



# **University System of Maryland Governance Review**

**FINAL REPORT**  
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## Introduction

The Board of Regents requested that the Association of Governing Boards of Universities and Colleges (AGB) conduct a governance review of the University System of Maryland (USM) in the winter and spring of 2019. The specific charge was “to review the accountability, engagement, effectiveness, structure, and future of the Board of Regents of the University System of Maryland.” This is the report to the USM Board of AGB’s governance review.

The report is organized under the following headings: Review Origin and Process, What We Heard, and Recommendations. The recommendations address five major themes:

1. Reclaiming public confidence
2. Improving the board’s structure and engagement
3. Adhering to the fundamentals of sound governance
4. Achieving the benefits of a unified system
5. Suggestions for policymakers

## Review Origin and Process

As an immediate follow-up to last year’s tragic loss of a University of Maryland, College Park, football player and the high-profile concerns registered among internal and external stakeholders of the thirty-year-old University System of Maryland, AGB was invited to examine the board governance of the system. While AGB’s assignment was not to review the failures associated with governance in the immediate efforts to respond to the tragedy, our findings and recommendations could not avoid being affected somewhat by the overall impact of the tragedy on the reputation of both the board and the system. All with whom we met agreed that the impact on the reputation and governance of the system was profound. And, since “reputation” is a special commodity for all higher education institutions, the response of the board and system will be a significant factor in determining whether they can successfully regain the public’s trust and meet the system’s statewide mission.

Notwithstanding those important aspects of our assessment, what is clear is that the USM retains a strong and positive reputation among the majority of its stakeholders. However, that reputation has become more fragile as a result of contradictory and confusing regent actions following the tragic death of Jordan McNair. Consideration and implementation of the recommendations in this report should set governance and regent decision-making on a firm footing as the board exercises its governance authority and accountability over the system.

By any measure, the USM is one of the nation’s premier higher education systems. Its twelve universities—including three historically black universities, a center for environmental science, and three regional centers—educate some 170,000 students. The USM offers traditional academic and medical education programs, conducts world-class research, and provides one of

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the largest online education programs in the country. The system flagship itself educates about 39,000 students and is ranked highly among its peers. Other institutions in the system enjoy strong reputations among their peers as well. Overall, the system is credited with contributing mightily to the state's economic development goals.

There has been an effective, supportive, and collaborative relationship between the system, the state government, and the corporate community. Over the thirty-plus years of its existence, the system has been fortunate to have strong and effective administrative leadership and consistent gubernatorial and legislative support. In many respects, the relationship between the system and state leaders represents a model for others to emulate.

In the midst of this history of support for the system, there remain unresolved conflicts. The "Coalition Case" that has extended for over a decade has continued to be of concern to the system, its three historically black institutions (as well as Morgan State University), and to policy leaders. It is expected that some resolution of this case, which impacts academic programs and institutional resources, will be achieved toward the end of April 2019.

During our three-month investigation, our team conducted more than fifty interviews (see Appendix A). We met with all current members of the Board of Regents, a former board chair, immediate past chancellor Brit Kirwan, all the system campus presidents, five members of the state legislature, the state attorney general, as well as other institutional administrators, faculty leaders, and others. We met and spoke with Chancellor Robert Caret and Linda Gooden, the current chair of the Board of Regents, on several occasions. The team also observed the February 22, 2019 board meeting and conducted a thorough review of board bylaws, policies, meeting agendas and minutes, committee charters, and organizational charts. There were no limits placed on our outreach or the areas we explored.

Our interviews, observations, and document review all contributed to the content of this report. While the report is informed by the collective input we received, the recommendations are based on the team's independent judgement.

## What We Heard

"Good governance depends on the quality of the board's relationships with others involved in the life of the institution."—*An Anatomy of Good Board Governance in Higher Education* (AGB, 2018)

In extensive governance reviews, it is quite common to benefit from multiple points of view about the work of the institutions for which the governing board is accountable. Determining who provides valuable insights based on objective observation and who is exaggerating their point of view for parochial interests, and to respectfully draw meaningful conclusions from all of this, is fundamental to a reliable governance review. It is important for the board and system to know what their stakeholders' current attitudes are, even if some might reflect confusion or

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unwarranted dismay, so that the system and the board can determine how to best address them to rally stakeholder support for its future.

A summary of what the AGB consulting team heard and discerned during our many meetings underpins our specific areas of governance review and recommendations. The input we received tended to fall into three broad categories:

1. Reclaiming public confidence
2. Issues deserving full system and regent attention
3. Concerns about effective governance

We recognize there is overlap among these categories, but we emphasize that all the topics listed here represent significant matters for those we interviewed.

In the many similar reviews members of our team have undertaken, stakeholders frequently argue for a dramatic restructuring or even dismantling of the system. We picked up very little of that in this case; rather, we heard that, after thirty years, the USM “is a system that usually works well but does need to refocus on its central purposes and improvements in the governance performance of the Board of Regents.”

### **1. Reclaiming Public Confidence**

“Steps to regain the public’s trust have been insufficient; we need ongoing outreach by the board to community groups—the board needs to engage with the public.” —*University System of Maryland Interviewee*

In today’s higher education environment, the relationship between our colleges and universities and the broader public is always fragile. Our interviews provided palpable testimony to the real and implicit damage done to the system’s reputation and to relationships on the University of Maryland, College Park campus. We heard consistent support and urgings that the system and the board must consider an active strategy to reconnect to multiple communities across the state in order to rebuild trust and confidence. This might have been the most essential message we heard from many with whom we met.

The McNair tragedy, in addition to its own challenges, highlighted multiple and concerning failures in standard board governance practices. It is clear that the governance process failed when it most needed to succeed. Notwithstanding underlying public support for the Maryland system, the early responses to the McNair tragedy threaten the system’s reputation for competent leadership.

