MEMORANDUM

To: Board of Trustees of the University of Oregon
From: University Senate Ad Hoc Committee
Robert Kyr, Committee Chair and University Senate President-elect
Margie Paris, University Senate President
Regarding: Board Policy on Authority
Date: May 7, 2014

At the invitation of the Board of Trustees, an ad hoc committee appointed by the University Senate president reviewed the Board’s draft policy on the retention and delegation of authority. The committee thanks the Board for responding quickly to the University community’s desire to provide input and for offering the Senate an opportunity to submit recommendations.

The committee is pleased to submit the attached draft with proposed changes, as well as a document containing all of the input from University constituencies that was not incorporated into the committee’s draft.

In this cover memorandum, the committee identifies its membership, explains its processes, and provides some general comments about its proposed changes.

Membership. The ad hoc committee was comprised of the following members:

• John W. Ahlen: Administrative Program Assistant, Department of International Affairs; member, University Senate (classified staff); Chief Steward, SEIU Local 503
• John E. Bonine: Bernard B. Kliks Professor, School of Law (faculty)
• Michael C. Dreiling: Associate Professor, College of Arts and Sciences, Department of Sociology; member, University Senate (faculty); President, United Academics of the University of Oregon
• Robert Kyr: Philip H. Knight Professor, School of Music and Dance; Vice-President and President-elect, University Senate (faculty)
• Lisa Mick Shimizu: Senate Executive Coordinator (officer of administration)
• Margie Paris: Professor, School of Law; President, University Senate (faculty)
• Lisa A. Raleigh: Director of Communications, College of Arts and Sciences; member, University Senate (officer of administration)
• Helena Schlegel: member, ASUO and University Senates (undergraduate student)

Several other members of the University community also participated by attending meetings and/or providing significant assistance. These included Susan Gary (faculty and Board member), William Harbaugh (faculty), Franklin Stahl (emeritus faculty), Richard Wagner (graduate teaching fellow), and Kurt Willcox (staff and Board member). The committee thanks these individuals and notes that they were not asked to approve the committee’s draft.
Processes. The committee met seven times during April and early May in order to create its draft with proposed changes. During that time it solicited input from the Senate and the entire University community. Some of this input was incorporated into the committee’s draft, and all of it has been collected in a document (“Input from Constituencies”), which is attached to this memorandum.

General comments. The committee sought to accomplish three goals. First, it attempted to correct inaccuracies that it identified in the original draft. Second, it added language in order to create consistency between the policy and existing law, University policies and practices, and the University of Oregon Constitution. Finally, it wished to provide points of reference to important sources of law and policy, such as the Oregon Revised Statutes (including Senate Bill 270) and the Constitution.

Thank you again for engaging the University Senate and the University community in a collaborative process. The committee will be glad to provide additional assistance, if the Board so requests.
UNIVERSITY SENATE PROPOSED CHANGES

≪NOTE: At the invitation of the Board of Trustees, an ad hoc committee appointed by the University Senate President reviewed the “Draft for Discussion” created by the Board Secretary and a committee of the Board. The ad hoc committee solicited comments from the entire University community during April and early May 2014, and created a draft with proposed changes. These University Senate Proposed Changes are provided herein, along with some brief explanatory comments. Suggested additions are underlined and provided in square brackets; suggested deletions are struck through; commentary and citations are in italics and side-ways carets. ≫

Board of Trustees of the University of Oregon
Policy [Describing Board Authority] and Its Delegation of [Some] Authority

Preamble
The Board of Trustees [of the University of Oregon] shall establish the governance model of the University of Oregon while respecting the historic philosophy of shared governance [as set forth in relevant legislation and the University of Oregon Constitution, and as reflected in current practices, adopts the following policies].

[As provided in Section 18 of Senate Bill 270, “The president and professors constitute the faculty and as such have the immediate government and discipline of a university with a governing board and the students therein, except as otherwise provided by law or action of the governing board. The faculty may, subject to the supervision of the governing board and section 8 of this 2013 Act, prescribe the course of study to be pursued in the university and the textbooks used.”]

≪NOTE: While the Draft purported to “establish” the governance model, the model was established by state law in large part, including in Senate Bill 270 and by the University of Oregon Constitution (which the Board of course has the power to change in the future). Our proposed changes closely track state law and the University of Oregon Constitution. In various places they also track current University policies and practices.>>

[This Policy in Section 1 states the authority of the Board, Section 2 describes the documents that will be used to govern the University. Section 3 delegates authority to the President. Section 4 describes the role of the faculty in the governance structure. Existing law, including SB 270, codified in chapter 352 of the Oregon Revised Statutes, provides the statutory rules that underlie this Policy.]

[Nothing in this Policy should be read to have any effect on matters controlled by any collective bargaining agreement involving employees and entered into prior to the adoption of this Policy.]

≪NOTE: This paragraph is proposed in order to respect existing union contracts.≫

1.0 Authority of the Board of Trustees; Appointment of the President of the University
1.1 Board Authority. The Board of Trustees is the final University authority and has full control of the University and its property of various kinds. The Board may take any and all Board actions as it determines necessary or appropriate, except as otherwise provided by law, internal governance procedures, and any applicable collective bargaining agreements. Such Board actions have precedence over other policies, standards, directives and other actions of the University and its constituent parts. Any policies, standards, directives and other actions of the University and its constituent parts shall be consistent with Board actions. In a manner consistent with state law, internal governance procedures, and any applicable collective bargaining agreements, the Board may review and intervene in any and all aspects of the University; modify any policy, standard, or directive; amend or rescind any existing policy, standard or directive; and enact and issue such policies, standards and directives as it deems proper for the University. The Board shall adopt a mission statement for the University in consultation with the faculty, students and staff members.

1.2 Appointment of the President of the University. In consultation with the Governor, or the Governor’s designee, [and the University community] the Board shall appoint and employ a President of the University. The President reports exclusively to the Board, and the Board supervises the President. The Board shall prescribe the President’s compensation and terms and conditions of employment and is responsible for the reappointment or removal of the President. The President shall perform such duties as are assigned by the Board. Except as otherwise provided by law or Board action, the President is the executive and governing officer of the University [and President of the faculty]. The President shall, from time to time, report to the Board [and the University community] all significant matters within the President's knowledge related to the affairs of the University.

1.3 University Budget. The Board shall adopt the budget of the University.

1.4 Tuition and Fees. The Board shall determine tuition and mandatory enrollment fees [according to the procedures in sections 10 (2), 10 (3), and 10 (4) of Senate Bill 270. The student government, after consultation with the student body and in consultation with the President, will make recommendations on the incidental fee to the Board] (including incidental fees) for students who are enrolled in a degree program. The President determines all other fees, fines and charges [in consultation with the recognized student government as appropriate, and] after providing notice to the Board.

