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Issue Brief

Model Legislation to Reform Faculty Accountability in Higher Education

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Introduction

In an interview for the 2022 documentary *What Is a Woman*,[1] psychologist and women's studies scholar Patrick Grzanka told conservative commentator and provocateur Matt Walsh that he was "really uncomfortable with [the] language of, like, getting to the truth." Grzanka, a professor at University of Tennessee–Knoxville (UTK), further explained in an eye-opening moment of candor that Walsh's desire to know the truth sounded "deeply transphobic" and that invoking the word was "condescending and rude."[2]

Grzanka's sentiment—while all too common in today's academy—defies the basic purpose of higher education as a truth-seeking enterprise. Ironically, it is precisely because of this purpose that universities vigorously defend the speech of controversial professors—including Grzanka. But in late 2023, UTK went beyond merely protecting his academic freedom. Grzanka was made the inaugural divisional dean for social sciences.[3]

Did that decision run contrary to the vision of the University of Tennessee Board of Trustees? It doubtless reflects poorly on the university. Yet the board was unable, unwilling, or uninterested in intervening, underscoring a problem endemic in higher education today: public universities have too few mechanisms for self-correction and outside accountability. Moreover, when appointed leaders have the power to act, they often decline to use it. Under the guise of "shared governance" and "faculty autonomy," our public universities have become insular and sclerotic.

About Us

The Manhattan Institute is a community of scholars, journalists, activists, and civic leaders committed to advancing economic opportunity, individual liberty, and the rule of law in America and its great cities.

The Manhattan Institute offers a simple proposal: state legislatures should expand oversight of their public universities. With powers clarified by lawmakers and a new mandate to exercise their existing powers, university board members can act as a counterweight to the excesses of university faculty and administrators—specifically, through greater involvement in the hiring of administrators, the approval of faculty lines, and the creation of core curricula. These powers would challenge some conventions of shared governance, but the time is ripe for such a challenge.

The Manhattan Institute's model legislation reforming higher-ed governance implements these general principles in a few specific ways. It requires governing boards to publicly review, certify, and annually approve all required general-education courses to ensure that they are foundational, civically relevant, and worthy of the public's investment. It matters who will teach those courses, of course, so governing boards are charged with approving all tenure-eligible faculty job postings after advance public notice. To keep the whole enterprise accountable to the public, top institutional leaders must be publicly vetted, approved, and reviewed annually on their qualifications, and they must be evaluated on their commitment to civic formation and engagement with a wide array of ideas. In Texas, many of the reforms we propose were adopted with the passage of Senate Bill 37 in 2025.

To further expand accountability, the model legislation limits faculty governance bodies to an advisory role, restricts their composition and funding, and ensures transparency in their deliberations on curriculum and institutional leadership. They know a lot about education, and their input should be taken seriously—but ultimately, they are not the cohort the public entrusts to ensure that higher education is aligned with the public interest.

This robust oversight has historical precedent. In many cases, university governing boards already possess broad authority to oversee the affairs of their institutions, though many have allowed this authority to atrophy in practice. The Georgia Constitution, for example, gives its Board of Regents the responsibility for "government, control, and management of the University System of Georgia," an authority that is understood to expand to both curricular offerings and faculty employment.[4] Thomas Jefferson's bill establishing the University of Virginia goes so far as to give the Board of Visitors the power "to appoint and remove Professors."[5] Thus, in some states, our model legislation will primarily serve as a mandate for board leadership to use certain powers that they already possess.

By vesting decision-making authority in publicly accountable governing boards and increasing transparency over curriculum and personnel decisions, these reforms would help states fulfill the bargain of public higher education: taxpayers foot the bill because they have an interest in welcoming well-formed citizens and economic contributors to their ranks.

The Limits of Faculty Self-Governance

Some critics are likely to decry these proposed reforms as an attempt to curb academic freedom. They would be mistaken. Aspects of shared governance play a significant role in advancing academic freedom, but too much faculty independence can reorient the academy away from its obligations to the public. Academic freedom historically refers to two separate but related elements. On the one hand, it is used to invoke an individual right, the freedom for scholars to speak, teach, and write what they believe. On the other hand, it often denotes a collective right, the freedom of scholars as a collective body to determine the core function of their disciplines. There are historical justifications for both. Some groups consider the collective right to be the overriding principle.

The principle of faculty self-governance has a coherent rationale. Shared governance is justified as a backstop against censorship and political impositions and functions as a form of academic "subsidiarity," the idea that decision-making should be left to the lowest or most local level. Because faculty have been trained and employed to advance a specific field of knowledge, they should have a more intrinsic interest in the subjects. Outside actors, legislatures, donors, and political appointees—the argument goes—are more likely to be motivated by considerations extrinsic to the goals of higher education. Thus, to curtail ideological imposition and censorship from outside, it is important to give academic institutions a high degree of autonomy.

