Philanthropy and the Character of the Public Research University—The Intersections of Private Giving, Institutional Autonomy, and Shared Governance

In

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Abstract

Educational scholars have examined the relationship of philanthropy and its contributions to the public university. Yet, there has been little discussion of the influence of philanthropy on the governance space of the public research university, and specifically as conditional philanthropy may affect academic integrity and shared governance. In this chapter, we consider these larger issues in the context of a study of a recent case. Drawing on public records, interviews, and university documents, the chapter examines conditional donation of The Charles G. Koch Foundation (CKF) to the Florida State University (FSU). We suggest that the Koch Foundation gift appears to illustrate a new model of governance based philanthropy. It has done so by tying donations to control or influence of the internal governing mechanics of an academic unit of a public university. This model has generated controversy. Though there was substantial faculty and student backlash, the model appears to be evidence of a new philanthropic relationship between the public university and substantial donors, one in which donors may change the nature of traditional shared governance relationships within the university. We maintain that instances of such "new" strategic philanthropy require greater focus on and sensitivity to shared governance and faculty input as a way to ensure accountability, especially to preserve the integrity of the academic enterprise and its public mission where donors seek to leverage philanthropy into choices relating to faculty hires, courses and programs traditionally at the center of faculty prerogatives in shared governance.

I. Introduction

The close relationship between philanthropy and higher education has played a substantial role within the American higher education system. Bonglia (2002, p. 9) notes that "Early in the 18th Century, private support of institutions of higher education by philanthropists became a trend." And indeed, this relationship is just as salient today as it has been in the colonial area. Drezner (2011), for example, noted that "American higher education as we know it today would not exist if it were not for the voluntary contributions of many individuals" (p. 26). Hall (1992) drew similar conclusions, suggesting that "[n]o single force is more responsible for the emergence of the modern university in America than giving by individuals and foundations" (p. 403). The recent economic downturn coupled with the steady decline of state support for public universities, for instance, has forced public institutions to position themselves to better harvest philanthropic donations (Speck, 2010; Cheslock & Gianneschi, 2008). As McAlexander and Koenig (2012) have noted, "The growing concern about the ability to glean necessary financial resources from the traditional sources of tuition, taxes (for public universities), and fees, has driven leaders of institutions of higher education to place a much sharper focus on developing the philanthropic capacity of alumni, friends, and other partners to provide the economic support necessary to deliver higher education in the modern millennium" (p. 122). Additionally, this steady decrease in state appropriations for higher education represents what many scholars have suggested as a "new paradigm" of higher education funding (Speck, 2010; McKeown, 1996). Increasingly, more and more public universities have started to describe themselves as state-assisted, rather than state-supported, institutions (Hossler, 2004). Naturally, this has created an environment where public institutions are now actively searching out alternative revenue sources because this has become "the only source of real discretionary money and in many cases is assuming a critical role in balancing institutional budgets" (Leslie & Ramey, 1988, p.115-116).

One substantial source of such alternative revenue sources are foundations. Unlike public bodies, foundations are highly centralized and closed systems. Public accountability is very limited and one of the few forms of accountability are done mainly through tax laws which requires foundations to allocate funding for charitable purposes. They are also accountable to their own organizational by-laws and their trustees, but not to the general public. Many times, major foundations are guided by wide ranging social agendas which is collectively understood as strategic philanthropy (Dowey, 2001; Barrows, 1990). With over $700 billion in assets and over $50 billion in total giving per year (Foundation Center, 2014), foundations collectively have an immense amount of power to fund public policy initiatives at a national and global scale (see, e.g., Roelofs, 2003 and Dowey, 2001). According to Dowey (2001), governmental devolution coupled with increasing austerity measures have made these organizations even more powerful.

Though there has been much discussion on the influence of philanthropy on k-12 education (see, e.g., McKersie, 1999; Cohen, 2007), there has been a limited discussion within the higher education literature (Hall & Thomas, 2012). Although foundations have always taken an active role in American higher education (see, e.g., Barrows, 1990; Drezner, 2011; Dowie, 2001; Thelin, 2011), it has been much more concerted in recent years through a market-based approach where initiatives are funded by foundations using "engaged" or "advocacy" philanthropy (Katz, 2012). More importantly, a new form of philanthropy has emerged in recent years. Through forms of *strategic philanthropy*, the most powerful foundations "have taken up a set of methods -- strategic grant-making, public policy advocacy, the funding of intermediaries, and collaboration with government -- that illustrate their direct and unapologetic desire to influence policy and practice in numerous higher education arenas." (Hall & Thomas, 2012). The object is to leverage contributions to the university into a power to more directly determine university policy and practices that was once the sole domain of university administrators and faculty. Especially as these new strategic philanthropic strategies have sought to affect decisions about faculty hires, course offerings, pedagogy and academic programs, these strategies directly affect the traditional relationship between faculty, board and administration in the governance of universities. Despite this trend, scholarly discourse regarding the influence of philanthropy on public universities has been limited, at best. Naturally, the influence of philanthropy occupies a contentious space among key stakeholders of the public research university — professors, students, and the community—because the most pressing issues rests on the influence of philanthropy on institutional autonomy, shared governance, and the freedom of inquiry, ideals ingrained into the ontological fabric of the academy. The ideal of the university represents an autonomous generator of knowledge, free from external constraints, allowing the flow of knowledge to disseminate freely for the advancement of the public good (Thelin, 2011; Albach, 2001). While this ideal has only been partially reached, now more than ever, the influence of private funding on knowledge production has been an increasing concern for those within the higher education enterprise.

To that end, this chapter examines the relationship between philanthropy undertaken through foundations or by individuals, and the increasingly contested governance space of the public research university, and against the backdrop of academic integrity and shared governance. We do so by situating our analysis specifically on an agreement between The Charles G. Koch Foundation's (CKF) and Florida State University (FSU). In 2007, CKF approached Florida State with an initial pledge of $1.5 million that would be extended to over $6 million in the course of 6 years. In return, FSU's economics department would allow CKF representatives to sit on screening committees for new faculty hires, providing funding for doctoral students in economics as well as the creation of a new undergrad programs that would be based on curriculum based on the educational ideology of CKF. This deal eventually produced strong faculty and community backlash, especially with respect to the way the deal relegated substantial control of a public institution to an external actor. As the chair of FSU's economics, Bruce Benson, stated in an internal email, "Koch cannot tell a university who to hire…. [but] they are going to try to make sure, through contractual terms and monitoring, that people hired are [to] be consistent with 'donar Intent.'" And indeed, where donors traditionally had little to say how their grants would be used, this trend represented by the Koch Foundation is a major point of contention. In this chapter, we first provide background regarding the case of involving Florida State University and CKF's agreement. We first examine the FSU/CKF donation as the case basis for our analysis. We then consider its ramifications for university governance and philanthropy. We situate that discussion first within the analytical context of the university faculty senate, and its role within the public university. We then focus on the realities of shared governance and its functional challenges in light of academic integrity and university donors through that framework. On that basis we then flesh out the difficulties of shared governance within the a-symmetric power arrangements that are the hallmark of public universities, and then suggest where a faculty senate can fit into this governance enterprise when dealing with external influences of major donors.