<<NOTE: These additions are taken from SB 270. Section 10 (2): “The governing board shall establish a process for determining tuition and mandatory enrollment fees. The process must provide for participation of enrolled students and the recognized student government of the university.” 10 (3): “The governing board shall request that the president of the university transmit to the board the joint recommendation of the president and the recognized student government before the board authorizes, establishes or eliminates any incidental fees for programs under the supervision or control of the board and found.” 10 (4): “The governing board may not increase the total of tuition and mandatory enrollment fees by more than five percent annually unless the board first receives approval from: (A) The Higher Education Coordinating Commission; or (B) The Legislative Assembly.” >>
1.5 **Student Conduct.** The Board has the authority to establish written standards of student conduct. [As provided in section 18 of Senate Bill 270, primary authority over student conduct lies with the faculty. The Board retains the authority to take action on matters of student conduct.]

≪NOTE: State law provides that the “immediate governance and discipline” of the University is given to the President and professors, but the Board can provide otherwise by “action of the governing board.” To be consistent with SB 270, faculty authority over student conduct is described in paragraph 4.3 of these Senate Proposed Changes.≫

1.6 **Employees and Volunteers.**

1.6.1 The Board has, subject to any applicable collective bargaining agreements, rules, and delegations, the ultimate authority to appoint and employ any instructional, research, administrative, professional, trade, occupational and other personnel as are necessary or appropriate and establish their compensation and other terms and conditions of employment. The Board also has the ultimate authority to appoint volunteers as necessary or appropriate and establish the terms and conditions of the activities of such appointed volunteers. The Board has delegated the authority described in this subsection as set forth in Board actions.

≪NOTE: Additions are proposed in order (1) to respect existing union contracts, (2) to respect any Board rules, and (3) to respect any delegations the Board makes.≫

≪NOTE: The word “ultimate” is superfluous. It is adequate to say “authority” instead of “ultimate authority.” The authority is found in ORS 351.107.≫

1.6.2 [Subject to Senate Bill 270, and to the extent that the exercise of such authority is consistent, when applicable, with collective bargaining agreements, t]The Board has the authority to establish written codes of conduct for instructional, research, administrative, professional, trade, occupational and other personnel, including volunteers.

1.7 **Business and Administrative Affairs.** [Of the authorities granted by the State of Oregon, t]The Board retains authority for the following:

1.7.1 The approval of the naming of University buildings or outdoor areas in recognition of individuals or organizations.
1.7.2 The approval of the execution of instruments relating to real property where the anticipated cost or value to the University exceeds $5,000,000.
1.7.3 The approval of the appointment of external auditors.
1.7.4 The approval of a capital project budget that is anticipated to exceed $5,000,000, including for architects, construction managers, engineers and other professional consultants; and approval of any increase to a capital project budget that causes the total of all increases to the capital project budget to exceed $5,000,000.
1.7.5 The approval of the execution of instruments relating to any borrowing or debt finance transactions which are or may be in excess of $5,000,000, singularly or in the aggregate.

1.7.6 The approval of the execution of instruments relating to any shares, stock or other equity or interests in or obligations of any entity other than the University in excess of $5,000,000, unless the shares, stock or other equity or interests in or obligations of the entity are publicly traded or provided through the State Treasurer, University of Oregon Foundation or a brokerage firm, investment bank, depository or other licensed firm.

1.7.7 Consent to the encumbrance of University real property by the State of Oregon.

1.7.8 The approval of the execution of any other instruments, including but not limited to instruments related to the acquisition, disposal or provision of goods and services, where the anticipated cost or value to the University exceeds $5,000,000; and approval of any increase or decrease in cost or value that causes the total of all increases or decreases in cost or value to exceed $5,000,000. When the ultimate aggregate cost to the University is not known in advance for instruments relating to the acquisition, disposal or provision of goods or services on a continuing or intermittent basis (e.g. rental, service, or supply contracts), the amounts set forth in this paragraph shall be calculated on an annual basis.

1.7.9 The approval of the execution of any instrument that the President, Treasurer, Chair of the Board of Trustees, or a majority of the Trustees deems appropriate for consideration by the Board or a Board committee, so long as the instrument has not been executed.

1.8 Academic Programs; Degrees; Admissions.

1.8.1 The Board has the ultimate authority to establish, eliminate, control or substantially reorganize academic programs and units of operation. Any significant change in the University’s academic programs as defined by the Higher Education Coordinating Commission must be approved by the Board prior to submission to the Commission.

1.8.2 The Board confers academic degrees, certificates and other forms of recognition upon the recommendation of the faculty. Such academic degrees, certificates and other forms of recognition are granted in the name of the Board of Trustees of the University of Oregon and are executed by the Board Chair and the University President. The Board reserves the right to review and approve the granting of any degree, certificate or recognition. The Board shall have the exclusive authority to approve honorary degrees.

1.8.3 [As provided in Senate Bill 270 and ORS 352.010.] The Board has the ultimate authority to establish standards, qualifications, policies and practices relating to admission to study at the University and the curriculum, grading, credits, scholarships, and academic standards of the University[; subject to the supervision of the Board]. Except as set forth in law or Board action, the Board has delegated to the faculty (the "president and professors") the immediate
1.9 Gifts. The Board retains authority for the acceptance of the following gifts:

1.9.1 Gifts that create obligations on the part of the University for which there is no established funding source.

1.9.2 Gifts with a value exceeding $5,000,000 which involve: (1) Construction of facilities not previously approved; or (2) Non-traditional investment assets (such as real estate, debt instruments, closely held stock, partnership interests, permanent insurance policies, royalties, copyrights, licenses, and other illiquid assets); provided that gifts described in this subsection with a value between $1,000,000 and $5,000,000 will be reported to the Board of Trustees quarterly.

1.9.3 A gift requiring naming of a University building or outdoor area.

1.9.4 Any other gift that the President, Treasurer, or a majority of the Board of Trustees deems appropriate for Board consideration.

1.9.5 Current gifts of non-traditional investment assets, charitable lead trusts where the University is to act as trustee, bargain sale gifts of property, and partial interest gifts.

1.9.6 Deferred gifts, if the University is to act as trustee or custodian of the deferred gift.

1.9.7 Gifts of real estate, interests in real estate, or gifts of debt instruments secured by real estate from other than the University of Oregon Foundation. The Treasurer shall determine in each such case, including when the gift is from the University of Oregon Foundation, whether a hazardous waste inquiry or other due diligence is required, and the scope and extent of such inquiry. The President and the Treasurer, in consultation with the Vice President for Advancement, shall establish further policies and procedures regarding evaluation of gifts of real estate, as may be necessary or desirable from time to time.

1.10 Gifts to the University of Oregon Foundation. Gifts to the University of Oregon Foundation shall be accepted by the University of Oregon Foundation in accordance with then-current agreements between the University and the Foundation (as may be amended from time to time).

