, namely that threats to trustee independence are fundamentally organizational problems that will require organizational solutions.

In this study, *moral seduction* is an anchoring concept to understand threats to trustee independence. In most cases, moral seduction proved to be a more robust explanation for negative trustee behavior than malicious intent. Whether it was a sincere religious belief in homosexual immorality or a passion for improving academic standards, valid social and political concerns were the basis for motivated reasoning allowing trustees to ignore their duty to place the university's interest above their own. The data support our understanding of the routine decision-making biases that can cause well-meaning people to justify otherwise unjustifiable actions.

The data also support our understanding of the sources of moral seduction in the conflicting institutions that make claims on the university. In this way, institutional theory and goal displacement are important to shape our understanding of the organizational nature of moral seduction. Each of these institutions – political parties, business firms, professions, elite networks, families – is part of the organizational web that supports the university with resources both tangible and intangible. Each of the institutions has a particular logic of how the university should make choices aligned with their particular needs, and universities must align themselves

with the logics to thrive in a competitive market of institutions seeking the same resources. It is difficult to overemphasize how both universities and external institutions are served in terms of resources and legitimacy in the development of this institutional web, and it would be a mistake to see the university as merely a victim to these external interests.

In this institutional web of conflicting logics, trustees become the agent of these institutions in efforts both legitimate and illegitimate. By organizational design, trustees serve a public that is represented by these fundamental institutions in society, and their alignment with these institutions clearly serves university needs as well. Yet there are often fundamental conflicts between the best interest of the university and the best interest of these external institutions. These external interests can thus legitimately make claims on these trustees that cause them to make choices that violate their duty as a fiduciary of the institution, but which are convincing to them are ultimately for the greater good, even the public good. Thus we often have cases not where we are choosing private goods over public goods, but public goods in conflict. The result can be a displacement of the goals of the university for the goals of external institutions through the cognitive process of moral seduction.

The primary alternative explanation for these findings is that trustees consciously seek to use the university as an organizational weapon, a tool to serve the needs of external interests. It is undeniable that there are individual cases where trustees have done this, represented both in this dataset and in the public arena more broadly. Transparent financial conflicts of interest and misplaced political loyalties were the common culprits in these scenarios, which caused substantial turmoil on boards where it occurred. However, it was far more common for the presidents to discuss threats to trustee independence as embedded in the networks of trustees and external institutions that influence all trustees to some extent. Shifting the unit of analysis from

the individual to the organizational level proved to be profitable in understanding the systemic sources of these threats.

Conceptually, it is difficult to understand the contemporary dynamics of university governing boards without understanding the external interests that seek to capture and co-opt university trustees. Considering the increasing growth, differentiation, and privatization of public universities, presidents need boards of trustees that have substantial expertise in managing massive, complex organizations. In return, however, universities are highly embedded in social structures – networks, cliques, families, professions, and government – whose agents can extract substantial personal or political gains through trustee membership. As universities become wealthier, more powerful, and increasingly essential to social and economic development, potential benefits for external interests increase accordingly. These increasing temptations will require specific policy responses, and an understanding of the process of moral seduction can inform our understanding of how these policy responses may play out on contemporary governing boards.

Policy Responses

Historically, it has been hoped that open meeting laws would help ameliorate trustee conflicts by forcing policy discussion into the sunshine, accommodating the public's right to know about government business (Hearn & McLendon, 2006). Although every state has sunshine laws of some type, policies vary greatly, from those that simply require public board meetings to those that prevent more than two trustees from discussing board business behind closed doors. Controversies about open meeting laws have generally focused on presidential selection processes (McLaughlin & Riesman, 1986), but more recently sunshine laws have been

shown to substantially inhibit board effectiveness. McLendon & Hearn (2006) find compelling evidence that sunshine laws resulted in an uncomfortable climate for thoughtful board deliberation, unnecessarily restricted communication among board members, and centralized power in the president and board chair. Although this study was not able to investigate this conclusion systematically, we would expect that strict open meeting laws provide similar opportunities for cliques to have undue influence, for lawyers and CEOs to dominate issues related to their professional competence, and for board chairs to be more successful in their pursuit of personal and political agendas.