The commitment to engage with a public relations firm that specializes in crisis management is an important initiative, but it does not replace the need to recognize that well-governed boards do not respond to tragedies as the regents did initially. The board’s initial action to

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demonstrate its accountability for the issue was sound and appropriate. The handling of personnel decisions reached, however, were unfortunately neither. Boards need to be structured in a manner that ensures its active leadership. Especially during crises, transparency, trust, and effective collaboration with the administration are essential. Effective governance is only as good as it performs on an institution's worst day. The system and board have work to do to demonstrate that it can get governance right, which has a direct bearing on its ongoing support.

Nevertheless, the system remains highly regarded. For example, throughout the interviews we heard a general sense that the board is focused on the needs of the state and that the educational product across the system is good, providing opportunities for Maryland citizens and helping the state's economy grow. Communications were said to work well across the system and this can be seen through the interactions of the councils of presidents, faculty, and staff. The chancellor makes an effort to keep stakeholders informed through a periodic memo from the board. The UMB and UMCP Empower Partnership (a result of legislative initiative) is working well and could be a model for other institutional partnerships within USM. Interviewees also mentioned that campus independence is protected, and individual presidents are effective leaders (although somewhat underutilized on system-wide discussions and issues with the board). There is a sense that the board is becoming more transparent and public confidence in the board is on the upswing.

In addition, much credit was given to the new board chair, whose handling of the crisis after she took office contributed significantly to initial reputational recovery. Many, including a number of legislators, are prepared to move forward, but as one regent accurately diagnosed, "we are not at the end of this crisis, we are still in it . . . ; it will take work and commitment to restore trust in this board." Public confidence is a fragile commodity that must be cultivated and reclaimed.

## 2. Issues Deserving Full System and Regent Attention

The system and its regents face no shortage of practical and policy challenges that merit attention and action. The following items were frequently mentioned, often in some depth, by a significant number of interviewees.

***Lack of "systemness."*** In some respects, the Maryland system operates more like a confederation of competitors than an interdependent network of allies. Because it is composed of a range of institutions with distinct missions—research-intensive institutions, regional comprehensives, historically black universities, and special centers—developing a sense of cohesiveness is challenging. However, we heard that the level of much-cherished autonomy at the campuses often leads to unnecessary competition and duplication. The challenges facing the system's historically black institutions remain sore points. We witnessed some fatalism regarding the timely resolution of the Coalition Case, although many noted that the development of needed academic programs is stymied by the continuing stalemate. We also

heard that while the regents are respectful of all the universities, they are most attentive to the two largest and have only a muted understanding of what would constitute a more integrated system.

***Assertions of strong racial tension.*** A sense of race-based inequity remains a widespread concern. The aggravation associated with the unresolved Coalition Case illustrates the enduring nature of this conflict. Several interviewees emphasized the lack of diversity among faculty and perceived differential treatment of the system's three historically black universities, which experience low graduation rates and a significant affordability gap, a reality facing many public HBCUs nationally and not unique to those in the USM. Interviewees observed that the system has not paid adequate attention to the persistent educational and achievement gaps of Baltimore City, despite recent initiatives to address these serious and systemic issues. And, there seems to be broad awareness that racial tension is high on the College Park campus, although it seems to draw minimal attention among board members. There are numerous examples of systems and major institutions where under-addressed feelings of inequality and injustice boil over into crisis events.

***Lack of a crisis leadership and risk assessment at the board level.*** The McNair tragedy clearly caught the regents unprepared and ill equipped to address the almost uncontrollable sense of outrage across the state. The board as a whole lacked well-planned protocols for dealing with this crisis and others, and seemed inappropriately willing to defer to the former board chair to lead the system through the issue. We used the term "crisis leadership," rather than the more familiar "crisis management," to underscore the importance of not simply coping with the immediate instance, but determining the underlying causes, addressing them with integrity, and restoring confidence in the system. In the course of our interviews, it became clear that the board also lacked a comprehensive risk assessment and mitigation process, one that might have a regular practice of anticipation and planning. Crises don't tend to announce their arrival; boards must be sure that they and the system are prepared to lead.

### **3. Concerns about Effective Governance**

***Undefined board-chancellor relationships.*** The chancellor enjoys the support and appreciation of the majority of his stakeholders, including members of the board. However, there is a widespread sense that his working relationship with the board needs improvement. We were told that his relationship with the former chair was best described as dysfunctional, and that some lingering, residual effects from that relationship have spilled over to relations with the current board. Some interviewees felt that the chancellor was marginalized during the tragedy and its aftermath. Relatively minor gaffs that were nonetheless highly publicized and merit board attention have not helped the chancellor's standing. The chancellor is a former Maryland university president, an experienced system head, and a proven leader. A highly functional working relationship between the chancellor and the board, and especially its chair, is essential to an effective university system. Such relationships are part of governance culture and take intentional work to assure.

**Regent focus and politicization.** Interviewees repeatedly commented on the tendency of regents to focus their attention on the University of Maryland, College Park, and to a somewhat lesser extent on the University of Maryland, Baltimore, to the relative exclusion of other regions and campuses. We heard little complaint of partisan politics playing out on the board, but we did regularly hear of concerns about a preoccupation with the research universities and with regional and institutional loyalties. However, there is widespread anxiety over proposals in the legislature to add additional legislative appointees to the board and over other legislative proposals that would limit board independence. “There is enough board politics—small p—now,” we were told. “Adding legislative appointees would make it a truly partisan board, which would compromise its independence.”

