



# LEAGUE ISSUES BRIEF

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*A publication to assist local districts in understanding & responding to issues under review in the Chancellor's Consultation Process. Provided to CEOs for distribution to trustees, administrators and leaders, as appropriate*

December 2, 2002

**ISSUE:** Should there be a change in the composition or number of members serving on the Board of Governors and if so, what changes should be made?

**BACKGROUND:** Over the past three years, the Joint Legislative Committee to Develop a Master Plan has discussed a variety of recommendations which would affect kindergarten through graduate education if adopted by the Legislature. Among those proposed in its August 2002 report (*The California Master Plan for Education*) is one to augment the membership of the California Community College Board of Governors. It reads as follows:

“Recommendation 34.1 – The membership of the California Community College Board of Governors should be modified to include as ex-officio members the Governor, the Superintendent of Public Instruction, the Lieutenant Governor and the Speaker of the Assembly.”

If this recommendation were followed, the makeup of the California Community College Board of Governors would be more similar to the UC Board of Regents and the CSU Board of Trustees, both of which are comprised of at-large gubernatorial appointees as well as ex-officio members. (Specifically, the CSU Board of Trustees includes the following ex-officio members: the Governor, Lieutenant Governor, CSU Chancellor, Speaker of the Assembly, and the Superintendent of Public Instruction. UC board's ex-officio members include: the Governor, Lieutenant Governor, UC President, Speaker of the Assembly, Superintendent of Public Instruction and two officers of the UC Alumni Association.)

In response to the Master Plan recommendation, this brief compares the composition of California's Board of Governors with state-level community college governing boards from comparable states (i.e., those with both local and state governing boards) to determine their makeup and the qualifications of various members. It also includes a set of alternative qualifications and a listing of pros and cons for each alternative.

## The California Community College Board of Governors

The number and qualifications of members of the California Community College Board of Governors (BOG) are determined by California Education Code Sections 71000 – 71003, which state that the BOG consists of sixteen voting members and one nonvoting member, appointed by the Governor. Of these, thirteen – including two current or former elected members of local community college district governing boards -- are appointed with the advice and consent of two-thirds of the members of the Senate to six-year staggered terms; and two tenured faculty members plus one voting and one nonvoting student member are appointed by the Governor to two-year terms and are not subject to Senate advice and consent.

The qualification for the “lay” board members (i.e., those who do not hold the student or faculty seats) is that they be “outstanding lay citizens of California who have a strong interest in the further development and improvement of the public community colleges.”

The qualifications for the two student board members are enrollment in a community college with a minimum of five semester units, or its equivalent at the time of the appointment and throughout the period of their terms, or until a replacement has been named. Each student member must be enrolled in a community college at least one semester prior to his/her appointment, and must meet and maintain “the minimum standards of scholarship prescribed for community college students.”

Each student member is appointed from a list of names of at least three persons submitted to the Governor by the California Student Association of Community Colleges (CalSACC). The terms of office are staggered -- one student board member is appointed to a term beginning on July 1 of an even-numbered year and expiring on June 30 two years later, while the second student member’s term extends from July 1 of an odd-numbered year to June 30 two years later. In the first year of a student member’s term, he/she may attend all meeting of the board and its committees and may fully participate in discussion and debate, but may not vote. During the second year of a student member’s term, he/she may attend all meetings and vote on all issues which come before the board.

The two tenured community college faculty members are appointed for two-year terms. The Governor appoints each from a list of names of at least three persons furnished by the Academic Senate of the California Community Colleges (ASCCC).

The lay members whose terms have expired may continue to serve for sixty days or until re-appointed, whichever comes first; if the Governor has not appointed a successor, the seat becomes vacant on the sixty-first day after expiration of the member’s term. The two faculty positions remain filled, even beyond the two year term, until a successor is appointed.

Currently, there are no geographic requirements or restrictions on the appointment of lay board members. At the present time, the lay members are from the following geographic areas: four from the Los Angeles area, one from San Diego, two from the SF Bay Area and one from the Sacramento area. The sole trustee is from Orange County (the second trustee seat is vacant but was last held by a northern California trustee); one of each of the tenured faculty and student members is from southern California while the other of each is from northern California.