2.0 Policies, Standards and Directives

2.1 Governing Documents. The University shall have the following governing documents:

2.1.1 Bylaws of the University of Oregon, policies, standards, directives and other actions approved by the Board of Trustees or a committee of the Board as appropriate ("Board actions").

2.1.2 Policies, standards and directives approved by the President of the University regarding matters within the authority of the President ("Presidential actions").
[2.1.3 Policies and legislation established by the faculty (either directly or by the
University Senate, which exercises delegated authority) and approved by the
President (“Faculty actions”).]

2.1.[4] A constitution as described in this Policy [that defines the process by
which the President, professors and other University constituencies shall conduct
their governance responsibilities as recognized by ORS 352.010 and prior
practice.]

<<NOTE: The changes are proposed in order to be consistent with state legislation that includes
faculty authority.>>

2.2 Force of Law; Emergency and Temporary [Policies] Actions. Board [policies] actions
shall have the force of law to the extent set forth therein. [In emergency situations the President
or his/her designee may “temporarily suspend or abridge a given policy statement in the interest
of equity, public safety, or extraordinary circumstances not anticipated when the policy was
promulgated.” Such action is “effective as an interim or emergency policy for six months unless
it is revoked before then.”] Emergency and temporary Presidential actions may have the force of
law to the extent set forth therein. Any Board action or Presidential [policy] action that is
intended to have the force of law must include an opportunity for appeal.

<<NOTE: As provided in section 11 of Senate Bill 270, the Board may “establish policies for
the organization, administration and development of the university which, to the extent set forth
in those policies, shall have the force of law.” The legislation specifies only “policies” of the
Board – not other actions – as having the “force of law.” Emergency powers of the President
are stated in University of Oregon Policy 01.00.01. The six-month limitation in current
University policy is consistent with the practices of and law regarding Oregon government
agencies, whose temporary policies are limited by ORS 183.335(6)(a) to 180 days.>>

2.3 Enforcement. [As provided in Senate Bill 270, policies for the organization,
administration and development of the University “may be enforced through university
procedures that include an opportunity for appeal and in any court of competent jurisdiction.”] Any Board action or Presidential action may be enforced by the University through internal
procedures and in any court of competent jurisdiction. All Board actions and Presidential actions
are binding on University employees, students, volunteers, contractors and members of the
public, except as set forth therein.

<<NOTE: The Policy’s phrase “binding on” does not appear in Senate Bill 270. >>

2.4 Public Notice. Except for emergency and temporary Board actions and Presidential
[policies] actions, [meeting materials and public notice shall be provided according to the
Attorney General’s Public Records and Meetings Manual.] all Board actions and Presidential
actions shall be approved in a manner reasonably calculated to provide public notice of the
proposed and final approval.
2.5 Posting. After approval, emergency and temporary Board actions and Presidential actions shall be posted on the University website in a manner reasonably calculated to provide public notice of the approval.

3.0 Authority of the President of the University

3.1 Executive and Governing Officer; Delegation. The President of the University is the executive and governing officer of the University, except as otherwise provided by statute or Board actions. Subject to the supervision of the Board and Board action, the President shall direct the affairs of the University. The authorities and responsibilities of the President of the University include, but are not limited to, the authorities and responsibilities set forth in and modified by section 1.0, and this section 3.0; and the President may delegate any authorities and responsibilities, except as provided by Board actions. Any delegation must be consistent with Board actions. The President remains responsible for the proper functioning of the University, notwithstanding any delegation by him or her.

3.2 Policies, Standards and Directives; Consultation. The President of the University shall formulate, prescribe and issue Presidential actions regarding matters within the authority of the President when the Board or the President deems it necessary or appropriate. Any Presidential actions are subordinate to and must be consistent with Board actions. In carrying out these duties, the President should consult with the faculty, other employees, and students in academic matters, follow the procedures on academic matters that are specified in section 4, and, in other actions, consult as deemed appropriate by the President. Consultation shall remove from the President the authority and the responsibility vested in the President by law and Board actions.

NOTE: This is consistent with the provisions of shared governance rooted in ORS 352.010 and with the University Constitution.

3.3 Emergency and Temporary Actions; Technical Corrections. Subject to the limitations described in section 2.2 above, the President of the University shall establish emergency and temporary policies, standards and directives when the Board or the President deems it necessary or appropriate. Such policies, standards and directives may have the scope and force of Board actions and must be reported to the Board expeditiously. Pursuant to expedited procedures, the President of the University may amend Board actions and Presidential actions in order to correct typographical errors, make address or formatting changes, or clarify language without changing their effect. Such amendments must be reported to the Board quarterly. The President may make expedited repeals of Board actions and Presidential actions, provided that expedited repeals of Board actions are contemporaneously reported to the Board and ratified at the next Board meeting.

NOTE: This last sentence seems unbounded and unlimited and would undercut Board authority. We suggest deletion or clarification so that it does not have such effect.
3.4 Committees, Councils and Advisory Groups. The President of the University [may] shall establish and define the charge of any and all University committees, councils, and advisory groups [that are created by, and accountable to, the President or his/her designee]. The establishment and charge of any and all University [such] committees, councils and advisory groups shall be consistent with law and Board actions. The recommendations and reports of all [such] committees, councils and advisory groups shall be made to the President[who shall provide copies to the executive committee of the Board of Trustees].

≪NOTE: The University Senate establishes and defines the charges of its standing committees.≫

3.5 Students. Subject to Board action, the President of the University shall act for the Board of Trustees in relation to all matters pertaining to students, the student body and other matters incident thereto.

≪NOTE: Moved to section 4.≫

3.6 University Personnel.

3.6.1 The President of the University [may] shall act for the Board of Trustees regarding all personnel and employment matters, including labor relations. and approval of [C]ollective bargaining agreements [shall be subject, when applicable, to the approval of the Board]. Subject to Board action, the President has the exclusive authority to and shall establish necessary or appropriate written policies, standards and directives covering all employees not represented by a collective bargaining organization and necessary or appropriate written policies, standards and directives covering employees represented by a collective bargaining organization, subject to any legal obligation to negotiate the terms and conditions of such policies, standards and directives with the exclusive representative of the relevant bargaining unit.

≪NOTE: Neither the President nor the Board currently has authority to approve collective bargaining agreements for classified employees. Similarly, neither the President nor the Board has the authority to negotiate any mandatory subjects of bargaining with the classified employee union(s).≫

3.6.2 [In a manner consistent with state law and applicable collective bargaining agreements, t]he President may appoint any instructional, research, administrative, professional, trade, occupational and other personnel as are necessary or appropriate and establish their compensation and other terms and conditions of employment.