II. CKF **and Florida State University**

> "In these difficult economic times, it is more important than ever that public universities find ways to partner with the private sector to develop the sorts of programs that our society will need in coming decades." – Past President of Florida State University, T.K. Wetherell

Universities are no strangers to leveraging private donations for programmatic development. As the former FSU president T.K. Wetherell describes in the quote above, it may not be just financial need that drives universities to partner with donors. The "sorts of programs our society will need in the coming decades" language masks ideology. And that ideology is operationalized through the choices about which ideologically committed donors a university would be willing to engage with. CFK had a history of funding libertarian and anti-regulation causes throughout the nation (CFK's Academic Giving Principles notes: "We fund those activities that a university proposes that match our philanthropic priorities and have the greatest likelihood of success.”). Charles Koch is described as having “continuously supported academic and public policy research (including a number of Nobel Prize winners) for 50 years, with a special focus on developing voluntary, market-based solutions to social problems. This interest led Mr. Koch to found or help build a number of organizations, including the Institute for Humane Studies, Cato Institute, Mercatus Center at George Mason University, Bill of Rights Institute, and Market-Based Management Institute.” (CFK, About Charles G. Koch).

CKF and Florida State Agreement present a very interesting case which examines the issues surrounding faculty governance and administrative and philanthropic influences on the public research university. This section will examine the agreement, and what lead then President Eric Barron, to formally ask the faculty senate to set up a committee to examine the issues surrounding the Koch Foundation and academic integrity. The CFK donation was part of a gift (with conditions) made by it and the financial company BB&T Corp (Ray, 2008). CFK had a history of funding libertarian and anti-regulation causes throughout the nation.

When the grant was announced, then President Wetherell, the Dean of both, the College of Business, and the College of Social Sciences, along with BB&T Tallahassee President Paul Sullivan and Nan Hillis, president of BB&T's Orlando-based East Florida Region were all present (Ray, 2008). As then described, a portion of the gift went to both the Department of Finance, and the Department of Economics, to develop a joint BB&T Program of Free Enterprise as a way to expand free market education to undergrad students at Florida State University. When it came to CFK’s portion of the grant, the agreement accumulated to a $6.59 million budget, with $1.5 million coming from the Koch Foundation. The grant money would go toward the Economics Department. Under The Memorandum of Understanding (MOU), CKF would have a direct say in the hiring of faculty members through a Koch appointed advisory-board. There would also be the creation of two undergraduate programs: *The Program for the Study of Political Economic and Free Enterprise (SPEFE)* and *The Program for Excellence in Economic Education (EEE)*, both located within *The Gus A. Stavros Center for the Advancement of Free Enterprise and Economic Education*, which defines itself as part of the Department of Economics. In this instance, the donor prescribed curricular content, primal through the development of undergraduate courses with Any Rand as required reading. This course would be offered to 108 students per term, and eventually increase to 500 students, also providing an online option. The MOU also provided graduate student support, such as fellowships, and undergraduate extracurricular activities, that would include an economics club, a speaker series, and support for the Director of the Koch Undergraduate Program, and small scholarships of $200 for students to participate. This all aimed to “develop and promote a free-enterprise curriculum; [that] will enable the development of a Web site that focuses on the program's free-enterprise principles and highlights a new Speaker Series with the inclusion of podcasts from previous speeches; and will fund the establishment of a new economics course, ‘Morals and Ethics in Economic Systems” (Ray, 2008). There would also be the creation of a new certificate program: The Certificate in Markets and Institutions.

Thus under the MOU, CKF, the FSU Foundation, and the FSU economics department, there would be an appointment of five professors and staff, the creation of a Program for the Study of Political Economic and Free Enterprise and a Program for Excellence in Economic Education, and the creation of educational undergrad programs (Miller & Bellamy, 2012). Of course, the Koch Foundation would established an oversight mechanism in how this gift would be monitored, a practice that was almost unheard of in American universities. The most controversial piece of this agreement was the CKF sponsored advisory committee. An advisory board would be chosen by CKF which would determine what faculty candidates would be qualified for funding. By reviewing all publicly provided material by applicants for the new teaching positions this was a way to ensure that the scholarship of the professors met the ideological objectives of the foundation, and the potential professors who did not match the objectives of CKF would "not eligible to hold a Professorship Position or any other position in an Affiliated program and Position, without CGK Foundation's prior written consent" (Memorandum of Understanding, p.3). This stipulated that a Koch-appointed advisory committee would select professors and conduct annual evaluations (Levinthal, 2014; Hundley, 2011). The advisory board system worked like this: the faculty members would create a faculty appointed committee that will do the initially vetting of candidates. The CFK sponsored advisory committee would then review the list and make its recommendations on which members would be qualified for Koch funding. In the final stages, the faculty committee would select the finalists, where no funding for any program would be released without the review of Koch's advisory board.

It was contemplated that Bruce Benson, a well-respected libertarian economic theorist and Florida State University economics department chairmen would remain another three years as the department chairmen. CKF expressed its willingness to give Florida State an extra $105,000 to keep Benson in as the chairperson even though he told his wife that he would step down in 2009 after a one, three-year term. Ideologically, Professor Benson is a self-described "libertarian anarchist" who asserts that every government function he's studied "can be, has been, or is being produced better by the private sector." (Levinthal, D. (2014, September 12). Internal emails from Benson, eventually obtained and published by the Center for Public Integrity, evidenced some the internal decision making and discussions among the economic faculty. The emails sent on November 26, 2007 to the economics faculty detailing the Koch Foundation's proposal described the ideological aims: "The Koch Foundation agenda is to expose students to free-market ideas, and to provide opportunities for students who want to study with faculty who share Koch's appreciation for markets and distrust for government. This proposal is, therefore, not to just give us money to hire anyone we want and fund any graduate student hat we choose. There are constraints, as noted below" (Koch Foundation Proposal, 2007, p.1). In the proposal, Benson also pointed out some of the obvious influences of the Koch foundation's agenda within the academic process of the economics department. As he explains in the proposal, "As we all know, there are not free lunches. Everything comes with costs. In this case, the money for faculty lines and graduate students is coming from a group of funding organizations with strong libertarian views. These organizations have an explicit agenda. They want to expose students to what they believe are vital concepts about the benefits of the market and the dangers of government failure, and they want to support and mentor students who share their views. Therefore, they are trying to convince us to hire faculty who will provide that exposure and mentoring. If we are not willing to hire such faculty, they are not willing to fund us" (Koch Foundation Proposal, 2007, p.3).

