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# College and University Governance: The University of Iowa Governing Board's Selection of a President<sup>1</sup>

(DECEMBER 2015)

## I. Introduction

On September 1, 2015, Mr. Bruce Harreld, one of four finalists identified by the search committee for the presidency of the University of Iowa, addressed a town hall meeting of the university community. He was the last of the four to do so. Mr. Harreld was an independent business consultant who had previously occupied corporate office and had served as a senior lecturer at the Harvard Business School. The other three candidates held high office in academic administration in prominent institutions of higher learning. Mr. Harreld's remarks and ensuing questions and answers took about ninety minutes.<sup>2</sup>

The following evening, Professor Christina Bohannon, president of the University of Iowa Faculty Senate and a member of the search committee, wrote to the board of regents of the state of Iowa, the

appointing authority, to inform the board of a "clear lack of faculty support" for Mr. Harreld. Professor Bohannon observed that, were Mr. Harreld to be chosen, "some members of the Faculty Senate would demand a vote of no confidence in the Regents." In that event and regardless of the outcome, Professor Bohannon wrote, it would be "hard to see how the Board's relationship with the faculty could thrive." She stressed that the three other candidates were outstanding and enjoyed "tremendous support" and that the selection of any one of them would "instill faculty confidence" in the new president and the board.

The next day, September 3, the board of regents voted unanimously to offer the position to Mr. Harreld, who was present for the announcement. A letter of appointment was executed the same day, signed by Mr. Harreld and, on the board's behalf, by its president, Mr. Bruce Rastetter.

Five days later, on September 8, the faculty senate voted no confidence in the board. The motion stated that the board had shown a "blatant disregard for the shared nature of university governance." Similar motions were passed by the Graduate and Professional Student Government, the undergraduate student senate, and the University Staff Council. That same day the board issued a statement in response to the senate's vote. It will be taken up later.

On September 23, the Faculty Assembly of the College of Liberal Arts and Sciences, the elected

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1. The ad hoc investigating committee prepared the initial text of this report. In accordance with Association practice, the text was edited by the AAUP's staff and, with the ad hoc committee's concurrence, submitted to the AAUP's standing Committee on College and University Governance. With that committee's approval, the report was then sent, with an invitation for corrections and comments, to the officers of the governing board, the interim university administration, the new president, the AAUP chapter officers, the UI faculty senate officers, and others who met with the investigating committee. The report was prepared for publication after consideration of the responses received.

2. The town hall presentation is available at <http://www.youtube.com/watch?v=S5S5ZXWxc98>.

representative body of the college's faculty, endorsed the faculty senate's vote of no confidence. It also called for the resignation or dismissal of the members of the board of regents. The assembly then voted to censure Mr. Harreld for his "failure of professional ethics" in the matter of some of the contents of his résumé.<sup>3</sup>

The Association's local chapter, led by Professor Katherine Tachau, requested that the AAUP's national office take an official interest in the issues of academic governance raised by these events. By letter of September 29, the Association's national office staff informed board president Rastetter, interim university president Jean Robillard (who had chaired the search committee), and president designate Harreld that the AAUP's executive director had appointed the undersigned as an ad hoc consultative committee to visit the campus. The AAUP staff invited their cooperation. On behalf of the board of regents, its president pro tem, Dr. Katie Mulholland, responded that the board would decline to meet. Her letter is set out at the close of this report as appendix A. Interim President Robillard wrote simply to echo Dr. Mulholland's letter. Mr. Harreld did not reply.

The chair of this ad hoc committee wrote to Mr. Rastetter urging him to reconsider and suggesting an alternative, of responding to written questions the committee might wish to pose in light of what it learned from its campus visit. That letter is reproduced in appendix B. Interim President Robillard also received a copy. On October 15, 2015, by e-mail,

the board's senior communications director wrote to the chair to "confirm that members of the Board of Regents and Board office staff will not be available to meet." Interim President Robillard made no reply.

The ad hoc committee regrets the refusal of the regents and the interim president to meet with us or to respond to our inquiries. It also regrets incoming President Harreld's declination before taking office to acknowledge the staff's letter. We doubtless would have benefited by having been able to explore these events directly with them. Nevertheless, we do not believe their refusals have prevented the committee from securing a reasonable grasp of these events and of their larger implications.

The undersigned accordingly visited Iowa City on October 16 and 17, 2015, a Friday and Saturday. Through the good offices of AAUP chapter president Tachau, to whom we express our deep appreciation, we were able to meet with former and current officers of the senate, members of the search committee, the chair of the College of Liberal Arts and Sciences faculty assembly, and others, including a former regent, who provided useful information and insight. We also conducted telephone interviews with members of a prior search committee and with other faculty leaders. We are indebted to all with whom we met for their generosity in sharing their time and for their candor.

## **II. The University of Iowa**

Before delving further, the general terrain on which these events played out should be delineated.

### **A. An Overview**

The territory of Iowa was admitted to statehood in January 1847. One of the new state's first official actions, taken on February 25 of that year, was the foundation of the University of Iowa. The capital of the territory and then the state was Iowa City, and the university was temporarily located at a site close to the building known as Old Capitol that housed the territorial assembly and, subsequently, the state government. The capital of Iowa was moved to Des Moines in 1857, whereupon Old Capitol became the university's first permanent home.

Instruction at the university commenced in March 1855. In September of that year 124 students, forty-one of them women, were enrolled. The catalogue for the following year identified nine departments of instruction: ancient language, modern language, intellectual philosophy, moral philosophy, history, natural history, mathematics, natural philosophy, and

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3. The undersigned ad hoc committee was charged with examining the process of presidential selection, not the credentials of the appointee. However, we cannot leave that part of the faculty assembly's resolution unexplained. Mr. Harreld's résumé listed him as "Managing Principal" of a limited liability company (LLC), Executing Strategy, in Colorado. It also listed twelve professional publications by title and venue. After Mr. Harreld was appointed, investigation revealed that the LLC was not registered in Colorado and that for eight of his listed publications Mr. Harreld was a coauthor, which had not been set out in the citations given on his résumé. In the town meeting, Mr. Harreld explained that, in effect, he was Executing Strategy. In other words, the choice of business form was immaterial to the work he did as a business consultant. He had simply neglected to register it as an LLC in Colorado when he moved there from Massachusetts, hardly a serious failure. In a meeting with the College of Liberal Arts and Sciences faculty assembly after his appointment, Mr. Harreld explained that reference to coauthors on one's résumé is not customary in the business world. The aspect of this episode that the committee finds informative, and that many of the faculty with whom we met emphasized, is that neither of these issues was flagged for clarification by the search firm retained by the regents.

chemistry. The university awarded its first undergraduate degree in 1858. Its expansion during the late nineteenth century featured the beginning of the law school and a medical department. The law school was one of the first public institutions to grant degrees to an African American (1870) and to a woman (1873).

The University of Iowa's development as it moved into and through the twentieth century was memorable for accomplishments in a variety of traditional and new areas of higher learning. The early decades witnessed achievements in new technical areas, such as television broadcasting and blood banking, and new artistic areas, such as its program in creative writing and its acceptance of creative work as a substitute for scholarly writing from graduate students in the arts. The middle decades witnessed accomplishments in scientific fields that ranged from corneal transplants and cleft-palate research to space exploration. The later decades witnessed leadership in recognition and support of sexual diversity among the university's students, faculty, and staff. The University of Iowa was the first state university to grant official recognition to a gay student organization (in 1970), to offer insurance to an employee's domestic partner (in 1993), and to include optional questions about sexual orientation and gender identity on an application for admission.

