



REPORT ON GOVERNANCE REFORM

Faculty Senate ad hoc Governance Committee

March 29, 2006

I. Introduction

This report of the faculty senate ad hoc governance committee (FSAGC) proposes reforms to improve governance at American University. The faculty senate charged the FSAGC with developing a proposal for reform of the board of trustees, including the manner in which the board interacts with the campus. The objective of any effort to revise governance at an institution is to establish an effective set of practices that warrant the confidence of all constituencies. Effective governance is best understood as a collective effort to take actions using suitable and legitimate processes that advance a shared purpose consistent with the institution's mission and values. The report proposes to achieve these objectives through an expansion of transparency, greater faculty participation, a strengthened system of oversight and more rigorous accountability. The report not only enumerates reforms, but also situates them within the past, present and future of our university. Improved governance will serve as a foundation to support the university's progress.

This report of the faculty senate ad hoc governance committee has five parts. The first is this introduction. The second addresses the functions performed by boards of trustees and the implications of American University's history for board reform. The third offers specific proposals for reform of the board of trustees, along with justifications for these proposals. The fourth explains some general considerations that arose in the context of the FSAGC's deliberations. The fifth section is a set of actions for the faculty senate's consideration. An appendix lists the members of the faculty senate ad hoc governance committee.

II. Board Functions and University History

Some consideration of the institutional history that has shaped AU's mission and values is important in establishing the context and foundation for board reform.¹ This report will attend to four aspects of American University's history that have special pertinence. AU was founded to promote scholarship and teaching. AU has long sought to be inclusive. Service has been central to the university. AU has only recently ended a history of fiscal insecurity.

¹ Indeed, the Statement on Government of Colleges and Universities cited by the American Association of University Professors (AAUP), the American Council on Education (ACE), and the Association of Governing Boards (AGB) notes, "The governing board has a special obligation to ensure that the history of the college or university shall serve as a prelude and inspiration to the future."
<<http://www.aaup.org/statements/Redbook/Govern.htm>>.

These are not the only matters of importance in American's history. They do, however, have particular bearing upon board reform.

Scholarship and Teaching. AU's mission is grounded in both scholarship and teaching. The first full-time salaried chancellor of the university, Franklin Hamilton, in his opening plan for the university included as a priority the creation of an Institute of Research. He declared the need for research central to the "search for ultimate reality" and "the vitalizing of truth."²

AU has fulfilled Chancellor Hamilton's vision. Its faculty excels in scholarship and creative activity. For instance, in 2004, 86 faculty members published books, monographs, and government and corporate reports. Another 126 faculty members published refereed articles. Fully 143 faculty members served on editorial boards. Thirty-one faculty members published poems, stories, and plays or were featured as performers or artists.

AU's commitment to the dissemination of knowledge extends from faculty members' work in their individual disciplines to work with our students. The dual emphasis on scholarship and teaching is central to American University's identity. The National Survey of Student Engagement tracks responses from 472 four-year colleges and universities, including 42 "doctoral extensive universities." In the most recent results, AU ranked first among college seniors at doctoral extensive universities in academic challenge. It also ranked first among these seniors in student-faculty interaction. AU is a university that is not only committed to conducting scholarship and creative activity, but also to active engagement of our faculty with our students.

Board reform must take into account American University's emphasis on scholarship and teaching. The board must include individuals who share a background in and passion for these aspects of our mission. The board must have processes that are consistent with open inquiry, which is essential for excellence not only in the advancement and dissemination of knowledge, but also in effective governance.

Inclusiveness. As far back as March 1890, at the first public meeting to discuss the creation of American University, Bishop John Newman spoke of the need for the new university to challenge established norms with regard to sex and race.³ We have confronted this challenge ever since. The law school, independently chartered in 1896, was established to provide women an equal opportunity for the study of the law. Between 1915 and 1923, the university awarded sixty-eight fellowships. Twenty-five percent went to female graduate students. One African-American and two Asian-born students also received them. The first class of undergraduates in 1925 included thirty-four men and forty-one women, among whom were four Catholic and two Jewish students.⁴ In 1936, an African-American woman was admitted to the graduate school to pursue a Ph.D. in history. The board of trustees of the graduate school and the faculty reaffirmed the policy of "admitting students on the basis of intellectual and educational attainment," in spite of opposition from local residents and a

² George D. Arnold and William E. Ross. "History of American University." Unpublished manuscript. University Archives. American University, Washington, D.C.

³ Arnold and Ross.

⁴ Arnold and Ross.

small minority of board members.⁵ This historic collaboration of the faculty and board is particularly noteworthy in light of recent events.

