



Testimony before the House Higher Education Committee

House Bill 404

November 20, 2019

Chairwoman Keller, Vice Chair Riedel, Ranking Member Ingram and members of the House Higher Education Committee, thank you for the opportunity to testify today on House Bill 404. I am Jack Hershey, President of the Ohio Association of Community Colleges (OACC), which represents the trustees and presidents of all twenty-three of the state's public community colleges.

OACC is unique in that we represent both the trustees and presidents of all twenty-three of Ohio's two-year institutions. Since OACC was first founded, our organization has always been led by one of our state's trustees. Jim Doyle, who is a trustee at Clark State Community College, currently serves as chair of OACC. In addition to Mr. Doyle, other college trustees serving as officers of our Association include:

- Chair-Elect – Alice Stephens, trustee at Stark State College
- Secretary – Kyle Rudduck, trustee at Southern State Community College
- Immediate Past Chair – Elizabeth Gates, trustee at Belmont College

Our organization will take an official position on HB 404 in a few weeks at our biannual Governing Board meeting, and we will certainly communicate our official position to the committee after that meeting. However, based on the feedback of our trustee officers, as well as feedback that OACC has received from trustees through our presidents, it is safe to say that we welcome this legislation. I would like to publicly thank Representatives Manchester and Sweeney for introducing HB 404.

The bill would grant boards of trustees permissive authority to adopt a policy that would allow for trustees to attend a meeting via electronic means, while also establishing some guidelines to protect both the deliberative nature of the board and the public's need for transparent decision making at our board meetings. HB 404 lays out five different guardrails that a board of trustees must maintain while they are developing a policy to allow for teleconferencing by trustees:

1. A trustee must attend no less than 50% of regular meetings in person each year.
2. Half of the trustees must be present in person at the meeting location.
3. All votes must be taken by roll call at the meeting.
4. A trustee must provide 48 hour notice of their intent to participate via teleconference
5. A trustee participating via teleconference would be counted as present and may vote at the meeting.

In anticipation of this legislation being introduced, we began reaching out to other states to see how they handled the issue of teleconferencing by college trustees. While we did not do a complete 50 state scan, the states that we did contact all reported having more modern policies than Ohio, which currently allows for no method of participation other than physically being present at the meeting. It is important to note that several states reported no additional guidance to the Boards of Trustees on this topic in law, beyond simply allowing for remote participation. In these states, the decisions as to how trustees may participate is left up to the individual boards to decide. States that operate in this manner include: Wyoming, Oregon, Pennsylvania, and Wisconsin.

Michigan

The issue is not addressed in their open meetings law, so they instead rely on advice from the state's Attorney General, which recommends that board of trustees adopt rules locally to outline how trustees can participate remotely, while ensuring that those attending the meeting remotely can be clearly heard by the general public attending the meeting in person. Michigan also recommends that all votes be taken by roll call, and that at least a quorum of the board be physically present in person.

Iowa

Iowa allows trustees to participate and vote remotely, but goes further and outlines how a board could hold an entire meeting via electronic means if an in-person meeting is either impossible or impractical. In this case, the public must be allowed reasonable access to the conversation, and the minutes must reflect a discussion of why an in-person meeting was impossible or impractical.

Florida

Trustees may virtually attend meetings, however, a physical quorum must still be present at the meeting. In addition, trustees participating remotely must be able to be heard by all in the meeting room.

Washington

Trustees can attend meetings and take action via conference call. The call must be easily heard by all who attend the meeting, including audience members. The trustee must attend the entire meeting if participating remotely.

California

Teleconferencing is allowed, but a quorum of the governing board must still be physically present at the meeting. The board may accept a consent agenda, but all other matters must be voted on by a roll call vote if some trustees are participating remotely.

Most of these states have allowed for remote attendance for several years without controversy. They also report that even with this authority, most boards are still meeting in person, with the majority of trustees attending in person. Weather concerns were listed as the most common reason for a trustee choosing to attend remotely. The second most common reason sighted for a trustee remotely attending was in the case of emergency or previously unscheduled board meeting. For instance, a board will sometimes hold a special meeting in response to a decision by a president to retire, or accept a new position at a different college, or to respond to an identified security concern. In each of those cases, allowing our unpaid, volunteer trustees the ability to have a voice in those conversations is incredibly important. Knowing that most of our trustees are active individuals both within their careers and their communities, House Bill 404 would still allow them to participate if the sudden scheduling of a board meeting on an important topic, conflicts with their other responsibilities.

As the use of technological means to meet has both expanded, and in many settings become commonplace, facilitating trustees meeting via teleconferencing has begun to receive more attention throughout the country. In a recent policy series, the Association of Community Colleges Trustees (ACCT) outlined a number of issues that trustees are considering throughout the country when deciding how to permit trustees to meet through technological means. Those issues overlap significantly with the issues already identified in HB 404.

In conclusion, by giving the boards of trustees the ability to consider whether to permit members to meet via teleconference or other electronic means, HB 404 will allow boards to determine whether these tools will best serve their individual board culture as well as their community. I believe, if implemented properly, this legislation can serve as a tool to have better informed and more engaged trustees, which ultimately leads to a stronger college.

I would be happy to answer any questions you may have.