Initially, when an agreement was reached, there was little to no publicity regarding the deal, on campus or elsewhere (Hundley, 2011). Yet, by 2011, there was an increasing concern among the university's stakeholders, mainly from the faculty and students, about the influence that the agreement gave to the donors especially with respect to academic matters. Dr. Ray

Bellamy, a physician and a faculty member at FSU's College of Medicine, and Dr. Kent S. Miller, a professor of emeritus of psychology publicized their views in the May 2011 edition of the *Tallahassee Democrat*. Before that, however, they both went to the administration to air their concerns. As Bellamy & Miller (2012) write in the AAUP "Before publishing a coauthored op-ed in the *Tallahassee Democrat* in May 2011, we took our concerns to both the current FSU president, Eric Barron, and the Dean of the College of Social Sciences and Public Policy, David Rasmussen. Barron, who hadn't been president at the time the agreement was signed, said that he had reviewed the documents and didn't see a problem. Rasmussen told us that the university had not hired anyone who would not have been hired otherwise, that the grant had facilitated the recruitment of two excellent assistant professors and high-quality graduate students, and that it had created new postdoctoral opportunities. He told us, as he subsequently told the *St. Petersburg Times*, that not taking the money would have been 'irresponsible.'" (Miller & Bellamy, 2012). Both Miller and Bellamy eventually published their op-ed in the Tallahassee Democrat, arguing that "Public universities particularly need to raise money from donors. So much so, it has become a major function of university presidents, reinforced by tying pay to success in bringing in the money. The Kochs know this and have spent many millions of dollars working their way into higher education, impacting the hiring of faculty, supporting "correct" students, influencing the curriculum and generally advancing their agenda" (Bellamy & Miller, May, 2011) . The story was also eventually picked up by the Tampa Bay Times, which published an article in which it was reported:

> "Traditionally, university donors have little official input into choosing the person who fills a chair they've funded. The power of university faculty and officials to choose professors without outside interference is considered a hallmark of academic freedom.
>
> Under the agreement with the Charles G. Koch Charitable Foundation, however, faculty only retain the illusion of control. The contract specifies that an advisory committee appointed by Koch decides which candidates should be considered. The foundation can also withdraw its funding if it's not happy with the faculty's choice or if the hires don't meet "objectives" set by Koch during annual evaluations" (Hundley, 2011).

In 2009, the Koch Foundation rejected about 60% of the faculty's suggestions for the positions in the program called the Study of Political Economy and Free Enterprise and the Excellence in Economics Education. And though it is not unusual for foundations and donors to endow professorships, but what is unusual in this case, for instance, is the donors helping within the hiring process (Allen, 2014). As Rudy Fichtenbaum, an economics professor at Wright State University and AAUP's president stated: "You know, it amounts to the Koch brothers' foundation basically trying to buy a position on the faculty. And that certainly is a threat to academic freedom" (Allen, 2014).

The controversy continued through the summer. President Eric Barron, who had inherited the agreement, sent an email on May 18, 2011 to the Faculty Senate asking them to quickly examine the issues surrounding the Koch Foundation agreement and its' implications on Florida States academic integrity. This was important since FSU was in the process of initiating a $1 billion fundraising campaign (Miller & Bellamy, 2012). In response to Barron's request, the Faculty Senate Steering committee appointed a five-person ad hoc review committee that included former faculty senate presidents and one former president of the university. The Faculty Senate steering committee appointed a five-member committee, who contacted as many relevant stakeholders as possible. The committee also reviewed as many documents as possible, such as the Memorandum of Understanding (MOU), the Donor Partner agreement, archived emails from the Department Chair, Dean, Provost's office, faculty members discussions, adoptions, and implementation of the agreement, new course approval paperwork for ECO 3131 – Market Ethics and the syllabus (spring 2011 section), and FSU foundation first agreement templates FSU governance documents FSU-UFF collective bargaining agreement (Faculty Senate Ad Hoc Committee Review Report, July, 2011).

After the faculty senate concluded their review, they found that the appointment of faculty did indeed meet university standards (Faculty Senate Ad Hoc Committee Review Report, July, 2011). They found that economics department had primarily control over the selection process, which was consistent with the FSU Faculty Handbook. However, the committee founded that the donor Memorandum of Understanding contained "several phrases that could open the possibility of undue outside influence in the hiring process" (p.4). In their report, the faculty senate proposed a series of recommendations, such as the ending of donor-funded hiring's; prohibiting future donor agreements with external evaluations of faculty hiring's suspending Eco 313- market ethics and resubmitting its proposal and recommending new mechanisms to review policies concerning future gifts and academic and university integrity (Faculty Senate Ad Hoc Committee Review Report, July, 2011).

As a result, the issue seemed settled. The changes made to the agreement changed the power the Koch foundation has over hiring. In the old agreement, there was a three-member advisory board to hired faculty position. The new deal, however, only included one Koch representative and does not hire faculty members. After a new hire is made, the board will consider if the Koch Foundation money will be used for their salary (Allen, 2014). President Barron was pleased with the outcome: "We acted with a high level of academic integrity and followed the normal course of events, in that the faculty picked the faculty they wanted to work with," said Barron (quoted in Chandler, 2011). Similarly, the director of higher education programs at the Koch Foundation, Ryan Stowers, publicly stated: "We are pleased that this review of the facts by the faculty committee confirms what FSU administrators have said – that the agreement with the foundation protected academic integrity and added significant value to FSU." (Chandler, 2011) And throughout the life of this funding arrangement, the economics department at FSU would allow Koch representatives to sit on screening committees for new faculty hires; and a year after the CKF provided FSU with the $1.5 million in 2008, with the foundation rejected roughly 60% of faculty candidates proposed by the faculty at FSU (Romero, 2014). While FSU administrators noted that Koch had little to no say in the hiring practices, the Faculty Senate argued otherwise, and the administration eventually altered the agreement to respond to faculty concerns. Though the Faculty Senate did undertake the reviews producing agreement revision, which retained for the faculty more control over the curriculum, nevertheless, the new agreement still maintained CKF's power over hiring practices, essentially providing them with "indirect veto power on some faculty hiring" (Romero, 2014).

III. **Philanthropy and its Impact on Shared Governance and Institutional Autonomy**

One of the most interesting issues facing public universities, as institutional actors, is the future of shared governance, especially in the effectiveness of shared governance as a means of institutionalizing the participation of faculty in university governance. Universities have sometimes succumbed to the temptation of invoking formal institutional structures to mask efforts (deliberate or unconscious) to undercut the role of faculty in university governance. In the Koch/Florida State case, President Eric Barron contacted the Faculty Senate, copying all FSU faculty, deans, and vice-president, as a way "to examine the issues surrounding the Koch Foundation agreement and its implementation to ensure that the integrity of Florida State University was protected" (FSU Faculty Senate Report, 2011).[1] This section, then, considers shared governance and university administration in a "conventional" public university. We will examine the institutional structures of the faculty senate in relation to the university system, and then see how the ideal of the faculty senate fits within the principles of shared governance.