Inclusiveness continues to be important at American University. Foreign nationals from 137 countries comprise 8 percent of the student body. Almost 22 percent of students are U.S. minorities and 61 percent are women. Our inclusiveness goes beyond demographic composition, however, shaping campus interaction. The centrality of inclusiveness to American's history speaks to the nature of board reform. The board must become more inclusive in its internal workings and in its relationship to the American University community.

Service. Throughout its history, AU has emphasized service. In the early years after World War I, AU's School of Citizenship was designed in part to train public servants and social workers. In 1934, when speaking at the inauguration of Joseph Gray as chancellor, an event at which the formation of the new School of Public Affairs was announced, President Franklin Roosevelt said of AU: "[Y]ou have a great future—a great opportunity for initiative, for constructive thinking, for practical idealism, and for national service."⁶ Twenty-five years later, university leaders deliberately used the word "service" rather than "studies" when establishing the School of International Service in order to underscore the intention that SIS prepare students for service in government, non-governmental organizations, and religious bodies.

This emphasis on service continues today. For two years in a row, American University has had more Presidential Management Interns than any other university in the country. We are consistently represented disproportionately in the Peace Corps. Approximately half of freshmen volunteer in the Freshman Service Experience program before they have ever taken a class at AU. Close to 2000 undergraduates engage in some form of volunteer activity. Faculty have assisted former Communist countries in drafting constitutions and have worked to rebuild education in Iraq, to name but a small fraction of the contributions to the greater good.

Given this history, reform of the board of trustees should reflect the centrality of service. The president of the university should be seen as embodying not just scholarship and inclusiveness, but also a sense of service. The composition of the board and the interactions of board and campus constituencies should also reflect the importance of service.

As befits a university with such an emphasis on service, integrity has been central to our identity. It is part of the "brand name" of American University. Recent events have tarnished the reputation of the university. The reforms that we describe below should thus be undertaken mindful of the need to bolster both the perception and the reality of integrity at American University.

Fiscal difficulties. American University has long existed in a state of financial insecurity. The university was chartered in 1893, a year that became known for "The Great Panic" that hobbled the economy. Due in large part to difficulties raising funds, the university was unable to open until over two decades later, in 1914. The Great Depression took its toll. AU tottered on the edge of insolvency. In April 1932, the university was even unable to

⁵ Arnold and Ross.

⁶ Arnold and Ross.

meet its payroll.⁷ When Hurst Anderson became president of American University in 1952, the extent of the deterioration of the campus shocked him. He later said, “I almost had heart failure. I’ve never seen a place in worse physical shape.”⁸ American University got by in the relatively robust decades of the 1960s and 1970s. The recession of the early 1980’s, however, once again brought the university to the financial brink. At the time that Richard Berendzen assumed the university presidency, the unrestricted and internally designated funds balance fell under \$1 million. The endowment stood at a meager \$7 million. More than a decade later, AU’s finances were still somewhat precarious. There was a mid-year 8 percent reduction in the operating budget in FY 1993, not long before Benjamin Ladner became university president. The belt tightening was required in part because full-time freshman enrollments had dropped from 1127 in Fall 1990 (the last class admitted while Dr. Berendzen was president) to just 941 in Fall 1994 (the last admitted prior to the presidency of Dr. Ladner), despite the acceptance rate rising from 54 percent in 1988 to 77 percent in 1994. The 1994 entering freshman class was the smallest since 1984, a dangerous trend for a tuition-dependent university.

The University’s finances are now on a more secure footing. The unrestricted and internally designated funds balance has risen to \$87 million at the end of FY 2005. The endowment has climbed, largely by transferring operating funds, from about \$36 million in June 1994 (i.e., 301st among the 460 colleges and universities surveyed by the Chronicle of Higher Education at the time) to \$271 million in June 2005 (i.e., 175th among the 746 surveyed).

The repeated bouts of financial distress had an unfortunate result on governance at the university. The board of trustees has at times sought out and supported presidents who promised to remedy the university’s financial problems without always exercising sufficient oversight of the methods used in their efforts, or indeed of other crucial aspects of university administration. As a result, executive decision-making became increasingly exclusionary and top down.

Governance reform must be considered against the backdrop of not only the extended history of American University, but also the events of 2005. On September 26, 2005, all seven major teaching units at American University passed resolutions expressing no confidence in president Benjamin Ladner after reports that he had misspent university funds. The faculty senate followed suit shortly thereafter with a unanimous vote of no confidence in the president of the university. In October and November, five of the seven major teaching units and the faculty senate voted no confidence in the board of trustees after the board decided to give the president of the university a large severance package despite the alleged misspending. The events of 2005 were symptomatic of governance issues that had been present for decades. Inadequacies in transparency, accountability, effectiveness, and representation laid the foundation for the events of 2005. Thus these are the areas targeted for improvement in this report.

