

GOVERNANCE: Board Duties & Responsibilities

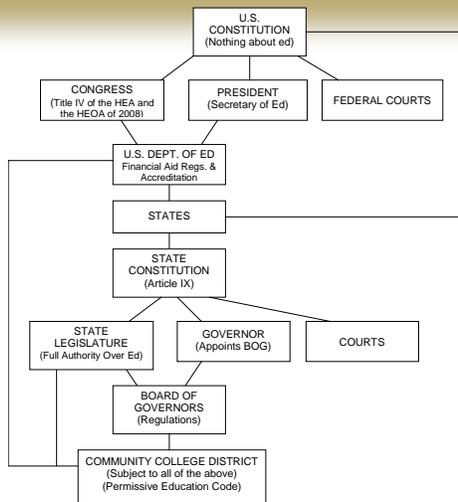


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INTRODUCTION - Where we fit...



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U.S. DEPARTMENT OF EDUCATION

- A. Administration of Federal Student Aid
- B. Administers other awards of federal financial assistance to the state and local districts
- C. To be eligible for receipt of federal money for these good things each college and district must be accredited by a regional accreditation agency, i.e. Accrediting Commission for Community and Junior Colleges, part of the Western Association of Schools and Colleges

U.S. DEPARTMENT OF EDUCATION

- D. Consistent with federal law, and regulations of the Department of Education the ACCJC has established general standards for accreditation.
 - 1. Financial and Technology Resources - Standard III. D and C.
 - 2. Leadership and Governance - Standard IV

THE LEGISLATURE SPEAKS

The Board of Governors of the California Community Colleges
and Local Districts

A. Section 70900

There is hereby created the California Community Colleges, a postsecondary education system consisting of community college districts heretofore and hereafter established pursuant to law and the Board of Governors of the California Community Colleges. The board of governors shall carry out the functions specified in Section 70901 and local districts shall carry out the functions specified in Section 70902.

THE LEGISLATURE SPEAKS

The Board of Governors of the California Community Colleges
and Local Districts

B. Section 70901(a)

The Board of Governors of the California Community Colleges shall provide leadership and direction in the continuing development of the California Community Colleges as an integral and effective element in the structure of public higher education in the state. The work of the board of governors shall at all times be directed to maintaining and continuing, to the maximum degree permissible, local authority and control in the administration of the California Community Colleges.

THE LEGISLATURE SPEAKS

The Board of Governors of the California Community Colleges
and Local Districts

C. Pursuant to Section 70901(b) the BOG is obligated to establish by way of regulations Minimum Standards in 14 areas.

1. Section 70901(b)(5)(B): Administer state supported programs, both operational and capital outlay, and those federally supported programs for which the board of governors has responsibility pursuant to state or federal law. In so doing, the board of governors shall do the following . . .

To the extent authorized by law, establish the method for determining and allocating the state general apportionment.

THE LEGISLATURE SPEAKS

The Board of Governors of the California Community Colleges
and Local Districts

2. Section 70901(b)(6):

Establish minimum conditions entitling districts to receive state aid for support of community colleges. In so doing, the board of governors shall establish and carry out a periodic review of each community college district to determine whether it has met the minimum conditions prescribed by the board of governors.

THE LEGISLATURE SPEAKS

The Board of Governors of the California Community Colleges and Local Districts

- D. The BOG has established in 5 California Code of Regulations (“CCR”) Section 51016, as a condition for receiving state money that community college districts obtain and maintain their accreditation:

Each community college within a district shall be an accredited institution. The Accrediting Commission for Community and Junior Colleges shall determine accreditation.

LOCAL BOARDS SHALL OPERATE LOCAL DISTRICTS

- A. Section 70902(a)(1):

Every community college district shall be **under the control** of a board of trustees, which is referred to herein as the ‘governing board.’ The governing board of each community college district **shall establish, maintain, operate, and govern one or more community colleges in accordance with law.** In so doing, the governing board may initiate and carry on any program, activity, or may otherwise act in any manner that is not in conflict with or inconsistent with, or preempted by, any law and that is not in conflict with the purposes for which community college districts are established.” (Emphasis added.)