Laws requiring disclosure of conflicts of interest may have similar effects. Varying state laws and the diffusion of practices inspired by Sarbanes-Oxley regulation have encouraged boards to create formal policies to address trustee conflicts of interest. Most commonly, this results in policies requiring financial disclosures of interest, guidelines for gauging the magnitude of interests that trigger a potential conflict, and specific protocols for how boards will consider potential conflicts when they emerge (Dreier, 2005; Leslie & MacTaggart, 2008). New Jersey is an illustrative case. In May 2006, after a series of governance scandals at the University of Medicine and Dentistry of New Jersey, Governor Jon S. Corzine required all trustees to submit an annual conflict-of-interest form to the state ethics commission, with failure to comply potentially resulting in dismissal from the board and a \$10,000 fine (Corzine, 2006). This was considered a compromise with trustees; the initial law required financial disclosure forms to be posted on the internet for public inspection, and many expected large numbers of trustees to resign *en masse* if it were enacted.

However rigorous, disclosure may have the ironic effect of exacerbating conflicts of interest. From a decision-making perspective, the act of disclosure can lead people to believe that

they are morally licensed to act for personal benefit (Cain, Loewenstein, & Moore, 2005). While the process of moral seduction may lead trustees to justify improper behavior, the vast majority seek the approbation of peers, which can only be attained by conforming to expected standards of trusteeship. Paradoxically, disclosure of financial interests can allow trustees to ameliorate feelings of guilt about their behavior and provide a moral license to further exploit the conflicts of interest they have disclosed. When people are given the opportunity to demonstrate conformity to expectations, they buffer themselves psychologically from their own actions (Monin & Miller, 2001). As a result, presidents and trustees should be wary whenever the personal interests of a colleague are orthogonal to the interests of the university. In addition, universities should consider whether one of the primary aims of disclosure – reducing legal liability – may forestall important governance reforms (Cain, Loewenstein, & Moore, 2005).

Misplaced political loyalties among trustees remain a primary concern. After political debacles over trustee appointments in Wisconsin, New Mexico, and Michigan, merit selection of trustees has been offered as a partial solution to political intrusion (Johnson & Clark, 2003). Processes can vary depending upon state context, but generally merit selection requires the establishment of a commission consisting of nonpartisan (or equally partisan) members who submit pre-screened candidates for gubernatorial consideration. In turn, governors would only be able to make appointments from the list of approved trustees submitted by the state commission. Virginia's recent move toward merit selection has been popular in the governance community, and nonpartisan commissions also currently exist in Minnesota, North Dakota, and Kentucky (AGB, 2003).

Merit selection has promise as a structural approach to trustee independence. In addition to screening trustees for background and ability, a commission established for this purpose could

determine possible conflicts of interest between the fiduciary interests of universities and potential trustees. Part of its mission would be to contribute to the diversity of board appointments, possibly mitigating against the interest convergence among presidents and trustees to select trustees across a narrow band of professional experience. This commission could also be empowered to adjudicate concerns about trustee independence on existing boards, providing an extra-institutional means for resolving dilemmas surrounding the president-trustee authority relationship.

Merit screening cannot address the psychological barriers to recognizing conflicts of interest, however. If moral seduction is a common decision-making bias, it is as likely to occur among trustees who are screened for merit as among those who are not. Therefore, presidential interventions are crucial to address negative trustee behavior effectively (Bastedo, forthcoming). Further research on the strategies used by presidents to promote ethical behavior among trustees – such as socialization of new members, cooptation of members whose political loyalties lie outside the university, delegation of difficult confrontations to board chairs, and the focusing of trustee attention on important strategic issues – is needed to fully explore the complexity of these dynamics.

References

Abbott, A. (1988). *The System of Professions: An Essay on the Division of Expert Labor*.

Chicago: University of Chicago Press.

Association of Governing Boards (AGB). (1998). *AGB Statement on Institutional Governance*.

Washington, DC: AGB.

Association of Governing Boards (AGB). (2001). *Governing in the Public Interest: External Influences on Colleges and Universities*. Washington, DC: AGB.

Association of Governing Boards (AGB). (2003). Merit screening of citizens for gubernatorial appointment to public college and university trusteeship. AGB State Policy Brief No. 1.

Washington, DC: AGB.