The next section of this report details our proposals for board reform. We include justifications for each proposal.

⁷ Arnold and Ross.

⁸ Arnold and Ross.

III. Detailed Proposals for Board Reform

- 1) Diversify board of trustee membership and, in particular, include individuals with a background in higher education.

A core responsibility of the board, as the AAUP/ACE/AGB joint Statement on Government of Colleges and Universities indicates, is to “[obtain] needed capital and operating funds.” Indeed, American University is in the midst of a capital campaign that is important to its academic mission, and board assistance with this campaign is crucial. However, the greatest contribution that the board of trustees could make to the university today is not a monetary one. It needs to be a coherent body that works together constructively to advance the university.

Because the university is currently on a sounder financial footing than in years past, there is now an invaluable opportunity to address the non-financial aspects of board responsibilities. To be comprehensive in its abilities, a strong board needs individuals from diverse backgrounds and with varieties of experience.⁹ In particular, board members should be added to emphasize the inclusiveness and diversity that has long marked American University. Board members should be added who have a background in higher education. This will assist in setting the strategic direction of the University and undertaking effective oversight. The board should also add to its membership individuals who have a background in service for similar reasons.

- 2) Make the president of the university an *ex officio* nonvoting member of the board of trustees and remove the president from the executive committee.

Having the president serve as a voting member of the board creates the potential for either real or apparent conflict of interest. Even the appearance of a conflict undermines the credibility of the president and board with the campus and thus their ability to govern the university effectively, especially when difficult decisions must be made.

Nonvoting status for the president demonstrates that American University is a place where the persuasiveness of an argument is the strongest currency. It is true that a single trustee rarely determines the outcome of a vote. Nonetheless, being unable to vote can serve as a reminder of the role the president has in fostering the most robust and inclusive dialogue possible on campus.

Nonvoting status reinforces the commitment of the university to service. One of the concerns often expressed in the community in recent times has been the sense that there has been an imperial presidency. From their first days on campus, our students learn the centrality of service. It is essential that the president of the university teach the value of service as well. Having a nonvoting status would help remind the president and the community that the president serves the university as a whole.

⁹ An article on boards makes much the same point about nominating committees operating such that “each member brings not only the all-important fund-raising capabilities but also necessary skills or relationships with community leaders, politicians, or regulators” (Paul J. Jansen and Andrea R. Kilpatrick, “The dynamic nonprofit board,” *The McKinsey Quarterly*, no. 2 [2004]).

Nonvoting status also allows for a more appropriate separation of the board of trustees from the president. This, in turn, will permit the board to engage in more effective oversight. Improved oversight is one of the most important goals of board reform.

For many of these same reasons, we recommend that the president of the university no longer serve as a member of the executive committee, though the president would certainly be expected to meet with the executive committee. To avoid an appearance of conflict of interest, we recommend that the president not serve on the audit, compensation, or trusteeship committees. Given the centrality of auditing issues to the well-being of the University, we recommend that the audit committee chair be given the vacant seat on the executive committee.

- 3) Foster inclusiveness by adding the chair, vice chair, and past chair of the faculty senate to the board of trustees as *ex officio* nonvoting members who would participate in all parts of board meetings, including executive sessions.

We propose the addition of the faculty senate chair, past chair, and vice chair as *ex officio* nonvoting members of the board who would participate in executive sessions.

As we have noted, American University has, from its inception, emphasized inclusiveness. Diversifying the board, as was proposed in item 1, will foster inclusiveness. An additional essential step would be to add current faculty members to the board. Faculty representatives would bring with them the particular expertise in scholarship, teaching, and service that mark AU. They also hold detailed knowledge of the performance of American University's core missions.

We need to rebuild trust on campus. To do this, we will need to enhance transparency. Including faculty on the board is a particularly important part of that enhancement. In some cases, faculty will be able to report back to the campus about what has occurred in meetings of the board. Of course, sometimes the faculty will need to hold the matters discussed in board meetings confidential. But even in these instances, ensuring that some portion of the faculty has participated in and been witness to the workings of the board will augment transparency. Faculty board members will be able to vouch for the quality and character of board discussions.