3.6.3 The President may appoint volunteers as necessary or appropriate and establish the terms and conditions of the activities of such appointed volunteers.
3.[6]  Research Grants and Contracts. The President of the University shall act for the Board of Trustees regarding grants and contracts for research, development, service, and training. However, a quarterly report to the Board is required for each initial contract or grant award that exceeds $5,000,000, and when any increase or decrease to a contract or grant award causes the total of all increases or decreases to the contract or grant award to exceed $5,000,000.

3.[7]  Execution and Administration of University Affairs. Except as provided by Board action, the President of the University shall act for the Board regarding the execution and administration of instruments and the affairs of the University. Notwithstanding the dollar limits specified in section 1.0 above, the President shall act for the Board of Trustees regarding the execution and administration of all instruments, business affairs, and operations relating to:

3.[7]8.1 Acquisition of electricity, natural gas, sewer, water, and all other utility services;
3.[7]8.2 Subcontracts for collaborative research entered into in furtherance of sponsored research programs[subject to University policies];

≪NOTE: There are university policies governing research contracts.≫

3.[7]8.3 The acquisition of goods and services made by participating in contracts entered into by group purchasing organizations or pursuant to collaborative purchasing initiatives with public or non-profit entities.
3.[7]8.4 The acquisition of fixtures, equipment and furnishings that are included in capital project budgets that have been authorized by the Board of Trustees.
3.[7]8.5 The acquisition of goods and services for sponsored research programs when the source of the goods or services is directed by the sponsor, or the sponsor retains title to the goods acquired.
3.[7]8.6 The settlement of claims or lawsuits brought against the University.
3.[7]8.7 The acquisition of insurance or self-insurance.
3.[7]8.8 Leases and licenses of real property and modifications thereto of up to 20 years.
3.[7]8.9 Deferred gift assets.
3.[7]8.10 Real property acquired through gift or devise from the University of Oregon Foundation;
3.[7]8.11 The protection of the University's interests, property and operations in an emergency.
3.[7]8.12 Actions and execution of documents necessary to establish legal entities, controlled by the University, through which the University may conduct business;
3.[7]8.13 Selection of depositories and investments.
3.[7]8.14 The execution of instruments or the conduct of business affairs where approval by the Board or a Board committee is impractical due to time or other constraints. The President shall submit a report of any actions taken pursuant to this delegation to the Board of Trustees or its Executive Committee on or before the next regularly scheduled meeting.

3.[8]  Legal Action. The President of the University shall act for the Board of Trustees regarding all legal action necessary or appropriate to protect the interests of the University. However, no litigation shall be instituted against a public entity or official or in exercise of the
power of eminent domain without approval by the Board of Trustees. The Board Chair may authorize the institution of other litigation. [The President shall notify the Board Chair whenever legal action is initiated.]

3.[9] Gifts. Subject to Board action, the President of the University shall act for the Board of Trustees regarding all current and deferred gifts to the University, including gifts to establish quasi-endowed or permanently endowed funds. Notwithstanding any delegation by the President, a gift with unusual terms or conditions affecting an academic program shall be accepted only with the concurrence of the President to the proposed terms or conditions. The proceeds of any gift, devise, bequest, or contribution received by the University shall be administered in accordance with the intention of the donor and any directions of the Board of Trustees in accepting the gift. Wherever possible, the University of Oregon Foundation shall manage gifts. The President of the University is authorized to act for the Board of Trustees regarding the disposition of gifts.

3.[10] Fees, Fines and Charges. Subject to Board action [and applicable laws], the President of the University shall establish fees, fines, and charges. The President shall enforce the collection of tuition, mandatory enrollment fees, other fees, fines, charges, and all other amounts due to the University.

4.0 [Authority of the Faculty]

4.1 Role of the Faculty. Except as set forth in Law or Board action [As provided in ORS 352.010 and other applicable laws, the faculty, which consists of the President and the professors,] has:

4.1.1 The immediate government and discipline of the University and the students therein. [This includes, but is not limited to, the authority, except as otherwise provided by statute or Board action, to determine the conditions for admission, the conditions for degrees and certificates (other than honorary degrees), and the conditions for membership on the faculty.]

4.1.2 The authority, [subject to supervision of the Board], to prescribe the course of study to be pursued in the University and the textbooks to be used.

≪NOTE: This section is rewritten to mirror ORS 352.010, which embodies the 140-year-old Charter of the University of Oregon, and provides the basis for the faculty’s authority.≫

4.2 The President and the Professors. The President and the professors constitute the faculty. The President of the University, [as] is the president of the faculty, [shall facilitate effective faculty governance regarding academic matters in accordance with the University of Oregon Constitution.]

4.3 Shared Governance. Shared governance, as a principle in American higher education, is embedded in longstanding practices, and reflects the regard for all stakeholders in the academic endeavors of the University.
4.3.1 University Senate: The professors comprise the Faculty Assembly. The Faculty Assembly has delegated some authority to the University Senate, which consists primarily of members of the “statutory faculty” (defined as “the body of professors, consisting of the University President, tenure-related officers of instruction, career non-tenure-track officers of instruction, and officers of administration who are tenured in an academic department”). The University Senate also includes representatives of officers of administration, classified staff, career non-tenure-track research faculty and students. The University Senate collaborates with the University President to oversee the immediate governance of the University and the students therein.

4.3.2 University President: The actions of the University Senate or the Faculty Assembly are subject to final disposition by the President of the University, as provided in section 7.2.2.4 of the University of Oregon Constitution.

4.3.3 Board of Trustees: All actions of the University Senate and President are subject to deliberations and actions of the Board of Trustees.

4.4 Students. Subject to Board action, the President [and the professors] of the University shall act for the Board of Trustees in relation to all matters pertaining to students, the student body and other matters incident thereto.

<<NOTE: Moved from section 3.5.>>

4.[5]3 Higher Education Coordinating Commission. [Changes] Any significant change in the university’s academic programs [that raise issues under ORS 351.047 will be submitted to the Higher Education Coordinating Commission after approval by the Board.] as defined by the Higher Education Coordinating Commission must be approved by the Board prior to submission to the Commission.

4.[6]4 University of Oregon Faculty Constitution. [The University of Oregon Constitution is subject to modification by the procedures therein, or by the Board to the extent consistent with state law.] The faculty has adopted a constitution, which is subject to ratification by the President and approval by the Board of Trustees. A constitution, and any amendments to it, must be consistent with law and Board actions.

<<NOTE: The Board may prescribe changes, but the letter and the spirit of Oregon law evince respect for the established system of shared governance.>>

4.5 Modification. The faculty constitution is subject to modification by the Board of Trustees in consultation with the President and the professors.