Beginning at least a half century ago, the university was led by a series of presidents nationally recognized as far-sighted academic leaders who firmly supported principles of shared governance. Howard Bowen, Willard L. Boyd, James O. Freedman, Hunter R. Rawlings III, Mary Sue Coleman, and David J. Skorton presided over three generations of faculty, leaving a legacy that has had an impact on the current faculty in its reaction to the governance issues that are the subject of this inquiry.

## B. Governance

The University of Iowa is under the control of the board of regents for the state of Iowa. The board is composed of nine members nominated by the governor and subject to confirmation by the state senate. One member must be a student enrolled, when appointed, in one of the three universities under the board's control. Members serve for six-year staggered terms; three appointments begin and end in odd-numbered years. By law, members are to be appointed "solely with regard to their qualifications and fitness to discharge" the duties of the office. No more than five may be members of the same political party.

Despite the latter provision, we were informed that in recent years members of the board have been contributors to Iowa governor Terry Branstad's election campaign. The current president of the board, Mr. Bruce Rastetter, is a prominent figure in Iowa Republican politics.<sup>4</sup> In addition, one or more of Governor Branstad's appointees to the board revised their party registration to "independent" to conform to the political balance the law requires.

The board is granted extensive powers over the five institutions under its control, notably the University of Iowa, Iowa State University, and the University of Northern Iowa.<sup>5</sup> The board appoints the presidents of the institutions. It controls tuition and mandatory fees. It approves the institutions' budgets.

The University Faculty Senate of the University of Iowa is the representative and deliberative body of the faculty. It is composed of eighty members, twenty of whom compose the University Faculty Council—in effect, the senate's executive committee. The Constitution of the Faculty Senate and Council provides that "[t]hrough the Committee on the Selection of Central Academic Officials, the Senate consults with the Board of Regents regarding the selection of the president of the University." At the time of the events giving rise to this inquiry, that committee was chaired by Professor Tachau.

## III. The 2015 Presidential Selection and Its Aftermath

The circumstances of the 2015 presidential selection process are best understood from the perspective of the search process that led to the selection of Sally Mason as president in 2007 and of the board's relationship to the University of Iowa in 2014–15, prior to and during the search for her successor.

### A. The 2006–07 Presidential Search

The tradition regarding presidential searches at the University of Iowa before 2006 was for the majority of the search committee to be members of the faculty. Student and staff representatives also served, but members of the board of regents did not. That tradition was broken in the wake of the resignation of David J. Skorton as president in 2006, a resignation,

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4. He was the subject of a sketch in *Politico*: Helena Bottemiller Evich, "The Real Iowa Kingmaker," March 3, 2015, <http://www.politico.com/story/2015/03/bruce-rastetter-iowa-2016-election-115677>.

5. The two others are preschool/K–12 schools: the Iowa School for the Deaf and the Iowa Braille and Sight Saving School.

we were told, that was driven in part by President Skorton's troubled relationship to the leadership of the board of regents. For the first time, members of the regents, four in number, served on and took an active role in the search process under the leadership of its then president, Michael Gartner. That search committee had nineteen members, four of whom were regents. The search committee agreed that it would identify four finalists from the pool of semifinalists interviewed in Des Moines and that their selection should be by unanimous vote.

After four finalists were identified, but before on-campus interviews were to be held, the board voted, at the behest of Mr. Gartner, to terminate the search. One consequence was a meeting with the governor of the state, who urged the process to continue; but because of Mr. Gartner's course of conduct, it did not. In an exacting and passionate critique, the then president of the faculty senate, Professor Sheldon Kurtz, indicted the board's leadership for what he termed a "notorious debacle." He presented a list of accusations of regental misconduct including misreporting, dishonesty, and subversion of the search process that evidenced, among other things, the board president's "extraordinary aversion to Iowa's tradition of open, collegial decision-making."<sup>6</sup> On December 12, 2006, the senate voted sixty-two to one to express "its lack of trust and confidence in the *leadership* of the Iowa Board of Regents" (emphasis added).

A new search committee was designated in conformity with the university's long-standing tradition. It was composed of three deans, one staff representative, one student representative, one alumni representative, and seven faculty members. The search concluded with the appointment of Sally Mason as president.

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6. Two lawsuits were filed against the regents for violation of the state's open meetings act: one by a local newspaper, the *Iowa Press-Citizen*, the other by a citizen. Both were settled. In the settlement of the latter, the board agreed to several conditions, including the following: "The University of Iowa agrees that if in the future a presidential search committee or other body is convened which is subject to the Iowa Open Meetings Law the University of Iowa will take thorough and sufficient steps to insure compliance with the Open Meetings Law. These steps will include training on the provisions and requirements of the Iowa Open Meetings Law."

On August 14, 2015, suit was brought again against the board for violation of the open meetings act in the conduct of the instant search. This litigation was relied upon by the board and the interim president as a reason to decline to meet with the ad hoc committee. The board has not explained how the litigation prevented its discussing with the ad hoc committee the issues of concern to the Association.

## **B. The Budgetary Struggle of 2014–15**

In spring 2014, the board of regents proposed a "Performance-Based Funding" formula to the legislature that bore on how state funds would be allocated to the University of Iowa, Iowa State University, and the University of Northern Iowa. It proposed that the state remit the same amount per Iowa resident student irrespective of whether the student was an undergraduate, a graduate, or a professional-school student and irrespective of any differential in the cost of the program of instruction. A fact sheet prepared at Iowa State on the impact of the board's proposal summarized the key consequence:

If the funding formula were implemented in a single year, board data this fall indicates an estimated \$46.5 million would have to move from Iowa to Iowa State and Northern Iowa on July 1, 2015—and about \$22.8 million of that would come to ISU. However, to avoid dramatic revenue swings, the board's three-year implementation plan limits reallocations to 2 percent of a school's 2013 operating revenues. That translates to no more than \$12.9 million moving from Iowa to the other two universities in a single year. About \$6.3 million of that should come to Iowa State on July 1.

Not surprisingly, the faculty of the University of Iowa strongly opposed the board's model. A statement, signed by thirteen former presidents of the faculty senate, parsed the consequences to the University of Iowa and the model's failure to deal with the particular situation of a nationally ranked research university. It concluded thus: "The recommended funding model of the regents undermines the comprehensive mission of the UI, and it does a grave disservice to the citizens of Iowa. In addition, it pits the three regents' universities against one another in a needless financial contest. Each school has its own unique identity and mission. Why not continue to respect and celebrate those differences? And why not tailor funding to the strengths of these three fine universities instead of mandating a 'one size fits all' model?"

Board president Rastetter defended the funding model. In a statement issued on February 21, 2015, he wrote: "It is clear that higher education in the United States is at a crossroads. Severe economic constraints require universities to transform their organizations and reduce their reliance on tuition increases and state funding. Iowa is not immune to these economic challenges."

In the end, the legislature declined to appropriate funds on the basis of the board's model. On September 1, 2015—just as the process of selecting a new president for the university was coming to a conclusion—the board was reported as considering recommending an increase in general education funding of 8.1 percent for the University of Northern Iowa, 4.5 percent for Iowa State University, and 0 percent for the University of Iowa.