The faculty voice was largely absent from the board in recent years. As a result, the board was surprised when the lack of support for President Ladner permitted the overwhelming votes of no confidence in September 2005. Having faculty members on the board will guard against such surprises. The absence of surprise is important in building trust.

The board and the faculty need to hear from each other directly and to discuss the matters that are most pressing for the institution. This discussion is necessary to produce policy of the highest quality and the fullest campus-wide understanding of the decisions made. The campus needs the faculty and the board to work in harmony. As the AAUP/ACE/AGB joint statement on government notes: "...a college or university in which all the components are aware of their interdependence, of the usefulness of communication among themselves, and of the force of joint action will enjoy increased capacity to solve educational problems."

Currently, the faculty senate chair, who is in office for one year, serves as an observer at board of trustees meetings. This is problematic on several counts. First, a year has proven

to be too short under most circumstances a time for the faculty senate chair to become sufficiently acquainted with board members and procedure to make a meaningful contribution. Second, reliance on a single faculty member, regardless of the length of service, would make it impossible to maintain continuity over transitions. The board would have to bring up to speed each new faculty member from scratch. Our proposal remedies these shortcomings by allowing for more faculty to serve and for a longer term of service.

The faculty senate has three executive officers, the vice chair, the chair and the past chair. The faculty member elected to the position of vice chair automatically moves in successive years to the positions of chair and past chair. If these three senate officers were to belong to the board, each faculty member on the board would serve for three years, which is equivalent to a full term for the other trustees. Faculty service on the board would be staggered, which would provide for continuity in faculty representation.

There are several additional reasons for having the three faculty senate officers serve as the board representatives. These three officers have full legitimacy because the highest body of the faculty—namely, the faculty senate—elects them to their posts. Moreover, the faculty senate officers are already involved in university governance, so they will bring to the board the experience and perspective that accrue from this engagement. In contrast, selecting faculty representatives to the board of trustees through a process wholly independent of the faculty senate, such as a direct election, would be likely to undermine the effectiveness of faculty governance because it would be creating two parallel channels of faculty representation with no means of coordination between them.

We do not recommend that faculty on the board vote. Faculty voice is by far the most important aspect of representation when addressing issues facing a university. As AAUP General Secretary Roger Bowen and former Colby President William Cotter noted in a recent column, “[w]hether faculty serve as voting members of the board is not as important as their ability to speak to the trustees on issues of faculty concern. After all, most board decisions are reached by consensus, and a faculty member’s ‘vote’ would almost never prove decisive.”¹⁰ Just as we are recommending that the president of the university be a nonvoting member due to the appearance of conflict of interest, we recommend the same for the faculty representatives. For instance, we foresee potential conflicts if faculty were to vote on allocation issues, direct financial perquisites, and programmatic initiatives. Given that little would be gained by faculty vote, but that conflict of interest issues would much more easily be raised, and given the faculty’s strongly expressed preference that the university president be a nonvoting member of the board, we recommend that faculty status also be nonvoting.

We do recommend that faculty be present during executive sessions of the board. Including faculty representatives in board discussions at all phases, especially when the board engages in its most rigorous deliberations and casts votes, is consistent with the values of openness and discourse that are hallmarks of American University. The trust of the faculty can only be restored through faculty participation in board discussions from start to finish. There will certainly be occasions during which the same concerns about conflict of interest that lead us to recommend against voting membership will lead to concerns about faculty presence during certain board discussions. We are confident that the members of the board, including the faculty members, will be able to navigate these difficulties. Board members need to keep

¹⁰ Roger W. Bowen and William R. Cotter, “Our model for effective governance,” *Trusteeship*, September/October 2005.

confidential the discussions of the board. This need would apply to faculty members on the board just as it would apply to any other members of the board. As a result, we understand that faculty members serving on the board would at times be unable to report back to campus on the substance of discussions. Nonetheless, having faculty present would lend a voice to discussions that is necessary to the effective workings of the board and faculty can report back on the process.

In adding faculty to the board, we note that we hope to empower the board and to empower the president of the university. We believe that the atmosphere of trust, transparency, and cooperation that would be enhanced by faculty membership on the board would serve the board and president as they execute their independent, yet interdependent, roles at AU.

- 4) At least one faculty member with tenure should serve as a member on each of the standing committees of the board, as nominated by the officers of the faculty senate and elected by the senate from the membership of senate committees with similar jurisdictions or from the university faculty at large.

In their letter to campus of October 27, 2005, the board identified as one of the lessons of the events of 2005: “The need for the trustees to be less isolated and insulated from the campus and to have a better understanding of the concerns and priorities of all who work and learn here.”¹¹ The proposals on faculty inclusion on the board and its committees address this particular lesson.