5.0 Channel of Authority
The faculty and officers and employees of the University shall, through appropriate channels, be responsible to the President of the University and through the President to the Board of Trustees, except that the Treasurer, General Counsel and Secretary are responsible to the Board in relation to the business of the Board.
Input from Constituencies
Received via email

1. **Comment from Josna Lauryan Lewis:**

Regarding page 1, line 41, Appointment of the President of the University, can we please add Officers of Administration, Classified Staff: Governor’s designee, Officers of Administration, Classified Staff, [and the professors.] the Board shall appoint and employ a President of the…

2. **Comment from Ian McNeely:**

I have always been puzzled at how often the antiquated language about "immediate government and discipline," course of study, and textbook assignments surfaces in legislation and other policy documents concerning UO. I know that this language is derived from SB 270 and from past legislation on Oregon universities. (I was once told by Michael Redding, during the workup of the New Partnership draft bills in the Lariviere administration, that it was kept there as a placeholder.) Now it appears in sections 1.8.3, 4.1.1, and 4.1.2 of the draft Delegation policy. I note, too, that it appears in three additional places in the revised draft proposed by the ad hoc committee (in sections 1.1, 1.5, and, for a second time, in 1.8.3).

Threats to faculty governance are very real and very current, even in matters of curriculum and even on the narrow issue of textbook assignments (which the Florida legislature is currently attempting to micromanage). But no one crafting this language from scratch would formulate the role of the faculty in university governance in this way. To point out the obvious, faculty not only prescribe a course of study but actually carry it out; they prescribe other materials besides textbooks; and they engage in other critical activities besides instruction, such as research and service.

Most crucially, giving the faculty "immediate government and discipline" of the university begs the very question this policy, together with all our other shared governance policies and structures, is ostensibly supposed to answer: what, exactly, is immediate government and discipline? What should that mean?

I know that this language has become almost talismanic among advocates of shared governance on our campus and as an historian of higher education, I appreciate the way it anchors us in the past -- or at least, in an idealized past. And yet I feel that the more it is allowed to propagate, the more confusion is sown among Board members, the public, and other users of this policy about what it is that faculty actually do and why their judgments matter to university governance -- today.

I would therefore propose that it be stricken unless there is some legal reason that it has to be kept, or some legal advantage to be gained by keeping it. To my layman's eyes it simply appears vestigial. To the extent that it recapitulates Section 18 of SB 270, it is redundant; to the extent that it may be superseded by other Board action or policy, it is
ineffectual; and to the extent that it is being used -- via this policy -- to craft a role for faculty in governance, it is confusing and unhelpful.

I would suggest instead that section 1.8.3 mirror section 1.6.1. Section 1.6.1 reserves ultimate authority to the Board in matters of personnel but delegates it away to the President as detailed in section 3.6. Analogously, section 1.8.3 could reserve ultimate authority to the Board in matters of curriculum, grading, etc. but then delegate it away to the Faculty, as detailed in section 4.0. This seems consistent with what I know about how Boards operate elsewhere.

As for section 4.0, I would eliminate subsections 4.1.1 and 4.1.2 for the reasons described earlier and adopt Susan Gary's suggested modifications to subsection 4.4 on the UO Constitution. I am not a fan of the UO Constitution (for reasons I would be happy to explain but are not relevant here), but it's still preferable to rely on it -- instead of the SB 270 language -- as a means of hooking up the cars of this train, i.e. linking up the new Board to existing governance structures.

3. **Comment from Rachelle H Saltzman:**

it seems to me that neither document pays much if any attention to OAs with regard to governance. We seem to have next to no say (and possibly no say) in how things operate; all the power seems to be vested in the President, the Board, and a small amount with faculty.

4. **Comment from Kira Gerritts:**

In general I agree with the edits suggested by the Ad hoc committee. My thoughts regarding specific sections are below:

Section 1.5 Student Conduct.
The original version of the policy vests all power over student conduct in the Board of Trustees. This contradicts the law which vests all governing and disciplinary power with the faculty of the university, who subsequently delegated that power to the University Senate. The committee version reflects that in actuality the Board is not empowered to unilaterally control the student conduct requirements. As a student, I strongly believe that things such as student conduct should not be in the hands of the Board or the president alone, but properly belongs in the hands of the campus community as a whole, as reflected in the faculty's delegation of governing power to the University Senate.

Section 3.5 Students.
This section grants the president the power to act for the Board in all matters pertaining to students. This seems unreasonably broad. This section could be read as overlapping into areas such as student conduct and requirements of academic programs and control over student groups. There is no room in this section for the input of the university community, it particularly lacks any way for students or faculty to participate in these determinations. I hope the committee in some way modifies the language of this section.
to limit the unchecked power of the president alone to make all determinations regarding students.

Section 1.8 Academic Programs.
It seems unreasonable to give the Board complete control of the academic programs of the university. That power should rest with the faculty. I would be surprised if the Board actually wanted to spend the time and effort to develop these programs and oversee them. It makes sense to have the faculty develop the standards and qualifications etc required for degrees and curriculum.

Section 2.2 Enforcement.
This section would allow the board and the president to create law without any sort of checks on that power. While there is a right to appeal (although appeal to whom is not stated) this is still a huge grant of power, which if the committee comments are correct, is outside the scope of the grants by the Oregon Legislature. I strongly hope that this section is revised to limit the law making power of the unelected administrators.

Section 2.4 Public Notice.
I agree with the committee that there ought to be some opportunity for public comment and consideration of those comments, not simply notice. Especially considering the Board is possibly going to have the power to make its policies have the force of law.

5. **Comment from Ron Bramhall:**

1. The Preamble states: "The Board of Trustees shall establish the governance model of the University of Oregon while respecting the historic philosophy of shared governance."

As this grounds the rest of the document, I believe the language on shared governance should be stronger. First, shared governance at the UO, despite it's setbacks and flaws at times, is more than a philosophy - it is a set of policies, rules and practices critical to the continued drive for excellence at UO. Second, the language above also seems to set apart "shared governance" from "board governance, as if "shared governance" means that which comes from faculty and board governance comes from the Board. We should strive for shared governance to mean the overall approach we take - all of us...faculty, staff, administration, board, alumni, etc.. - to strive for excellence. That overall approach certainly divides and delegates authority and responsibility, but the "shared" piece of this should be more encompassing. Finally, this policy should do much more than merely "respect" the philosophy of shared governance. I don't know the right language here, but the policy should embrace, define, incorporate, or something along those lines - shared governance. Respect is too passive and does not imply an integration of shared governance across constituencies and authority lines. One can respect from a distance with no real obligation to engage or collaborate - this needs to be more integrated than that.

2. In 1.1: "[Except as otherwise provided by law,] Board actions have precedence over other policies, standards, directives and other actions of the University and its constituent
parts. Any policies, standards, directives and other actions of the University and its constituent parts shall be consistent with Board actions."