**Diminished transparency at board meetings.** With thirteen allowances to go into executive session, it is not surprising that there is concern over transparency in board deliberations and actions. As one person put it, “The meetings seem scripted.” To be sure, there are many justifiable reasons to keep sensitive conversations limited to regents alone, as when those conversations are focused on personnel issues, contracts, labor negotiations, and other sensitive matters. Former board members, and some current ones as well, indicated a willingness to deliberate and vote in public in more instances and to record vote counts of actions taken in closed session. According to one person close to the system, “such actions would go a long way to demonstrate to USM stakeholders that the board and its leadership are listening to public concerns...It would help restore trust with the legislature as well.”

## Recommendations

“A good board . . . expects that board meetings will be focused on the issues of greatest consequence to the institution. Accordingly, led by the chair, the board takes an active role in determining what is included on its meeting agendas, collaborating with the administration rather than being led by it. The board, with the president, decides what to decide...” —*An Anatomy of Good Board Governance in Higher Education* (AGB, 2018)

The following recommendations are intended to address the Board of Regents’ charge to the AGB consulting team and were shaped by what we heard in our fifty-plus interviews, by the team’s experience in leading and reviewing other major university systems, and by standards of best practice in board governance. Our recommendations are organized under five primary themes, each of which include a number of suggested action items:

1. Reclaiming public confidence
2. Improving board structure and engagement
3. Adhering to the fundamentals of sound governance
4. Achieving the benefits of a unified system
5. Suggestions for policymakers



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## 1. Reclaiming Public Confidence

Restoring public confidence in the leadership and accountability provided by the Board of Regents is not optional and must be an urgent priority. The current chair's public comments have begun the restoration process by expressing sincere regret over missteps and a commitment to restoring public trust. Additional actions to be considered should include a board "listening tour" across the state, structured conversations with specific stakeholder groups, greater transparency at board and committee meetings (see the transparency recommendation below), and more consistent board outreach to, and communication with, campuses and policymakers.

***Achieve greater equity and diversity.*** As stated in the system's new 2020 strategic goals, ensuring inclusivity "regardless of ability, background, gender, gender identity, race or ethnicity, creed, perspective or national origin" is a major priority. This laudable aspiration will require commitment from the board and system leadership in light of longstanding divisions, a history of exclusion within the higher education system, recognized racial tensions on the flagship campus, and lack of resolution of the Coalition Case. A regents' Working Group on equity and diversity with a genuine commitment to positive change could be an effective start (and a regent's learning opportunity) in addressing racial tension within the system.

***Recognize athletics as a full board responsibility.*** The Jordan McNair case is a tragic example of the reality that Division I athletics programs are especially prone to abuse and uncertainty as to board accountability. The current scandal over the role of athletics in a fraudulent admissions scheme at other institutions illustrates the dangers inherent in sports programs at prestigious institutions, although Maryland is not implicated in that scandal. The regents' Working Group on athletics within the board should develop policies to enable the board to better define its accountability and role in the oversight of athletics. This group is urged, however, to recognize that isolating athletics issues within one committee minimizes the accountability of the full board; trends across most boards clearly indicate a move away from the formation and reliance on athletics committees. The Working Group could also address the appearance that "fandom" competes with the board's fiduciary oversight of the entire system if board members provide substantial support to a major sport at a single institution.

Further, we commend three principles as a framework for sound governance practice in this area. First, while delegating day-to-day administrative responsibility, the board is ultimately accountable for athletics policy in keeping with its fiduciary responsibilities. Second, the board must accept accountability for upholding the integrity of the athletics programs and integrity, its finances, its mission and ensuring that it advances the educational mission. Third, the board must develop systematic approaches for upholding its responsibilities regarding athletics and apply themselves diligently to that work, while recognizing those specific responsibilities to be delegated to campus presidents.

## 2. Improving Board Structure and Engagement

***Become adept at crisis leadership.*** A system as large and complex as Maryland’s will periodically experience problems that reach crisis proportions. The board should adopt a systematic approach to anticipating, managing, and leading through the inevitable crises that takes into account the public nature of the system’s work. External counsel will be helpful, but there is no substitute for board and system accountability of these major challenges. Developing in advance appropriate roles for the chair, the entire board, the chancellor, and campus leaders—depending on the location and nature of the incident—will help ensure a mature and thoughtful response to crises.

### CRISIS LEADERSHIP PLAN

Components of a Crisis Leadership Plan should include:

- Protocols for internal communications among leaders;
- Definition of appropriate roles for the chancellor, presidents, and board leaders (depending on the nature of the crisis);
- Internal and external communications strategies and identification of spokespersons; and
- Overriding attention to the long-term best interests of students, the educational program, and public confidence in Maryland’s university system.

***Assess risk systematically.*** It is highly unusual for an organization like the university system not to have a formal risk assessment and mitigation program. Several universities reportedly have well-developed risk management plans that are regularly reviewed and updated. The board would do well to develop a similar program because many of the risks it faces involve the system as a whole as well as individual campuses—and will likely redound to board effectiveness; board leadership requires its active engagement in this area. We recognize the existence of a risk task force, which we applaud. We recommend the establishment of a permanent Working Group within the board’s structure that focuses on systemwide and, as appropriate, campus risks. The Working Group, staffed appropriately, should concentrate its efforts on those risks that are identified by a formal risk register or that otherwise merit board input. A formal risk assessment process that falls within the purview of the board (and is not merged with the important work of the current Audit Committee) will elevate risk to the appropriate level and send a signal to multiple stakeholders that the board recognizes the value of such system leadership and accountability. A focused and consistent risk assessment process should evolve from the chancellor’s office, engage campuses, and limit risks that receive board attention to those that are most current, and fundamental to system interests. A formal risk process will undoubtedly facilitate more effective board curiosity on issues that matter most.