### **C. The 2015 Presidential Search**

In mid-January 2015, President Mason announced her intention to retire. The search process for her successor started to gear up that month. The then faculty senate president, Professor Alexandra Thomas, consulted Professor Katherine Tachau, the chair of the Committee on the Selection of Central Academic Officials. Professor Tachau informed the undersigned that she told Professor Thomas that members of the board of regents should not serve on the search committee. Professor Thomas, she said, replied that the composition of the committee had been discussed with board president Rastetter, who wanted Professor Thomas and her successor as faculty senate president, Professor Christina Bohannon, to be on the committee. The slate of other faculty members recommended to serve was worked out among the board members. Professor Bohannon told us that initially the board had slotted five seats on the committee for faculty members, but Professor Thomas had protested that five was too few, whereupon Mr. Rastetter agreed to increase the number by two.

The resulting search committee consisted of twenty-one members. Chairing it was Dr. Jean Robillard, the vice president for medical affairs and later, by board appointment, interim president, the position he held during the search. The other members were the dean of the business school; two representatives of student government; two representatives of the university's foundation (one, Mr. Jerre Stead, a wealthy businessman and donor of significant sums to the schools of medicine and business); two representatives of the alumni association; two public members appointed by the regents; one representative from the staff council; seven faculty members; and three regents, including President Rastetter and President Pro Tem Mulholland. In the end, instead of a search committee composed primarily of faculty representatives, as had traditionally been the case, in this process only a third of the committee consisted of faculty members.

The first order of business was for the committee to produce a job description needed to advertise the position. This task consumed an extraordinary amount of time and effort. The faculty members on the committee met with the faculty of every academic unit, sometimes more than once, to develop a picture of what the faculty as a whole was looking for in its next president. What emerged was a rough consensus: most faculty members thought their own schools and programs were fairly well focused and administered; what they sought was someone who could articulate and execute a vision for the university as a whole. Their views were to be included in the fashioning of the job posting.

Prior searches had distinguished those attributes that were considered to be necessary for selection from those that, though not required, were preferred. Faculty members on the search committee with whom we spoke informed us that the regents were strongly resistant to drawing such a distinction out of a concern for what they termed "diversity." The term was not used in the sense it has come to take on in the academic world, of securing representation by historically underrepresented groups on the basis of race, sex, ethnicity, disability, or the like. Rather, the regents emphasized the need to think "outside the box" in nontraditional terms, to seek candidates from the business world who might be "transformative" but who would be excluded by the rigorous application of traditional criteria.

A specific dispute centered on whether the possession of a terminal academic degree and significant university administrative experience would be required or only preferred. The 2002 presidential search, for example, in setting out the terms of desired personal qualifications, included the following: "[a]n earned doctorate, advanced professional degree, or the equivalent, and a record that would qualify for a tenured appointment at the rank of Professor at the University." It then appended a list of "Specific Attributes," one of which was "[a] record of success in higher education administration." In contrast, the terms set out in 2015 were the following:

#### **Education and Experience**

- An earned doctorate or terminal degree
- Administrative experience demonstrating the ability to lead a complex academic research institution and medical center

To a casual reader the difference in phrasing might seem inconsequential. But, given the emphasis the

regents' representatives reportedly gave the matter and how, in hindsight, the search played out, the change was heavily freighted. Gone was any requirement for tenure eligibility. Gone was any requirement for administrative success in higher education. The door was opened to the sort of "diversity" the regents' leadership demanded.

Another early matter taken up concerned the search procedure itself and the degree of transparency in the process. The regents retained the services of a search firm, Parker Executive Search. It appears that the decision to use a search firm and the selection of the particular firm were the regents'. There was little or no faculty discussion whether such a firm was needed or which was to be chosen.<sup>7</sup> One result was the search committee's adoption of the following resolution:

The UI President Search Committee members have been advised by the experts with Parker Executive Search and believe that potential applicants to the position of President of the University of Iowa will be discouraged from becoming official candidates if there is a possibility the candidate's names and accompanying application information might become available for public examination. Search Committee members believe potential candidates, outside the University and other Regent institutions, anticipate and expect their privacy to be protected and remain confidential. The Search Committee members are aware that the names of all finalists for the position that are brought to campus for open interviews will be made public prior to their arrival on campus.

**Resolved** by the UI Presidential Search Committee members that it has determined that otherwise qualified applicants for the position of President of the University of Iowa will be discouraged from making application for the position if the applicant's name and accompanying information is available for general public examination.

The members of the committee were not required to sign a detailed, or any, express "confidentiality

agreement." Absent any more specific guidance, however, there was some confusion among the faculty participants about what they could or could not say in public regarding the candidates under consideration.

One of the faculty search committee members, Professor Dorothy Johnson, noticed that after the position posting was approved, it lacked the customary statement of the university's commitment to equal opportunity and affirmative action. She raised this matter with the board's staff and was told that, because this was a board of regents search, not a university search, the university policy requiring that statement did not apply. Professor Johnson related this response to Professor Tachau, who raised it with the board's staff again only to be given the same explanation. When she informed the staff that the board's own policy did require the inclusion of that statement, the posting was revised, and Professor Tachau was thanked for bringing the issue to the board's attention. The incident appears to have been one merely of carelessness in administration; but, though small, it illustrates the regents' total control of the process and is, perhaps, indicative of the difference in perception, and of distance, between the board and the University of Iowa faculty.

All the members of the committee were allowed to explore interest in the position with persons they thought promising and to encourage them to apply. The search firm added those nominations to the pool it had developed. All candidates were posted on a website set up by the search firm that the members of the search committee could access. This included statements of application, résumés, and references. Some who had been contacted expressed interest, but held off from allowing their names formally to be considered. As the process was to winnow down toward the end, only two remained in that category. Because they had refrained from formally submitting themselves as applicants, the only document the committee had received from them was a résumé. Mr. Harreld was one of the two.

Over the summer members of the search committee and the search firm cast a broad net for candidates. Mr. Rastetter was active in the recruitment process. According to a press account, he "personally recruited six candidates, four of whom were among the top prospects brought for initial interviews in Chicago." It is not "a novel idea," he was quoted as saying, "that you would actually recruit somebody to be the president of a great university. That's what we [the regents] did." Actually, in Mr. Harreld's case, they did a good deal more.

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7. According to a press account, the regents had used the firm for presidential searches at Iowa State and the University of Northern Iowa: Kellie Woodhouse, "Parker Executive Search under Scrutiny in Recent Searches," *Inside Higher Ed*, Sept. 17, 2015, <https://www.insidehighered.com/news/2015/09/17/parker-executive-search-under-scrutiny-recent-searches>.

According to press accounts, an acquaintance called Mr. Harreld to suggest that he consider the position and gave Mr. Harreld's name to Mr. Rastetter. Mr. Rastetter contacted Mr. Harreld. In a press account, Mr. Jerre Stead said that he had worked with Mr. Harreld years before and that they had remained in touch over the years. He was impressed with Mr. Harreld's business acumen. When Mr. Stead saw Mr. Harreld's name on the list he thought him "a valuable person to consider." But according to an interview with Mr. Harreld, Mr. Stead called him after Mr. Rastetter did to urge him to consider the position. All the while, according to both Mr. Rastetter's and Mr. Harreld's accounts, Mr. Harreld desired to know more, while resisting formal application. He did not agree to being formally considered until the very last minute.

