The Roles of the Board, President and Faculty, Shared Governance and Academic Freedom

Portland State University is a dynamic and complex public university established by the laws of the State of Oregon.¹ In any such institution, the roles and responsibilities of the governing board, the President and the faculty are interrelated and interdependent. The purposes of this Policy are to clearly state the respective authorities and responsibilities of the Board, President and Faculty, the retention of authority by the Board, and the delegation of authority to the President and to reiterate the Board’s and the University’s commitment to the principles and traditions of shared governance and academic freedom. This policy is meant to strengthen—not weaken—the traditions and institutions of shared governance and to affirm the Constitution of the Faculty of Portland State University. This Policy is also meant to affirm the Board’s and University’s commitment to the principles of academic freedom and responsibility. This Policy is annotated to include references to pre-existing documents that have defined and influenced the respective roles of the Board, President, Faculty and others on our campus. Nothing in the Policy affects any collective bargaining agreement entered into prior to the adoption of this Policy.

I. Hierarchy of University Documents

The University is governed by the following documents, in order of precedence: (1) the Constitution and laws of the State of Oregon, including ORS Chapter 352, which establishes the University; (2) the Bylaws of the Board of Trustees (the “Bylaws”); (3) resolutions, policies and other actions of the Board; (4) standards and policies adopted by the University and approved by the President, through such bodies and mechanism as are appropriate based on the nature of the policy, and (5) policies and procedures adopted by particular departments or units within the University, through such bodies and mechanism as are appropriate based on the nature of the policy. Pre-existing administrative rules, internal management directives and policies of the University, the State Board of Higher Education and the Oregon University System remain in effect as standards or policies of the University, unless superseded as a result of governance changes or by an action of the Board or the University.

II. Authority of the Board

The Portland State University Board of Trustees is established by ORS 352.054 and is charged with managing the affairs of the University. By law, the Board is the final University authority and has full control of the University and its property. The Board is responsible for managing the affairs of the University by exercising and carrying out all of the powers, rights and duties that are expressly conferred upon the Board by law, or that are implied by law or are incident to such powers, rights and duties.² The Board may perform any acts that in the judgment of the Board are required, necessary or appropriate to accomplish the rights and responsibilities granted to the Board and the University by law.³

¹ Oregon Revised Statutes (“ORS”) 352.002 et seq.
² ORS 352.029.
³ ORS 352.087(3).
III. Authority of the President and Reservation of Authority by the Board

The President of the University is the chief executive officer of the University and the President of the Faculty.\textsuperscript{4} The President is authorized to direct the affairs of the University and is responsible for the supervision and management of the University, for the duties mandated by law and the Bylaws, and for interpreting and implementing the policies of the University and the Board.\textsuperscript{5} Consistent with the authority and responsibility vested in the President by Oregon law and the Bylaws, the Board delegates to the President, who may further delegate to his or her designees, authority to undertake all lawful activities to further the operation of the University, with the exception of the activities set forth below, which are reserved to the Board:

1. Presidential hiring, evaluation, compensation and removal;
2. Election of Board Officers;
3. Changes in the mission, purposes and goals of the University;
4. Amendments to the Bylaws;
5. Approval of capital projects in an amount greater than $5 million;\textsuperscript{6}
6. Incurrence of debt in an amount greater than $5 million;\textsuperscript{7}
7. Sale or acquisition of real property for an amount greater than $5 million;\textsuperscript{8}
8. Approval of land and improvement leases in an amount greater than $5 million or for a term greater than 15 years;\textsuperscript{9}
9. Condemnation of real property;\textsuperscript{10}
10. Issuance of bonds;
11. Designation of a nonprofit charitable entity to serve as the official University foundation;\textsuperscript{11}
12. Determination of tuition and mandatory enrollment and incidental fees;\textsuperscript{12}
13. Adoption of the University budget;\textsuperscript{13}
14. Activities for which authority is retained by the Board or a Board committee in the Bylaws or in another Board policy or resolution or which have been recommended for Board action by the Executive and Audit Committee.

Although this general delegation of authority is subject to amendment by the Board at any time, the Executive and Audit Committee is directed to review it from time to time.

