

**Report to the Harvard Governing Boards
on Aspects of the Board of Overseers**

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July 31, 2020

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I. INTRODUCTION

In its long history, Harvard's Board of Overseers, in common with governing boards of other private colleges and universities, has from time to time reviewed facets of its work to consider whether changes may be warranted. Of particular relevance to this report, since 2015-16 the Board has maintained an elections working group to address issues related to the annual elections for its members. The group's work has led to various changes in how the Overseers elections are conducted, including the introduction of an online voting option in 2019 and other reforms. Earlier this year, Harvard's governing boards formed this special committee to consider additional matters related to the annual elections for Overseers. Since being convened, and as requested, our committee has worked intensively to consider a range of topics including aspects of the process for nominating candidates for Overseer, issues of campaigning related to those elections, and opportunities for the Board to benefit more from the perspectives of recent graduates of Harvard College and the University's graduate and professional schools. Our work has been informed by the prior efforts of the Board's elections working group, whose current chair is a member of this committee.

We now submit this report, including our observations and recommendations, in the hope that it will provide helpful information to the governing boards and lead to constructive changes. We emphasize at the outset that our deliberations have been guided throughout by an overarching concern: to sustain and strengthen the sound and effective governance of the University. Good governance, a critical need for any college and university at any time, seems to us an especially salient concern now, at a time when Harvard faces institutional challenges of extraordinary complexity and consequence.

II. HARVARD'S GOVERNANCE STRUCTURE

We begin with some general background on Harvard's unusual governance structure. By charter, and in contrast to most colleges and universities, Harvard has not one but two governing boards. The University's principal fiduciary board is the President and Fellows of Harvard College, also known as the Harvard Corporation, created in 1650 and responsible, by and large, for exercising the traditional powers of a private university's board of trustees. The Corporation, composed of the University's President, its Treasurer, and eleven others known as Fellows,¹ has wide-ranging

¹ The Treasurer, while playing a distinctive role, is often encompassed within the term "Fellows." The Corporation's composition was expanded from seven to thirteen members roughly a decade ago.

responsibilities: working closely with the University's leadership to chart institutional strategy and policy on various matters, reviewing and approving annual budgets and major capital projects, overseeing the University's finances and endowment, and playing the lead role in appointing the President of the University, among other duties.

The Board of Overseers, Harvard's other governing board, plays a complementary and integral role in Harvard's governance. Most notably, it has chief responsibility for the "visitation" process, Harvard's primary means for periodic external review and assessment of the academic departments of the Faculty of Arts and Sciences, Harvard College, the University's various graduate and professional schools, and other major units such as the Harvard Library, the Harvard University Art Museums, athletics, and information technology. The Board directs the visitation process through the work of its standing committees and through an array of some fifty visiting committees that report to the Board. The visiting committees typically meet for two days at a time on campus, at varying intervals, bringing together leading subject-matter experts, along with one or more Overseers, to conduct intensive reviews of visited schools, departments, and other units. The visiting committees prepare detailed reports of their observations and recommendations for consideration by the Board's standing committees, which in turn meet with the relevant deans, department chairs, and visiting committee chairs to discuss key opportunities and challenges facing the visited units. Through the visitation process, the Board plays a critical role in Harvard's efforts to sustain and enhance the quality and progress of academic programs across an extraordinary span of domains – the full breadth of the arts and sciences (including the humanities and arts, the natural and applied sciences, and the social sciences), as well as business, design, divinity, education, engineering, government, law, medicine and dental medicine, and public health. In addition, the Board provides confidential counsel to the University's leaders on a range of initiatives, priorities, and plans. It also has the power of consent to certain actions of the Corporation, including the election of new Corporation Fellows and Harvard's President.

Not surprisingly, given Harvard's longevity, the composition of the Board of Overseers, and the process for composing it, have changed over time. The Board's origins date back to 1637. It was more formally constituted in 1642 by act of the General Court (the legislature) of the Colony of Massachusetts Bay, which prescribed that the Board would consist of the Colony's Governor and Deputy Governor, public officials ("magistrates") and clergy ("teaching elders") from Cambridge and other Massachusetts towns, and the President of Harvard College. In 1780, after the United States had become a nation and Massachusetts a state, the Board came to be composed of the Governor, the Lieutenant Governor, the Governor's Council, and the Senate of the Commonwealth of Massachusetts, the ministers of congregational churches in Cambridge and five other towns, and the President of Harvard College. In 1851, the Board's composition changed again, to include various senior Massachusetts officials

and the President of Harvard as *ex officio* members, together with thirty members elected by the Massachusetts legislature.

By actions of the Massachusetts legislature and Harvard's governing boards in 1865, Harvard degree holders were first granted the opportunity to vote for members of the Board of Overseers. In the more than century and a half since, there have been numerous changes relating to which Harvard degree holders are eligible to vote, how candidates may be nominated, and how the elections are conducted. Amid such changes, fundamental aspects of the nomination and election process have remained essentially intact. As has been the case for many decades, the Board now comprises thirty elected Overseers, along with the University's President and Treasurer, who both serve *ex officio*. All thirty of the elective members are elected at large, to staggered terms, through balloting by Harvard degree holders. Candidates are nominated through methods prescribed by the governing boards, either through a process closely involving the alumni association or "by petition." (See below.) Elections take place each year, and eligible voters have the opportunity to choose from among a number of candidates greater than the number of anticipated vacancies on the Board.