In any event, in Mr. Harreld's case, the regents strove to recruit him. This process involved four episodes that did not come to the faculty's attention until after the appointment was made; nor, except for the second, were they known to any of the faculty members serving on the search committee. The first (which was disclosed in a press interview with Mr. Harreld only on November 1) was a meeting in Cedar Rapids in early June. Mr. Harreld met for several hours with Mr. Rastetter, Interim President Robillard, and a member of the staff. Mr. Stead, who arranged the meeting, was unable to attend. According to a press interview, search committee chair Robillard was keenly interested in Mr. Harreld's views and experience in management insofar as they had, he thought, special applicability to the medical school and hospital.

Second, and flowing from that meeting, Dr. Robillard invited Mr. Harreld to give a talk on July 8, 2015, at the University of Iowa Hospitals and Clinics. Dr. Robillard presided. He invited Professor Bohannon and the dean of the business school, Professor Sarah Gardial, who was also a member of the search committee, to the talk and the ensuing lunch. They accepted. Mr. Harreld's wife was given a tour of the campus.

After this came to light in the wake of Mr. Harreld's appointment, some faculty members were highly critical of what appeared to them to be unequal treatment of a candidate for the presidency and evidence of favoritism. Professor Bohannon and Dean Gardial issued a public statement in defense of their decision to accept the invitation:

Given the outcome of the presidential search, much attention is now focused on the details of the search process. It is important to note that the

search committee collectively agreed, early on, to keep its activities and discussions confidential in order to recruit the best candidates and to encourage committee members to speak freely about those candidates. It would be a betrayal of that trust to divulge all of those details now.

Having said that, Search Committee Chair Jean Robillard has confirmed that President-Elect Bruce Harreld visited UIHC on July 8, where he gave a talk and had lunch. We want to acknowledge candidly that we attended those events at Dr. Robillard's invitation. This was our duty as members of the search committee. The search committee was told to be aggressive in identifying, recruiting, and vetting as many candidates as we could to get the biggest and best possible pool. When the chair of the search committee invited us to come and hear someone talk, we made it a point to be there. It is our understanding that other candidates visited campus and talked to people at various points in the process as well. Such visits are not uncommon, especially in high-level searches. Search committee members, as well as many other members of the UI community, were actively engaged in this process, and we spent countless hours talking to and about many potential candidates throughout. We are proud of the hard work everyone put into this process and the deep commitment to the University that it reflects.

In meeting with us, Professor Bohannon reiterated these sentiments. As a member of the search committee, she saw no reason not to accept; Mr. Harreld's remarks actually had nothing to do with the presidential search; she and Dean Gardial left as soon as the lunch ended. This was, to her, a non-event.

Third, on July 30, 2015, four regents met with Mr. Harreld in Ames, Iowa: regents Larry McKibben, chair of the regents' Transparent, Inclusive Efficiency Review (TIER), and Mary Andringa, neither of whom was a member of the search committee, and regents Katie Mulholland and Matt Dakovich, both of whom were.<sup>8</sup> Mr. Rastetter was not one

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8. Mr. McKibben is a lawyer in Marshalltown and former state senator. Ms. Andringa is CEO and board chair of Vermeer Corporation, an agricultural equipment company headquartered in Pella. President Pro Tem Mulholland is a retired superintendent of schools for the Lin-Mar Community School District. Mr. Dakovich is president of Aspro, Inc., an asphalt paving company in Waterloo.

of those attending, but, according to a press account, he arranged the meeting at Mr. Harreld's request. According to newspaper accounts, Mr. Rastetter understood that Mr. Harreld desired more information in order to decide whether to become a candidate. As a result of the meeting, regent Mary Andringa was reported to have sent Mr. Harreld an e-mail message the next day encouraging him to apply. A press account based on access to her message reported that she had written him as follows: "I urge you to continue to give us in Iowa a chance to tap into your great skill set, experience, and passion for excellence through strategic change by being open to the presidency of the U. of I. Higher education, as you articulated in our meeting, is heading toward crisis. Crisis necessitates change—it may be the big challenge that can energize you in the next five years!"<sup>9</sup>

According to another press account,

McKibben, Dakovich, and Mulholland each said . . . that they maintained an open mind throughout the final stages of the search—not making up their minds until after closed-session interviews with the four finalists Sept. 3.

"I don't think that we knew any more about [Harreld] based on [those meetings] than we did about the other candidates based on their curriculum vitae, which were extensive," Mulholland said.

McKibben said that although all four candidates were excellent, he considered Harreld to be the candidate most committed to "transformation change" and "best able to collegially help us continue the TIER process in the years to come."<sup>10</sup>

Fourth, sometime in early August, when Mr. Harreld asked to speak with Governor Branstad, Mr. Rastetter arranged for a telephone conversation between them. Mr. Rastetter reportedly considered Mr. Harreld's request a matter of due diligence that he was pleased to accommodate. In addition,

Mr. Harreld met, at his request, with the president of Iowa State University.

We return to the search process. Starting in late July, the search committee began in earnest to sift and winnow the candidates in an effort to reduce the pool to a manageable number for airport interviews. We were given to understand that, during the detailed and frank discussions that took place, the regents and those of like mind repeatedly encouraged thinking "outside the box" to consider "diverse"—that is, nontraditional and "transformative"—candidates. Unlike those candidates who had submitted themselves for consideration, the documentation for whom had been assembled by the search firm, the only information about Mr. Harreld before the search committee was his résumé. This was a two-and-a-half-page document listing his work experience, education, publications, awards, and personal data; it supplied no references. Nevertheless, on or about August 4, the committee came to the decision that if Mr. Harreld wished to put his hat in the ring he would be included in the group of semifinalists to be interviewed. The word "decision" is used advisedly. No vote was taken. Four of the faculty members on the committee were strongly opposed to Mr. Harreld. But a majority of the committee, including some faculty, were favorable to considering him. It would seem fair to say that moving him into the orbit for comparison was the sense of the larger body even though the record before them consisted of nothing more than a terse résumé and the vocal support of those who had recruited him.

On August 11 and 12, the search committee interviewed nine candidates at O'Hare airport. That venue was chosen not only for convenience, but also because it afforded a higher degree of confidentiality, as it was unlikely that any of the candidates would be singled out in the throng of transients as being there as candidates for the Iowa presidency.

At the conclusion of these interviews the committee settled on four finalists—three occupants of senior administrative positions in institutions of higher education and Mr. Harreld. Again, there was significant faculty opposition to the Harreld candidacy. Again, there was no vote. At that point, Interim President Robillard informed the committee that it was "disbanded."

By all accounts this decision came as a total surprise. There had been no discussion of what the committee's role would be after the finalists had been identified and had made their campus appearances.

9. "More Harreld Meetings Revealed," *Daily Iowan*, September 28, 2015, <http://daily-iowan.com/2015/09/28/more-harreld-meetings-revealed/>.

10. Jeff Charis-Carlson, "Regents: Nothing Wrong with Early Harreld Meetings," *Iowa Press-Citizen*, September 26, 2015, <http://www.press-citizen.com/story/news/education/university-of-iowa/2015/09/25/regents-nothing-wrong-early-harreld-meetings/72812600/>.



The faculty members on the committee assumed that they would serve as a conduit for faculty reaction and sentiment, as had been the practice in the past. Professor Bohannon raised the issue and was assured by Interim President Robillard that the search firm would be setting up an electronic system for collecting the evaluations and opinions of the university community.

The dates for the four campus visits were set, but Professor Bohannon raised the issue of timing with Mr. Rastetter. She thought the four-day period allotted for the visits was insufficient to allow for adequate campus evaluations. As the schedule was initially set, the regents would act the day after the last campus visit, which happened to be Mr. Harreld's. Mr. Rastetter agreed to the finalists visiting on a Thursday, Friday, Monday, and Tuesday, with Mr. Harreld's visit scheduled for Tuesday, September 1. This arrangement gave the board a day to come to a decision, on Thursday, September 3.