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**Focus on fundamental board responsibilities.** As one of our interviewees emphasized, the board needs to “take a laser-like focus on its role” vis-à-vis the system as a whole, the chancellor’s office, the universities and their leaders, and the public expectations of the citizens of Maryland. A retreat to review and discuss the core principles of board governance, plus time for public discussion of those responsibilities and other more strategic issues at each meeting, would help ensure regent attentiveness to the board’s fundamental fiduciary obligations.

**Clarify the work of committees.** A thorough review of charges, actual practices, agenda setting, and communication to the full board would bring greater clarity to committee work. Committee agendas, we were pleased to learn, benefit from unfettered communications between committee chairs and key staff. However, we also heard that committee meetings tend to be dominated by staff reports, which runs the risk that the board will operate primarily in “audience mode” and be overly dependent on staff, rather than accepting responsibility to “run” its committee and board meetings.

As requested, the team reviewed the Board of Regents’ bylaws. We noted nothing exceptional or that needed immediate attention. However, best practice urges boards to regularly review its bylaws to ensure that expectations and structures remain consistent with current system priorities. Of particular note, we urge attention be paid to the Organization and Compensation Committee, a committee with a particularly broad authority that can be unclear, and which creates some imbalances within the whole board.

**Establish a governance committee.** At present, no committee appears to be charged with ensuring sound governance practices. A governance committee, or the assignment of the following responsibilities to an existing committee, would bring the regents in line with best governance practice. Governance committees that meet regularly bear appropriate responsibility for board structure and regent performance and ethics. For example, the current scandal over the performance of some board members of the University of Maryland Medical System, an organization that is separate from the Board of Regents but includes four regents on its board, clearly calls for a rigorous examination of conflict of interest policies and practices. The practice of regents serving on other boards, whether legally affiliated with the system or not, merits special attention from a governance committee. Such a committee would also address board orientation and development, board and board member assessments, the professional development of board staff, and such issues as the boundaries between policy setting and the administration. The chair of a governance committee should be among the most highly respected members of the Board of Regents.

### COMPREHENSIVE CHECKLIST FOR GOVERNANCE COMMITTEE OVERSIGHT

The following checklist illustrates the three primary areas of governance committee responsibility and oversight.

#### GENERAL GOVERNANCE FUNCTIONS:

- Establish expectations for individual board members.
- Evaluate performance (conduct committee and board assessments, and oversee self-assessments by members).
- Oversee conflict-of-interest policies and procedures.
- Review board documents periodically (bylaws, expectations and responsibilities, composition matrices, assessment processes, committee charters).
- Keep apprised (by legal counsel) of relevant federal and state laws and ensure they are followed (e.g., Freedom of Information Act laws, open meetings, and open-records laws).
- Ensure committee alignment and integration.
- Monitor state and national trends relating to higher education governance.
- Identify best practices in governance.

#### FUNCTIONS RELATED TO BOARD MEMBERS:

- Create a board profile and matrix.
- If permitted, identify and vet prospective members.
- If appropriate, recommend reappointment of board members.
- Create slate of board officers.
- Plan and oversee orientation for new board members.
- Ensure mentoring of new board members.

#### BOARD DEVELOPMENT AND EDUCATION FUNCTIONS:

- Ensure ongoing board education and development.
- Honor and recognize retiring board members.

*Source: Carol Cartwright, The Governance Committee—Public Institutions (Washington, DC: AGB Press, 2019), 6–7.*

**Seek robust discussion at board meetings.** Consequential boards add value on a consistent basis and regularly assess their performance against that standard. When one board member, a small group, or even the chair dominates discussions and decision-making, poor governance and bad decisions can be the result. Full board discussion of all-important issues—whether crises, serious problems, or long-term strategic matters—leads to wiser choices and a greater degree of support within the board. A culture that displays candor in the sunshine sends a message to stakeholders that the board is addressing the most important issues facing the system and the state. A board that focuses on politeness in public might be viewed as scripted and informed solely by staff reports. Excessive use of closed sessions and the tendency to avoid blunt conversation when required too often implies that the most pressing issues fail to receive

the attention they deserve. Education on how to engage in serious conversation about difficult issues in public would make board meetings more relevant to the system's many publics.

### 3. Adhering to the Fundamentals of Sound Governance

***Refresh the strategic plan.*** The system's current strategic plan covers the important topics, but it would be strengthened by fresh board and system discussions of the current governance challenges as well as the emerging disruptions and potential challenges in the higher education environment. Among the most disruptive factors facing systems across the country are funding uncertainties, changing demographics affecting enrollment and revenue, partisan and ideological conflicts erupting on campuses and in board rooms, competition from nonacademic organizations, the potential and threats from information systems and technology, and shifting student attitudes. These issues, strategic plans and directions, and the potential of "systemness" to bring more value to the table are all appropriate topics for a board retreat. In addition, the current strategic plans should intentionally be inclusive of effective institutional governance—board governance and shared governance. Such additions will strengthen the plan and demonstrate to external audiences and faculty that these important areas are recognized as being among system priorities.

***Create a more effective board orientation and development program.*** The orientation provided to new board members appears to be inadequate, and there is scant evidence of an ongoing board development program. The board would do well to review the many effective models of trustee onboarding and development, and to adapt them to the needs of this complex system. A governance committee, as recommended in this report, might well consider this its first assignment.

***Achieve greater transparency.*** Effective governance of public universities and systems requires the right balance between those discussions that are held in closed or executive sessions and those that are open to the public. With thirteen "allowances," this board errs on the side of actual and perceived secrecy. Highly recommended changes are to adjust the criteria for closed sessions, to make clear why the board is going into a closed session and report out the results afterwards, to reduce the number and frequency of closed sessions, and to engage in more robust and strategic conversations in open sessions. Open meetings contribute to the board's ability to demonstrate its own awareness of its fiduciary responsibility of serving the public interest.