III. GOOD GOVERNANCE PRINCIPLES FOR PRIVATE UNIVERSITIES²

Good governance is central to advancing a private university's mission and work, protecting its charitable assets and financial health, and preserving public trust and confidence in its endeavors. The regulatory, financial, and political environment in which colleges and universities now operate has become increasingly complex. Those entrusted to serve on a university board must balance a sense of the institution's enduring purpose and values with its capacity to adapt and plan for the future. The board must be responsive to unexpected challenges affecting the academic enterprise, and should from time to time review aspects of its composition, structure, and practices to ensure that it continues to carry out its responsibilities effectively.

The composition of a university board should reflect the fundamental principle that the board and its members are responsible for serving the best interests of the university as a whole. It should be composed of individuals who have the experience and attributes conducive to effective board membership, and who are prepared to apply their time, skills, and experience in service of the institution and its mission, not to advance their own interests or those of other organizations, groups, or individuals. This

² These principles are drawn from authorities on the governance of nonprofit organizations, the statements of governing boards of peer colleges and universities, and recommendations of professional associations concerned with the governance of nonprofit organizations in general, and colleges and universities in particular, in the United States.

principle is reflected in the statements of leading authorities³ and in the duties of care and loyalty by which board members are bound as a matter of law.⁴

Effective boards typically include members who have financial and legal expertise. Just as important for university boards are members who have an interest in and commitment to higher education⁵ and who have close connections to education, research, and public service. University leaders and authorities on governance have emphasized the importance of board members who have an understanding of the leadership and governance of complex organizations, and who are active, engaged, and questioning, rather than simply reactive or overly deferential.⁶ As well, board members are looked upon to exemplify the highest ethical values of the institution and to be vigilant to protect its reputation. Attributes such as these contribute both to the quality of the board's deliberations and to the legitimacy of its actions.

IV. CONSTITUTING THE BOARD OF OVERSEERS

(A) Qualifying for the ballot

In a typical year, five new Overseers are elected to six-year terms on the Board. All Harvard degree holders are eligible to vote to fill all openings on the Board, provided they have received their degrees by the end of the prior calendar year and they are not members of the Corporation or "officers of government or instruction" at the University.

³ See, e.g., Association of Governing Boards of Independent Colleges & Universities, *Effective Governing Boards: A Guide for Members of Governing Boards of Independent Colleges & Universities* (2012). See also William G. Bowen, *The Board Book* at 141 (2012) (critical to select board members "who have a genuine understanding of the mission of the organization, combined with empathy and commitment"); BoardSource, *The Source: Twelve Principles of Governance That Power Exceptional Boards* at 8 (2005); Sharon M. Oster, *Strategic Management for Nonprofit Organizations* at ch. 6 (1995) ("[A]dherence to a common mission is a major determinant of board effectiveness," as without such a shared commitment "trustees are left unmotivated and unsatisfied, and the organization is ineffective."); Commonwealth of Mass., *The Attorney General's Guide for Board Members of Charitable Organizations* at 4 (Mar. 2015) ("*Mass. AGO Guide*"), <https://www.mass.gov/files/documents/2016/08/oz/guide-for-board-members.pdf> (a nonprofit's board should be "vigorous and responsive to the mission" of the organization).

⁴ See, e.g., *Mass. AGO Guide* at 3 (Mar. 2015), <https://www.mass.gov/files/documents/2016/08/oz/guide-for-board-members.pdf>; Francie Ostrower & Melissa M. Stone, *Governance: Research Trends, Gaps, and Future Prospects*, in Walter W. Powell & Richard Steinberg, eds., *The Nonprofit Sector* at 613 (2d ed. 2006); David Larckner & Brian Tayan, *Corporate Governance Matters* at 404 (2d ed. 2019).

⁵ See, e.g., Association of Governing Boards of Independent Colleges & Universities, *Effective Governing Boards: A Guide for Members of Governing Boards of Independent Colleges & Universities* (2012).

⁶ See, e.g., William G. Bowen, *The Board Book* at 137, 139 (2012); BoardSource, *The Source: Twelve Principles of Governance That Power Exceptional Boards* at 8 (2005).

All Harvard degree recipients are members of the Harvard Alumni Association (HAA). The HAA Executive Committee⁷ is responsible each year for assembling a committee of alumni to nominate candidates for Overseer (the “Nominating Committee”). The Nominating Committee’s voting members consist of thirteen individuals of varied backgrounds chosen from the ranks of alumni university-wide, including three current or recent Overseers.⁸ Nominating Committee members typically serve staggered three-year terms, which helps ensure a blend of continuity and fresh perspectives, and also helps ensure that especially promising potential candidates receive sustained attention from one year to the next. The members reflect a broad diversity of professional backgrounds, Harvard affiliation, gender, ethnicity, and geographic location. Each year the Nominating Committee is charged with nominating one-and-one-half times as many candidates as there are anticipated vacancies on the Board for that year—eight candidates for five anticipated vacancies in a typical year.⁹

Nominating Committee members are provided with a set of general considerations to have in mind in assessing potential candidates. They are also provided with a copy of the [Harvard University Board of Overseers Expectations of Service](#),¹⁰ which at the outset underscores the following point: “As a member of the Board, each Overseer is expected to advance the interests of the University as a whole, taking into account interests of various constituencies while recognizing that a board member’s paramount responsibility is to the University rather than to particular schools, departments, programs, or individuals.” Overseer candidates nominated in recent years reflect the Nominating Committee’s sustained attention not only to professional diversity, but also to demographic diversity—as is evident from the Board’s recent membership.¹¹

Candidates may also qualify for the ballot “by petition.” To do so, one must secure signatures from eligible voters in an amount equal to one percent of the number of eligible voters in the previous Overseers election. While the requirements for ballot access by petition have changed over the decades, the opportunity to qualify for the

⁷ The thirteen-member HAA Executive Committee, consisting entirely of alumni volunteers, is “the formal nexus between Harvard University and its alumni community,” <https://alumni.harvard.edu/community/about-haa/board>.