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\item \textsuperscript{4} \textit{ORS 352.096(2)}; \textit{Bylaws}, Art. VII, Sec. 1.
\item \textsuperscript{5} Bylaws, Art. VII, Sec. 1.
\item \textsuperscript{6} See \textit{Policy on Debt Management}, adopted by the Board of Trustees, Dec. 11, 2014, at p. 2.
\item \textsuperscript{7} See \textit{id}.
\item \textsuperscript{8} Former Oregon University System \textit{OAR 580-060-0020}.
\item \textsuperscript{9} See \textit{Policy on Debt Management}, adopted by the Board of Trustees, Dec. 11, 2014, at p. 2.
\item \textsuperscript{10} \textit{ORS 352.087(1)(L)}; \textit{ORS Chapter 35}.
\item \textsuperscript{11} See \textit{Policy on Relationship with the Portland State University Foundation}, adopted by the Board of Trustees, June 26, 2014.
\item \textsuperscript{12} \textit{ORS 352.102(5)}. See \textit{Policy on Tuition, Fees and Fines}, adopted by the Board of Trustees, Dec. 11, 2014.
\item \textsuperscript{13} \textit{ORS 352.087(2)}.
\end{itemize}
IV. Authority of the Faculty and Academic Freedom

ORS 352.146 provides that the President and professors of the University constitute the Faculty of the University and as such have the immediate government and discipline of the University and the students therein, except as otherwise provided by law or action of the Board. ORS 352.096 provides that the President of the University is the President of the Faculty. The Faculty may, subject to the supervision of the Board and ORS 352.089, prescribe the course of study to be pursued in the University and the textbooks used.14 The Faculty is responsible for setting the requirements for degrees and determines when requirements have been met. Degrees are granted by the President, in the name of the Board, upon the recommendation of the Faculty.

The Board endorses the principle articulated in the American Association of University Professors 1966 Statement on Government of Colleges and University that the Faculty of the University “has primary responsibility for such fundamental areas as curriculum, subject matter and methods of instruction, research, faculty status, and those aspects of student life which relate to the educational process.”15 The Board looks to the Faculty to be the guardian of academic quality. The Board recognizes that on such matters, the power of review or final decision lodged in the Board or delegated by it to the President “should be exercised adversely only in exceptional circumstances, and for reasons communicated to the Faculty.”16

The President is authorized to convene and preside over the Faculty, except as provided in law, the Bylaws, and Board resolutions and policies.17 The Faculty and President adopted the Constitution of the Portland State University Faculty in 1964, which remains in effect, as amended. Amendments to the Faculty Constitution are subject to ratification by relevant University bodies and by the President.18 As provided in the Faculty Constitution, the Faculty normally exercises its authorities through its representative, the Faculty Senate. Recommendations of the Faculty are submitted to, and subject to approval by, the President or the President’s designee.

The Board endorses the principles of academic freedom articulated in the American Association of University Professors 1940 Statement of Principles on Academic Freedom and Tenure.19 Faculty are entitled, without institutional discipline or restraint, to discuss all relevant matters in the classroom, to explore all avenues of scholarship, research, and creative expression, and to speak or write on matters of public concern as well as on matters related to professional duties

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14 ORS 352.146.
16 Id.
18 Id.
19 1940 Statement of Principles on Academic Freedom and Tenure, the Redbook (the “1940 Statement”), at 3 (also available at https://www.aaup.org/report/1940-statement-principles-academic-freedom-and-tenure). (This Board policy relates only to the potion of the 1940 Statement that relates to academic freedom; the subject of tenure is addressed in other University policies and guidelines.)
and the functioning of the University. Academic freedom carries with it certain responsibilities, such as the faithful performance of professional duties and obligations, the recognition of the demands of the scholarly enterprise, and the candor to make it clear that when one is speaking on matters of public interest, one is not speaking for the institution.\textsuperscript{20}

V. Shared Governance

Shared governance, as a principle in American higher education, is embedded in longstanding practices, and reflects a regard for all stakeholders in the academic endeavors of the University. In carrying out his or her duties, the President shall consult with the faculty, other employees, and students as appropriate and in a manner consistent with the principle of shared governance. The Board recognizes and affirms the importance of involvement of faculty, students and staff in deliberative and decision-making processes and encourages the use of multiple methods of collaboration and channels of communication among University stakeholders, including the Board, President, Faculty, staff and students, within the limits of attainable effectiveness.

\textsuperscript{20} This statement regarding academic freedom elaborates on and supersedes the previous Oregon University System’s administrative rule on academic freedom, \texttt{OAR 580-022-0005}, by drawing upon the 1940 Statement and the American Association of University Professors Statement on Professional Ethics, the Redbook, at 171 (also available at \url{https://www(aaup).org/report/statement-professional-ethics}).