I would change that to be consistent with other statements to this: " [In a manner consistent with state law, internal governance procedures, and any applicable collective bargaining agreements] Board actions have precedence over other policies, standards, directives and other actions of the University and its constituent parts. Any policies, standards, directives and other actions of the University and its constituent parts shall be consistent with Board actions."

It's a more accurate statement, I believe, to include the more expansive language -as Geller stated in the meeting, for instance, the Board can take no action or make no policy that contradicts the faculty Collective Bargaining Agreement. The change I made makes that more clear.

3. In 1.5: "Student Conduct. The Board has the authority to establish written standards of student conduct."

I appreciate the included language here and of course the board has authority to do this. But the legislation actually grants this authority of "discipline" to the faculty under supervision of the Board. I think it could be made clearer that the board actually delegates this authority to the faculty.

4. I agree wholeheartedly with the extensive comments in 2.2 and 2.3 and hope that will be substantively addressed by the board.

5. In 3.2: "Any Presidential actions are subordinate to and must be consistent with Board actions. In carrying out these duties, the President should consult with the faculty, other employees, and students as deemed appropriate by the President."

This language needs to more strongly assert that the President should consult with faculty, other employees and students in accordance with University Constitution defined policies/procedures. i don't think it's entirely up to the President when and how he/she consults. nor should it be. We've been down that road.

6. I also strongly agree to striking of 4.4, 4.5. That looked like an attempt to assert that the UO Constitution was not already ratified when in fact it was ratified and I believe affirmed as such by President Gottfredson. This policy should not reopen that question. Rather, the policies/procedures in place should determine the ratification/amendment process of our Constitution.

7. Finally, in general, the document is not well organized. For instance, with the new additions of the role of the faculty and President early in the document, it doesn't make much sense to have the "Faculty" section at the end. If the Board, President and Faculty sections were at the beginning, including language of each one's authority, the rest of the document would flow much better.
6. **Comment from Deb Mailander:**

I am concerned that the document grants some sweeping authorities to the board and the President, without any mention of processes that include input from affected constituents on campus. I’d like to see opportunities for meaningful comment, public discussion, and accountability when changes that are proposed that affect department budgets or employment conditions. This shared governance would seem especially critical in reference to section 2.3, which states that “All Board actions and Presidential actions are binding on University employees, students, volunteers, contractors and members of the public, except as set forth therein.”

My additional concern is that OAs, who do not have the protections of a collective bargaining agreement are left with little to point to if new policies are created or other trustee actions become binding on employees. Section 1.6.1 grants the trustees and their designees unilateral authority to create policies and set compensation structure for employees. I understand that in the private sector it is “management” which sets policies and compensation. However the University is a different setting. Additionally, while bargaining unit members have protections and procedures built into their CBAs, other employees do not. In the spirit of shared governance it would be great to have language in this section that limits its reach and/or provides for input, where practicable by potentially impacted employees. While many actions of the board would not have significant impacts, there are others that could dramatically change working conditions.

7. **Comment from John Chalmers:**

I read through the red-lined version of the R&D document. I have two general questions/comments. I understand that the board needs to make decisions, but are there checks and balances? Examples in the documents --

In section 1.6 – the board hires the faculty? What input do the faculty have? For example, the board says we should hire more “professors of practice” – people who have gone to non-research oriented PhD programs (mail order in the extreme) and have a career that provides their qualifications. Can the board force us to hire someone who is unqualified in the faculty’s opinion?

In section 1.8.1 -- I am concerned about what reads as unilateral authority of the board to “establish, eliminate, control or substantially reorganize.” In what sense, do the faculty of the university have an impact on these monumental decisions? e.g. the board decides we should be great at (xyz subject) and we start a program (without funding). What happens if we get rid of a program that is crucial to the University but has for whatever reason landed on the boards list?

In section 3.4 the [committee text is spot on…] We have many committee’s that must operate and don’t require the direct interaction with the president.
Throughout the document $5 million is used as the cutoff for what appears to be in some cases reporting and in others approval. Seems pretty low...should it be inflation adjusted (% of the budget?) – perhaps define materiality in the document and require disclosure/approval for material projects, grants, bonds, etc.

8. **Comment from Gordon Lafer:**

Just a short note to say that as far as I can see, the Board's proposal is more or less a coup. They say that it's in keeping with the "philosophy" of shared governance and then destroy that in the first real clause. They assert power over everything -- including the departmental policies that the collective bargaining agreement says faculty are to establish, and the faculty handbook and current policies that the CBA says are to be enshrined as grievable policies -- everything except syllabi and textbooks.

I'm not so worried about them trumping union rights, since there is legal protection for that. But everything that's not in the union contract that has anything to do with the real role of faculty governance is destroyed in this document.

They are not academics, but they assert power to make all decisions about which departments should grow, shrink, or be eliminated, who should be hired, fired, promoted, jobs reconfigured, new rules for instruction and research established -- the whole thing.

I would urge the ad hoc committee to take a much stronger stand against this than the clarifications that I've seen in the draft so far.

...I know this is not your doing, but I have to say that the call for service in "shared governance" has an ironic ring to it after seeing the proposal to grant the new board unilateral decision-making power over virtually everything except course syllabi. Makes it hard to believe in shared governance as a reality.

9. **Comment from Astra Henner:**

I read the documents and although I don't feel I have a firm grasp of everything in it, I was glad to see some changes reflecting collective bargaining agreements. Now that we have both a classified employee union and a faculty union, I think it is important to include them, and the authority they hold through agreements with the other governing bodies at the UO.

10. **Comment from Mike Urbancic:**

I am pleased to see all of the work that has gone into the creation of this latest draft of the Policy on Retention and Delegation of Authority.

I have one quick comment. In common campus parlance we use "faculty" as the catchall term to describe tenure-track professors, non-tenure-track lecturers and instructors. The collective-bargaining agreement includes adjuncts and postdocs (both instructional and...
research), while the set of statutory faculty does not. Regardless, in this document those common usages don't work, since section 4.2 specifically states that "The President and the professors constitute the faculty." Since one of the main purposes of this document is to distinguish the respective roles of the President and other members of the faculty, the term "professors" is used for those faculty who aren't the President.

How is the term "professors" to be understood in this context? As far as I can see it isn't formally defined anywhere in the document. Would it be construed to mean only those on the tenure track? Would it mean only the full professors? Or is the term intended to cover non-tenure-track lecturers and instructors who are also part of the statutory faculty? Would it be as broad as the definition used by the collective bargaining agreement? If the intention is to be more inclusive than the set of full professors or only tenure-track professors it would be really useful to make that explicit at some point in the document itself.

Again, thanks for all of the work that has very obviously gone into this endeavor. It does not go unappreciated!

11. Comment from Richard Wagner:

On behalf of the members of Graduate Teaching Fellows Federation, I’m excited to address all of you for the first time. Our members are thrilled to have a Board of Trustees whose purpose is building this campus and helping continue to grow its graduate programs to be some of the best in the world. Having our very own institutional board for graduate students to partner with to advance our position in the AAU makes us very hopeful for the future.