⁸ Harvard’s vice president for alumni affairs and development and Harvard’s secretary of the Board of Overseers serve *ex officio* as nonvoting members.

⁹ A fractional number is rounded up.

¹⁰ Harvard University Board of Overseers Expectations of Service, https://www.harvard.edu/sites/default/files/content/Harvard_University_Board_of_Overseers_Expectations_of_Service.pdf.

¹¹ The members of the Board of Overseers for academic year 2019-20 are listed in an appendix to this report.

ballot by petition has been a feature of the Overseers elections since the late nineteenth century.¹²

Before being placed on the ballot, all candidates for Overseer, whether nominated by the Nominating Committee or qualifying by petition, must certify that they will abide by the [Expectations of Service](#). Those expectations relate to such issues as attendance and preparation, participation in meetings, the exercise of careful and independent judgment, communications and confidentiality, respect for the difference between oversight and management, and avoidance of conflicts of interest.

(B) Considerations affecting board composition

(1) General observations

In reflecting on the process for nominating and electing Overseers, we have begun with what might seem a self-evident proposition: the process for constituting the Board of Overseers should, above all, reflect the importance of maintaining a governing board whose members are well suited, by virtue of their expertise, experience, and collective breadth, to fulfilling the Board's distinctive role in advancing the overall best interests of the University.

Consistent with the principles of good governance discussed above, the Board depends on having members with the range and depth of experience needed to direct the visitation process – and, more generally, to provide advice and counsel that will be sought and valued by the University's senior leaders as they formulate and pursue priorities, confront myriad challenges, and manage the affairs of an extraordinarily complex institution whose programs extend across a wide array of academic and professional domains.

The Overseers approach their work with a deep concern for the University's long-term progress and well-being in the largest sense. The essence of the Overseers' role, as members of a university-wide governing body, is not to serve the interests of particular constituencies or to act as advocates for specific policy objectives – however worthy those interests or objectives might be – but to focus on ensuring that Harvard as a whole will continue to thrive in pursuing its expansive and multifaceted mission of education and research in service of the larger society. It bears emphasis that the Board of Overseers is not a public body whose members are intended to be chosen through vigorous competition between partisan advocacy groups, but rather a governing board of a private university. While each of the Overseers comes to the Board having particular Harvard affiliations and affinities—with various schools, programs, and

¹² It appears from archival records that the Board adopted formal rules for the nomination of Overseer candidates in 1891, providing that the alumni association would nominate a specified number of candidates through a method of its own devising and that other candidates could qualify “by certificate” signed by a specified number of eligible voters.

communities—their role calls on them to look across the institution and consider how the interplay of its parts can strengthen the whole.

(2) *Candidates nominated by the Nominating Committee*

Identifying candidates who are well suited to serve as Overseers is the specific responsibility of the Nominating Committee.¹³ In a typical year, the Nominating Committee’s diverse members invest substantial time and care in reviewing information on hundreds of potential candidates for the Overseers ballot who have been suggested by alumni or others in the Harvard community. They meet several times each fall, to discuss and debate the merits of leading potential candidates and to reach consensus on a group of (ordinarily) eight candidates for five anticipated vacancies. A recent Harvard Gazette [piece](#)¹⁴ further describes the Nominating Committee’s work.

Members of the Nominating Committee are asked to pay special attention to a set of attributes seen as especially conducive to effective board service:

- experience and accomplishment in an academic or professional domain important to the University;
- a broad interest in and concern for higher education;
- a broad concern for interests of Harvard as a whole, and for the overall quality and continual improvement of its programs of education and research;
- a commitment to investing the time and energy necessary for effective service;
- an understanding of complex organizations; and
- leadership and consensus-building skills.¹⁵

¹³ Authorities on good governance have recognized the importance of having a nominating or governance committee to identify potential board members. See, e.g., BoardSource, *Nonprofit Board Committees: Governance Committee* at 28, 33 (2018) (A governance committee is responsible for “build[ing] a board of capable, diverse, and enthusiastic people with the right mix of skills”; such a committee “makes it possible for the board to be run well.... Strategic recruitment means finding the right people for the board based on their expertise, experience, diversity, background, and networks.... Grounded in a strategic view of the organization and its leadership needs, this practice requires year-round time and focus from the governance committee and the full board.”); Deloitte LLP, *The Effective Not-for-Profit Board: A Value-Driving Force* at 22 (2013), <https://www2.deloitte.com/content/dam/Deloitte/ca/Documents/public-sector/ca-en-public-sector-effective-npo-board.pdf> (“Most public company boards have a nominating committee responsible for proposing new members to the board. Many [nonprofit organization] boards will likely also find it useful to have a nominating committee.... Boards need members who work well as a team, bring the necessary expertise to the board, and are able to best represent the interest of the [nonprofit organization] as a whole and not just a particular constituency.”).

¹⁴ “In search of future Overseers,” *Harvard Gazette*, June 25, 2020, https://www.harvard.edu/sites/default/files/content/Harvard_University_Board_of_Overseers_Expectations_of_Service.pdf.

¹⁵ For similar examples from peer institutions, see Cornell University, <https://alumni.cornell.edu/volunteer/leadership/trustees/nominations/> (nomination criteria for alumni-elected trustees); Stanford University, <https://alumni.stanford.edu/get/page/volunteering/trustee/home> (qualifications considered by Alumni Committee on Trustee Nominations).