LOCAL BOARDS SHALL OPERATE LOCAL DISTRICTS

B. Section 70902(a)(2):

The governing board of each community college district shall **establish rules and regulations not inconsistent with the regulations of the board of governors and the laws of this state** for the government and operation of one or more community colleges in the district. (Emphasis added.)

LOCAL BOARDS SHALL OPERATE LOCAL DISTRICTS

C. What are Governing Boards Responsible for Doing? **Lots!** Section 70902(b) provides a partial answer to this question. The following list is from the CCLC's "Board and CEO Roles: Different Jobs - Different Tasks." The actual language of Section 70902(b) is attached as Appendix 1.

1. College and District Plans
2. Program approval
3. Academic standards and graduation requirements
4. Personnel and employment practices
5. Budgets

LOCAL BOARDS SHALL OPERATE LOCAL DISTRICTS

6. Tax and bond elections
7. District property
8. Local decision-making process
9. Rules for student conduct
10. Fees
11. Grants, gifts and scholarships
12. Auxiliary services
13. Academic Calendar
14. Board of Governors' consultation

LOCAL BOARDS SHALL OPERATE LOCAL DISTRICTS

- D. If you want to see even a longer list, review the list of cross references following the annotated versions of Education Code Sections 70901 and 70902.

SO HOW IS A PART-TIME AND UNDERPAID GOVERNING BOARD SUPPOSED TO DO ALL OF THIS?

Answer: You are not supposed to do all of this. You are supposed to hire good people to do it for you, delegate much of your authority to them, stand-back, and then hold them accountable and responsible for doing what you have told them to do.

SO HOW IS A PART-TIME AND UNDERPAID GOVERNING BOARD SUPPOSED TO DO ALL OF THIS?

A. Section 70902(c) authorizes you to establish rules and regulations, as follows:

In carrying out the powers and duties specified in subdivision (b) or other provisions of statute, the governing board of each community college district shall have full authority to **adopt rules and regulations**, not inconsistent with the regulations of the board of governors and the laws of this state, that are necessary and proper to executing these prescribed functions. (Emphasis added.)

SO HOW IS A PART-TIME AND UNDERPAID GOVERNING BOARD SUPPOSED TO DO ALL OF THIS?

- B. In many respects the “rules” you adopt, usually referred to as Board Policies, are the law of the District, to the extent they are not inconsistent with what the Legislature, the BOG and the federal government requires of you. (For example, the collective bargaining law will limit some of the things that can go into board policies and procedures.)

SO HOW IS A PART-TIME AND UNDERPAID GOVERNING BOARD SUPPOSED TO DO ALL OF THIS?

- C. As part of adopting the Board’s policies take advantage of Section 70902(d), and delegate to your Chancellor the authority to implement your policies in all respects. Section 70902(d):

Wherever in this section or any other statute a power is vested in the governing board, the governing board of a community college district, by majority vote, may adopt a rule delegating the power to the district’s chief executive officer or any other employee or committee as the governing board may designate. However, the governing board shall not delegate any power that is expressly made nondelegable by statute. Any rule delegating authority shall prescribe the limits of the delegation.

But I Did Not Get Elected to be a “Potted Plant,” and What if the Chancellor or the People Under Him are Not Doing Their Jobs Well?

- A. This is the scary part of the job
- B. Hire a Chancellor who you trust implicitly, and who you can trust to hire good people, give them what they need to do their jobs, evaluate performance, and be willing to hold them accountable.

But I Did Not Get Elected to be a “Potted Plant,” and What if the Chancellor or the People Under Him are Not Doing Their Jobs Well?

- C. Generally, speaking educational institutions in California have delegated too much authority without having the ability to hold people accountable for the exercise of that authority. To be blunt: We have made it too hard for administrators to succeed. The matter comes down to people. Do you trust the people you have working for you to do a good job? Do you have the ability to take appropriate action when they are not doing a good job?

