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Guest Column: Only Regents Can Reform Higher Education

by Thomas K. Lindsay | March 27, 2013 (March 21, 2013 for [Subscribers](#))

Higher education, in Texas and nationally, faces a crisis. [Studies](#) testify to grade inflation’s erosion of standards (An “A” is the most common grade given in America’s colleges), to poor student learning (36 percent of students [surveyed nationally](#) show no significant increase in learning during four years of college), to skyrocketing tuitions (while state funding to colleges declined a relatively modest 10 percent during the past decade in Texas, average tuition collected jumped 115 percent) and to crushing student-loan debt (\$1 trillion nationally). [One study](#) finds 31 percent of 2009 graduates, unable to secure full-time employment, moved back into their parents’ homes. Consequently, 57 percent of prospective students told a Pew survey that college no longer delivers a value worth its cost; 75 percent deem college simply unaffordable.



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Tom Lindsay, Director of the Center for Higher Education, Texas Public Policy Foundation

Addressing this crisis requires strong leadership. Who can provide it? Senior administrators? Regents? Ideally, both. But former Harvard President Derek Bok, in his book *Our Underachieving Colleges*, finds presidents “often reluctant” to lead for fear of “faculty opposition,” which could “threaten their jobs.” College CEOs lack the power of their corporate counterparts. Facing a faculty no-confidence vote, few presidents possess the wherewithal to lay down their jobs.

Who, then, is empowered to implement reforms commensurate with our crisis? Benno Schmidt, former Yale president and current chairman of the CUNY board, answers, “Change in institutional strategy can only come from trustees.”

Such change is overdue: Higher education reached its crisis state with the acquiescence of trustees, who too often let boosterism trump their fiduciary duties. “Fiduciary” derives from the Latin *fiducia*, for “trust.” A trustee possesses the legal power and duty to act on behalf of others, both the school and the Texas citizenry, under conditions requiring both complete trust and complete openness.

The nonpartisan American Council of Trustees and Alumni [describes](#) the role of trustees as “responsible for both the fiscal well-being of the institution” and “the quality of the education it provides.” Central to “fiduciary responsibility is transparency — and in the case of public colleges and universities, this is all the more appropriate and necessary, since taxpayers fund these institutions and have a right to know whether those funds are used effectively and responsibly.”



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Yet, precisely when we need trustees to reclaim their fiduciary duties, some would constrain them further to avoid perceived “micromanagement.” Charles Miller, former chairman of the UT Board of Regents, disagrees, arguing that boards are already tightly regulated: “Regents are trustees with duties defined by constitutional, statute, regulation and common law, both state and federal.”

In fact, limiting boards’ powers at this critical time would not enhance but fetter institutions. Although such limitations hope to increase administrators’ powers, they would dilute them. Presidents would find themselves with only bad choices. If they implement needed changes, they risk losing their jobs through no-confidence votes by faculty armed with virtual life tenure. If, as Bok expects, presidents therefore decline this risk, their sole remaining choice is to sit idly by — lacking a board empowered to support them — letting their colleges capsized for lack of captains. In time, presidents might come to pine for a return of big, bad boards at which they can redirect the ire of faculty and alumni. Bottom line: No presidents, however visionary and courageous, can succeed in transformational roles without duly empowered boards that have their backs. Thus Miller reasons, “Trying to redefine all of these duties and their interrelationships with a new statute would not only be impossible but would likely result in a horrible mess,” leading him to conclude that it is not the regents but the proposed bill that “might properly be called micromanaging.”

Additionally, restricting boards’ powers ignores their contributions made through these powers. UT’s chancellor and regents have achieved national leadership in vital areas, such as “productivity improvement” to ensure schools maximize return on investment — thus benefiting all stakeholders in our time of scarce resources — and implementing “blended learning,” the wave of the future, which capitalizes on information technology to improve time and facilities use. These and other contributions lead Miller to remind Texans that our “public higher education is in better shape than any other major state even while there are existential threats to institutions everywhere.”

Sadly, the proposed legislation, far from preventing a micromanaging crisis, would instead prevent managing a crisis. Adds Miller, “Trying to solve policy differences or address mistakes made in execution by focusing on the governance structure is nothing less than avoidance of the tough issues.” If the bill were passed, he adds, the result would be “a serious loss of time and energy, taking attention away from solving real problems and damaging what is a positive Texas story.”

For all these reasons, we owe it to our regents to let them do their jobs. More important, we owe it to our students.

Thomas K. Lindsay is the Director of the Center for Higher Education at the Texas Public Policy Foundation.



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