

March 6

Advice for Senate on Nonprofit Boards

Ever since U.S. Sen. Charles E. Grassley [announced last fall](#) that the Senate Finance Committee he leads would investigate the management of American University as part of its overall review of nonprofit governance, college officials at institutions other than American have wondered if and how that inquiry might be broadened, and whether that examination might result in legislation that could apply to higher education generally.

College officials nervous about where the committee's investigation is headed might have hoped to get some insight out of an invitation-only session that the panel's staff (without the senators themselves in attendance) held in Washington Friday, which included many leaders of the nonprofit world and featured separate sessions on the situations at American and at the American Red Cross, which Grassley [is also investigating](#).

But the all-day session shed little light on what if any recommendations, legislative or otherwise, the Finance Committee might offer to improve the performance of the boards of colleges and other nonprofit groups, especially in terms of their oversight of presidential compensation, which has been the focus of the panel's review of American.

And while those who spoke at the Senate session (and who agreed to share their comments from the off-the-record meeting) tended to agree on broad principles — for instance, more openness and transparency in board operations is good — the consensus seemed to fall apart on specifics (for instance, on whether university boards should include professors and students as members).

In fact, the point on which there was the broadest consensus would probably discourage the Senate from taking any action at all: Even critics of college and university governance, such as Anne D. Neal of the American Council of Trustees and Alumni, [generally discouraged the committee](#) from transforming its helpful interest and scrutiny into legislative or regulatory form. "Senator Grassley and the Senate Finance Committee deserve our thanks for focusing seriously on best practices and lessons to be learned in higher education governance," Neal said. "However, not all challenges deserve legislative solutions, and this is one of them."

The Senate session read like a who's who of the nonprofit world, with representatives from leading charities and from national groups, such as Boardsource, Independent Sector, and the National Committee for Responsive Philanthropy, that monitor nonprofits. Many of the attendees seemed

vaguely nervous about the little publicized session, and weren't quite sure what it's purpose was.

In the general interest portion of the daylong event, they and others shared their perspectives and recommendations on how nonprofit boards ought to operate, often walking a careful line in which they applauded the committee's scrutiny and acknowledged flaws in some boards but sought to discourage the idea that those problems necessitated Congress's help. The conversation generally unfolded at a lofty, unspecific — and as a result, often uninteresting — level.

That changed a bit during the session dedicated to higher education governance and specifically to the the situation at American University, which revolved around concerns that the university's board had been asleep at the switch in overseeing the performance and the pay of the university's former president, Benjamin Ladner, who resigned in November amid an investigation into alleged overspending.

In remarks made at Friday's session by Bishop John Schol of the United Methodist Church, a new member of American's board, and [in a document](#) the university released at the event, American officials sought to show that the board has recognized its failures and is striving to correct them. "We failed to supervise the contracting, the compensation of the president of the university," Schol said, and "we also failed to close that period of time" successfully, in a way that "fractured the board" and resulted in "lost credibility with faculty, staff, alumni and donors."

Schol and the AU document laid out the ways in which the university has tried to alter and improve the board's operations, including opening up the process by which it selects new members and communicating much more regularly with other constituents at American.

But several other invited speakers from American, including one student leader, Kyle Taylor, and one longtime faculty member, Mary Gray, argued that the board cannot be truly representative, and therefore truly reformed, until faculty members and students are added as members. The current board, Taylor said, "cannot be trusted with the reform process." The proceedings took on an especially combative note when the former chairwoman of the board, Leslie Bains, who had not been invited to speak, rose to urge the Finance Committee to oust many holdovers on the board who had been members of its executive committee. (The Senate has a legitimate role in examining and potentially stepping in to the American University situation, Senate staff members have argued, because the university is Congressionally chartered.)

But in asking Congress to intervene, Bains was an outlier among those who spoke during the Senate event Friday. Patricia McGuire, president of Washington's Trinity College, noted that there are already 7,000 federal rules and regulations governing higher education, on top of a vast body of law. But "no amount of law or regulation has ever stopped scoundrels," McGuire said.

Richard Legon, president of the Association of Governing Boards of Colleges and Universities, called the scrutiny from Grassley and the Finance Committee "highly salutary," and said that as a result, "the nonprofit community has sat up and taken notice." Congress should be careful, though, not to "crack down so hard that we drive away" good volunteers who might no longer want to sit on college boards.

Added Neal of the trustees' council: "Congress should allow AU to heal itself."

— [Doug Lederman](#)

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