***Better define the role of the board chair.*** All members of a governing body bear the same degree of authority and responsibility. Consideration should be given to setting minimum and maximum terms of service for the board chair; surely a one-term or one-year standard limits the chair's capacity to assert positive leadership, albeit board members often are otherwise employed beyond their service on the Board of Regents. Board chairs should be cultivated and considered based on a board succession strategy with the governance committee assuming the primary role of recommending the slate of officers to the full board. While the board chair will

be expected to speak for the board and be the primary conduit between the board and chancellor, he or she does not bear any individual authority that is presumed to be greater than that of any other member of the board. One special responsibility for the board chair might be to accept an invitation to participate, on occasion, in the monthly gathering of the Council of Presidents.

***Develop an effective chair-chancellor relationship.*** Effective system leadership requires the executive and the chair to share goals and expectations, while respecting their differing spheres of responsibility. This relationship begins with the chancellor’s job description. Likewise, the chair should clearly understand the responsibility of the chairperson position. Article III Section 1 of the bylaws of the Board of Regents states:

The Chairperson is authorized to represent the Board before all public bodies, to preside at the meetings of the Board, to sign on behalf of the Board papers authorized by the Board as required by law, and to perform such other duties as the Board may from time to time assign.

The board should conduct annual and three-to-five-year comprehensive evaluations—benefitting from the input of all regents—and, most importantly, regular conversations concerning the issues of the day and progress against the goals of these two leaders. Annual evaluations vis-à-vis goals that take into account unexpected developments, both positive and negative, coupled with three-to-five-year comprehensive or 360 evaluations are the standard. While the chair or a select group of regents may conduct the evaluation, the entire board should be engaged in discussion of the criteria, performance, and outcomes. The standard best practice holds that the executive’s compensation be fully disclosed to, and discussed by, the entire board. Effective board chairs must have the ability to be candid with the chancellor while also serving as a trusted advisor and port in the storm for the chancellor in order to establish the essential level of trust that is mandatory in this important relationship.

#### **4. Achieving the Benefits of a Unified System**

***Leverage the strengths of the system.*** Many public university systems are currently reexamining their purposes and functions with an eye to becoming more than sum of their constituent parts. In fact, we have witnessed some state systems breaking up due to political, financial, and practical reasons. Such a breaking up of the Maryland system seems neither necessary nor desirable. Under the heading of “systemness” (a term coined by Nancy Zimpher, former chancellor of the State University of New York system), these reviews seek to define the value added by the system itself. Examples of this additional value include fostering greater collaboration among institutions, merging programs and units where the result is a stronger institution, centralizing certain “back room” operations in the interests of cost savings and effectiveness, and developing sophisticated information systems in one location to enable all institutions to benefit from advances in technology. In launching E & E 2.0 and creating the regional education centers, the USM illustrates the kind of unique benefits a system can deliver.

However, a regent-level study of what other major systems are achieving by rethinking the scope of their work would likely identify additional ways the Maryland system could serve its universities. And it could be seen by stakeholders as an appropriate approach to strengthening the system—perhaps as part of the next planning process.

***Be more attentive to individual universities.*** Many interviewees observed that the board seems preoccupied with the University of Maryland and the University of Maryland, Baltimore, to the exclusion of the smaller and regionally focused institutions. To be sure, the sessions held annually between the board and individual campus presidents is a positive practice. However, more frequent visits to campuses by individual board members, and perhaps assigning different regents each year to become expert on the mission and programs of a particular institution and contribute to the annual evaluation of the president of their assigned institution, would underpin the board’s attentiveness to all the universities in the system and is worthy of consideration.

## 5. Suggestions for Policymakers

***Depoliticize the regent selection process.*** The legislature should consider deferring any legislation related to increased political appointments to the board pending a review of regent action on the recommendations presented in this report. We heard from several interviewees that the board is highly sensitive politically as it is, though not highly partisan at present. Changing the appointment system would very likely lend a partisan element to the board culture.

Currently, all board members are appointed by the governor (with the exception of the secretary of agriculture and the student regent). Legislation is now wending its way through the legislature that would add regents who are appointed by political leadership and hold positions in the governor’s cabinet. In the context of these proposals, we suggest that Maryland policymakers consider an independent selection panel for regent candidates, similar to the selection process in other states.

Selection criteria for individuals being considered for appointment to the board might include evidence of awareness and commitment to the USM, independence from political influence or any one specific priority, recognition of specific responsibilities for serving on a higher education Board of Regents, and an understanding of the difference between appropriate engagement and accountability, on the one hand, and administration, on the other. Appendix C offers a more comprehensive list of possible selection criteria.

## Conclusion

The University System of Maryland is one of the state’s most important assets. It has a significant presence in every region of the state. Its thousands of graduates go on to serve Maryland and the nation. Through teaching, research, and service, its universities help

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transform lives and open a brighter future for the state and its people. And, the USM helps drive the economy of the state. The regents who govern this system are qualified and dedicated. Administrative leaders, starting with the chancellor, are experienced and committed to the success of students. The governance structure of the system itself—which consists of a gubernatorially appointed board, a system CEO, and university presidents—conforms to the classic model that has stood the test of time for balance and effectiveness.

Some of the findings and recommendations in this report may appear highly critical. We call out missteps and poor practices that demand attention. However, we submit this report with the confidence that the basics of the system are sound and that the courageous and capable individuals leading it will step up to address wrongs and will reconfirm Maryland’s faith in the value of its system and its universities. Getting governance right is neither easy nor a task to be addressed only occasionally; it requires consistent attention—and that might be our most significant recommendation.