A. Faculty Senate

The contextual focus in this section will be on its most fragile element, the faculty senate. "Servility rather than governance may be the most likely product of this system and cultures of retribution, of fear of marginalization for failure to adopt the appropriate position may arise organically, even if unintended. The incentives of such systems may be too powerful to resist." (Backer, May 4, 2012). This organ of governance is sometimes trotted out for photo opportunity moments as proof of democratic engagement within non-profit organizations with a teaching and research mission (Dill & Helm, 1988). "In order to reduce the likelihood of administrative capture and management, the faculty voice (spoken in the singular in decision making, but operated in the plural among all individuals who together constitute "the" faculty) requires consolidation." (Backer, May 9, 2012). On some occasions it plays a formal role as a source of advice and consultation on matters of direct concern to faculty, the substance of which might or might not be embraced in whole or in part to by those with authority to act. More rarely, some of its members could be invited to play a critical role, though one usually behind the scenes and limited to the expression of faculty sentiment with a chance of influencing decisions or influencing thinking about potential action by those with power. On the rarest occasions, some members of the Senate may find themselves permitted a very small space in which to hear and speak to the most pressing matters of administration in the wake of crisis.

Faculty members are increasingly understood as units of production to the administration —factors in an human production line that is meant to apply processes to students that stamp out graduates of uniform quality who are fit for specific purposes, and also to produce knowledge of some utility to the currently favored crop of knowledge consumers—commercial enterprises and the state. In this factory setting, faculty governance participation appears to be a distraction valued mostly as gesture, reduced to the service component of mandatory faculty responsibility (Silverman, 2004). " The currency of power is usually expressed as control over (1) factors in the production of university wealth and prestige, (2) the results of that production (usually measured in money). The exercise of that power is usually effectuated through mechanisms, the objectives of which are to (1) socialize subordinate factors of production within power regimes (e.g. to get labor to do what is commanded or to accept what is done), and (2) to mask the realities of control through elaborate systems of transparency that feigns engagement but offers only the provision

[1] Available here: http://www.aaup.org/NR/rdonlyres/E741FFA6-CAFD-4089-A782-14B12490AD0F/0/SenateReport.pdf

of information." (Backer, May 1, 2015). This remains a marginal element of everything from annual reviews to the review of the sufficiency of tenure files, reflecting and simultaneously deepening the production line mentality that is usually clothed in more elegant language. Its exercise can result in retaliation, sometimes of the most sophisticated and subtlest kind, sometimes quite crude, especially far from the eyes or cares of even governance-sympathetic central administrators. Faculty governance is sometimes thought to serve best when its ambitions are quite humble—for example when governance is understood as service to low level administrators, or when it serves to more efficiently respond to issues of administrative organization and rule implementation for the management of students, staff and faculty themselves (Silverman, 2004; Minor, 2004).

High-level and policy governance is beyond the usual realm of the acceptable; as a consequence, faculty sometimes cultivate a deferential attitude that can appear to slide toward a servility of a kind that reminds more of the Commons in Tudor England than of modern notions of participation and engagement (Hutcheson, 2000). Servility is sometimes expressed as alienation and passivity (Backer, 2013). This tension between service and servility, and the influence of faculty governance cultures that favor one or the other, complicates the development of cultures of governance (Silverman, 2004; Minor, 2004). But this tension also reflects a reality in which the cultural parameters of corporate governance and state administration practices—grounded in power hierarchy, division of function, chain of command, and obedience—have come to dominate thinking about the way a university, like a governmental administrative agency or a large multi-unit corporation, ought to be governed (Birnbaum, 2000; Backer, 2013; Silverman, 2004; Minor, 2004). Within these structures, the idea of faculty governance is a rare and sometimes unappreciated thing indeed. It suggests a culture of governance that posits more horizontal relationships among stakeholders in the enterprise, and a more sensitive degree of commitment to consultation, inclusion, engagement, and accountability, that is absent increasingly from emerging foundations of institutional cultures, especially outside the university (Minor, 2003; Backer, 2013).

There lies more formally as a set of tensions inherent in the position of a university faculty senate within a governance structure that places it between the *hierarchical structures* of university administration, the *political structures* of state and federal governments, the *fiduciary structures* of the Board of Trustees, and contests among them all, the *academic structures* of knowledge production and sharing from which administrators, politicians, regulators, board members and consumers (employers and alumni) derive benefits and from which the profitability of the enterprise is (un)conventionally but increasingly measured (Hutcheson, 2000; Minor, 2004). We will start with a very brief review of the foundations. The conceptual structures of shared governance are fairly well known but it is always useful to nod in the direction of sources.

B. The Framework of Shared Governance: Normative structure and Operating Principles.

The general principles that reflect the common culture of shared governance in the context of universities are well known (Minor, 2004). These emerged first in the early 20th Century. As Robert Birnbaum (2000) succinctly explained:

> President Henry P. Tappan of the University of Michigan, for example, proposed in 1858 that the faculty should enjoy sovereignty over teaching methods and the curriculum since scholars "are the only workmen who can build up universities" . . . This principle, while broadly recognized, was honored more in the breach than in the observance by many institutions for the next fifty years. But the increasing professionalism of the faculty during the early decades of the 20th century, accelerated by the academic revolution following World War Two, led at many institutions not only to faculty control over the curriculum but to a strong faculty voice in other education-related matters as well.

The AAUP, of course, has been instrumental in developing and maintaining a good part of this culture (Hutcheson, 2000). Referring to the 1915 Declaration of Principles on Academic Freedom and Academic Tenure (AAUP, 2015), the 1940 Statement of Principles on Academic Freedom and Tenure (AAUP, 194), the 1966 Statement on Government of Colleges and Universities, and the 1994 Statement on the Relationship of Faculty Governance to Academic Freedom (AAUP, 2006), we examine the role of faculty within the legal contours of the AAUP. For instance, from the 1915 Statement emerged the modern understanding of the special role of faculty within a modern research university, one that resists easy conversion to the routinized hierarchical relationship of employee and superior. The 1915 Statement characterized the relationship between faculty and the university as one in which the faculty "are the appointees, but not in any proper sense the employees, of the university trustees. For, once appointed, the scholar has professional functions to perform in which the appointing authorities have neither competency nor moral right to intervene. . . . (1915 Statement, p. 294). As a consequence, the relationship between faculty, administration and trustee are necessarily not strictly hierarchical, but instead invoke a sharing of responsibility for the work of the university:

> "A university is a great and indispensable organ of the higher life of a civilized community, in the work of which the trustees hold an essential and highly honorable place, but in which the faculties hold an independent place, with quite equal responsibilities—and in relation to purely scientific and educational questions, the primary responsibility" (1915 Statement, p. 294).

That responsibility extended to the production of knowledge based on independent inquiry, to the training of students, and to the development of expertise for the advancement of the general welfare of the state (1915 Statement, page 295-6; Hutcheson, 2000). The 1915 Statement, then, is grounded in another great principle of the academic establishment—academic freedom, an explanation of which was the primary objective of that statement (Finkin & Post, 2009; Hutcheson, 2000; Minor, 2004). While the normative conception and operationalization of academic freedom was ultimately elaborated in the 1940 Statement, the fundamental conception of the nature of the relationship between faculty and university—the idea of the academic as appointee but not employee, of the autonomy of the scholar's undertaking within the university—remains as strong today as it was in 1915, as a matter of internal practice to which a university may but need not subscribe as a matter of binding internal organization.