This is why faculty self-governance has become a prized and long-standing principle. In its 1994 statement "On the Relationship of Faculty Governance to Academic Freedom," the American Association of University Professors (AAUP) expounds that "allocation of authority to the faculty in the areas of its responsibility is a necessary condition for the protection of academic freedom within the institution. The protection of free expression takes many forms, but the issue emerges most clearly in the case of authority over faculty status."[6]

But shared governance is no panacea. The arguments for shared governance and faculty autonomy assume a faculty that is committed to the university's basic mission. Of course, many individual professors are committed. Yet there is clear evidence that university faculty have, in many instances, been captured by the fervor of ideological movements.[7] In such cases, the collective right of faculty can be used to squelch the individual rights of faculty members. An example is in the use of DEI criteria for hiring, promotion, and tenure, which is justified by AAUP when it is a decision made by the faculty as arbiters.[8]

Democratic oversight, in the form of board governance, offers a corrective path. When institutions are captured by ideological fads, the justification for self-governance disappears and the possibility of actual academic freedom diminishes. In fact, insular self-governance ensures that higher education will have no means for self-correction. It is a problem that can be solved only from outside.

Like most elements of life in a democratic republic, higher education requires competing factions working in productive tension to advance the public interest. Recent years have seen a shift toward radical faculty and administrative autonomy, and the campus has become the center of justifiably heated cultural and political battles as a result. The best way to head off future controversies is to ensure that taxpayer-subsidized education is no longer a black box but transparent and accountable to the public.

Model Legislation: Higher-Education Accountability and Governance Act

Section 1. Legislative Findings

a. The Legislature finds the following:

   1. Every year, the State of [Name] makes a substantial investment in public education.

   2. To ensure the wise use of the State's money, the Legislature has a critical interest in setting the priorities for institutions of higher education in the State.

   3. In doing so, the State acknowledges the importance of academic freedom as a value that aids the pursuit of truth in higher education.

Section 2. Definitions

a. "Core Curriculum" means the collection of courses that students are required to complete for credit toward completion of a degree, certificate, or other academic program.

b. "Governing Board" means the entity responsible for overseeing an Institution of Higher Education, such as a board of trustees.

c. "Institution of Higher Education" means any academic institution that offers a postsecondary degree, certificate, or other academic program, including undergraduate and graduate-level programs.

d. "Faculty Deliberative Body" means any senate, committee, council, or other organization of the faculty, recognized by the Institution of Higher Education as having a formal role in the governance of the institution, with responsibilities extending beyond a single school or department.

Section 3. General Education Review

a. Notwithstanding any other provision of law, the Governing Board of any Institution of Higher Education shall review all courses forming part of the Core Curriculum and determine whether each course satisfies the following criteria:

   1. The course is foundational and fundamental to a sound postsecondary education.

   2. The course is necessary preparation for civic and/or professional life.

   3. The course reflects core content and methodologies of historical liberal arts and preprofessional disciplines.

b. An annual report outlining the courses subject to review, course descriptions, the criteria for reviewing them, and the process for review must be available publicly online for at least 30 days prior to the meeting of the Governing Board described in subsection (a).

c. The Governing Board must vote to certify, at a public meeting, that the courses offered by the institution as part of the Core Curriculum satisfy subsection (a).

d. Each year, the Governing Board must vote on whether to reauthorize or revise the institution's Core Curriculum.

e. An Institution of Higher Education must fulfill its obligations under this provision by the [2027–28] academic year.

f. For academic years subsequent to [2027–28], the annual report shall include a review of the previous year's approved courses and their satisfaction of the criteria described in subsection (a)(1)–(3).

Section 4. Faculty and Administrator Hiring and Employment

a. The Governing Board shall approve or deny, during a public meeting, the proposed job posting for any position that will be filled by an individual who will be eligible for tenure and will teach one or more courses in any field.

   1. To facilitate this process, a proposed job posting for any open position must be posted publicly online at least 30 days prior to the Governing Board's meeting.

   2. The Governing Board may vote on more than one posting in a single resolution.

b. The Governing Board shall approve or deny, during a public meeting, the hiring, appointment, or promotion of any individual who will serve as a chancellor, vice chancellor, president, vice president, provost, associate provost, or dean.

c. Any search committee tasked with identifying candidates for president or provost at an Institution of Higher Education shall be:

   1. composed of members, not fewer than sixty percent (60%) of whom are members of the Governing Board;

   2. composed of members approved by the Governing Board;

   3. supported by a search firm approved by the Governing Board, where an external search firm is utilized.

d. The [Higher Education Board] and the Governing Board are authorized to adopt rules implementing this section.

e. The Governing Board may not delegate its duties under this section to any other individual, official, or entity.