The board has already taken interim steps to enhance faculty participation on the committees of the board. We recommend that these steps be expanded to include all standing committees. Our reasons for this proposal mirror those that we have made in arguing for adding faculty to the full board. There is, however, less of a concern about conflict of interest for decisions made at the committee level, as opposed to those by the board, because committee decisions are simply recommendations to the board for consideration. Most board committees operate by consensus, and so the concept of a voting member does not pertain, but to the extent that a committee does vote, the board should accord faculty serving on it that right. By adding members to these committees, we will increase the number of faculty members who have contact with the board, which will, in turn, further increase transparency. These faculty members would serve to enhance communication between board and faculty.

Faculty representatives to committees would be nominated by the faculty senate officers and ratified by the full senate. To the extent possible, faculty representatives to committees should come from faculty senate committees parallel to the board committees because members of those committees have the expertise and contacts among faculty colleagues to fulfill the mandate most effectively.

¹¹ <http://www.american.edu/trustees/statements/10272005.html>.

- 5) Expand the transparency of the board's decision making process to the broader university community.

The board has already taken steps towards enhancing transparency. Both a consolidation of existing measures and a further expansion of transparency are essential to board reform. We encourage the board to regularize the process by posting the agenda of board and committee meetings when they are sent to board members and by continuing to release summaries of discussions held and decisions taken at board meetings as soon as possible. In addition, we recommend that the board engage in other informal interaction with the campus community.¹² AU's central activity is to promote the dissemination of knowledge. This is at the heart of the mission of the academy. Increased board transparency would serve, by example, to foster an atmosphere of open inquiry and dialogue across the campus. This proposal is consistent with two of the lessons the board identified in its letter of October 27: "The need for the board to be more transparent in its discussions and decisions" and "[t]he need to assure that the board itself, as a matter of leadership, reflects the values of the university in its work and processes."

The committee considered recommending an amendment of the university charter to require that all board meetings be open to the public. The committee members concluded, however, that the changes embodied in our recommendations may be sufficient to create the necessary openness and inclusiveness without amending the charter.

- 6) Make the process of nominating members of the board inclusive to allow all from the community to nominate members of the board.

We congratulate the board for having already taken an initial and important step toward making the trusteeship nomination process more inclusive. Allowing anyone from the community to nominate members of the board through a regularized and transparent process deepens the stake the community has in the university. It also fosters trust that the composition of the board will reflect the values of the broader community. Opening the process this winter led to the nomination of close to ninety new people for the board. This was a particularly impressive pool of talent and commitment from which to draw. The board should make the process used this year routine.¹³ The board should also be commended for taking full responsibility for the process of selecting trustees. Board ownership of trustee selection avoids the appearance of conflict of interest and enhances the credibility of board oversight. For the same reasons, the president of the university should not be a member of the trusteeship committee.

¹² Bowen and Cotter report this as being crucial to the development of trust on campus. In the instance of Colby, they write: "How did such happy relations develop? We believe the board's willingness to meet with faculty and the president's encouragement of such interaction was an important reason. Cocktail hours for trustees and faculty were arranged, as was an annual faculty-trustee dinner during commencement weekend." Change was gradual, but trust, in their view, did grow.

¹³ Jansen and Kilpatrick note that "[t]he committee should recruit candidates from as wide a range of channels as possible..."

- 7) Improve the orientation of new board members.

Orientation of new board members needs to be expanded. The principal objective of the orientation should be to promote the effectiveness and collective engagement of the board. Part of this orientation should be to inform new board members about current issues having to do with the faculty. It should also broaden the members' understanding of the history of the university. We recommend that part of the orientation process be a session for new board members with current and past chairs of the faculty and university senate. We also recommend another session with the university archivist.

- 8) The board of trustees should take steps to enhance internal cohesion through events and exercises to strengthen the board's capacity to deliberate and to act in a collective fashion.

The events of 2005 made plain a long-running problem. The board of trustees was not functioning effectively as a collective body. The board meets only three times a year. An increase in the number of meetings annually would provide more time to discuss issues in depth and permit trustees to get to know each other better. Alternatively, a regular retreat, which could be counted as an additional meeting, might be beneficial, since it would permit old and new board members to become acquainted in a less formal setting than an official board meeting and it would permit more time to consider issues and to engage in strategic planning.

Some of the change in communication is cultural and therefore cannot be legislated, but structure does matter. Our recommendations are to promote a structure that fosters communication.