As a final note, we offer for regent consideration the following excerpt from *Consequential Board Governance in Public Higher Education Systems* (AGB, 2016):

To be more successful and viable for the foreseeable future, a growing number of scholars and practitioners, as well as the AGB Task Force, see the necessity for significant change in the focus and direction of systems—a belief that systems must evolve and adapt to new realities and new demands. The consensus is that many public multi-campus systems must be more effective than they currently are to meet the challenges and demands of today and the future. In order to do so, multi-campus systems must be unified, cohesive, integrated, intentional, modern, and entrepreneurial. To lead necessary change, many system governing boards must exhibit new behaviors and skill sets, perform at higher levels, and be more engaged on a wide array of issues. Many system governing boards need greater authority—or to use the authority that they currently possess—to craft the necessary policies, allocate scarce resources, provide incentives, ensure accountability, and reward behaviors that are essential if colleges and universities are to better serve their states, communities, and the nation.



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## Appendix A: Interviews

### **Legislature**

- Senator Mike Miller, President of the Maryland Senate
- Delegate Mike Busch, Speaker of the Maryland House of Delegates
- Senator Paul Pinsky, Chair, Education, Health and Environmental Affairs Committee; Member of the Commission on Innovation and Excellence in Education
- Senator Bill Ferguson, Chair, Education, Business, and Administration Subcommittee; Vice Chair, Budget and Taxation Committee
- Senator Jim Rosapepe, Member of the Budget and Taxation Committee;

### **State Government**

- Matt Clark, Chief of Staff to the Governor
- Jim Fielder, Secretary of the Maryland Higher Education Commission; Member of P-20 Leadership Council
- Brian Frosh, Attorney General
- Katherine Bainbridge, Assistant Attorney General
- Bernard Sadusky, Maryland Association of Community Colleges Executive Director

### **University System of Maryland Board of Regents Current Members**

- Linda Gooden, Chair
- Barry Gossett, Vice-Chair
- Gary Attman, Treasurer
- Michelle Gourdine, Secretary
- Robert Rauch, Assistant Secretary
- Joe Bartenfelder, ex officio
- Katrina Dennis
- Ellen Fish
- James Holzapfel
- D'Ana Johnson
- Robert Neall
- Robert Pevenstein
- Louis Pope
- Robert Wallace
- William Wood
- Langston Frazier, Student Regent

### **University System of Maryland Presidents**

- Heidi Anderson, University of Maryland Eastern Shore (UMES)
- Aminta Breaux, Bowie State University (BSU)

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- Peter Goodwin, University of Maryland Center for Environmental Studies (UMCES)
  - Freeman Hrabowski, University of Maryland Baltimore County (UMBC)
  - Wallace Loh, University of Maryland, College Park (UMCP)
  - Javier Miyares, University of Maryland University College (UMUC)
  - Ron Nowaczyk, Frostburg State University (FSU)
  - Jay Perman, University of Maryland at Baltimore (UMB)
  - Kim Schatzel, Towson University (TU)
  - Kurt Schmoke, University of Baltimore (UB)
  - Maria Thompson, Coppin State University (CSU)
  - Chuck Wight, Salisbury University (SU)

**USM Office Staff**

- Jo Boughman, Senior Vice Chancellor for Academic and Student Affairs, University System of Maryland

**Board and System Stakeholders**

- Jim Shea, Former USM BOR Chair (2012-2016)
- John Cavanaugh, Former Middle States Commissioner
- Brit Kirwan, Chancellor Emeritus of the USM
- Rick Berndt, Senior Partner at Gallagher, Evelius & Jones Law Firm

**University System of Maryland Provosts**

- Bruce Jarrell, Executive Vice President, Provost, and Dean of the Graduate School, University of Maryland, Baltimore
- Karen Olmstead, Provost, Salisbury University

**Vice Presidents for Student Affairs**

- Deb Moriarty, Vice President of Student Affairs, Towson University
- Artie Lee Travis, Vice President of Student Affairs, Bowie State University
- Jo Boughman, Senior Vice Chancellor for Academic and Student Affairs, University System of Maryland

**Campus Vice Presidents for Finance and Administration**

- Carlo Colella, Vice President for Finance and Administration, Chief Business Officer, University of Maryland, College Park

**USM Advisory Council Chairs**

- Trish Westerman, Chair, Council of University System Faculty
- Lisa Gray, Chair, Council of University System of Maryland Staff

**Economic Development**

- Michael Cryor, President, The Cryor Group; Chair of Board of Visitors of the University of Maryland at Baltimore School of Medicine
- Don Fry, CEO, Greater Baltimore Committee

**University System of Maryland Foundation Board Members**

- Bonnie Stein, Board Chair
- Eric McLauchlin, Chair, Advocacy Committee
- Joe Bowen
- William Couper
- Dennis Wraase, Immediate Past Chair

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## Appendix B: Additional Resources

***An Anatomy of Good Board Governance in Higher Education (AGB, 2019):***

<https://agb.org/product/an-anatomy-of-good-board-governance-in-higher-education/>

***Higher Education Governing Boards: An Introductory Guide for Members of College, University, and System Boards (AGB, 2019):*** <https://agb.org/product/higher-education-governing-boards-an-introductory-guide-for-members-of-college-university-and-system-boards/>

***The Governance Committee (Public Institutions) (AGB, 2019):*** <https://agb.org/product/the-governance-committee/>

***AGB Board of Directors' Statement on Governing Boards' Responsibilities for Intercollegiate Athletics (AGB, 2018):*** <https://agb.org/reports-and-statements/agb-board-of-directors-statement-on-governing-boards-responsibilities-for-intercollegiate-athletics/>

***AGB Board of Directors' Statement on Governing Board Accountability for Campus Climate, Inclusion, and Civility (AGB, 2016):*** <https://agb.org/reports-and-statements/agb-board-of-directors-statement-on-governing-board-accountability-for-campus-climate-inclusion-and-civility/>