The Nominating Committee's deliberations are informed by the perspectives of three committee members who themselves have served as Overseers and can speak from direct experience about the nature of the role and the Board's distinctive duties and needs. The Nominating Committee also learns about areas in which the Board might benefit from greater strength and depth in view of its current composition and recent departures, about the substantial commitment of time that service on the Board entails, and about other matters that bear on assembling a diverse slate of outstanding candidates well suited to carrying out the Board's work. The Nominating Committee's deliberations concentrate on the professional experience and personal qualities of various potential candidates, as well as their knowledge of and engagement with higher education, not on their known or presumed positions on particular policy issues facing the University or the larger society.

The Nominating Committee's nominees for the 2019 election, which concluded on May 21, 2019,¹⁶ illustrate the diverse mix of accomplished candidates seen as well qualified for effective service on the Board of Overseers:

- a professor of biology who directs MIT's institute for integrative cancer research;
- the founder of Girls Who Code, a nonprofit that seeks to close the gender gap in technology;
- the director of the Iowa State Department of Education;
- an investment professional with expertise in the technology sector;
- a sculptor and fiber artist known for large-scale installations around the world;
- a former U.S. Secretary of Education who now leads a nonprofit devoted to educational equity and opportunity;
- an entrepreneur who has founded several life sciences and health care companies;
- a professor of medicine at the University of California, San Francisco, who served as chief medical officer of the San Francisco Health Network;
- a leading management consultant active with the British Museum and the London-based educational organization Teach First.

(3) Petition candidates

As noted above, petition candidates are those who qualify for the ballot not through the Nominating Committee process but by securing a sufficient number of signatures from eligible voters. In the first two decades of this century, as before, the appearance of petition candidates on the ballot has been episodic, but with a notable

¹⁶ In 2019, the Nominating Committee nominated nine candidates for six anticipated vacancies. A seventh vacancy arose in the spring of 2019; therefore, a total of seven candidates were elected, five of them to serve full six-year terms and the other two to complete unexpired terms.

rise in recent years. Individual petition candidates ran for Overseer in 2002 and 2008. In 2009, two petition candidates ran a coordinated campaign for Overseer, opposing what they characterized as “speech codes” and advocating reforms to student disciplinary processes, among other issues. In 2015-16, a group of five petition candidates ran a coordinated campaign for Overseer, asserting unfairness in the Harvard College admissions process (with particular attention to race) and advocating that Harvard College be tuition-free for all admitted students. Most recently, in 2019-20,¹⁷ a group of five petition candidates has mounted a coordinated campaign for Overseer, with a platform initially focused on advocating divestment from companies in the fossil fuel industry, other measures related to climate change, and a proposal that six of the thirty elective seats on the Board of Overseers be set aside for recent graduates and be filled through separate elections in which only such alumni would be eligible to vote, among other matters.¹⁸ In short, the experience of recent years suggests a growing tendency toward petition campaigns involving multiple candidates running together as a slate, advocating positions on specific policy issues facing the University, and employing increasingly extensive communications strategies, now including social media, to advance their candidacies. While these campaigns have highlighted markedly different issues, they have shared the characteristic of vigorous and targeted advocacy for particular policy outcomes.

(4) *Comparison with peer institutions*

As it now exists, the system for nominating and electing Harvard Overseers provides no assurance that the Board will continue to consist predominantly of individuals whose candidacy has been considered and proposed by a duly appointed nominating committee charged with understanding and considering the Board’s distinctive responsibilities and needs. In this respect, the system for composing Harvard’s Board of Overseers is highly anomalous when compared with other private universities’ methods of constituting their governing boards.

Having considered practices at a number of peer institutions, we observe that none of them provides for elections in which the alumni at large may vote to select *all* members of a governing board (excluding the *ex officio* members), or even a majority of such members. And, by extension, none of those peer institutions maintains a system in which the entire membership of a governing board (except *ex officio* members) could consist of individuals who have not emerged from the deliberations of a committee with specific responsibility for evaluating and nominating candidates for the board.

The methods used by peer institutions for constituting their boards differ widely, including how they involve alumni. For all their differences, these methods share

¹⁷ As of this writing, the 2020 election is still in progress. The annual election typically takes place in April-May. The 2020 election, however, is running from July 1 until August 18, having been delayed in view of the COVID-19 pandemic. The committee prepared this report with no knowledge of the election’s results.

¹⁸ The group has since expanded its platform to set forth positions on additional issues.

certain features that set all of them apart from how Harvard Overseers are chosen. While we have not undertaken exhaustive research, some illustrations from a sample of peers are instructive:

- At some institutions, all members of the governing board (other than *ex officio* members) are chosen by the board itself. While an alumni committee or a committee of the board may be closely involved in nominating candidates, none of the board seats are filled through elections in which the alumni at large are invited to vote.¹⁹
- At other institutions, alumni at large are invited to vote to fill a limited number of board positions, often referred to as “alumni trustees.” Candidates for these board positions consist exclusively of individuals nominated by an alumni committee or a committee of the board. There is no separate route onto the ballot “by petition.” In addition, only a clear minority of board seats are filled through elections in which the alumni at large may vote.²⁰
- At still other institutions, alumni at large are invited to vote for a limited number of trustee positions; an alumni committee or a committee of the board nominates a specified number of candidates each year; *and* there is an opportunity for individuals who are not so nominated to qualify for the ballot by petition. Some of these institutions impose limits on how many petition candidates may run in a given year. Some prohibit or otherwise limit campaigning. These variations aside, and as is the case with the prior category of institutions, only a clear minority of board seats are filled through elections in which alumni at large may vote.²¹

The descriptions above omit significant differentiating details. For present purposes, the salient point is that the methods for determining board membership in all these institutions – while variable from one to the next – all share features that present a sharp contrast to the existing system for composing Harvard’s Board of Overseers.