Bastedo, M. N. (2005). The making of an activist governing board. *Review of Higher Education*, 28, 551-570.

Bastedo, M. N. (2007). Sociological frameworks for higher education policy research. In P. J. Gumport (Ed.), *The Sociology of Higher Education* (pp. 295-316). Baltimore: Johns Hopkins University Press.

Bastedo, M. N. (in press). Convergent institutional logics in public higher education:

Policymaking and governing board activism. *Review of Higher Education*.

Berdahl, R.O. (1971). *Statewide Coordination of Higher Education*. Washington: American Council on Education.

Bowen, W.G. (1994). *Inside the Boardroom*. New York: Wiley.

Brint, S. (1996). *In an Age of Experts: The Changing Role of Professionals in Politics and Public Life*. Princeton: Princeton University Press.

Cain, D.M., Loewenstein, G., & Moore, D.A. (2005). The dirt on coming clean: Perverse effects of disclosing conflicts of interest. *Journal of Legal Studies*, 34, 1-25.

Carnegie Foundation for the Advancement of Teaching (1962). *Role of the College & University Trustee*. Princeton, NJ: Author.

Carnegie Foundation for the Advancement of Teaching. (1982). *The Control of the Campus: A Report on the Governance of Higher Education*. Princeton: Princeton University Press.

Chait, R.P. (1995). The new activism of corporate boards and the implications for campus governance. Association of Governing Boards Occasional Paper No. 26. Washington, D.C.: AGB.

Chait, R.P. (2006). When trustees blunder. *The Chronicle of Higher Education*, 52 (24), B6.

Chugh, D, Bazerman, M. H., & Banaji, M. R. (2005). Bounded ethicality as a psychological barrier to recognizing conflicts of interest. In D.A. Moore, D.M. Cain, G. Loewenstein, & M.H. Bazerman (Eds.), *Conflicts of Interest: Challenges and Solutions in Business, Law, Medicine, and Public Policy* (pp. 74-95). Cambridge: Cambridge University Press.

Cowley, W.H. (1980). *Presidents, Professors, and Trustees: The Evolution of American Academic Government*. San Francisco: Jossey-Bass.

Cyert, R.M., & March, J.G. (1963). *A Behavioral Theory of the Firm*. New York: Prentice Hall.

de Russy, C. (1996). In defense of activist trusteeship. *Trusteeship*, 4(6), 6-10.

DiMaggio, P.J., & Powell, W.W. (1991). Introduction. In W.W. Powell & P.J. DiMaggio (Eds.), *The New Institutionalism in Organizational Analysis*. Chicago: University of Chicago Press.

Dreier, A. (2005). Sarbanes-Oxley and college accountability. *The Chronicle of Higher Education*, 51(44), B10.

Duderstadt, J.J. (2004). Governing the 21st century university: A view from the bridge. In W.G. Tierney (Ed.), *Competing Conceptions of Academic Governance: Negotiating the Perfect Storm* (pp. 137-157). Baltimore: Johns Hopkins University Press.

Duryea, E.D. (2000). *The Academic Corporation: A History of College and University Governing Boards*. New York: Falmer.

Emerson, R.M., Fretz, R.I., & Shaw, L.L. (1995). *Writing Ethnographic Fieldnotes*. Chicago: University of Chicago Press.

Floyd, C. E. (1995). Governing boards and trustees. *Review of Higher Education*, 19, 93-110.

Freidson, E. (1988). *Professional Powers: A Study of the Institutionalization of Formal Knowledge*. Chicago: University of Chicago Press.

Gilbert, D. (2006). *Stumbling on Happiness*. New York: Knopf.

Giroux, H.A. (2002). Neoliberalism, corporate culture, and the promise of higher education: The university as a democratic public sphere. *Harvard Educational Review*, 72, 425-463.

Glenny, L.A. (1959). *Autonomy of Public Colleges*. New York: McGraw-Hill.

Hall, P.D. (1999). Resolving the dilemmas of democratic governance: The historical development of trusteeship in America, 1636-1996. In E.C. Lagemann, *Philanthropic Foundations: New Scholarship, New Possibilities* (pp. 3-42). Bloomington: Indiana University Press.

Herbst, J. (1982). *From Crisis to Crisis: American College Government, 1636-1819*. Cambridge: Harvard University Press.