The local AAUP chapter protested the absence of any systematic means of informing the board of faculty, student, and staff reactions to the candidates. The search firm had set up the website for respondents to enter reactions by answering generic questions, which would not be tabulated in any meaningful way. Those regents sufficiently interested in the faculty's reaction would have to scroll through

all the comments. In Mr. Harreld's case, the regents would have had to have read them the day before the vote. Professor Bohannon then offered the offices of the senate to conduct an electronic survey. After she had received approval to do so from Interim President Robillard, Mr. Rastetter informed her that the senate would be duplicating the search firm's work, a message some understood as prohibiting the senate from making an independent assessment. Consequently, the AAUP chapter decided to conduct a poll of its own.

By the time Mr. Harreld participated in the September 1 town hall meeting, a headwind of concern over his qualifications and about the process of selection had built up against him. After his remarks, he faced a series of questions by faculty, staff, students, and at least one alumna—some quite pointed.

The next two days were tumultuous. The AAUP chapter released the results of its survey on the afternoon of September 2. There were 442 faculty responses, but not all were directed to every candidate. The chapter's instrument was geared to the ten evaluation criteria the search committee had adopted. The chapter tabulated the results for each and provided a summary result on the overall rating of "qualified to be President of the University of Iowa." These are set out in the table below.

| <b>Is this candidate qualified to be president of the University of Iowa?</b><br>[7 = strongly agree] |              |              |              |                         |
|---|--------------|--------------|--------------|-------------------------|
|   | <b>A</b>     | <b>B</b>     | <b>C</b>     | <b>J. Bruce Harreld</b> |
| Articulates Vision  | 6.04         | 5.92         | 6.51         | 1.66                    |
| Oversees Budget   | 5.85         | 5.90         | 6.57         | 2.66                    |
| Secures External Funding  | 5.79         | 5.69         | 6.49         | 2.25                    |
| Leads Academic Institution  | 5.50         | 5.78         | 6.56         | 1.21                    |
| Promotes Shared Vision  | 6.05         | 5.83         | 6.56         | 1.62                    |
| Works with Government   | 6.09         | 5.88         | 6.61         | 2.38                    |
| Works with Constituencies   | 6.19         | 5.87         | 6.55         | 1.71                    |
| Establishes Trust with UI   | 6.22         | 5.63         | 6.54         | 1.30                    |
| Enhances Excellence   | 6.08         | 5.93         | 6.67         | 1.42                    |
| <i>Qualified</i>  | <i>90.9%</i> | <i>93.5%</i> | <i>98.0%</i> | <i>2.9%</i>             |

Source: University of Iowa AAUP Chapter Survey (September 2, 2015)

That day the faculty council, staff council, and student government issued a joint statement of embarrassment and regret about the rudeness and hostility they thought some had displayed toward Mr. Harreld in the course of the town hall meeting.<sup>11</sup> At the same time, however, senate president Bohannon urged the board, in text set out in this report's introduction, to select one of the three academic finalists.

The next day the board voted to offer the appointment to Mr. Harreld, who was present and accepted. The faculty senate's vote of no confidence in the board, also set out in the introduction, ensued on September 8. The board issued the following reply the same day:

**Statement from Board of Regents President Bruce Rastetter on University of Iowa Faculty Senate Vote of No Confidence**

The landscape of higher education is changing and the current ways of operating are not sustainable. The Board of Regents brought four highly qualified candidates to campus during the search process and discussed their abilities to help lead the University of Iowa through the changes in higher education.

Throughout this process, Board members heard from stakeholders all across Iowa about the type of qualities and leadership needed at the University of Iowa.

After listening to all stakeholder feedback as well as having frank conversations with each of the candidates, the Board unanimously thought Bruce Harreld's experience in transitioning other large enterprises through change, and his vision for reinvesting in the core mission of teaching and research, would ultimately provide the leadership needed.

We are disappointed that some of those stakeholders have decided to embrace the status quo of the past over opportunities for the future and focus their efforts on resistance to change instead of working together to make the University of Iowa even greater.

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11. As stated in footnote 2, Mr. Harreld's remarks and the entire period of questions and answers are available online. Readers are free to form their own judgment of the degree of hostility, rudeness, or relevance displayed in the back and forth, but one exchange needs a bit of explanation. Professor Sheldon Kurtz, former president of the senate, asked Mr. Harreld whether he would support the regents' proposal to reallocate more than \$46 million from the University of Iowa to Iowa State and Northern Iowa. The proposal is discussed in part II.B of this report. We think it a fair question.

The fallout on the campus continued. On October 13, Mr. Harreld, who had been meeting with faculty and staff, issued a statement endorsing shared governance. The faculty council issued a statement of appreciation for President Harreld's "support of our fundamental values" and pledged to work with him: "Building trust will undoubtedly take time and will depend on good will." This statement did not address the status of the antecedent senate vote of no confidence in the board; it extended an olive branch to the new president. Even so, it was sharply repudiated by the AAUP chapter: "Given the circumstances of Mr. Harreld's hiring, we are unable to credit his recent statement to the campus to the extent the Faculty Council has done. Compromised academic values cannot be revalidated by a mere declaration of support. Neither the Faculty Council nor the AAUP Chapter's Executive Committee has the authority to legitimate the outcome of an autocratic process that disregarded the principles of academic integrity."

#### **IV. The Issues**

The question presented is whether, in the conduct of the search and selection process for the president of the University of Iowa, the Iowa board of regents conformed to generally accepted norms of academic governance. If not, how are the departures to be explained and what can be done going forward?

##### **A. The Governing Principles**

Analysis proceeds, first, from an understanding of the applicable principles supported by the Association and, we believe, by the larger academic community; and, second, from the extent to which these principles are reflected in the policies and established practices of the University of Iowa. Overarching both the specific terms of Association-supported policy and board rules is the general question of fundamental fairness—of openness in the process, equal treatment of the candidates, and cooperation with the faculty.

Almost a half century ago, after many years of negotiation, national representatives of boards of trustees (the Association of Governing Boards of Universities and Colleges), of administrations (the American Council on Education), and of the professoriate (the American Association of University Professors) agreed on the basic principles of what has come to be called shared governance in institutions of higher education—the 1966 *Statement on Government of Colleges and Universities*. The *Statement on Government*, building upon an earlier half century of

thought and of experience, conceives of these three components of the institution as interdependent, with each having primacy in its respective zone of expertise and authority, but with some areas reserved expressly for joint decision making. One such area is salient here: “Joint effort of a most critical kind must be taken when an institution chooses a new president. The selection of a chief administrative officer should follow upon a *cooperative search* by the governing board and the faculty, taking into consideration the opinions of others who are appropriately interested. . . . The president’s dual role requires an ability to interpret to board and faculty the educational views and concepts of institutional government of the other. The president should have the confidence of the board and the faculty.” (Emphasis added.)