***Consequential Board Governance in Public Higher Education Systems (AGB, 2016):*** <https://agb.org/reports-and-statements/consequential-board-governance-in-public-higher-education-systems/>

***AGB Board of Directors' Statement on the Fiduciary Duties of Governing Board Members (AGB, 2015):*** <https://agb.org/reports-and-statements/agb-board-of-directors-statement-on-the-fiduciary-duties-of-governing-board-members/>

***Consequential Boards: Adding Value Where It Matters Most (AGB, 2014):*** <https://agb.org/reports-and-statements/consequential-boards-adding-value-where-it-matters-most-2/>

***Risk Management: An Accountability Guide for University and College Boards (AGB, 2013):*** <https://agb.org/product/risk-management-an-accountability-guide-for-university-and-college-boards/>

***AGB Statement on External Influences on Universities and Colleges (AGB, 2012):*** <https://agb.org/reports-and-statements/agb-statement-on-external-influences-on-universities-and-colleges/>

***AGB Board of Directors' Statement on Conflict of Interest with Guidelines on Compelling Benefit (AGB, 2009):*** <https://agb.org/reports-and-statements/agb-board-of-directors-statement-on-conflict-of-interest-with-guidelines-on-compelling-benefit/>

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## Appendix C: Criteria for Regent Selection

### **Responsibilities of Individual Board Members**

1. To seek to be fully informed about the college or university or university system
2. To support the mission of the institution or university system
3. To speak one's mind at board meetings but to support policies and programs once established.
4. To recognize the difference between governing and managing
5. To strengthen and sustain the chief executive while being an active, energetic, and probing board member exercising critical judgment on policy matters
6. To communicate promptly to the chief executive and board chair any significant concern or complaint
7. To defend the autonomy and the independence of the university or university system
8. To maintain an overriding loyalty to the entire university or university system rather than to any individual part of it or constituency within it
9. To represent all the people of the state and no particular interest, community, constituency
10. To help enhance the public image of the university or the university system and the board
11. To recognize that authority resides only with the board as a whole and not in its individual members
12. To recognize that the president or chancellor is the primary spokesperson for the university or the university system and that the chairman of the board is the only other person authorized to speak for the board
13. To foster openness and trust among the board, the administration, the faculty, the students, state government, and the public
14. To maintain a courteous respect for the opinions of one's colleagues and a proper restraint in criticism of colleges and officers
15. To recognize that no board member shall make any request or demand for actions that violates the written policies, rules, and regulations of the board or of the university
16. To maintain the highest ethical standards and never to allow any personal conflict of interest to exist
17. To support positive change within the institution or system while cognizant that preserving tradition, culture, and long-term stability is critically important
18. To understand the responsibilities of the institution or system for addressing the public interest and public good, and how and where it fits into the overall state higher-education policy agenda

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## Qualifications Sought in Individual Board Members

### Personal

- Integrity, with a code of personal honor and ethics above reproach
- Wisdom and breadth of vision
- Independence
- An inquiring mind and an ability to speak it articulately and succinctly
- Ability to challenge, support, and motivate the university or system administration
- An orientation to the future with an appreciation of the university's heritage (or the heritage of each university or college in the system)
- The capability and willingness to function as a member of a diverse group in an atmosphere of collegiality and selflessness
- An appreciation of the public nature of the position and the institution, including the open process of decision-making and service

### Professional/experiential

- Valid knowledge and experience that can bear on university challenges, opportunities, and deliberations
- A record of accomplishment in one's own life
- An understanding of the board's role of governance and a proven record of contribution with the governing body of one or more appropriate organizations

### Commitment

- Commitment to education
- Enthusiastic understanding and acceptance of the university's mission or the mission of all system institutions
- An understanding of the role of their institution or university system within the broader higher-education system of the state
- A willingness to commit the time and energy necessary to fulfill the responsibilities of a board member
- Willingness to forego, while a board member, any partisan political activity that could be disruptive or harmful to the university or university system
- The capability to foresee six to eight years of constructive and productive service.
- Overriding loyalty to the institution (or university system) and to the public interest rather than to any region or constituent group

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## Appendix D: Team Member Bio-Sketches

### **Richard Legon** **President, AGB**

Richard Legon became AGB's fourth president in 2006 following his several assignments with the association. Prior to joining AGB, Rick served in local and national government, as well as in national association positions. He also served as the first fundraiser for a small college in Chicago.

During his presidency, AGB has enhanced its leadership role in recognition of the heightened focus on board and institutional governance. Rick has led the association in high profile initiatives in recent years, mostly focused on policy issues challenging higher education's unique form of governance, as well as urging a new level of board and presidential collaboration.

The association's release of the report of its National Commission on The Future of Higher Education Governance calls upon boards to engage in "consequential governance" following the commission's seven specific recommendations. The report is a call to action for boards and institution leadership to strengthen higher education during a time of change. AGB is committed to advancing the recommendations of that report.

Rick also led the association's successful three-year effort to persuade the Securities and Exchange Commission to provide board members with an exclusion to its proposed changes in the definition of a "municipal advisor" as part of the Dodd-Frank legislation to address Wall Street reforms. AGB's leadership in this effort helped to save the structure of higher education board governance and retain its independence.

Under Rick's leadership, AGB has taken the lead on such issues as intercollegiate athletics, education quality and outcomes, conflict of interest, external influences impacting higher education independence, risk assessment, state threats to institution independence, and others. In 2010, he led the launch of AGB Search, which quickly became a leader in new approaches to selecting and developing higher education leadership. In 2015, along with AGB's Board of Directors, he introduced the association's newest enterprise, AGB Institutional Strategies, an AGB auxiliary that focuses exclusively on the business and operational challenges facing universities and colleges.