That idea of the faculty member as appointee and autonomous actor within the government of the university had another significant consequence. Inherent in that principle was another, that of shared governance—for if the academic was not to be understood as being in a conventional employment relationship with the university, and if the scholar was expected to contribute to the training of students and the public good, then those interests would require participation in the operation of the institution in which they conducted their work (Hutcheson, 2000). The idea of the fundamental importance of governance participation as central to the integrity of academic freedom was at the heart of the 1966 Statement on Government of Colleges and Universities (Hutcheson, 2000). Its basic premise was what it called "joint effort": the necessity for joint action among governing board, administration faculty and students to increase capacity to solve educational problems (AAUP, 1966). It followed from this premise that governance principles are necessary to avoid the confusion or conflict that would result from institutional usurpations by one of the coordinate governance bodies (AAUP, 1966). For our purposes here, we focus on the role of the 1966 Statement in clarifying two distinct aspects of the faculty role in governance. The first is the normative standard—the fundamental premises of the faculty role. The second is the operational standard—the fundamental premises of the organization required to permit the exercise of the faculty role in governance.

The fundamental normative standard is grounded in stakeholder engagement, understood as both an institutional commitment to transparency and an equally strong commitment to engagement in decision-making (AAUP, 1966; Hutcheson, 2000; Minor, 2004). Transparency is understood in its dual role—the provision of meaningful information at a meaningful time and in a meaningful form—and transparency as a mechanism for effective participation in governance. The 1966 Standard, for example, speaks to "Effective planning demands that the broadest possible exchange of information and opinion should be the rule for communication among the components of a college or university" (AAUP, 1966, p. 2a). For faculty, the principal substantive governance role centers on "such fundamental areas as curriculum, subject matter and methods of instruction, research, faculty status, and those aspects of student life which relate to the educational process" (AAUP, 1966, p.5).

The operational standard consists of two requirements: first, an institutionalized participation in decision making, either in an initiator or consultative role, and second, a principle of deference where the decision falls closest to the heart of the core governance role of the stakeholder (Hutcheson, 2000). In the case of faculty, primary responsibility for decision-making, and the greatest deference by governing boards and administration, center on the core normative governance role of faculty relating to curriculum, instruction, research, faculty status and educationally related student life (Ibid). As Minor (2004) has noted, "Functional senates primarily operate to represent and protect the interest of faculty in university decision making…. These senates can also involve deans or other administrators as members of the senate. Various committees have specific responsibilities and carry out the work of the senate. The senate's decisions or recommendations usually result from formal procedures and voting. Governing documents such as by-laws, a faculty handbook, a constitution, or statutes determine the extent of its authority" (p. 348). In these areas, the faculty's role in decision-making should be at its strongest and both governing board and administration should defer to the greatest extent. With respect to other aspects of university governance, where the responsibilities of governing board and administration are paramount—strategic planning, legal compliance and risk management, budgeting, selection of administrative personnel, physical resources management and the like—faculty engagement remains significant but deference to faculty views might be sometimes significantly reduced (Minor, 2004). The degree of deference, or put another way, the degree of responsibility for governance, is a function of the subject for decision and the context in which decision-making occurs—or as the 1966 Statement suggests, "differences in the weight of each voice, from one point to the next, should be determined by reference to the responsibility of each component for the particular matter at hand" (AAUP, 1966, p. 2a).

The 1966 Statement also speaks to the organization of the faculty voice in governance—after all there is little value in vesting authority without institutionalizing its exercise in some sort of efficient and representative manner. That institutionalization calls for the creation of a government internal to faculty so that the views of the body of the faculty could be articulated, presented and advanced effectively. In the words of the 1966 Statement: "Agencies for faculty participation in the government of the college or university should be established at each level where faculty responsibility is present. An agency should exist for the presentation of the views of the whole faculty" (AAUP, 1966, p.5) These agencies, then, can be constituted as faculty senates at the university level and as local faculty organizations within departments, colleges and units in a multi-campus, multidivisional research university—like Penn State. These institutions, like the faculty they represent, are meant to be constructed as autonomous entities, governed by their own terms and without interference by the coordinate governing groups—principally administration, governing board, or the organs of state government when acting as an internal stakeholder—though created in consultation with and jointly approved by all stakeholders (Ibid).

With the 1994 Statement, the AAUP added the last layer to governance within the university. In the context of institutionalizing shared governance and deepening its normative framework, the 1994 Statement sought to expand on the meaning of deference in shared governance. It was meant to remind all stakeholders, in part at least, that deference was not an invitation to ignore a coordinate partner in governance. It also reminded that the object of the shared governance model of the 1966 Statement was not to cabin, and by cabining, reduce the role of the faculty to a very narrow slice of university life—such as the construction and offering of courses. Instead, tying together the 1915, 1940 and 1966 Statements, it made a case for the broad construction of the faculty role in governance and the importance of faculty engagement in most aspects of university governance, even as that role varied from consultation to a principal role in the fashioning of rules and policy. It also included a warning, taken in part from the 1966 AAUP Statement on Professional Ethics, a warning that has been increasingly overlooked to the detriment of shared governance in this century—"'Professors accept their share of faculty responsibilities for the governance of their institution.' If they do not, authority will drift away from them, since someone must exercise it , and if the members of the faculty do not, others will" (AAUP, 1966, p.).

This integrated structure of governance focused faculty governance authority on those key areas in which faculty contributed to the enterprise—the protection of the integrity of the disciplines within which knowledge was divided through control over hiring, and the protection of the integrity of the dissemination of knowledge through the control of courses and shared control over academic programs. The donor deal at FSU represented a substantial potential incursion into that framework. And it provided for the development of a model in which administration would serve as a pass through ministerial role (deferring to donor power) while faculty would lose most authority to participate in those key areas where their expertise was greatest—hiring and course content. It is to a consideration of those issues that we turn to next.

IV. The Reality of Shared Governance: Institutional Responses and the Role of the Faculty Senate

According to Miller & Bellamy (2012), "On the face of it, the memorandum of understanding seemed to have the potential to do serious damage to academic freedom and faculty governance." As then President Eric Barron to the Faculty Senate said in a May 18, 2011 email: "Given the importance of the issue of academic integrity, I would like to formally ask that the Faculty Senate set up a committee to examine the issues surround the Koch Foundation Agreement and its implementation to ensure that the integrity of Florida State University was protected. I believe it is essential for members of this committee to meet with the members of the faculty in Economics. I would appreciate receiving your findings in as timely manner as possible, as well as any recommendations you might have to ensure that we maintain the highest possible standards in ensuring academic integrity of our programs " (FSU Faculty Senate Report, 2011, p.1). And indeed, the committee engaged with the faculty of the Department of Economics, the former Economics faculty members present when the agreement was negotiated, the Chair of the Department, the Dean of the College of Social Sciences and Public Policy, the Dean of the College of Business, the Interim Provost, the Vice-President for Advancement, and the University Council.