### Comparison with Other Boards

Review of community college governance throughout the United States yields a broad range of alternative structures. Some colleges are governed solely by a local board, while others are governed solely by a state-level board. In other states, community colleges are governed as part of the university structure, and there are states in which some of the local community college boards are elected while others are appointed. The attached chart (States with both Local and State Boards) provides the state, board name, and the number and qualifications of state-level community college governing board members for states most similar to California (i.e., those with both local and state-level governing/coordinating boards). The following section will consider the various qualifications required and provide pros and cons for each proposed alternative.

**Proposed Changes:** There are a number of alternatives which may be considered in changing the present composition and qualifications of the Board of Governors. They include:

Composition

- a) *Add the Governor, Superintendent of Public Instruction, the Lieutenant Governor and the Speaker of the Assembly as ex-officio members of the Board of Governors.*

Arguments in support:

- i) Supporters believe that this would make the governing board more responsive to state needs and more aligned with other levels of education, such as K-12.
- ii) Supporters argue that inclusion of these politicians will reduce the amount of legislation affecting community colleges since politicians could work, instead, within the system through the Board of Governors.
- iii) Supporters argue that this would raise the status of the BOG to that of the UC Board of Regents and CSU Board of Trustees.

Arguments against:

- i) Opponents argue that this will politicize the board – politicians do not tend to attend governing board meetings except when there is a political (rather than educational) issue at hand.
- ii) Many argue that it would be a violation of the separation of powers for a legislator to serve within the executive branch.
- iii) Opponents argue that members of public boards should be public members, rather than ex-officio members representing particular interests.
- iv) Opponents argue that the UC Board of Regents and the CSU Board of Trustees are governing boards, while the Board of Governors is a coordinating board, so it is not appropriate to have ex-officio members serving on it.

- b) *Require that one-half the members of the BOG be current or former trustees.*

Arguments in support:

- i) Supporters argue that this would ensure that those on the state board are closely attuned to the needs and interests of local districts and communities.
- ii) Supporters believe that local trustees would understand the complex issues and add additional depth and insight to the decisions of the Board of Governors.

Arguments against:

- i) This would blur the distinction and roles between local and state-level boards. Currently, the state board has a distinctive role to play in representing state-level issues, while local boards concentrate on local community and regional needs.
- ii) There appears to be no model in the United States (except California with its two trustee seats) in which local trustees sit on the state board in states which have both levels of governance. In fact, at least one state (Wyoming) specifically prohibits any local trustee or district employee from serving on the state governing board due to the possible conflicts of interest.
- iii) Opponents argue that it would be more important to require that appointees to the state Board of Governors have some credentials (other than being a local trustee) to show their commitment to, and interest in, community colleges.

c *Include community college administrators on the Board of Governors.*

Arguments in support:

- i) Other groups (faculty, trustees, and students) are represented so administrators should also be included for equity.
- ii) Administrators have solid knowledge and understanding of the system and can bring an added level of depth to discussions.

Arguments against:

- i) There should be only lay members on the board; adding administrators only compounds the confusion of having a mixture of lay and non-lay members.

d *Retain the current structure of 17 Board of Governors' members, including two trustees, two academic senate representatives, and two students, with the balance from among the general public.*

Arguments in support:

- i) The model in which most members are from the public at-large is based upon a long tradition of lay boards representing the public and overseeing public education. This continues to be the most common model for coordinating boards similar to California's.

Arguments against:

- i) Opponents argue that the Board of Governors is ineffective and cannot adequately meet its responsibilities to coordinate the local colleges, given its current structure; something must be changed in order to make it more effective.

Terms

e) *Lengthen the terms of the lay members of the Board of Governors.*

Arguments in support:

- i) Lengthening the terms (even if it were only two more years, to a total of eight years instead of the current six years) would improve stability for board members; this is important because the learning curve can be very steep for lay members.
- ii) The lengthened term would be more consistent with CSU and UC which have term lengths of eight and twelve years, respectively.
- iii) This would lead to a better mixture of appointees from the current and prior administration and could provide more continuity than with shorter terms.

Arguments against:

- i) The current term length provides a Governor the ability to choose the full board, which should be his/her prerogative.
- ii) With all board members chosen by the current Governor, they will have more access to him/her and be able to advocate the system's position more effectively.
- iii) The regular rotation of members brings new energy to the board at regular intervals.