Section 5. Faculty Deliberative Bodies

a. A Faculty Deliberative Body must adhere to the following requirements:

   1. The Faculty Deliberative Body shall perform a strictly advisory role, making nonbinding recommendations to administrative officers of the Institution.

   2. The Faculty Deliberative Body shall not present itself as an authoritative or a policymaking body.

3. The president of the Institution of Higher Education shall appoint the head of the Faculty Deliberative Body.

4. Membership on the faculty body is limited to full professors with tenure, and service is limited to one academic year. Once an individual completes his/her academic year of service, the individual must wait four academic years before serving again on the committee, council, or other organization.

5. If a Faculty Deliberative Body rejects a course or curriculum proposal in whole or in part, the president, provost, and relevant comparable officers must still review and consider the entirety of the proposal, including those parts rejected by the body.

6. The names of the members in attendance must be recorded at a meeting in which the Faculty Deliberative Body conducts business related to:

    A. a vote of no confidence regarding an institution or a system administrator; or

    B. policies related to curriculum and academic standards.

b. Existing Faculty Deliberative Bodies shall be replaced with, or transition to, one that adheres to these requirements within 12 months of the enactment of this law.

c. This section may not be construed to limit a faculty member of an Institution of Higher Education from exercising the faculty member's right to freedom of association protected by the United States Constitution [or State Constitution].

d. This section supersedes any contrary provision of law regarding the powers and duties of advisory committees under state law.

Section 6. Nonacademic Disciplinary Proceedings

a. Following the occurrence of major campus disruptions arising from legal or policy violations by students, the chief executive shall submit anonymized quarterly incident-specific disciplinary reports for 18 months to the Governing Board. Such reports shall include quantitative data on the sanctions imposed and the names of the admissions officers who served as primary readers for sanctioned students' applications for admission.

b. The determinations of nonacademic student disciplinary proceedings are advisory to the chief executive officer of the institution.

c. The chief executive officer may convene a special advisory committee to:

    1. review the advisory determinations of subordinate administrators or subordinate judicial bodies in any nonacademic disciplinary cases and make recommendations to the chief executive officer;

    2. serve as the original jurisdiction for any nonacademic disciplinary case.

Section 7. Compliance

a. An Institution of Higher Education may not spend money appropriated to the institution for a state fiscal year until the Governing Board submits to the Legislature and the [Higher Education Board] a report certifying the Governing Board's compliance with Sections 1–4 and 6 during the preceding state fiscal year.

Section 8. Severability

a. To the extent the State or any private party is enjoined from enforcing any part or application of any section in this statute, all other parts or applications of that section and all other sections are severable and enforceable. It is the Legislature's intent that any lawful section, application, or part of a section remain enforceable no matter the number of sections, parts of sections, or applications deemed unenforceable. Under no circumstance should a court conclude that the Legislature intended that the State or private party be enjoined from enforcing any section, application, or part of a section not deemed independently unenforceable.

Section 9. Appropriations Rider for Higher-Education Administrative Salaries

The Governing Boards of all Institutions of Higher Education shall reduce by 15% from the prior year, for five years, the annual amount spent on salaries for all persons engaged in managerial or supervisory activities, including a chancellor, vice chancellor, president, vice president, provost, associate provost, assistant provost, dean, associate dean, assistant dean, or comparable position.

Endnotes

1 Leor Sapir, "Transgenderism and the Therapeutic Attitude," *City Journal*, June 10, 2022.

2 See the full clip at https://www.youtube.com/watch?v=HXVJvsZRbBs.

3 "Grzanka Named Divisional Dean for Social Sciences," University of Tennessee–Knoxville. Today, Grzanka is an associate chair for undergraduate studies at the University of Michigan and a professor of women's and gender studies. See "Patrick Grzanka," University of Michigan.

4 Office of Faculty Affairs, "USG and Board of Regents," Georgia State University.

5 "Thomas Jefferson's Bill to Establish a University," Founders Online, National Archives (1818).

6 Committee on College and University Governance, "On the Relationship of Faculty Governance to Academic Freedom," American Association of University Professors (AAUP), 1994.

7 See, e.g., ibid.: "It is the faculty—not trustees or administrators—who have the experience needed for assessing whether an instance of faculty speech constitutes a breach of a central principle of academic morality, and who have the expertise to form judgments of faculty competence or incompetence."

8 Committee A on Academic Freedom and Tenure, "Diversity, Equity, and Inclusion Criteria for Faculty Evaluation," AAUP, October 2024.