Governance at the university is not grounded in the principles of the organization of economic enterprises or even of charitable and religious institutions—grounded in hierarchy, obedience, and power based differentiation of function and control (Finkin & Robert, 2006). Instead, the university is conceived as a collaborative enterprise to a greater extent, one in which its coordinate branches—the governing board, the administration, the faculty and students, work together, exercising their authority in harmony and for the greater glory of the institution for whose interests they all work. As one study noted:

> Research on institutional governance—intensive in the 1970s and resurgent in the 1990s—advanced a core set of values, including mutual respect between administrators and faculty, commonly defined issues, and equality in decision-making, responsibility, and accountability. Effective shared governance, most scholars noted, requires two-way communication and an ability for each "side" to relinquish decision-making to the other when necessary. But shared governance, goes the current standard thinking, may also placate faculty needs for involvement and consultation in decision-making, even when not resulting in specific actions (Miller, 2002)

But reality sometimes paints a less gloriously bright picture (Lieberwitz, 2007). Of course, this picture was painted at FSU, where, at least as first, there was the tolerance of a culture of impunity and administrative overreaching. When in 2007 CFK considered providing funding for the economics department at Florida State, it came with strings, which was not vetting by the faculty, only the chair of the economics department and a few members appointed by him. This not only provided the Koch Foundation want oversight over faculty hiring, but also influence of the undergraduate curriculum. The administration and the Deans at Florida State even welcomed the grant. There was, however, little faculty oversight on how this grant would impact the academic integrity of the institution. And it was not until the agreements revision in 2013 that a CFK advisory board would be consulted on faculty hiring's. It was not until 2011 that President Eric Barron contacted the FSU faculty senate to examine the agreement. This was indeed a step in the right direction, providing faculty a voice in university affairs, especially regarding academic integrity. July, 2011, the Faculty Senate Ad Hoc Committee Review Report was released, suggesting that while there were many good results from this controversial process (hiring two quality hires, stronger new teachers in large entry level classes, an active undergraduate club, and more funds for graduate support), there were shortcomings in donor hiring practices, issues around transparency in undergrad curriculums, clarification of the agreement, and mechanism to ensure the role of faculty were represented in hiring and curriculum development. In sum, the faculty senate recommended some changes to the contract, but found that the faculty hiring compiled with university policies. The school and foundation revised their agreement in 2013 "for clarity" and to emphasize the "fact that faculty hires would be consistent with departmental bylaws and university guidelines."

In their report, the faculty senate proposed a series of recommendations, such as suggesting an end to donor funded appointments; restructuring the committee that oversaw faculty appointments; prohibiting future donor agreements which have donor evaluations of faculty; suspend course offerings advanced by the grant until a new agreement is created that separates conflicts of interests; reviewing FSU Foundation's policies concerning such gifts vis-a-vi faculty appointments, evaluation, and university curriculum (Miller & Bellamy, 2012). And though these recommendations were useful, and accumulated in a revised agreement that clarified areas relating to transparency and shared governance, the university failed to institutionalize methods to ensure all the recommendations were fulfilled.

They also failed to protect faculty by putting the onus on the faculty senate to essentially do the President's and the administrations work for them. For instance, here the FSU Senate played the role of the "heavy" player who had to respond to the local and national criticism. This was in many ways an awkward position because they had no real power and could be undermined by both the president, the administration and of course, the Board of trustees.

The President was pleased with the outcome and similarly, the director of higher education programs at CKF, Ryan Stowers, was also pleased. Though the Faculty Senate did helped make the reviews for the agreement revision, which provided faculty control over the curriculum, nevertheless, the new agreement still maintained the Koch Foundation's power over hiring practices, essentially providing them with "indirect veto power on some faculty hiring" (Romero, 2014). As a result, the administration and the Koch foundation essentially won, and while the faculty senate report did make recommendations that were generally efficient in curtailing the impacts of the agreement, many of them were not enforces. Among the most serious issues that occurred were e the cultivation and tolerance of cultures of impunity, supported by administrative governance models that do little to provide avenues for remediation.

The administrative responses to CKF's demand might illustrate the potential dangers of administrative overreaching, and its threat to shared governance, especially in the context of the sometimes difficult search for funds. This included deliberate avoidance of consultation, or accidental failures to consult on matters of shared governance, resulting in the successful intrusions of administrators into the heart of the administrative organs of faculty governance. Since consultation is at the heart of shared governance, the management of that process, and the control of the use of consultation, both without accountability for abuse by administrators of that management and control, can significantly skew the contributions of faculty to discussion. If administrators can determine the time, place and manner of consultation by faculty, consultation itself becomes little more than theatre, and in this case theatre for the amusement of the governing board. It is true that sometimes administration officials know what is best—but many times consultation provides additional perspectives that might challenge even the most absolutely certain knowledge. Even the easy case, the low lying fruit, of administrative decision, making might profit from the sort of consultation that could lead to better or better accepted decision-making that preserves the integrity of the process of shared governance. Moreover, failures of consultation can have a significantly demoralizing effect, eventually corroding shared governance so that it remains a formal husk covering a rotted and shriveled body.

Yet equally damaging to the body of shared governance is what appear to be overt and covert efforts to *usurp and corrupt the internal processes of faculty governance*. Overt usurpation usually involves administrative efforts to expand control in matters where faculty authority is traditionally at its greatest. There is a noticeable tendency among university officials at the middle levels of administration—deans, chancellors, and their subordinates—to move to usurp the faculty role in governance. This can be effectuated formally—we have heard of cases in which such officials have insisted on the need for them to become leaders of the faculty governance organization, or where officials have insisted that they should have full authority over the development of courses and curricula. In the case of Florida State, the usurpation was incidental and a consequence of the determination to secure funding from CFK. But that might make the usurpation more dangerous—the administration appears blameless; helpless before the demands of a powerful financing body, with whose bidding it finds itself complicit. The effort is sometimes made to appear less damaging to traditional shared governance by embedding formal compliance with shared governance forms while undermining its forms. FSU administrators did not actively seek this usurpation of faculty governance space in their negotiations with CFK. They were, however, willing to waive these prerogatives in return for the donation. It is not clear that this waiver was the administration's to make.

Covert overreaching is more insidious. It can appear through a strategy of primus inter pares projection of administrative voices into policy and governance debates within faculty organizations. Thus, for instance, tenured administrators sometimes seek to speak as faculty during faculty deliberations, The conflict is unavoidable but dismissed because as a formal matter many administrators are tenured faculty. But administrators cannot serve two masters, they will serve the master who can terminate their administrative position first—purporting to speak as colleagues effectively privileges the administrative perspective (their own) in faculty debates about an issue. Debate is chilled where administrators become too eager to share their views within the debates of non-administration colleagues. Where participation might dictate self-control, an over-eagerness to project voice and manage outcomes becomes clear and clearly troubling. Both formal and informal intrusion by administrative officials in the internal governance of faculty organizations corrupts the integrity of any shared governance system as surely as any assertion, for example, by the U.S. President of power to appoint members of Congress ex officio to participate in their activities. FSU administrators avoided this trap. They permitted a space for faculty governance to participate without undue influence from within. And that greatly contributed to the ability of the FSU faculty to engage in the negotiation of the terms of the donation.