Specifically, all of the systems we have examined are designed to ensure that the governing board will include a strong preponderance of members who have emerged from a deliberative process in which a duly appointed nominating committee (of the

¹⁹ Examples include, among others, Columbia University, Stanford University, and the University of Chicago. While their systems differ, none of the trustee positions is filled through elections in which alumni at large may vote.

²⁰ Examples include, among others, Princeton University, Tufts University, and Williams College. (Princeton has a petition process to qualify for the “primary election” in separate balloting for Young Alumni Trustees.)

²¹ Examples include, among others, Cornell University, Dartmouth College, and Yale University. (At Dartmouth, alumni at large participate in elections only in years when more than one candidate is nominated, whether by the nominating committee or by petition. The prevailing candidate remains subject to election by the board of trustees.)

alumni association or the board itself) has considered the board’s distinctive needs as well as individual candidates’ expertise, experience, and other attributes. To our knowledge, based on our consideration of peer practices, only in the case of Harvard’s Board of Overseers is it possible that all of the board seats – except the two *ex officio* positions – could be secured by individuals who have not been nominated through such a deliberative process.

(5) *Recent elections for Overseers: rising concerns*

The anomalous nature of Harvard’s Board of Overseers elections is not a new feature. Harvard degree holders have had the opportunity to vote for all (except two *ex officio*) members of the Board since the 1860s, and the opportunity for individuals to qualify for the ballot by petition has existed for more than a century. But times have changed. With increasing frequency – including twice within the past five years – multiple petition candidates have mounted coordinated efforts to secure seats on the Board, with the stated intention of advancing specific policy outcomes on contested issues facing the University or higher education more broadly. These groups and their supporters have pursued increasingly ambitious campaigns, with features more and more resembling partisan campaigns for public office. The most recent (2019-20) campaign on behalf of a coordinated group of candidates includes a highly developed campaign organization with eight identified “core team members,”²² a communications strategy involving an elaborate website and extensive use of social media and email appeals, a detailed platform, fundraising from the public, online advertising, and related expenditures to advance the prospects of the slate of five petition candidates.

When we consider the growing impact of social media and other modes of communication unheard of when the basic system for nominating and electing Overseers was designed in the nineteenth century, and when we reflect on trends in the context of highly partisan and well-funded campaigns for public office today, we see no reason to presume that the recent developments in Harvard’s Overseers elections will be transitory, rather than a preview of what the future might hold.

Whatever the merits of a particular petition slate’s specific policy objectives – and whether a given campaign’s focal points involve admissions policy, investment policy, alleged speech codes, student disciplinary procedures, or other issues on which Harvard alumni may have strong and varied views – we are concerned by the prospect that Overseers elections will increasingly resemble professionally organized and externally funded political campaigns for a group of candidates acting in concert, focused more on advocacy for particular policy outcomes than on the expertise, experience, and qualities of individual candidates. We are concerned by the prospect that alumni who are invited by the Nominating Committee to stand for election will be deterred from doing so if they perceive that faring well in the election entails mounting

²² The listed titles of these “core team members” include: campaign manager, strategy & policy advisor, field director, communications strategist, general advisor, financial advisor, brand & technology manager, and social media manager.

extensive, time-consuming, and potentially expensive campaigns akin to running for public office. And we are concerned by the prospect that, without a change in the current system, the Board might before long come to be populated more by members of issue-driven caucuses, sponsored by advocacy groups, and less by individuals who have emerged from a deliberative process in which a nominating committee focuses on their capacity to fulfill the broad-ranging responsibilities of board service. We regard these concerns as sufficiently significant to warrant a change in current methods.

(C) Recommendations

With all of these considerations in mind, we **RECOMMEND** that the governing boards modify the current nomination and election system so that the Board of Overseers would always include a strong preponderance of members who have emerged through a nominating committee process. We do not recommend eliminating the opportunity for candidates to qualify by petition, although some observers have encouraged us to propose such a change. We recognize and respect that petition candidacies have been a feature of Harvard Overseers elections for more than a century, and that petition candidacies can continue to serve a useful purpose in allowing for a wider array of choices on the ballot and possibly for a wider range of voices on the Board. We therefore further **RECOMMEND** that, at any given time, the Board as a whole should include a maximum of six individuals who have qualified for the Overseers ballot by petition and been duly elected.²³ There would continue to be no limit on the number of petition candidates who could qualify for the ballot in a given year. Any number of petition candidates could continue to seek access to the ballot each year -- unless the total number of petition candidates already serving on the Board reached the maximum of six. If that limit were reached, the opportunity for individuals to qualify for the ballot by petition would resume upon the departure of one or more petition-nominated Overseers from the Board.

This change would address the highly anomalous nature of the present Overseers nomination and election process, in comparison with the practices of peer institutions, and would bring it more closely in line with generally recognized good governance practices, as described above.²⁴ Indeed, even with the change, the envisioned process would continue to allow notably greater scope for at-large alumni participation than do board selection processes elsewhere: Harvard degree holders would retain their opportunity to vote for all members of the Board of Overseers (except the two who serve *ex officio*), not just a minority of them (or none at all), as is the case with peer institutions. The change would ensure that the Board will continue to include a strong preponderance of alumni who have emerged through a deliberative process carried out by a thoughtfully chosen Nominating Committee with specific responsibility for identifying a diverse set of outstanding candidates well suited to the

²³ Any Overseers elected as write-in candidates, without their names having appeared on the ballot, would count against this limit as well.

²⁴ See footnotes 2-6, 13, and 19-21 and accompanying text above.