On March 27th and 28th, the board discussed the Policy on Retention and Delegate of Authority and the GTFF has asked me to share some concerns our members have in relation to that document. In the morning session on March 27th, it was claimed that, in the past, the President of the University had been the one to ratify the GTFF Collective Bargaining Agreements (CBAs). That statement was inaccurate.

Every CBA in the 36 year history of the GTFF has been between the GTFF and the Oregon State Board of Higher Education. Upon finalization, each CBA has been ratified with a signature from a Vice Chancellor of the Oregon University system, acting through the Board of Higher Education. This tradition continues in the most recent collective bargaining agreement, available on the GTFF website, www.gtff.net/cba/, as well as the University's website. We point out a few pertinent sections:

- The preamble (page 1) explicitly states the agreement is between the GTFF and “the State of Oregon, acting through the State Board of Higher Education on behalf of the University of Oregon”.
• Article 31 (page 32) explains the ratification procedure of the agreement, stating “the Oregon State Board of Higher Education will ratify the Agreement at its next regularly scheduled meeting.”

• Article 35 (page 34) includes the Oregon Board of Higher Education as an actor when defining the “University” in relation to the CBA.

• Article 36 (page 37) contains the signature of Jay Kenton, a Vice Chancellor of the OUS, who is signing for the Oregon Board of Higher Education.

Nowhere in our collective bargaining agreement is the President of the University given the power to unilaterally ratify the agreements. Throughout prior CBAs, it is clear that the University can delegate who represents them during bargaining, and the President of the University has always played an important role in the bargaining process. On every agreement, the President has been included as a signatory on the finalized agreement between the GTFF and the University, but the agreements have always had a final signature on behalf of the Oregon Board of Higher Education. Clearly this shows that the Board of Trustees can delegate duties, but also reserve the right to a final say in such matters.

As I understood from the Trustees meeting on March 27th, the role of the Policy on Retention and Delegate of Authority document is largely to create parallel structures and system between the new Board of Trustees and those previously overseen by the State Board of Higher Education. In the draft presented on at the Trustees meeting, section 3.6.1 gave explicit power to the President to ratify collective bargaining agreements. This would, clearly, be a major change in governance structures from the previous 36 years. We feel that keeping the Board of Trustees as the body who is empowered to ratify our agreement in place of the old State board clearly accomplishes the goal of keeping the responsibilities of the old State Board of Higher Education and the new Board of Trustees as similar as possible.

It very well may be a concern of some that our new Board of Trustees shouldn’t be “bogged” down by such matters as collective bargaining agreements, but the previous State Board of Higher Education, overseeing numerous collective bargaining agreements across the state of Oregon, was not bogged down. Far from it. The State Board of Higher Education successfully delegated many duties and responsibilities to administrators on each campus for the “on the ground” work to negotiate and enforce those Agreements. We understand the massive amount of work that is currently necessary for the Board of Trustees to get through as it comes into being, but, as the Policy on Retention and Delegate of Authority will be a founding document for the Board of Trustees, ceding the power to ratify collective bargaining agreements permanently to the Office of the President is not warranted. Because these kinds of agreements reflect so heavily on the values and priorities of the University, the Trustees are very important voices to be heard in these negotiations. This is how these negotiations are handled at many other campus around the country. For example, at our AAU comparator institution, the University of
Michigan, the Board of Regents is the ratifying body in the agreement with their own Graduate Employees' Organization.

For the important roll you have to the University of Oregon and for the historical context of our agreements with the University of Oregon, many concerned members of the GTFF ask that you heavily consider retaining that power formerly held by the State Board of Higher Education to ratify our Agreement. We very much look forward to continuing to partner with this board in order to climb in the rankings of the AAU, and help build some of the very best graduate programs in the world.

12. **Comment from Miriam Bolton:**

Looks like they did a good job clarifying and raised some good questions which I hope will be considered and addressed.

13. **Comment from Donald Goerz:**

I am glad to see you on the ad-hock committee "..on retention and delegation of authority."I am however a little despondent, as well as a number of my classmates, over the despotic nature of the original document. At best, it constitutes non-delegation of authority, at worst, it is the rantings of a tyrant.

The re-write by the committee goes a long way in realigning the document to be more inline with a republican (article 4, section 4 US constitution, not the Political party) form of government. However, given the preponderance of "Ultimate Authority" declarations contained in the first authors draft, it's underlying meaning makes it copiously necessary to firmly anchor the document within the spirit of Oregon's constitution, the authority under which the Oregon Legislation creates its laws, and by whose authority the legislative assembly derives their power to create the board of trustees and the gubernatorial seat to appoint its members. Thats it. Allowing any decisions of a agencies chief executive the force of law violates article 4 section 1:

"Section 1: The legislative power of the state, except for the initiative and referendum powers reserved to the people, is vested in a Legislative Assembly, consisting of a Senate and a House of Representatives.” there is no mention of the ability of an chief executive to have this ability.

As the University of Oregon is a state agency, and as such is a part of the government, the author also needs to be made aware of Oregon's great social contract: our constitution. Specifically Article 1:

"Section 1. Natural rights inherent in people. We declare that all men, when they form a social compact are equal in right: that all power is inherent in the people, and all free governments are founded on their authority, and instituted for their peace, safety, and happiness; and they have at all times a right to alter, reform, or abolish the government in such manner as they may think proper.–" copied from the Oregon Blue Book.
I am afraid, that without direct links to the highest law in Oregon, there is way too much wiggle room to allow the further co-opting of our university for purely private interests. The Ultimate authority of governance, as seen by article 1 section 1 of the constitution, rests solely with the people of Oregon.

14. **Comment from Anne Laskaya:**

Legal language always sets my brain spinning but it looks like 1.1 in the document really disempowers faculty:

The Board may review and intervene in any and all aspects of the University; modify any policy, standard, or directive; amend or rescind any existing policy, standard or directive; and enact and issue such policies, standards and directives as it deems proper for the University.

To say the board may "intervene in any and all aspects of the University" suggests it could disallow a textbook, a course, or dissolve a program or department. That seems a bit much. If it isn't what's intended, then the 'conditional' language of another area might be sited right here. "The Board may .....and intervene in any and all aspects of the University (subject to .....clauses).

On the other hand, perhaps the current State Board holds this power now....don't know.

Sorry if this is just ignorant. My experience with legal language, though, is that if EVERYTHING isn't defined and qualified, it opens things up to actions we might hate and challenges that would require faculty to summon a HUGE sum to fight things in court.

15. **Comment from Bill Harbaugh:**

I have taught economics at the UO for 19 years. As an undergraduate I transferred from an ivy league school to a public land grant university. I got a great education, paid in part by the taxpayers. I feel I have a debt to repay to public higher education.