Over thirty years ago, in the *Statement on Faculty Participation in the Selection, Evaluation, and Retention of Administrators*, the Association refined what such a “cooperative search” entailed. The *Statement on Faculty Participation* emphasizes the “primary role of faculty *and* board in the search for a president” (emphasis added). It recognizes that a presidential search can be conducted by a faculty through a body independent of the board even as the board, as a body, has a cooperative role in the process. Such had long been the presidential search process at the University of Iowa: searches had been conducted by bodies in which the faculty had majority representation; their nominees were presented to the board, none of whose members served on the search committee. As faculty members with whom we spoke pointed out, that was the process that brought a series of distinguished and effective administrators to the presidency: James O. Freedman (1982–87), later president of Dartmouth College; Hunter R. Rawlings III (1988–95), later president of Cornell University and of the Association of American Universities; Mary Sue Coleman (1995–2002), later president of the University of Michigan and of the Association of American Universities; and David J. Skorton (2002–06), later president of Cornell and now secretary of the Smithsonian Institution.

The *Statement on Faculty Participation in the Selection, Evaluation, and Retention of Administrators* recognizes, however, that a presidential search can also be conducted by a faculty and governing board jointly. In that case, the statement provides that the rules governing the search “should be arrived at jointly” and that the search committee as a whole should determine “the size of the majority that will be controlling on making an appointment.”

In contrast, the policy manual of the Iowa board of regents vests overall control of the presidential process in the board: “All rules, procedures, and policies regarding the search, including, but not limited to, the role, composition, and appointment of a search committee, the time schedule for the search, and the use of consultants shall be established by” the board (*Board of Regents, State of Iowa, Policy Manual*, 4.04.A). The search process, however, “shall provide for . . . [p]articipation by institutional constituencies, *specifically including the faculty*, with respect to the criteria to be used in the selection process and *in review of the final candidate* for institutional head” (4.04.A.2; emphasis added).

Board rule 4.04.A does not provide expressly for procedures in conformity with the two AAUP statements cited. Neither is adherence precluded. Prior searches were in complete conformity with Association standards, with outcomes any objective observer would have to conclude were successful. Against this background we turn to the questions before us.

## **B. Conformity of the Search with Academic Norms**

The record largely speaks for itself, but it is subject to two different readings. One view, which a faculty member on the search committee put to us, is this: the search process was fair; the selection was not. The search committee included faculty members who were vetted with the chair of the faculty’s Committee on the Selection of Central Academic Officials, as the rules at the University of Iowa required. Indeed, faculty representation was enlarged at the request of the president of the faculty senate. The committee as a whole deliberated and achieved a sense of the search committee as a whole, if not a consensus, on the qualifications for the office. The committee decided not automatically to exclude nontraditional candidates, that is, people from the business world.<sup>12</sup> All members of the search committee, including the faculty members on it, were free to use their networks for identifying potential candidates and to interest potential candidates in applying. The semifinalists were vetted with the committee as a whole, as were the finalists settled upon after the airport interviews,

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12. We note that appointment from the business world is scarcely uncommon. See, for example, Bryan Cook, *The American College President Study: Key Findings and Takeaways* (Washington, DC: American Council on Education, 2012). This survey, however, does not indicate whether appointees from the business world had had previous significant academic experience.

although no votes were taken. At that point, however, the preemptory disbanding of the search committee prevented the faculty from performing any further role in the selection of the appointee, either through their representatives on the committee or through the senate. At that point, the board dispensed with its cooperative relationship with the faculty and disregarded its own policy manual, which states that the faculty “specifically” be included “*in review of the final candidate*.” In other words, the board constructed the process in an attempt to preclude any meaningful faculty role in the selection of the final candidate. At that sole but crucial point, the board treated the faculty as irrelevant.

We have laid out the case for one alternative offered to us: of a fair search in which the faculty’s role was respected, followed by a selection process in which the faculty’s voice was silenced and, when exercised, disregarded. But others have offered another, darker, view. To them, the process was tainted from the start; the result was foreordained. They point to the following.

First, contrary to the long-standing tradition at the University of Iowa of regental nonparticipation on presidential search committees and despite the “notorious debacle” in its departure from that practice in 2006, the board structured a search process that directly involved the board’s leadership and reduced the faculty’s representation to a minority. The board’s concession to senate president Thomas, increasing the number of faculty representatives by two, was, in practical terms, meaningless.

Second, the board leadership and those allied with it pressed and pressed hard to ensure that people from the business world who lacked any significant experience in academic administration, euphemistically and artfully caught up in the catchword “diversity,” would be included in the pool of candidates.

Third, Mr. Rastetter and others with contacts in the business world worked rather hard to turn up such candidates. When Mr. Harreld was identified as meeting their desiderata, they strove to get him into the pool of finalists: he was importuned by a powerful donor and longtime friend who was on the search committee; he met privately with the chair of the committee and president of the board; the chair invited him to give a speech on campus and to have lunch with two other search committee members; four regents met privately with him, one of them then urging him to apply in effusive terms; and a conversation with the governor was arranged for him.

Fourth, when Mr. Harreld agreed to be considered a candidate, he was immediately placed on the short list of semifinalists, despite the fact that what was before the search committee was nothing more than a sparse résumé—no statement of goals or reasons for applying, no references, no dossier of reputation or accomplishment. In contrast to the other candidates the committee considered, all that was before the committee was a two-and-a-half-page résumé and the vocal support of key players who saw in him the transformative leader from the business world they wanted.

When he became a semifinalist, on or about August 4, the decision had already been made. Tellingly, though faculty input was, contrary to the board’s desires, to be given to the board on September 2, Mr. Harreld was present in Iowa the very next day when the appointment was announced and the letter of appointment executed.

In weighing which scenario is the more persuasive, we must acknowledge that the refusal of Mr. Rastetter, Dr. Mulholland, and Professor Robillard to meet with us means that our conclusion necessarily rests only on circumstantial evidence. As Henry David Thoreau wrote in his journal on November 11, 1850, however: “Some circumstantial evidence is very strong, as when you find a trout in the milk.”

We are persuaded that the search was structured and engineered by the regents’ leadership from the outset to identify a figure from the business world congenial to its image of “transformative leadership.” Once such a person was identified, the rest of what followed was only an illusion of an open, honest search.

### **C. Search for an Explanation**

We have tried to come to grips with what motivated the board’s leadership to act as it did. Absent any discussion with the board’s leadership, we must rely on public pronouncements.

The board’s leadership has consistently depicted higher education as in crisis. “Crisis necessitates change,” Regent Andringa e-mailed Mr. Harreld. “Higher education in the United States is at a crossroads,” Mr. Rastetter said in a press statement. “The landscape of higher education is changing,” opined the board’s statement in response to the vote of no confidence. “The current ways of operating are not sustainable.” “Today’s higher education landscape requires a creative and transformative thinker with good leadership and management skills,” Mr. Stead was quoted as saying. Nor should it escape attention

that the job description posted for the search was headed “Moving Beyond: Creating the Future through Transformative Leadership.”

Two questions rather quickly emerge. First, what is the nature of the crisis that so urgently requires transformative leadership? Second, what is “transformative leadership”?

When one examines the statements made by the regents and their supporters, one learns at once what the crisis is: declining legislative support for public research universities, which the regents’ budget proposal for the University of Iowa would have exacerbated; declining rates of successful undergraduate completion; increasing competition for external support for basic research, especially from the federal government; and, perhaps, the need to marshal intellectual and financial resources to anticipate and deal with emerging societal problems. One finds scant acknowledgment of the latter in the board’s pronouncements, but one gleans a hint of it in President Harreld’s statement that “higher education stands at the threshold of changes driven by increased competition, rapid technology shifts, and questions about its values.”