Board’s wide-ranging duties and distinctive needs. And it would preserve the opportunity for individuals other than those nominated by the Nominating Committee to qualify for the ballot by petition. In our view, such an approach would serve the paramount objective of advancing the long-term good governance of the University, while also preserving due scope for a feature of the election process (the opportunity to qualify for the ballot by petition) that has existed for well over a century.

V. CAMPAIGNING FOR THE BOARD OF OVERSEERS

(A) Recent developments

We have already highlighted the episodic yet apparently growing tendency for the Overseers elections to take on features of political campaigns for public office, resembling those one might expect for a public body as distinct from a governing board of a private university. Questions about such campaigns have come to the fore twice in the past five years: both in 2015-16, when a group of five individuals joined together to mount a petition campaign for Overseer, and again in 2019-20, when a different group of five individuals has joined together to do likewise.

These two groups have advanced markedly different platforms. Participants in the 2015-16 campaign, adopting the slogan “Free Harvard, Fair Harvard,” asserted a lack of fairness and transparency in the undergraduate admissions process and advocated that tuition be abolished for all Harvard College students.²⁵ The five candidates included four who had “written or testified extensively against affirmative action, opposing race-based admissions.”²⁶ The campaign proceeded against the backdrop of a lawsuit against Harvard, filed in 2014, challenging aspects of Harvard College’s admissions process.²⁷ Four years later, participants in the 2019-20 campaign,²⁸ adopting the slogan “Harvard Forward,” launched their effort with a focus on climate change (with primary emphasis on a demand that Harvard divest from companies in the fossil fuel industry) and on “inclusive governance” (including a proposal that six seats be set aside on the Board for recent graduates).²⁹ These two campaigns were preceded by

²⁵ “Outsider Slate for Board of Overseers Calls for Free Tuition, Questions Affirmative Action,” *Harvard Crimson*, January 15, 2016, <https://www.thecrimson.com/article/2016/1/15/outsider-overseers-tuition-admissions/>.

²⁶ “How Some Would Level the Playing Field: Free Harvard Degrees,” *New York Times*, January 14, 2016, <https://www.nytimes.com/2016/01/15/us/a-push-to-make-harvard-free-also-questions-the-role-of-race-in-admissions.html>.

²⁷ In October 2019, the U.S. District Court entered judgment in Harvard’s favor in *Students for Fair Admissions, Inc. v. President and Fellows of Harvard College*; an appeal is now pending.

²⁸ As noted above, the election remains in progress as of this writing. (See footnote 17.)

²⁹ harvardforward.org. The group has since extended its platform to a range of additional policy matters.

a campaign in 2008-09 by a pair of petition candidates asserting that universities like Harvard were “in danger of foundering on the shoals of ‘political correctness’” and advocating, among other things, for changes to “Star Chamber-like disciplinary tribunals.”³⁰

As such campaigns have grown in frequency and intensity, questions have emerged about, among other things, the relationship of multiple-candidate slates to advocacy groups seeking to advance specific policy agendas; the role and impact of outside funding in the Overseers elections; the building of staffed campaign organizations; and reliance on increasingly elaborate communications strategies to promote such candidacies through email, social media, and other channels.

At first blush, such campaigns might appear to be predictable, insofar as contested elections and vigorous campaigns commonly go hand in hand. But the object of our attention here is not the arena of avowedly partisan, party-backed, PAC-supported campaigns for public office. It is the composition of a governing board of a private university. We believe that the sound operation of such a board is likely to be impaired, not improved, if election outcomes come to depend on the raising and spending of funds, the engagement of campaign staff, the mounting of extensive media, email, and social media campaigns, the use of online advertising, and the framing of Overseers elections largely as referenda on specific policy questions.

What, more specifically, concerns us? Prospective candidates who have professional backgrounds and personal attributes conducive to outstanding board service might well be inhibited from standing for election if doing so successfully would entail raising and spending funds, engaging a staff, organizing an elaborate communications effort, joining forces with other prospective candidates and advocacy groups, and building candidacies around issue-driven platforms. Alumni voters might well be induced to cast their votes with less focus on the professional experience and personal attributes that individual candidates would bring to bear on the University’s overall governance – including the Overseers’ distinctive responsibility in regard to Harvard’s academic enterprise – and more on whether candidates or their campaign staff have marshaled the organization and resources to appeal directly and repeatedly for voters’ support, or on whether candidates have declared a favored position on one policy issue or another. Candidates elected with the benefit of financial and other support from organized issue-driven groups may well come to the role of Overseer feeling a responsibility to promote and achieve the stated objectives of such groups, whereas the role of Overseer entails serving the interests of the University as a whole, not of particular constituencies.

³⁰ “Meanwhile, at Harvard ...,” *Forbes*, March 22, 2009, <https://www.forbes.com/2009/03/22/harvard-elections-alumni-opinions-contributors-universities.html#9edc1f745671>.

Whatever one's view of such trends in the context of partisan elections for political office, in our view they represent troubling trends in the context of elections for a governing board of a private university.

We recognize and fully support Harvard's deep commitment to free and open expression and lively debate among people with different points of view. That commitment extends, of course, to Harvard's alumni, whose engagement with issues and varied points of view are a source of institutional vitality and strength. The Board of Overseers itself benefits greatly from a diversity of perspectives and from members ready and willing to question, probe, challenge convention, and guard against complacency, all in the spirit of improving the institution and its academic programs. Robust discussion and debate, and a constant concern for how the University can better advance its mission, are hallmarks of a well-functioning board. Although some have suggested that Harvard's governing boards consider adopting a "no campaigning" rule in the context of Overseers elections,³¹ we do not here propose such a blanket approach. Nor do we propose to lay out a set of detailed rules on dos and don'ts of Overseers campaigning practices – given the difficulty of formulating clear rules or norms in this rapidly evolving area, as well as the practical challenges of enforcing them.