We considered the role of teleconferencing in board meetings.¹⁴ Physical attendance is a valuable measure of a board member's interest in service to the university. Teleconferencing limits non-verbal interaction and communication with other board members in crucial ways (often rendering the trustee who does not actually attend a passive participant in the meeting). It also eliminates communication with the campus during the periods of board meetings, but attendance by teleconference is obviously preferable to complete absence. Teleconferencing, though allowed, should be discouraged. For instance, the board could allow members to attend, but not count participation toward any attendance requirement or quorum. Those attending via teleconferencing might be allowed to partake in the conversation but not vote.

- 9) The board of trustees should ratify all executive committee decisions at the next board meeting.

Many of the difficulties of the recent past have stemmed from a failure to ratify executive committee decisions. The president's 1997 compensation contract was not widely known and never formally ratified by the board as a whole. The executive committee's decision to

¹⁴ We did not consider videoconferencing.

place the president on administrative leave in August 2005 was neither widely discussed within the board as a whole nor ratified. We recommend that actions taken by the executive committee should be reported to the whole board immediately and ratified by vote of the whole board at the next board meeting.¹⁵

- 10) The board chair not serve as chair of any other committee.

The board should distribute responsibility more widely. It is easy, when times are good, for work to migrate to the chair of the board, which disempowers the rest of the board. Though legislative solutions may not wholly prevent this tendency, they can foster alternative practices. To this end, we propose that the board chair not serve as chair of any other committee. This should help ensure that more members of the board, by being chairs of important committees are actively involved in the workings of the board, and permit the board chair to play a chief executive's role.¹⁶

- 11) The board of trustees should appoint the board secretary and an assistant secretary (recording) if needed, have the board secretary report exclusively to the board of trustees, and determine the board secretary's compensation.

Currently, the university president appoints the board secretary, has the board secretary report to the president and determines the board secretary's compensation. In order to remove a conflict of interest and to enhance the effectiveness of oversight, we recommend that the board appoint the secretary to the board and an assistant secretary (recording) if needed, have these individuals report exclusively to the board of trustees, and determine their compensation.

- 12) Undertake a full review of the performance of the university president at least every three years, with interim annual reviews

The performance of the president of the university should be fully reviewed at least every three years in a process that includes intensive consultation with representatives of the campus community. There should also be an annual review that need not be as elaborate.¹⁷ Feedback to the board from the campus may have provided early warning that could have helped to avert the troubles surrounding former President Ladner.

¹⁵ Phyllis Palmeiro, "Best Practices in University Governance," testimony, Roundtable Discussion, United States Congress, Senate, Committee on Finance, March 3, 2006.

¹⁶ We note, in particular, that the board chair currently, by regulation, serves as chair of the compensation committee. Having separate individuals serve as board chair and compensation committee chair should enhance oversight of the university president.

¹⁷ Palmeiro.

- 13) Perform a more transparent review of compensation for the president and other top university officers.

The above-market salary paid to President Ladner generated a corrosive cynicism that disillusioned and demoralized many faculty and students. Questions regarding the composition of the board's compensation committee and the selection of compensation consultants compounded the distrust. The FSAGC recommends restoring trust by making the process to determine the compensation of the president and other top university officers regular and transparent. Faculty should serve on the compensation committee in order to participate in the selection of consultants to perform compensation reviews. The actual review should include comparisons to compensation for presidents at reasonable target schools as a benchmark.

While we call for greater oversight of presidential compensation and expenditures, we recognize that excellent presidents are well paid. The *Chronicle of Higher Education* database of presidential salaries for 2003-2004 indicates that the median salary for the 48 presidents of "private doctoral/research universities-extensive" (AU's category) was approximately \$510,000 and that figure includes six presidents who drew no salary at all. The median for the 41 "private doctoral/research universities-intensive" was approximately \$310,000, including five clergy who drew salaries under \$100,000. We urge the board to provide adequate, but appropriate, compensation for the excellent president we expect to be found in the upcoming search.

- 14) Perform a regular rigorous audit of the expenses of the president, provost and other vice presidents of the university.

The board's letter to campus of October 27, 2005, included a note that, given recent events, the board needs to be more vigilant with respect to financial matters including but not limited to compensation. We agree that this is a priority. Re-establishing trust on campus requires that there be clarity that the top executives are not reimbursed for personal expenses. For instance, an audit of the president and vice presidential office expenditures by the university's internal auditors should be conducted annually, reviewed by the independent auditors, and reported directly to the board of trustees audit committee. After an initial period of careful examination, the audit of the various offices might be done on a rotating basis.

- 15) Undertake an annual internal review and a periodic formal external review of board performance.