But faculty organizations sometimes share blame in equal measure for retaliatory practices. It is not unknown among faculties, and every faculty member is aware of instances of faculty bullying and mob behavior (Twale & Luca, 2008). These include instances of covertly enforced isolation, a disinclination to respect the views of colleagues, usually marginalized as offbeat, the social marginalization of the "cranky" or "unusual" colleague, and the cultivation of academic judgments based on notions of political advantage within a faculty. There are instances where an isolated faculty member becomes invisible—forgotten, not spoken to, and even lower level administrators feel no shame in walking by them without even the courtesy of an acknowledgement or "hello". Where these efforts are undertaken to curry favor with administration officials the corrupting effects are horribly pernicious. Interestingly, these instances of bad behavior are usually understood in hierarchical terms, something for a superior to control (even when she is the problem) and not a matter for faculty governance. Important as well might be the criticism that Nancy Rappaport gently made—because there are few consequences for irresponsible actions by faculty organizations, there is a tension in shared governance that is hard to avoid (Rapoport, 2010).

The FSU context suggests, however, the complexity of this potential for complicity. It is true enough that the CFK funds were helpful to the department, and that it would be easy for faculty to accept the terms under which they might be made available. However, the opposite is not necessarily the only possible measure of appropriate faculty reaction in the face of the sort of conditionality that CFK sought. The FSU case suggests that a more nuanced approach may preserve both the ability of institutions to seek donation, of donors to seek some influence in the use of their funds and on faculty to preserve their primary responsibility for hiring and for curriculum. Whether FSU got it right in this case or not, they appeared to have sought to move in the "right" direction. But it also suggests the contours within which such future discussion might be better managed in ways that maintain a strong fidelity to shared governance and the integrity of the public university as a shared enterprise.

V. **Faculty Governance: Recommendation**

When the FSU President asked the faculty senate to examine the issues of academic integrity around the Koch Foundation agreement and its implementation, he also asked for quick responses. Though the faculty senate was eventually called in to make recommendations, it was three years after the initially agreement was created, and after significant backlash. The Faculty Senate Ad Hoc Committee Review Report was released in July, 2011, with a set of recommendations. Many of these recommendations were aligned with principles of shared governance, as well as university norms and the FSU faculty handbook. And though many faculty members were happy with the recommendations, it must be noted that there was little to no enforcement mechanism to ensure they were followed through. This is, and has always been, one of the primary criticisms of the faculty senate, which, depending on this institution and their organizational history, have varying powers. The Faculty Senate Ad Hoc Committee made many recommendations, and substantive changes were indeed made, especially regarding faculty hiring, nevertheless, the core elements of the agreement remained in place, and the agreement between the administration, the economics department, and the Koch Foundation was legitimized. In this section, we will detail recommendations for faculty senate units in the future when dealing with external agencies and faculty governance. This begs the question: Is there a real and substantive role for a faculty Senate that is not obviated by local governance or the good intentions of the administration, or has this been a thin attempt to mitigate negative press to include some faculty say in the agreement.

The first are programs to enhance **engagement**. The University Faculty Senate must shed its increasingly single-minded concentration on issues of the facilitation of administrative mandates. For that purpose the Senate must begin to more consciously participate in dialogue at all levels of university decision-making. Additional avenues of consultation and engagement need to be pursued. Engagement is not useful when limited to being the first to hear about decisions that have already been taken. Perhaps enhanced joint committees reflect a structural innovation that, at the price of a certain loss of autonomy, also increases the role of the faculty in the development of critical policy (Birnbaum 1999). For Florida State's Faculty Senate, they were summoned by the President, and essentially did his bidding, unfairly. The administration had the resulting impact of putting the onus on the faculty senate to do the President's work for him , where the FSU Senate played the role of the "heavy" which was awkward because they had no real power and could be undermined by both the president and the Board. The Faculty Senate Ad Hoc Committee Review (2011) had recommendations that spoke to programs of enhanced engagement. For instance, recommendation (1) suggested that Florida State should have primary control in accordance the governing principles in Article 17 of the FSU Factual Handbook in hiring and curricular decisions. The three person Advisory Board should have at least two members of the faculty members from FSU's economics department (which was done), and should be specified in the MOU (which was not).

The second are programs to militate against retaliation. Retaliation affects all faculty in a governance role, but most especially it is the principle focus of the problems of engagement by fixed term faculty. But it also goes to the extent to which the university is willing to provide real protection, enforceable against its officers, for faculty exercising their shared governance duties—for example by the adoption of a code of governance rights. It has a cultural element as well—there ought to be as great a focus on cultures of retaliation as there is about the culture of drinking at public universities (Backer, 2010). Changing cultures of impunity, especially in the form of retaliation and overreaching is a critically important task. That requires some additional sensitivity on the part of the administration and less tolerance for the overreaching exuberance even by administrators that are otherwise meeting other goals and objectives dear to central administrator's priorities. Programs implementing 360-degree review of administrative personnel would be useful (Lublin, 2011). But more importantly it requires both a recognition that the ideals (and realities) of shared governance are not hard wired into law. Law does little to protect faculty engagement in shared governance. What little protection there is obtained at high cost—litigation after retaliation and subjection to after the fact second guessing by courts required to contort First Amendment distinctions onto an employment relationship that is distinct but not unique. Universities committed to shared governance, then, are required to prove it; and the proof is in the contractual provisions they are willing to subject themselves to protect activities that advance shared governance by contract and tenured faculty. While some courts have refused to recognize the binding effect of handbooks, (Stanton v. Tulane University, 777 So.2d 1242 (La.App. 2001); Raines v. Haverford College, 849 F.Supp. 1009 (E.D.Pa. 1994), and many courts have held that written employee handbooks, bylaws and similar documents could be enforced as contract (Woolley v. Hoffmann-La Roche, Inc., 491 A.2d 1257, mod. 499 A.2d 515 (N.J., 1985); Collins v. Colorado Mountain College, 56 P.3d 1132 (Ct.App.Colo. 2002)). The protection of shared governance starts with protection from retaliation; and protection from retaliation for acts of shared governance necessarily starts with the university's contractual commitment specified in its handbook and human sources policies, and made binding on all parties. That is the lesson that the state of U.S. law teaches. The problem with The Faculty Senate Ad Hoc Committee Review report was there was not discussion on mitigation against retaliation and while there is not discussion there are suggestions. Recommendation 10, for instance, notes that the new Provost should review its practices with all deans regarding the roles of faculty in shared governance in the development of curriculum. The mechanics behind this review process, however, is not properly fleshed out, but does provide a starting point for future negotiations with donors and institutions.

The third are programs enhancing transparency. There is no effective governance without thorough and effective transparency. But transparency, both understood as data and assessment, can sometimes be employed as a weapon to sharpen the disadvantages among parties to decision making. Where there are a-symmetrical power relationships—where administration controls the levers of access to information, it does little good to provide a certain enhanced level of information and data to administrative personnel and another, and less enhanced level of access to faculty engaged in governance. In that context, the excuse of privacy or sensitivity is hardy worthy—such data was not private enough to prohibit its use in making a determination, by some,; if you use it you should be prepared to share it.