All this said, we believe the sound governance of the University risks erosion if Overseers elections come to be seen less a means to consider which individuals would be best suited to perform the Board's governance role, and more a means for alumni to register their views on contested questions of policy. Our committee comes to this view without taking any position on the merits of the distinct issues highlighted in recent campaigns, let alone the innumerable other issues that could conceivably serve as rallying points for future campaigns. On a wide range of matters facing the University, Overseers should bring their own considered views to the Board's deliberations and express them with candor and care – and they should exercise their thoughtful and independent judgment without feeling beholden to campaign sponsors or other such constituencies. What is more, individuals identified by the Nominating Committee as having the potential to serve the University well should not be deterred from standing for election by the prospect of having to mount an organized campaign, especially one complete with staff, field operations, platform planks, a media and communications strategy, and funding to support it all.³²

³¹ Some peer institutions, such as Cornell and Yale, have adopted approaches along these lines in elections for seats on their governing boards. See Cornell University, Elections and Voting, <https://alumni.cornell.edu/volunteer/leadership/trustees/voting>; Yale University, About the Alumni Fellow Election, <https://alumni-fellow-election.yale.edu/about-alumni-fellow-election>.

³² Overseer candidates nominated by the Nominating Committee do not run on a common issue-based platform and are not separately funded by the HAA. And since the number of the HAA-nominated candidates is 1.5 times the number of anticipated vacancies on the Board, they are not a "slate" in the manner of a group that seeks together to have x members elected to x open seats.

(B) Recommendations

The trends and concerns we have noted, while troubling, are recent. They warrant close and continued attention. We therefore **RECOMMEND** that the governing boards monitor these trends and practices in the time ahead, including the 2020-21 nomination and election season, to determine whether a more structured and prescriptive approach to addressing campaign activities should be adopted in the future. We emphasize our concern that money – the raising and spending of funds by Harvard alumni or others in order to secure positions on the Board of Overseers for themselves or others – not become a significant factor in the Overseers elections. Accordingly, we further **RECOMMEND** that in such monitoring the governing boards pay particular attention to the following trends and practices in the context of Overseers elections:

- efforts by candidates or prospective candidates, working individually or in concert with others, to seek or accept financial support from other individuals or entities for purposes of advancing the candidates' nomination or election;
- efforts by candidates or prospective candidates, working individually or in concert with others, to seek or accept campaign services from other individuals or entities that in turn expend funds, or receive funds or other benefits, for purposes of advancing the candidates' nomination or election; and
- the expenditure of funds by candidates or prospective candidates, working individually or in concert with others, for purposes of advancing the candidates' own nomination or election, whether directly or through others.

More generally, we think it important for prospective candidates and their supporters to reflect on the larger institutional implications of orchestrated efforts to use the Overseers elections as vehicles to press their points of view on discrete policy issues. We also think it important for all Harvard alumni, whatever their views on various issues, to reflect on the concerns that issue-driven, resource-intensive campaigns can raise with regard to the composition and overall sound functioning of the Board.

As we have emphasized, good governance of a private institution such as Harvard requires that each Overseer approach the task with a foremost concern for the interests of the University as a whole, rather than for any particular interest, constituency, or cause, however worthy. Recent campaigning trends pose a risk to that important value. While we hesitate at this point to propose the regulation of such activity, we do not hesitate to highlight that risk. And we encourage not only the governing boards but all alumni to bear it closely in mind in the context of future Overseers elections.

VI. ENGAGEMENT WITH RECENT GRADUATES

(A) Considerations

As part of our deliberations on sustaining good governance, our committee was asked to consider ways the Board of Overseers might further benefit from the perspectives of Harvard's recent graduates. We see value in pursuing such an effort. How alumni perceive the University and its opportunities and challenges is no doubt significantly influenced by when they spent their time at Harvard. Recent graduates can bring fresh perspectives on the University and its programs. They can bring distinctive insights on trends, issues, and attitudes in the wider society, and on directions in teaching, learning, and scholarship. They may be more conversant with innovations in pedagogy and communication, and they have connections across an expansive range of alumni communities of essential and growing importance to the University. We recognize that recent graduates, as a group, are as varied in their perspectives, interests, and backgrounds as the members of any other group within Harvard's vast alumni community. But that fact only strengthens our view that there is value in pursuing ways for the Board to benefit more fully from recent graduates' perspectives and experiences.

While we do not favor setting aside seats on the Board for members of a specific demographic or other group within the alumni population, or conducting separate elections for the purpose of doing so,³³ we do believe that the Board will be well served if greater consideration is given to including more recent graduates on the annual Overseers ballot. We have remarked on the Nominating Committee's efforts to present alumni voters each year with a diverse slate of candidates from which to choose. Diversity across generations and graduating classes should be among the elements of diversity that the Nominating Committee weighs as part of its deliberations.

(B) Recommendations

We therefore **RECOMMEND** that the Board³⁴ request that the Nominating Committee intensify its efforts to identify outstanding recent graduates whose experience, accomplishments, and commitment to serving Harvard would make them compelling candidates for Overseer service.³⁵ While we do not recommend imposing a

³³ We recognize that some colleges and universities provide for set-asides and separate elections for recent graduates. In our view, Harvard is better served by a system in which candidates drawn from the alumni community at large are elected by voters from the alumni community at large – an approach that reinforces the responsibility of all Overseers to Harvard as a whole, not to specific constituencies.