Herbst, J., & Whitehead, J. (1986). How to think about the Dartmouth College case. *History of Education Quarterly*, 26, 333-349.

Ingram, R.T. (1993). Exercising stewardship in times of transition. In R.T. Ingram (Ed.), *Governing Public Colleges and Universities* (pp. 3-22). San Francisco: Jossey-Bass.

Ingram, R.T. (1996). New tensions in the academic boardroom. *Educational Record*, 77, 49-55.

Johnson, N. C., & Clark, C. S. (2003, June 6). Take the gamesmanship out of appointments to public colleges' governing boards. *The Chronicle of Higher Education*, 49 (39), B20.

Kerr, C., & Gade, M.L. (1989). *The Guardians: Boards of Trustees of American Colleges and Universities*. Washington, DC: AGB.

Kezar, A. (2006). Rethinking public higher education governing boards performance: Results of a national study of governing boards in the United States. *Journal of Higher Education*, 77, 968-1008.

Kezar, A., & Eckel, P.D. (2004). Meeting today's governance challenges: A synthesis of the literature and examination of a future agenda for scholarship. *Journal of Higher Education*, 75, 371-399.

Kunda, Z. (1990). The case for motivated reasoning. *Psychological Bulletin*, 108, 480-498.

Lazerson, M. (1997). Who owns higher education? The changing face of governance. *Change*, March/April, 10-15.

Leslie, D. W., & MacTaggart, T. (2008). *The New Ethics of Trusteeship: How Public College and University Trustees Can Meet Higher Public Expectations*. Washington, DC: Association of Governing Boards of Universities and Colleges.

Leslie, D.W., & Novak, R. (2003). Substance versus politics: Through the dark mirror of governance reform. *Educational Policy*, 17, 98-129.

Lincoln, Y.L., & Guba, E. (1985). *Naturalistic Inquiry*. Beverly Hills, CA: Sage.

MacTaggart, T.J., & Mingle, J.R. (2002). *Pursuing the Public's Agenda: Trustees in Partnership with State Leaders*. Washington, DC: AGB.

Maguire Associates. (2005). *Chronicle of Higher Education Survey of College and University Presidents*. Washington, DC: Chronicle of Higher Education.

Maniha, J., & Perrow, C. (1965). The reluctant organization and the aggressive environment.

Administrative Science Quarterly 10: 238-257.

March, J.G. (1994). *Primer on Decision Making: How Decisions Happen*. New York: Free Press.

Maxwell, J.A. (1992). Understanding and validity in qualitative research. *Harvard Educational Review*, 62, 279-300.

McLaughlin, J. B., & Riesman, D. (1986). The shady side of sunshine. *Teachers College Record*, 87, 471-494.

McLendon, M.K., & Hearn, J.C. (2006). Mandated openness in public higher education: A field study of state sunshine laws and institutional governance. *Journal of Higher Education*, 77, 645-683.

Moore, D.A., & Cain, D.M. (2007). Overconfidence and underconfidence: When and why people underestimate (and overestimate) the competition. *Organizational Behavior and Human Processes*, 103, 197-213.

Moore, D.A., & Loewenstein, G. (2004). Self-interest, automaticity, and the psychology of conflict of interest. *Social Justice Research*, 17, 189-202.

Moore, D.A., Tetlock, P.E., Tanlu, L., & Bazerman, M.H. (2006). Conflicts of interest and the case of auditor independence: Moral seduction and strategic issue cycling. *Academy of Management Review*, 31, 10-29.

Monin, B., & Miller, D.T. (2001). Moral credentials and the expression of prejudice. *Journal of Personality and Social Psychology*, 81, 33-43.

Mortimer, K.P., & Sathre, C.O. (2007). *The Art and Politics of University Governance*. Westport, CT: Praeger.

Mulligan, L.M. (2007). What's good for the goose is not good for the gander: State, Sarbanes-Oxley-style, nonprofit reforms. *Michigan Law Review*, 105, 1981-2009.

Novak, R., Leslie, D., & Hines, E. (1998). *Bridging the Gap between State Government and Public Higher Education*. Washington, DC: Association of Governing Boards.