Our proposals to this point have been aimed at making the board more effective by enhancing oversight, participation and transparency. To these steps must be added an

increased measure of board accountability. The board, both collectively and individually, needs to undertake periodic reviews.¹⁸

Board self-assessment needs to be seen as an opportunity for education and improvement, as well as evaluation.¹⁹ An annual internal substantive discussion of board performance is warranted, as is a professional external evaluation every three to four years.²⁰ Assessment of individual trustees must be objective and rigorous. There should be no assumption that trustees will be reappointed when their terms have ended. The Board needs strong trustees who are actively engaged in support of the university.

Various additional steps could be taken to enhance accountability. The FSAGC considered whether term limits for trustees was desirable. We noted that: (1) the board's ability to recruit new members is untested after the events of 2005, (2) term limits tend to strengthen those not subject to them—in this case, the president of the university vis-à-vis the board—a situation counter-indicated following so closely on the events of 2005, and (3) term limits, had they been in place already, would not have had any obvious effect on these events. On the other hand, term limits also create the possibility of refreshing board culture. As a result, the board should seriously consider term limits as a means to improve board performance.

IV. General Considerations and the Future

In addition to the specific proposals described above, the faculty senate ad hoc governance committee discussed several other issues. These issues are presented in brief below.

Substantial majorities of the committee approved every proposal listed above. Not all were approved unanimously, of course. Some felt that any faculty representatives on the board of trustees should have voting rights and did not see the conflict of interest issue as weighing as large as did the majority. Some felt that faculty should not vote on committees for the same reasons that they would not vote on the full board, whereas others saw a difference in degree of conflict of interest. Some felt there should be more members of the faculty on the board. Some felt that the faculty should use direct elections to select any faculty trustees. A large majority of the FSAGC supported the proposal to have the faculty senate officers serve as faculty trustees, as is recommended in this report. Some felt that it would be useful to have an ombudsperson. Others argued that the combination of an effective whistleblower protection policy (something we strongly recommend as a committee) and sound governance reform should preclude the need for an ombudsperson. The concern that an ombudsperson could also potentially have unintended consequences detrimental to academic freedom was also expressed.

¹⁸ This proposal is not new. The Middle States Self-Study recommended independent evaluation of the Board (American University, “American University Self-Study,” prepared for the Middle States Association Commission on Higher Education and the AU Community, December 2003. American University, Washington, DC).

¹⁹ McKinsey.

²⁰ Palmeiro.

We considered the size of the board. There is a frequent recommendation that boards be smaller so as to enhance communication.²¹ We encourage the board to revisit the issue of size in the future, but we recognize that in the near term the board might need to expand so as to enhance diversity.

Several other constituencies have presented proposals for reform of the board. We encourage the board to consider these proposals carefully. We note in particular that we have not made proposals about the relation of other campus constituencies to the board. We believe that those constituencies can present their own arguments more persuasively than we can.

Our proposals call for closer contact of the board with the campus. However, we encourage the board not to engage in micromanagement.²² In some instances, the board has failed to engage in oversight of sufficient detail. In correcting this tendency, there is a very real possibility of overreaction. As the AAUP/ACE/AGB joint statement indicates, the president and faculty each have broad responsibilities in shared governance and it is essential to the health of the institution that trustees, president, and faculty each work independently, if collaboratively. The nature of the academic enterprise is creative. As a result, those on the front lines are sometimes in a unique position to recognize both opportunity and need and to act upon that recognition. To the extent that the board expands the details of its oversight activities, this expansion should be limited to the oversight of the compensation of and expenditures by the president and other top university officials, the president's management of the university and strategic planning.

We note continuing faculty dissatisfaction with the lack of budget transparency. We encourage more budget transparency, but do not set forth a specific proposal. The faculty senate instructional budget and benefits committee will submit such a recommendation. There was some interest on the committee to examine the structure of governance at American University and the events of 2005 more broadly. However, our charge was specifically to examine board reform.