These are serious matters. They require serious, thoughtful address; and they are being addressed, seriously and thoughtfully, by faculties, administrators, and governing boards across the country. Contrary to the board of regents’ assumption that the faculty’s rejection of Mr. Harreld was a vote for the status quo, higher education in the United States has never been a static enterprise.<sup>13</sup> We need only note the history of the University of Iowa, briefly mentioned earlier in this report, to illustrate that point.

Instead of reasoned engagement with the faculty of the University of Iowa, the regents’ reiteration of a claim of extreme urgency—for what else does the word “crisis” mean?—was deployed to give it license to appoint a “transformative” leader from the business world, a person cast in a mold they found more congenial than that of an experienced academic leader. This action bears an eerie similarity to the abortive

attempt by the Board of Visitors of the University of Virginia to remove its president in 2012. There too the governing board derived largely from the world of medium-sized business enterprise. There too the board’s members held appointment out of political favor. In that case, they sought to remove an academic leader for want of “boldness,” for lack of pace in effecting “transformative change.” There, as here, when one sought to learn in what way change was conceived or transformative leadership found so lacking that the faculty’s role should be obviated, one found the cupboard bare.<sup>14</sup> There, as here, what was presented was, at bottom, nothing more or less than a crude exercise of naked power.

We return, then, to the board’s reply to the senate’s vote of no confidence to see if “transformative leadership” means something more than the empty catchphrase it appears to be: “After listening to all stakeholder feedback as well as having frank conversations with each of the candidates, the Board unanimously thought Bruce Harreld’s experience in transitioning other large enterprises through change, and his vision for reinvesting in the core mission of teaching and research, would ultimately provide the leadership needed.”

Two observations are in order. The first is factual. The board’s predicate, that Mr. Harreld presented a vision of change that the faculty rejected, choosing instead the status quo, is risible. It would have the reader believe that between June 2015, when he was first contacted, and September 3, 2015, when he was appointed, Mr. Harreld—who knew rather little about higher education and nothing about the University of Iowa—formed and articulated a transformative vision for the university. With disarming good humor, Mr. Harreld’s public remarks since his appointment have been quite to the contrary. He has made it abundantly clear that he is in the process of learning about the institution over which he now presides and learning more as well about the world in which it resides.

The second observation is conceptual. The regents’ statement conceives of the faculty of the University of Iowa as mere stakeholders from whom the board had gotten adequate “feedback.” The faculty was heard, even if the board did not want to listen, and that was enough. It fell to the regents to transform the

13. We forebear to encumber this report with citation to the wealth of studies and reports documenting how radically American higher education has changed: from the colonial college of the eighteenth century to the research university built upon the German model in the late nineteenth century to the “multiversity” (to use Clark Kerr’s awkward phrase) of the mid-twentieth century to the strains of “rising student consumerism,” as David Riesman put it in 1980, and so on to today. One simply cannot put one’s foot twice in the same stream of higher education, and no one in the field is so foolish as to think otherwise.

14. “College and University Governance: The University of Virginia Governing Board’s Attempt to Remove the President,” *Bulletin of the American Association of University Professors* (special issue of *Academe*), July–August 2013, 40–60.

University of Iowa through a president of its preference against the retrograde impulses of a faculty wedded to the past.

We think this a fair characterization of the board's statement. It rests on no evidence of an intransigent faculty's resistance to needful change.<sup>15</sup> It does rest on a fundamental misconception of the faculty role.

A university, no less than a corporation, has "stakeholders." In contrast to the shareholder value theory of the profit-making corporation, which conceives of it as having no responsibilities beyond the maximization of return to its stockholders, the board's reference is to a contrasting notion of corporate social responsibility. The corporation has obligations to its suppliers, lenders, and employees, even to the community in which it is situated. It should hear their views and take their needs into account in making decisions that affect them, sometimes vitally.

This view of corporate responsibility is quite progressive. But it has no application to the faculty of a university. The faculty is not a set of stakeholders, akin to customers and suppliers; it is a component of the enterprise. A century ago, the Association's founding 1915 *Declaration of Principles on Academic Freedom and Academic Tenure* put it this way: "A university is a great and indispensable organ of the higher life of a civilized community, in the work of which the trustees hold an essential and highly honorable place, but in which the faculties hold *an independent place*, with quite *equal* responsibilities—and in relation to purely scientific and educational questions, the primary responsibility" (emphasis added). Whence the joint or cooperative role of the faculty with the board in the matter of presidential selection called for in the *Statement on Government*.

The board's contrary conception is captured in a statement President Pro Tem Mulholland made to the press at the time of the Harreld appointment: "We honor the shared governance of the university faculty," she said, "but shared governance is really different from shared decision making."

#### IV. Summing Up: The Present and Future

The faculty senate's vote of no confidence in the board of regents of the state of Iowa rested on the conclusion

that the board had shown "blatant disregard for the shared nature of university governance." That conclusion is inescapable. But, sadly, there is more. The board acted throughout in bad faith, and not toward the faculty alone. The board allowed prominent administrators from major institutions of higher education to believe they were participating as candidates in an honest, open search when the process in actuality was being manipulated to reach a foreordained result. It is difficult to see how anyone of intelligence and probity would permit himself or herself to be considered for a future presidency in Iowa. In this, the board has done serious disservice to the people of the state as well as the institutions to which it owes the highest standard of care.

The question remains: what can be done going forward? This breaks down into two separate questions: the first concerns the president; the second concerns the troubled relationship between the faculty and the board.

##### A. The President

We understand the lingering suspicion and even anger that surrounds President Harreld, initially because of his decision to accept the appointment in the face of the faculty's overwhelming opposition and, later, because of his decision to take office on November 2, after all the circumstances of the appointment came to light. Nevertheless, for the present and foreseeable future, he is the president. He has acknowledged the steepness of the learning curve that confronts him; he has stated his embrace of shared governance; he has sought to reach out to the faculty for advice and assistance. We believe that it would better serve the interests of the faculty and the university to take him at his word, while also remaining vigilant and prepared to act to maintain academic integrity and shared governance. Only time will tell whether he will grow into the position and effectively defend the institution from the worst instincts of its present governing board. We are heartened by his response to our invitation for comment on a draft of this report. What he wrote, reproduced in full, was the following:

Thank you for sending me a copy of the ad hoc committee draft report "College and University Governance: The University of Iowa Governing Board's Selection of a President." I believe the discovery process was professionally executed and find the report to be accurate from my perspective. Thus, I have no comments to add to the draft report.

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15. Interestingly, in one of President Harreld's interviews he stated a belief that his appointment was proactive, not reconstructive: that what the board, and especially its chair, saw in him was his work in the business world making sure successful companies did not become somnolent.

As I move forward as the president of the University of Iowa, please know I will continue to respect and engage in the shared governance at this institution, as I pledged to do before assuming my duties and as I have done so far in my first weeks here.

The board of regents sent the following letter, also reproduced in full, cosigned by President Rastetter and President Pro Tem Mulholland:

The Board of Regents appreciates AAUP sharing its draft report regarding its visit to the University of Iowa campus on October 16 and 17.

We believe we ran a fair and transparent search process for president at the University of Iowa. Due to a matter of pending litigation, Board members and Board office staff have been advised by legal counsel to not provide additional comment.

### B. The Faculty and the Board of Regents

Prior to the presidential appointment, the faculty senate leadership had urged a posture of good will and confidence-building toward the board as it has toward the president. But we think the cases to be different. The president has manifested a reciprocal desire. The record of the regents' actions evidences no similar desire to treat the faculty in a spirit of comity. One simply cannot build trust and confidence with those who are disinclined to reciprocate. The ad hoc committee thus believes that the senate's September 8, 2015, vote of no confidence in the board was and remains entirely justified.