Rick has written extensively about board governance—in AGB's Trusteeship magazine and other AGB publications, and in other association magazines. He is also the author of AGB's Margin of Excellence, a work that addresses the governance of institutionally related foundations.

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He has led hundreds of board retreats and workshops and is a regularly sought-after voice on higher education leadership issues.

Rick, who holds undergraduate and graduate degrees from George Washington University as well as an honorary Doctorate from the University of Charleston (West Virginia.), currently serves on the Board of Trustees of Spelman College. He formerly served on the Board of Visitors of Virginia State University.

**Terrence MacTaggart**

**Former Chancellor, Minnesota State University System and University of Maine System**

Dr. Terrence “Terry” MacTaggart is an experienced leader and scholar in higher education. His consulting and research work focuses on higher education leadership and policy, strategic planning, board development, issues of shared governance, and leadership evaluation. He has held the chancellor’s position at the Minnesota State University System and on two occasions at the University of Maine System. He has also served as a faculty member and administrator at several public and independent colleges and universities where he has led or participated in multiple institutional turnarounds.

He has served as a consultant and/or facilitator of board retreats for numerous colleges, universities, and systems. His clients include major public research universities, urban and metropolitan universities, distinguished independent institutions, regional comprehensives, international colleges and universities, minority-serving institutions, nontraditional colleges, community colleges, and proprietary schools.

Dr. MacTaggart has served as Chair of the Commission on Institutions of Higher Education (CIHE) of the New England Association of Schools and Colleges (NEASC) and has led multiple visiting teams for several regional accrediting associations. He has served as a Fulbright Scholar to Thailand and to Vietnam as an expert on accreditation and quality assurance.

His research and publications focus on governance, improving relations between institutions and the public, and restoring institutional competitiveness. His most recent book is titled *Leading Change: How Boards and Presidents Work Together to Build Exceptional Institutions*, published by AGB Press in 2011. He has authored numerous articles on presidential and board evaluation, high performance standards for boards, presidential search and strategies for a highly competitive environment.

Dr. MacTaggart’s academic credentials include a doctorate and master’s degree in literature from Saint Louis University, an MBA, and two honorary doctorates. He is a member of Phi Beta Kappa.



**Kevin P. Reilly****President Emeritus and Regent Professor, University of Wisconsin System**

Dr. Kevin P. Reilly is president emeritus and regent professor with the 26-campus University of Wisconsin (UW) System, having served as president from 2004-2013.

In collaboration with the UW Board of Regents and the campus chancellors, he developed the "Growth Agenda for Wisconsin," a long-term vision and strategic framework for what the university needed to do to help Wisconsin and the nation be more competitive in the global knowledge economy. Under his leadership, enrollment grew to 182,000—an all-time high—and sponsored research continued to expand beyond \$ 1 billion annually. Both transfer students and the number of degrees awarded rose by 13 percent, with privately donated need-based student aid increasing by 124 percent. At the same time, the National Center for Higher Education Management Systems ranked the UW System among the five "most productive state systems and public sectors of higher education, relative to their resources."

Dr. Reilly served as chancellor of UW-Extension from 2000 to 2004 and as provost and vice chancellor from 1996 to 2000. A native of New York City, Dr. Reilly came to Wisconsin from the State University of New York (SUNY) System, where he was associate provost for academic programs and then secretary of the university. Earlier in his career, he led the New York State Board of Regents office that evaluated and accredited all public, private, and for-profit colleges and universities in the state.

At the American Council on Education (ACE), he has been a member and officer of the board of directors, presidential advisor for leadership, and chair of the ACE Commission on Adult Learning and Educational Credentials. Dr. Reilly has served as the president of the National Association of System Heads, as well as on the steering committee for four Wisconsin statewide economic summits. At AGB, he holds an appointment as a senior fellow. In that capacity, he is currently working on AGB's Guardians Initiative to empower university and college trustees to be more vocal, effective advocates for the value of American higher education

Dr. Reilly has been a member of the Higher Education Working Group on Global Issues for the Council on Foreign Relations. He has advised the University of Nizwa in Oman, Qatar University, and the United Arab Emirates University on the development of their institutions.

Among his awards and honors are the Signature of Excellence Award from the University Continuing Education Association, the Chancellor's Medallion from UW-Oshkosh, recognition by the *Irish Voice* weekly as one of the top 100 Irish-American educators, the Friend of Education Award from the Wisconsin Superintendent of Public Instruction, and a commendation from the Senate of Wisconsin for his contributions to the state.

He is author and editor of books and articles on higher education leadership, policy, accreditation, and board governance, among other topics in literature and Irish studies. He has

been a regular contributor to AGB's *Trusteeship* magazine. At UW-Madison, he has taught the undergraduate course on James Joyce and a graduate seminar on major challenges in American higher education. One of his final innovations as president was to establish competency-based degree programs in the UW System, the first of their kind offered by a public university system.

Dr. Reilly earned his B.A. at the University of Notre Dame, and his M.A. and Ph.D. at the University of Minnesota.

## Appendix E: About AGB

**The Association of Governing Boards of Universities and Colleges (AGB)** is the premier organization centered on governance in higher education. Since 1921, the Association has had one central mission: to strengthen, protect, and advance this country's unique form of citizen trusteeship through research, services, and advocacy. With more than 1,300 member boards representing nearly 2,000 institutions and over 35,000 individuals, AGB is a trusted advisor and an indispensable partner that supports a thriving and collaborative community of higher education leaders.

Governing boards must focus now more than ever on promoting central missions while running their institutions as effectively as possible. It is critical that they reinforce the value of higher education, innovate through the smart use of technology, and serve the needs of a shifting demographic. AGB provides leadership and counsel to member boards, chief executives, organizational staff, policy makers, and other key industry leaders to help them navigate the changing education landscape.