Orts, E. W. (2001). Conflict of interest on corporate boards. In Davis, M., & Stark, A. (Eds.), *Conflict of Interest in the Professions* (pp. 129-158). Oxford: Oxford University Press.

Ostrower, F. (2007). *Nonprofit Governance in the United State: Performance and Accountability in the First Nationally Representative Study*. Washington, DC: Urban Institute.

Perrow, C. (1986). *Complex Organizations: A Critical Essay*. New York: McGraw-Hill.

Pfeffer, J., & Salancik, G. (1974). Organizational decision making as a political process: The case of a university budget. *Administrative Science Quarterly*, 19, 135-151.

Pusser, B., Slaughter, S., & Thomas, S.L. (2006). Playing the board game: An empirical analysis of university trustee and corporate board interlocks. *Journal of Higher Education*, 77, 747-775.

Rauh, M.A. (1969). *The Trusteeship of Colleges and Universities*. New York: McGraw-Hill.

Ruppert, S.S. (1998). The views of state political leaders on strengthening public university governance and trusteeship. In Novak, R., Leslie, D., & Hines, E., *Bridging the Gap between State Government and Public Higher Education* (pp. 72-90). Washington, DC: Association of Governing Boards.

Scott, W.R. (2007). *Institutions and Organizations*. 2nd Edition. Thousand Oaks: Sage.

Selznick, P. (1952). *The Organizational Weapon: A Study of Bolshevik Strategy and Tactics*. New York: Free Press.

Simon, H.A. (1957). *Models of Man*. New York: Wiley.

Slaughter, S., & Rhoades, G. (2004). *Academic Capitalism and the New Economy: Markets, State, and Higher Education*. Baltimore: Johns Hopkins University Press.

Smith, D.H. (1995). *Entrusted: The Moral Responsibilities of Trusteeship*. Bloomington: Indiana University Press.

Stark, A. (2000). *Conflict of Interest in American Public Life*. Cambridge: Harvard University Press.

Staw, B.M. (1976). Knee-deep in the big muddy: A study of escalating commitment to a chosen course of action. *Organizational Behavior and Human Performance*, 16, 27-44.

Strauss A., & Corbin, J.M. (1998). *Basics of Qualitative Research: Techniques and Procedures for Developing Grounded Theory* (2nd edition). Thousand Oaks: Sage.

Tetlock, P.E. (1983). Accountability and complexity of thought. *Journal of Personality and Social Psychology*, 45, 74-83.

Tetlock, P.E. (1992). The impact of accountability on judgment and choice: Toward a social contingency model. *Advances in Experimental Social Psychology*, 25, 331-376.

Tversky, A., & Kahneman, D. (1974). Judgment under uncertainty: Heuristics and biases. *Science*, 185, 1124-1131.

Whitehead, J.S. (1973). *The Separation of College and State: Columbia, Dartmouth, Harvard, and Yale, 1776-1876*. New Haven: Yale University Press.

Table 1: Background Data on Presidential Informants and Their Boards (n=59)

| | Informants | National |
|---------------------------------|-------------------|-----------------|
| <u>Presidents</u> | | |
| Male | 83% | 81% |
| White | 80% | 89% |
| Median Age (s.d.) | 57 (5.5) | 58 |
| External Appointment | 80% | n/a |
| Doctorate | 90% | 84% |
| Median Length of Service (s.d.) | 3 years (5.1) | 7 years |
| <u>Boards</u> | | |
| Median Board Size (s.d) | 11 (4.9) | 12 |
| Gubernatorial Appointment | 80% | 77% |
| Term Limits | 15% | 36% |
| Institutional Board | 70% | - |
| System Board | 30% | - |
| Voting Student Member | 63% | - |
| Voting Faculty Member | 20% | - |
| AASC&U Member | 80% | - |
| NASULGC Member | 54% | - |

Table 2: Organizational Dynamics of Trustee Independence

| Threat | External Interest | Source of Moral Seduction |
|----------------------|--------------------------|----------------------------------|
| Political Loyalty | Party, Governor | Superior Ideology |
| Conflict of Interest | Firm | Financial Benefit |
| Domination | Profession | Expert Knowledge |
| Clique | Network | Decision Control |
| Personal Agenda | Family, Individual | Motivated Reasoning |