The relationship between the faculty and the board has been marked by conflict for a decade. Indeed, the current relationship is disturbingly similar to that described by Professor Sheldon Kurtz in an address to the senate in the wake of the 2006 failed presidential search.<sup>16</sup> Several people with whom we spoke essayed the possibility of structural change. Perhaps the board should be elected? Perhaps some intermediary could be interposed? Perhaps the Higher Learning Commission, the University of Iowa's regional accrediting agency, could intercede, as did the Southern Association of Colleges and Schools at the University of Virginia?<sup>17</sup> Perhaps there ought to be three boards

16. Professor Kurtz's remarks, which he delivered in his role as president of the senate ahead of that body's vote of no confidence in the board, are available at [http://aaup.org.uiowa.edu/files/aaup.org.uiowa.edu/files/stmnt\\_by\\_sheldon\\_kurtz\\_dec2006.pdf](http://aaup.org.uiowa.edu/files/aaup.org.uiowa.edu/files/stmnt_by_sheldon_kurtz_dec2006.pdf).

now that the three universities under this present board are so openly competing with one another for its favor and for resources? The latter might hold some promise, if those on the future board held themselves to a high standard of stewardship. And there's the rub. Although the law requires that regents be "fit" for office, the means of ensuring fitness are and will remain political.

As the events at the University of Virginia and elsewhere have indicated, there may well be an emerging crisis in American public higher education.<sup>18</sup> The crisis is occasioned by headstrong, thoughtless action by politically appointed regents who lack any respect for the faculties of the institutions over which they preside. The remedy, so long as these institutions remain under public control, must be found in an informed public opinion, in the expression of the public's sense that such actions by members of a governing board not only undermine the ideals and purposes of the university but also affront the citizenry the board ostensibly serves.<sup>19</sup> ■

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**MATTHEW W. FINKIN** (Law)

University of Illinois at Urbana-Champaign, *chair*

**MICHAEL DECESARE** (Sociology)

Merrimack College

#### *Investigating Committee*

The Committee on College and University Governance has by vote authorized publication of this report on the AAUP website and in the *Bulletin of the American Association of University Professors*.

17. In contrast to the Southern Association's response to what happened at the University of Virginia, however, the silence of the Higher Learning Commission has been deafening.

18. As we write this report, faculties are questioning or objecting to presidential search processes at the University of North Carolina, Miami University (Ohio), and Eastern Michigan University.

19. As stated in this report's introduction, the AAUP's executive director responded to the local chapter's request for assistance by sending the authors to the University of Iowa as a "consultative committee." Upon receiving and examining a draft report submitted by the consultants in November, she determined that the situation they encountered and the issues that were raised required formal Association investigation. She accordingly asked the authors of the report to continue with the case, henceforth as its ad hoc investigating committee.

Chair: **MICHAEL DECESARE\*** (Sociology), Merrimack College

Members: **CHARLES A. BAKER** (French and Film), College of the Holy Cross; **LINDA L. CARROLL** (Italian), Tulane University; **GEORGE COHEN** (Law), University of Virginia; **RUBEN GARCIA** (Law), University of Nevada–Las Vegas; **MICHAEL HARKINS** (History), Harper College; **JEANNETTE KINDRED** (Communications), Eastern

Michigan University; **DUANE STORTI** (Mechanical Engineering), University of Washington; **RUDY H. FICHTENBAUM** (Economics), Wright State University, *ex officio*; **KATHERINE MORRISON** (Community Health and Wellness), Curry College, *liaison from the AAUP-CBC*; **BRIAN TURNER** (Political Science), Randolph-Macon College, *liaison from the Assembly of State Conferences*

\*Did not participate in the vote.



## Appendix A

### Letter from President Pro Tem Mulholland to the AAUP staff

September 29, 2015

Dear Mr. Kurland:

I write in regards to your letter of September 29 notifying the Board of Regents and the University of Iowa of a request that the American Association of University Professors take official interest in the Board of Regents' recent hiring of University of Iowa President Elect Bruce Harreld. According to your letter, you have decided to act on this request by sending a team of consultants to the University of Iowa to conduct interviews with various constituents prior to issuing written findings and recommendations. Unfortunately, your letter fails to identify with any level of specificity the issues or scope of your investigation.

The Board of Regents appreciates AAUP's notification of its intent to visit campus on October 16 and 17. Due to a matter of pending litigation involving the recent search for the University of Iowa President, Board members and Board office staff have been advised by legal counsel to not participate in interviews or the investigatory process at this time.

Sincerely,  
Katie Mulholland, Ed.D.  
President Pro Tem

Cc: Board of Regents  
Dr. Robert Donley, Executive Director  
Dr. Robillard, Interim President





## Appendix B

### Letter from committee chair Finkin to board president Rastetter

October 12, 2015

Dear Mr. Rastetter:

I write as chair of the consultative committee appointed by the American Association of University Professors (AAUP) to look into the matter of the process of presidential selection at the University of Iowa. As you know, the committee will be visiting Iowa City from the afternoon of Friday, October 16, through to the early afternoon of Saturday, October 17. The staff of the Association wrote to you on September 29 inviting you and other Members of the Board to meet with us at that time, if at all possible. The staff's invitation was responded to by the Board's President Pro Tem informing the staff that the Members of the Board were disinclined to meet with us for two reasons: (1) the pendency of litigation; and (2) the lack of specificity in the scope of the committee's work.

As a lawyer I can well appreciate the advice of counsel, as a natural caution that what might be said to us could be made subject of compelled disclosure in the litigation. Let me say that we, too, would be strongly resistant to that which would impede full disclosure in the course of our work. But, as I understand it, the suit has to do with the application of Iowa's Open Meetings law. That is not our concern. Whether some portion of the search process should have been noticed to the public or should have been open to the public has no bearing on what we wish to explore.

Turning to that, I agree that it would be most helpful—not only to you, but to us as well—for you to have a good understanding beforehand of what we seek to inform ourselves about. The issues we wish to address concern the relationship of the Board to the faculty in the selection of the President of the University of Iowa: why this situation has become so acrimonious; whether the process itself could have been differently managed; whether there are conflicts in perspective or goals between the Regents and the faculty that contribute to the situation and, if so, how these could have been mediated without the rancor and publicity the matter has generated. I note, for example, that your statement of September 8, 2015, observes, "The landscape of higher education is changing and the current ways of operating are not sustainable." We would hope to inform ourselves further of what change you and your colleagues on the Board see as in process and to explore in depth what those current ways are that are no longer sustainable; if these were explored with the faculty; whether a consensus on a course of action was sought and, if not achieved, the reasons why they were not; how such differences may have affected presidential selection. No doubt these questions will be refined as we pursue our conversations and other related questions will emerge as we proceed. But I trust the above will provide a solid basis for your understanding, to allow you—and us—to have a productive meeting.

I realize, that time is quite short and that availability may be an insuperable problem. My colleague, Professor DeCesare, has a tight flight schedule, but as I am driving back to Illinois on Saturday I can arrange to remain to late afternoon to meet with you on his behalf. Alternatively, though a bit more awkwardly, we might submit our questions to you for your written response.

For the sake of thoroughness, accuracy, and fairness, to faculty and to the Board, we earnestly solicit your cooperation.

Sincerely,  
Matthew Finkin  
Albert J. Harno and Edward W. Cleary Chair in Law  
University of Illinois  
College of Law