³⁴ This request might come from the governance subcommittee of the Board's executive committee, whose responsibilities include advising the Nominating Committee on the present composition of the Board and its particular needs in regard to membership.

³⁵ We do not propose a hard-and-fast definition of "recent graduate." We incline to the view that graduation from Harvard College or one of Harvard's schools within the past ten years (at the outset of service) is a reasonable rule of thumb.

formal requirement, we do **RECOMMEND** that the Board should explicitly convey an expectation that the Nominating Committee will seek to include more recent graduates on the ballot in future years, as it works to present an array of outstanding candidates diverse along many dimensions.

In addition, we **RECOMMEND** that recent graduates be drawn more purposefully into the visitation process. As we have noted, directing the visitation process – Harvard’s primary means for external review and assessment of its academic programs – is a core responsibility of the Board of Overseers. We believe the committees responsible for visiting Harvard College and the University’s other schools would benefit from having more recent graduates directly involved in the process. We therefore **RECOMMEND** that the Board’s executive committee³⁶ set an expectation that the visiting committees for Harvard College and other Harvard schools each include at least one recent graduate of that school. We suggest that this expectation might extend as well, in the executive committee’s discretion, to visiting committees for certain other units and activities. We have particularly in mind the visiting committees for athletics, information technology, the Harvard Library, and the Harvard Art Museums, which might each benefit from the participation of recent graduates with relevant experience. Such participation in the visitation process by recent graduates could not only bring important new perspectives to that Board-directed process; it could also help to identify recent graduates who might go on to serve Harvard in other ways, including as possible future Overseers.

A further **RECOMMENDATION** concerns the governing boards’ Joint Committee on Alumni Affairs and Development. Since its formation in 2011, this committee has typically included several members who are not themselves members of either governing board. Among other things, the committee regularly discusses strategies for sustaining the University’s connections with alumni following graduation, keeping them informed about Harvard, and encouraging their engagement with the University in myriad ways. Considering one or more recent graduates for membership on this committee would, in our view, be a welcome step. In addition, the joint committee might seek out opportunities to hear from time to time from recent graduates who are not themselves members of the committee.

The latter point leads to a final observation. The Board has a wide-ranging set of responsibilities and activities, and we recognize that the agendas for its plenary sessions and committee meetings already tend to be quite full. That is likely to be even more the case in the time ahead, given the unprecedented issues and challenges now posed by the COVID-19 pandemic. That said, in addition to the specific recommendations above, we hope the Board will consider other ways that it might constructively engage recent graduates – formally or informally, through its committees or otherwise – so it can further benefit from their insights and views. The Harvard Alumni Association has an obvious role to play in identifying and enabling such opportunities, and we

³⁶ The Board’s executive committee has responsibility for approving the membership of visiting committees.

RECOMMEND the HAA and the Overseers contemplate additional ways for the Board to learn more about the views of recent graduates – and for recent graduates to learn more about the work of the Board.

* * *

Before concluding, we note our view that all alumni would benefit from knowing more about the role and composition of the Board and the work of the Nominating Committee. We say this recognizing that the HAA, the associated alumni organizations across Harvard’s schools, and the University’s leadership already engage in a wide range of efforts to stay connected with alumni, to invite their perspectives, and to keep them informed about important issues and developments at Harvard. In our experience, both the distinctive role of the Board, and the thoughtful and diligent efforts of the Nominating Committee to identify outstanding candidates for the Board, tend not to be well understood across Harvard’s large and varied alumni community. We are pleased to see recent efforts to inform the alumni about both.³⁷ We encourage further such efforts. And we hope that increasingly many alumni will take the opportunity to vote each year in the election for new Overseers.

³⁷ For example:

- “In search of new Overseers,” *Harvard Gazette*, June 25, 2020, <https://news.harvard.edu/gazette/story/2020/06/learning-more-about-the-role-of-the-alumni-nominating-committee/>
- “Eight current Overseers share their unique stories,” *Harvard Gazette*, June 16, 2020, <https://news.harvard.edu/gazette/story/2020/06/eight-current-overseers-share-their-unique-stories/>
- “Overseeing progress,” *Harvard Gazette*, April 10, 2019, <https://news.harvard.edu/gazette/story/2019/04/harvards-board-of-overseers-president-and-president-elect-discuss-roles/>
- “With Overseer president, interacting is key,” *Harvard Gazette*, March 16, 2017, <https://news.harvard.edu/gazette/story/2017/03/board-of-overseers-president-reflects-on-his-six-year-term/>.

VII. CONCLUSION

We hope that our observations and recommendations will be useful to the governing boards as part of their continual efforts to sustain and strengthen good governance at Harvard. All of us on this committee are privileged to have served Harvard in different ways, and our recommendations spring from a shared desire to see the University in general, and the Board of Overseers in particular, continue to thrive in changing and challenging times.

Respectfully submitted,

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Margaret H. Marshall (chair)
Walter H. Morris Jr.
Tracy P. Palandjian
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July 31, 2020



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HARVARD UNIVERSITY

2019–20 Board of Overseers

(continued)



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(2020)



**Alejandro
Ramírez Magaña**
CEO, Cinopolis,
Mexico City, Mexico
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Diego A. Rodriguez
Executive Vice President,
Chief Product and Design
Officer, Intuit, Inc.,
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Lesley Friedman Rosenthal
Chief Operating Officer and
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Yvette Roubideaux
Director, Policy Research Center,
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Girls Who Code,
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Senior Vice President,
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Google LLC,
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**John Silvanus
Wilson, Jr.***
Former President,
Morehouse College,
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Ryan Wise
Director, Iowa Department
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