BOARD DUTIES AND RESPONSIBILITIES – WHAT SHOULD BOARD POLICY 1.05 SAY?

- A. **Job 1** - This is a results oriented “game,” i.e. the District must conduct its business in a manner that assures its continued accreditation. If the District loses its accreditation, all of the Board’s good intentions will count for very little.
- B. Again being blunt: BP 1.05 needs to say whatever is necessary to get you off of probation with the ACCJC, at least in so far as governance is concerned, **but you also have to live by what you say!** If you lose your accreditation the “game” is over.

BOARD DUTIES AND RESPONSIBILITIES – WHAT SHOULD BOARD POLICY 1.05 SAY?

- C. Your duties and responsibilities, as well as those of Board members who may hold office after you leave the Board need considerable flexibility in determining duties and responsibilities.
- D. In terms of a policy establishing duties and responsibilities, do not be worried about the absence of specific policy statements or details, those will make their appearance in other policies, procedures and contracts, etc.

BOARD DUTIES AND RESPONSIBILITIES – WHAT SHOULD BOARD POLICY 1.05 SAY?

- E. You do have oversight responsibilities in many areas. However, it is important to distinguish between exercising your oversight responsibilities from “micro-managing” the District or its Colleges. Here are some examples:
1. Proper oversight includes the Board establishing with the Chancellor the sort of budgetary information you should regularly be receiving. Micro-managing occurs when an individual board member requests information either without going through the Chancellor, or if the request involves a substantial commitment of staff resources, without bringing the request to the Board first.

BOARD DUTIES AND RESPONSIBILITIES – WHAT SHOULD BOARD POLICY 1.05 SAY?

2. Suppose, you do not trust that the information making its way through the District administration or from the colleges is accurate. You communicate your concerns with the Board and Chancellor in a way that is consistent with the Brown Act, and common decency. It is the Chancellor’s job to make sure the Board is getting accurate information; this means the good, the bad, and the ugly. You need to create by example, an environment where it is okay to be the bearer of bad news, and your administration is not afraid to “speak truth to power.”
3. You do not seek to ferret out the truth by independent “research,” or over-use of committees. Being a Board member is not a do-it-yourself job!

BOARD DUTIES AND RESPONSIBILITIES – WHAT SHOULD BOARD POLICY 1.05 SAY?

4. Stay away from over use of committees. At most the Board should operate with two standing committees: A committee on Board Policies, and an Audit Committee. Having said this, it is generally better that all Board members hear and discuss these matters together at the same time and place.

OTHER CONCERNS

1. Serving the public's interest - who is the public and what is their interest? What action by the District will be in the public's interest will change with some frequency based on events beyond the District, or because of changes in the Board. While you are elected from trustee areas, you remain accountable to the entire District. From time to time you may be called upon to make a decision that does not necessarily favor your constituency, but does serve the best interests of the entire District. Perhaps your interest is broader? What one District does may well impact other districts and other public entities. Take a long and broad view of this language.

OTHER CONCERNS

2. Trust, but collectively verify.
3. Decentralization of decision-making authority - how much is too much and how much is enough? The answer depends on the ability to hold local decision-makers accountable. It all comes back to people, and how they are doing their jobs. Make sure your policies, procedures and contracts give you the ability to hold people accountable for what they do, or do not do.

OTHER CONCERNS

4. Work by and through the Chancellor only. Whether you feel it, or realize it, or not, your every utterance and gesture is scrutinized by the District's employees. While you may know that you have no authority as an individual Board member, your employees may not be willing to run the risk of telling you that they have other important things to be doing, other than to responding to your requests, even if you think your requests are simple, reasonable and obvious.

OTHER CONCERNS

- G. While the content of the Policy on the Board's Duties and Responsibilities is not necessarily a legal question, I recommend to the Board its adoption of BP 1.05 as proposed by Chancellor Allen.

Question & Answer
Session