As part of my commitment to this, I participate in UO faculty governance, and I am the person who brought the proposed board policy to the faculty's attention via the [http://uomatters.com](http://uomatters.com) blog.

I would like to thank the UO Board of Trustees for quickly responding to the concerns that were raised about this proposed policy, and for seeking Senate input on a revision, before implementing it.

I have been to three of the meetings of the Senate Ad Hoc Committee. I have been
impressed by the care, thoroughness, and transparency by which the committee's members have studied and revised the administration's proposed policy.

My view is that UO's mission as a public university requires this sort of open discussion and participation by the faculty, many of whom have devoted much of their professional lives to UO, and who have valuable contributions to make about important matters of governance, as is laid out in this revised recommended policy.

The seriousness and openness of the Board's response to the faculty's issues with the original policy have been extremely encouraging to everyone I have talked to. The Board's actions have built trust among the faculty and the rest of the UO community. These are very encouraging signs for the future of faculty participation in implementing UO's mission as a public university.

Bill Harbaugh  
UO Prof. of Economics  
http://harbaugh.org

16. **Comment from Beth Stormshak:**

I reviewed this in my role as faculty on campus. I think the changes made by the senate are confusing and are not necessary for moving forward. I would like to see the document move forward as it was originally proposed to the board.

17. **Comment from Leslie Leve:**

Thank you for the opportunity to provide feedback on the proposed changes to this document. I think the changes proposed are unnecessary and confusing, and I prefer the document as it was originally proposed to the Board, prior to these changes.

18. **Comment from anonymous:**

I think the revision represents a large shift in governance structure, one not envisioned by the Governor nor the Legislature, to try to bind our Governing Board by our own internal governance structures. Indeed, it seems a common theme by some active in our University governance to try to legislate authority to faculty and others which is neither consistent with the UO Constitution nor with OAR’s. I find the document more of an extreme position, perhaps attempted as a negotiation tactic, rather than a serious effort at governance.

I offer some select feedback on revisions, as a full run-through would not be worth anyone’s time:
- The revision of the title is almost comical. “Certain” authority????
- I see no need to quote so extensively from Senate Bill 270, especially given its explicit role in the body of the document. One could emphasize that “immediate government” is the charge of the President and faculty, but it is still clear then
that the “non-immediate” is the province of the board, just as it was Chancellor and OUS board before.

- strike any reference to collective bargaining agreements. Any compliance with those is already necessitated by compliance with the laws of our state, which are strongly implicit and only need to be explicit in a few important cases (e.g SB 270).

- it is absurd to say that the Board’s actions are limited by internal governance procedures. They are an external governing body by definition. I cannot believe this is a recommendation. I really can’t.

- Strike the tuition increase cap. In-state fees may well need to be raised by a larger amount, having been historically kept artificially low.

Please feel free to quote from the above, anonymously.

19. **Comment from Morgan Sleeper:**

I wish to contribute some of my immediate thoughts regarding the proposed changes to the Retention and Delegation of Authority Policy.

In the proposed addition to 4.3 Shared Governance, I wonder what the purpose of the clarifying line "as a principle in American higher education" is. Is this distinction necessary? Is this distinction something unique only to American higher education? I feel that is what it implies and, unless categorically true, such an implication has no place in the wording. It's superfluous at best and nationalistic at worst.

Also, I wonder if it would be at all possible to include students outside of student government in the provisions referred to in section 1.4. The student government has shown time and again it is unable to truly represent the diverse interests within the greater student body. Perhaps allowing organized student unions the ability to at least air their opinions and concerns regarding tuition, fees and policy to the board directly would be a useful addition to the policy. While individual students are discussed in section 10(2) of SB270, there is no mention of them in section 10(3), which seems to indicate that the concerns of individual students will not necessarily be transmitted by the president to the board. This language directly impacts the proposed language of section 1.4, as does the language itself seem to rule out individual or non-government affiliated students from the conversation. To leave so many concerned students out of the discussion regarding their own incidental fees (especially when those students are not adequately represented by the student government) is unfair. We should be able to present our case in instances where the board and the student government may see certain fees as unnecessary or seek to implement fees that don't suit our purposes.

20. **Comment from Benedict McWhirter:**

Thanks for all your work on the Senate and for facilitating feedback on the Governance document on Delegation of Authority.
There are some good things in the revisions of April 28, but on the whole there are a variety of confusing statements and some lack of definition of terms and structures that are pretty central to the revisions and that I find problematic. E.g., what does "supervised" by the Board mean? Regarding Authority, it seems like engaging in a process in which all faculty understand clearly how these changes are actually operationalized with a new UO Board will be very important before any of these changes should be approved/ratified.

The problem that I find, and that you likely find as well, is that many UO faculty are passive and non-involved. This must be very frustrating to you. And, in group dynamics (sorry - my counseling psychology discipline arises within me!) this vacuum of responsibility-taking will always lead to more fringe and marginal members of a community taking center stage and dominating. This is particularly true at UO where we have cyber-bullies running around freely. Until our faculty at UO accepts the responsibilities afforded them, this group dynamic will be enhanced with the current version of the Delegation of Authority document.

One perspective. I hope it is useful.
Thanks again for your work!!

21.  Comment from Deborah Olson:

I want to thank you and the ad hoc committee for the work you did on these documents. It’s really important work that will impact the governance of the university for years to come. I particularly appreciate that the committee related the content of the document to relevant law or regulations. I’d like to respond to a few items of concern to me.

Item (or article?) 2.2 concerning force of law exceeds the authority given to the board in SB 270. I don’t know if this is an oversight, sloppy editing or deliberate, but the committee’s comments on this item point out the flaws in lack of specificity of terms. I won’t repeat them here, I urge the committee to point out to the board the dangers inherent in this item.

The next item, 2.3, is equally disturbing. It goes beyond SB 270 and gives sweeping authority that is binding on everyone connected with the university.

Lastly, item 2.4 is completely not in tune with the ethical behavior required of a board of a public university. We have discussed open meeting issues in the Senate and it’s important that notice be given on web pages, to the Senate and to the university at large. This board should and has so far proven to be amenable to receiving public comments so I trust that they will see that this item is completely inadequate.

I particularly appreciate that the committee has recognized the importance of the 3 collective bargaining agreements on campus. Also, I was encouraged to see that sections were inserted that mapped the provisions of the Charter of the UO into this document. The Charter is the basis for the authority of the faculty to participate in the
shared governance of the university. As a member of the committee that rewrote the constitution several years ago, I am aware of the important relationship between the president and the faculty in principle and in practice.

I expect that the Board of Trustees will take the committee’s revisions and reactions into serious consideration and that we will see a document that will serve the university committee quite well.

Thank you for your leadership in the Senate and on this committee.