

Bylaws Critique

This assessment tool is designed to help the board to assess how closely its bylaws are aligned with contemporary principles and policies of effective academic governance. It is not intended to be completed by individual board members, but by the most appropriate person who is intimately familiar with the document and the institution's Articles of Incorporation or Charter – perhaps the president, or head of school, rector, board chair, or legal counsel, for example. The results are intended to frame a focused conversation within the board on specific changes to the bylaws that will contribute to even more effective governance. The summary could be the centerpiece for a board retreat, for example, or a series of discussion led by the governance or trusteeship committee over two or three board meetings.

Although originally intended for use especially by independent colleges and universities, this checklist can be easily adapted to other non-profit educational institutions including seminaries and theological schools, for example. Its purpose is to stimulate discussion of best governance policies and practices appropriate to the institution and its governing board and to guide appropriate bylaws revision.

General

	Yes	[?]	No
1. Substantially revised within the past ten or so years	☐	☐	☐
2. Avoids extensive references to the authority, rights, or privileges of constituencies or constituent organizations (e.g., faculty, alumni, or students) which should be addressed in separate documents	☐	☐	☐
3. Avoids providing constituent groups with authority to elect their own representatives to the board	☐	☐	☐
4. Provides a comprehensive set of board responsibilities including its ultimate authority to determine/approve all institutional policies	☐	☐	☐
5. Distinguishes between the authority reserved for the entire board from the authority appropriately delegated to the board's Executive Committee	☐	☐	☐
6. Provides a description of the president's responsibilities that helps to distinguish his or her leadership as chief executive from the board's broader policy functions	☐	☐	☐

Comments or questions:

Board Members and Board Officers

	Yes	[?]	No
7. Sets a minimum or maximum number of voting trustees (rather than a specific number)	☐	☐	☐
8. Provides for explicit three or four-year terms, with an explicit limit of the number of terms — without, but preferably with, a one-year hiatus before any re-nomination	☐	☐	☐

	Yes	[?]	No
9. Limits to three or fewer the number of “ex-officio” (by “virtue of position”) trustees	☐	☐	☐
10. Provides for an Emeriti category of trusteeship (non-voting), but avoids “Honorary” or “Life” categories	☐	☐	☐
11. Provides a guideline for what constitutes the normally expected minimum and maximum years of service by the board chair (renewable one-year terms)	☐	☐	☐
12. Sets forth appropriate responsibilities of “Treasurer” when he or she may be a trustee, as distinct from the traditional responsibilities of the institution’s CFO	☐	☐	☐

Comments or questions:

Board Committees	Yes	[?]	No
13. Calls for periodic rotation of standing committee chairs and members	☐	☐	☐
14. Provides a comprehensive charter or job descriptions for the Executive Committee, and perhaps also the Trusteeship Committee and Finance Committee (but others are best maintained separately from the bylaws to facilitate periodic amendment)	☐	☐	☐
15. The Executive Committee is not larger than about one-third of the total number of Trustees (and it avoids meeting at the same time the board meets)	☐	☐	☐
16. Minutes of all executive committee meetings are promptly sent to all trustees	☐	☐	☐

Comments or questions:

Board Meetings	Yes	[?]	No
17. Cites the ordinary minimum number of regular board meetings (at least three annually, although the national trend is quarterly)	☐	☐	☐
18. Suggests the typical purposes and ordinary frequency of board retreats	☐	☐	☐
19. Avoids citing an explicit “order of business” for board meeting agendas	☐	☐	☐
20. Cites the Fiscal Year and “Annual Meeting” (for audit/budget purposes, and trustee/board officer changes)	☐	☐	☐

Comments or questions:

Conflict of Interest and Disclosure, Indemnification and Insurance, & Bylaw Amendment

	Yes	[?]	No
21. Includes, or makes reference to, a separate board policy regarding conflict of interest	[]	[]	[]
22. Requires all trustees and institutional officers to annually disclose, in writing, any potential conflicts of interest	[]	[]	[]
23. Provides for institutional indemnification of officers/trustees appropriate to state law	[]	[]	[]
24. Requires that the institution provide for appropriate "directors and officers" liability insurance coverage	[]	[]	[]
25. Requires that trustees be notified about proposed bylaw amendments at least 30 days prior to a scheduled vote and a higher voting threshold for adoption (usually two-thirds)	[]	[]	[]

Comments or questions:

On balance, your governing board's bylaws are probably:

_____ in very good shape (22-25)

_____ in good shape, but can be improved (18-21)

_____ in need of a substantial revision (17 or fewer)

Additional comments, questions, or suggestions:

This resource was developed by Richard (Tom) Ingram, president emeritus of the Association of Governing Boards of Universities and Colleges (AGB).



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