Transparency has been a constant theme within the debates and discourse around Florida State and the Koch Foundation. The issue, from an institutional view to a departmental one, is that there lacked meaningful transparency. And while The Faculty Senate Ad Hoc Committee Review Report did not discuss creating programs to enhance transparency, they did recommend approaches to enhance greater cooperation between departments and donors, which would result in greater transparency between the two parties. Recommendation (7), for instance, recommended that the college and the department should work with the Koch Foundation and work out the governing mechanics on how to work with donor's interest while insuring the integrity of the curriculum. If this was the starting point of the conversation, much of the controversy would have been mitigated. Recommendation (8) took this a step further, and suggested that the foundation itself should review its policies concerning gifts that focused on the conditions over the hiring of faculty, their evaluations of hired faculty, and the development of curriculum. They further stressed that they should update their documents to ensure autonomy and institutional integrity in future negotiations. Part of this was to also temporally suspend its approval of ECO 313 – "Market Ethics", and to then resubmit the proposal with an indication on how this course relates to the donor's intent and agreement, which was not present in the initial proposal for the course.

Perhaps one of the most powerful recommendations was recommendation (9), which recommended that the Provost's office to create some mechanism to review multiple donor agreements that involve more than one college. This would be most important to institutionalize this practice within the university as a way to mitigate the possibility of such an agreement to occur again in the future. Recommendation (10) also recommended that the new Provost should review with all deans regarding the roles of faculty in shared governance and the primary responsibility of faculty for the development of the curriculum. The majority of the discussion around the FSU/Koch Agreement has been around faculty hiring's, yet there has been a limited discussion on the influence of curriculum. This is perhaps one of the most significant blows to academic integrity and institutional autonomy, being a cornerstone of the modern university system of creating and promoting knowledge without external influence. But transparency means more than merely sharing selected information with groups of people. Transparency means opening proceedings to all stakeholders and engaging stakeholders through consultation; it means accountability to those in whose service one acts. It also means that Senate meetings might cease being well-managed staged affairs that make good theatre, and which follows corporate models, but which also discourages participation. Greater opportunities for comment on proposed action by Senate, board and administration would serve transparency well. But so would an HR 40 style requirement that front line administrators list their annual goals and account for their attainment.

The fourth involves flexing atrophied muscles. The Senate is at its strongest in its governance role when it carefully considers an issue. For that purpose the Senate can make greater use of its forensic powers. Some examples of ways in which the forensic power can be more usefully deployed include seeking to assess administrators informally through the application of its own metrics; producing programs discussing cultures of administrative overreach at the University, and discussing institutional approaches of equity for academic integrity and protection against overreaching by administrators in future agreements with powerful donars. It is not unusual for foundations to provide funding for professorships or endow chairs; this has been a common practice throughout the history of American higher education. What is unusual in this case, is not the gift itself but the donor's influence in the hiring process (Allen, 2014). Throughout The Faculty Senate Ad Hoc Committee Review Report (2011), there is little discussion on the future role of the faculty senate in future negotiations. This is perhaps one of the baggiest obstacles in future negotiations. A mechanism of including a faculty senate committee to review sizable grants would have been a recommendation worth noting. In a very similar case involving Yale University, a billionaire alumni provided $20 million to expand its Western civilization curriculum. The donor requited that he approve the faculty members for the proposed course and after substantial faculty backlash, Yale returned the $20 million dollar gift. Though this present a rare case of returning money to a donor, it threated a cornerstone of the university system, that is, faculty control of hiring and curriculum.

The fifth involves restructuring the Senate to respond to the functional realities of the modern university. But even as the functional role of the Senate has been changing with respect to its legislative, advisory and consultative and forensic authority, new functions are emerging that are more in line with the evolution of the relationship between academics and finance, between the administration and the faculty, and between the faculty and the board of trustees. The most important of these is the role of the Senate as an autonomous critical *monitor*, to be aware of and to assess the state of a system in which faculty now participate functionally in a more passive and *post facto* way in the development of policy and governance at the university but in which the faculty retains a strong role. That role is now functionally clear--to review, assess predict and judge the work of the administration, and to use that monitoring and assessment power to aid administration at all levels in the efficiency and coherence of their work. More importantly, the monitoring role serves the board of trustees as well. Monitoring and reporting provides the board with an independent source of information and assessment that is critical to the role of the broad to hold administrators accountable.

The Senate then can serve as an autonomous center for accountability with respect to those matters traditionally reserved to shared governance. But this role also requires support against retaliation as a matter of contract between the university and its faculty. This includes one that engages in routine and systematic data collection relating to performance, providing feedback and episodic and objective assessment. The monitoring function is designed to enhance accountability in those organizations where decision-making becomes harder to effectively share.

Conclusion

The influence of philanthropy occupies a contentious space among key stakeholders of the public research university — professors, students, and the community—because the most pressing issues rests on the influence of philanthropy on institutional autonomy, shared governance, and the freedom of inquiry, ideals ingrained into the ontological fabric of the academy. The ideal of the university represents an autonomous generator of knowledge, free from external constraints, allowing the flow of knowledge to disseminate freely for the advancement of the public good (Albach, 2001). While this ideal has only been partially reached, now more than ever, the influence of private funding on knowledge production has been an increasing concern for those within the higher education enterprise.

In this chapter, we examined the relationship between philanthropy and the increasingly contested governance space of the public research university, and against the backdrop of academic integrity and shared governance. The Charles G. Koch Foundation's (CKF) and Florida State University (FSU) made a grant of $1.5 million to FSU's economics department which would allow Koch Foundation representatives to sit on screening committees for new faculty hires, provide funding for doctoral students in economics, and the creation of a new undergrad programs that would be based on curriculum based on the ideology of the Koch Foundation. This deal was eventually met with faculty and community backlash, since it relegated substantial control of a public institution to an external actor. We first provided a background regarding the case of involving Florida State University and the Koch Foundation's agreement, and from this perspective, we considered the realities of shared governance and its functional challenges in light of academic integrity and university donors. We then flesh out the difficulties of shared governance within the a-symmetric power arrangements that are the hallmark of public universities, and then consider where a faculty senate can fit into this governance enterprise when dealing with external influences of major donors. Though the faculty senate did eventually have a place to ensure that all stakeholders had some influence in the agreement, by the end, the agreement was not fully enforced and lacked real teeth. Of course, our recommendations could ensure that such cases do not occur in the future, but alas, institutions are slow moving creatures, and at times, requires much resistance and pressure to make changes. Of course, faculty do not own or run the university but neither are they owned or run by it. Sadly, over the last century, radical ideologies, disguised as new notions have sought to abandon this basic relationship between the university and its faculty in favor of some flavor of paternalism. It remains to faculty with likeminded supporters within university administration and our governing boards, among students and state officials, that we can reject these radical incursions into the governance life of the university and preserve its role as an authoritative site for the production and sharing of knowledge (Steck, 2003).

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