Crisis creates opportunity. Board governance reform is such an opportunity. The university has been growing in stature and in resources. What we need now is change to allow the university to take the next step forward in its progress, a step that will be directed by our history. As a university that is marked by commitment to both scholarship and teaching, we need the elements that will permit additional excellence in both. What we need now is in part made possible by the financial resources that traditionally have been emphasized by boards—opening up the time and the resources for the faculty and students to engage in their scholarship, teaching, learning, and service. We also need leadership, both within the board and appointed by the board, that can identify the potential already extant at American University simply waiting to be tapped and that empowers the community to achieve

²¹ For example, see: T. Eisenberg, S. Sundgren, and M. Wells, "Larger Board Size and Decreasing Firm Value in Small Firms," *Journal of Financial Economics* 48 (1998); Benjamin E. Hermalin, "Higher Education Boards of Trustees," in Ronald G. Ehrenberg, ed., *Governing Academia: Who is in Charge at the Modern University?* (Ithaca, N.Y.: Cornell University Press, 2004); B.E. Hermalin, and M. Weisach, "Boards of Directors as an Endogenously Determined Institution: A Survey of the Economics Literature," *Economic Policy Review* 9 (2003); Y. Wu, "Honey, I shrunk the Board," Working paper, University of Chicago (2000); and Daniel Yermack, "Higher Valuation of Companies with a Small Board of Directors," *Journal of Financial Economics* 40 (1996).

²² Richard.P. Chait, "How to Keep Trustees from Being Micromanagers," *Chronicle of Higher Education*, May 6, 2005.

excellence in our respective functions. We need a governance process that reflects the love of ideas, the inclusiveness, and the service that mark American University.

The culture of a university—of this university—is unique. The fundamental enterprise is to engage in teaching and research. The bonds of scholars to disciplines and of students to teachers are, as a result, central. We too easily confuse these bonds with those that exist between corporation and customer. Corporations often measure success in very tangible ways: monetary profit, gross output, stock prices. It is easy in a university to also attend to that which is most tangible—endowment, SAT's, external ratings. These are important, but much of the university's enterprise is less tangible, if no less real. Chancellor Franklin Hamilton spoke of the “search for ultimate reality” and of “vitalizing of truth.” Just as these are dear to the academic mission of the university, they are also dear to its governance. By these proposals we hope to reorient the university toward these goals. We hope to help further build this community based on a love of the life of the mind. We hope to build trust.²³ In one way, it is possible to measure the progress of governance reform by ticking off the items on our list of proposals that are adopted by the board. These are important. Yet there has been in recent months progress that is less tangible, but no less real. The board and the faculty have been engaged collaboratively in the “vitalizing of truth.” It is our fervent hope that this engagement continues.

²³ Bowen and Cotter note, when considering faculty presence on boards that “...the potential for benefit...is too great, or too ephemeral, to calculate. How can trust, after all, be measured?”

V. Action Items for Consideration

- 1) Diversify board of trustee membership and, in particular, include individuals with a background in higher education.
- 2) Make the president of the university an *ex officio* nonvoting member of the board of trustees, and remove the president from the executive committee.
- 3) Foster inclusiveness by adding the chair, vice chair, and past chair of the faculty senate to the board of trustees as *ex officio* nonvoting members who would participate in all parts of board meetings, including executive sessions.
- 4) At least one faculty member with tenure should serve as a member on each of the standing committees of the board, as nominated by the officers of the faculty senate and elected by the senate from the membership of senate committees with similar jurisdictions or from the university faculty at large.
- 5) Expand the transparency of the board and its decision-making process to the broader university community by posting the agenda of board and board committee meetings once they are formulated, by continuing to release summaries of board and board committee discussions and decisions, by releasing in conformance with board policy board and board committee minutes and reports, and by engaging in greater formal and informal interaction with the campus community.
- 6) Make the process of nominating members of the board inclusive to allow all from the community to nominate members of the board.
- 7) Improve the orientation of new board members.
- 8) The board of trustees should take steps to enhance internal cohesion through events and exercises to strengthen the board's capacity to deliberate and to act in a collective fashion.
- 9) The board of trustees should ratify all executive committee decisions at the next board meeting.
- 10) The board chair not serve as chair of any other committee.
- 11) The board of trustees should appoint the board secretary and an assistant secretary (recording) if needed, have the board secretary report exclusively to the board of trustees, and determine the board secretary's compensation.
- 12) Undertake a full review of the performance of the university president at least every three years, with interim annual reviews.
- 13) Perform a more transparent review of compensation for the president and other top university officers that includes compensation comparisons with comparable universities.
- 14) Perform a regular rigorous audit of the expenses of the president, provost and other vice presidents of the university.
- 15) Undertake an annual internal review and a periodic formal external review of board performance.

Appendix

Faculty senate ad hoc governance committee members:

Tony Ahrens, CAS (co-chair)

Stephen Silvia, SIS (co-chair)

George Arnold, Library

Barlow Burke, WCL

John Douglass, SOC

Eileen Findlay, CAS

Clarence Lusane, SIS

Michael Sampson, KSB

Rita Simon, SPA

Myra Sklarew, CAS

Richard Stack, SOC