- f) *Allow Board of Governors members to continue serving on the board after the expiration of their terms until the Governor names a successor.*

Arguments in support:

- i) This would provide more continuity, ease the ability to maintain a quorum (especially when there are relatively large numbers of vacancies) and may encourage the Governor to make appointments in a more timely fashion.

Arguments against:

- i) Forcing the Governor to make appointments “in a more timely fashion” may lead to a reduction in the quality of appointees.
- ii) It is inappropriate for appointees (especially those not chosen by the current Governor) to remain on the board for longer than sixty days after expiration of their terms if they have not been re-appointed.

Qualifications

- g) *Require that Board of Governors’ members be more representative of the state or from specific mandated congressional districts.*

Arguments in support:

- i) A broader geographic diversity among members could increase both the appearance of, and the actual equity in, decision-making.

Arguments against:

- i) It would be impossible and impractical to require that members of the Board of Governors come from specific congressional districts since the state is so large and has 58 congressional districts. States which use this model for appointment tend to be small states with few (e.g., five) congressional districts.
- ii) Opponents argue that the Governor should appoint the best/most qualified persons to the Board of Governors rather than being restricted by geographical considerations.

Appointment Process

- h) *Require the two current or former elected members of local boards serving on the BOG to be selected from a list provided by the statewide trustees organization, similar to the students and faculty members.*

Arguments in support:

- i) It is only fair and logical that the trustee members be appointed in the same manner as others from within the colleges.
- ii) The trustee organization knows local board members best and can recommend those who would be particularly effective on the Board of Governors.

Arguments against:

- i) The “best” trustee is a subjective judgment – it might be preferable to have a trustee who is close to the Governor rather than one well known to the trustee organization.
- ii) Opponents argue that it is inappropriate for any Board of Governors’ member to be appointed from a group selected by a community college-related organization; adding the trustees to this list would only compound the inappropriateness.

**Timeline:** The CCCT Board members will be meeting with members of the Board of Governors on January 24 and 25, 2003, to begin discussing which possible changes in board composition, if any, should be advanced by the two boards to the Legislature and the Governor. Therefore, it would be helpful if local boards could meet and discuss this issue and respond to the League by January 21; however, if this timeline is too short, later suggestions will still be welcomed.

**Local Action Suggested:** Local boards are asked to discuss these options and respond to the League as close to the January 21 deadline as possible. Specifically, they should consider the options proposed above and others which they consider appropriate.

## STATES WITH BOTH LOCAL AND STATE BOARDS

State	Number of Members	Title of Board	Qualifications
FL	7	Florida Board of Education	Part-time citizens' board appointed by governor with senate consent.
IL	12	Illinois Community College Board	11 appointed by governor with senate consent, for 6-yr terms, plus 1 student selected by student advisory commission.
KY	16	Community & Technical College System	Appointed by Governor and includes 13 citizens, 1 faculty member, 1 student member & state's commissioner of education as a non-voting ex-officio member.
NC	20	State Board of Community Colleges	10 appointed by governor + 4 each from senate and house, lieutenant governor, and state treasurer.
MS	10	State Board of Community and Junior Colleges	Appointed by governor; 2 from each of the 5 congressional districts.
NY	17	City University of New York Board of Trustees	10 appointed by governor w/senate confirmation, 5 by NYC Mayor w/senate confirmation, 1 chair of student senate, 1 non-voting chair of faculty senate.
OR	18	State Board of Education	7 appointed by governor w/senate confirmation, plus 1 from each of the 5 congressional districts + 2 at large.
SC	12	State Board for Technical & Comprehensive Colleges	12 members, including 5 at-large, and 1 member from each of the 6 Congressional districts, chosen by the governor; plus one ex-officio member
WA	9	State Board for Community and Technical Colleges	9 appointed by governor to 4-yr terms w/senate conf. governor required to consider balance and representation of labor, business, women, & racial & ethnic minorities. At least 1 each from business & labor. 2 must be from Eastern Washington.
WI	13	Wisconsin Technical College System Board	13 members, including 3 employees, 3 employers, 3 members-at-large, and a student appointed by the governor plus the following ex-officio members: the president of the Board of Regents; the Superintendent of the Department of Public Instruction; and the Secretary of the Department of Industry, Labor and Human Relations
WY	7	Wyoming Community College Commission	No less than 3 nor more than 4 from counties in which a CCD is located. No more than 4 from same political party; governor and superintendent of public instruction are ex officio non-voting. No employee or trustee of a CCD.