

The Association of Community College  
Trustees is the Voice of Community  
College Leaders

The ACCT logo consists of the letters "ACCT" in a bold, white, sans-serif font, centered within a dark blue square. This square is positioned on the right side of the slide, partially overlapping a larger, lighter blue rectangular area that extends to the right edge.

## ACCT Pre-Congress Academy 2018

# Effective Ethical Board Governance: Board Ethics, Bylaws and Policies

Wednesday, October 24,  
11:00 a.m. - 4:00 p.m.



# Presenters

- Dorey Diab, President, North Central State College, Ohio
- Cobby A. Caputo, Partner: Bickerstaff, Heath, Delgado, Acosta, LLP, TX
- Augustin Rivera, Jr., General Counsel, Del Mar College District, TX
- Elisabeth Morando, Board Chair, North Central State College, Ohio
- Dwight McElfresh, Trustee, North Central State College, Ohio
- Norma Goldstein, Director of GISS & Special Projects, ACCT



# Introductions & Agenda

## 11:00-11:10 Norma Goldstein

- Welcome and Introductions of participants.
- 11:10-12:00 Dorey Diab
- Participants' Expectations. Questions to be answered.
- Principles of Effective Governance, including Policy Governance®

## 12:00-12:30 Lunch

## 12:30-1:00 Cobby Caputo & Augustin Rivera

- Effective and Practical Board Ethics: A Guided Tour Through Policies/Bylaws

## 1:00 - 2:30 Cobby Caputo & Augustin Rivera, Group Work

- Two Roundtable Ethical Scenarios (Nepotism, Receiving Gifts), Report Out

## 2:30 - 2:45 Break

## 2:45 - 3:30

- Facilitated Open Discussion: Participants Ethical Concerns

## 3:30 - 4:00 Dorey Diab & Norma Goldstein

- Questions, Reflections, and Survey



# Why Effective ETHICAL Governance?

LEGAL

MORAL

ETHICAL

The title of “trustee” assumes a moral, ethical, and legal obligation to fulfill a duty to protect the community college district and serve the public good. ..to do what is legal and ethical to ensure the success of the institution in meeting the needs of students and the community.

Cindra J. Smith

# How to do Effective ETHICAL Governance?

Bylaws.

Code of Ethics.

Avoid Conflict of Interest.

Open and Public Meetings.

Practice impartiality & Fairness.

Avoid Personal Gain or Favoritism.

Use due process.

Set an example.

Avoid appearance of impropriety.

Practice Civility and Courtesy.

ACCT Guide to Ethical Governance\*.

Avoid personal use of public resources.

\* In compendium



The logo for ACCT (Association to Advance Collegiate Schools of Business International) is displayed in white, bold, sans-serif capital letters on a dark blue rectangular background.

2018 ACCT  
LEADERSHIP  
CONGRESS  
PRE-CONGRESS  
ACADEMY

# *Effective Board Governance: Ethics Compendium*

A collection of resources on the topic of Ethics for Boards of Trustees

# Effective Board Governance

Ultimate test of board effectiveness is how effectively they ensure that the missions of their institutions are achieved.

Cyril Houle, 1989

Describing the target to be hit and what to avoid is governance; doing it is management.

San Jose CC on  
Policy Governance



# Effective Boards: ACCT

- Act as a unit
- Represent the common good
- Focus on the mission, on student success
- Employ, support, and evaluate the chief executive
- Define policy standards for college operations
- Create a positive climate
- Monitor performance
- Support and advocate for the college
- Lead as a thoughtful, educated team



# Effective Boards: AGB

## 10 characteristics of Highly Effective Boards:

1. Create a culture of inclusion (engagement, inquiry).
2. Uphold basic fiduciary principles (duty of care, prudent).
3. Cultivate a healthy relationship with the president.
4. Select effective board chair (team leader, partner).
5. Establish an effective governance committee.



# Effective Boards: AGB

6. Delegate appropriate decision authority to committees.
7. Consider strategic risk factors.
8. Provide appropriate oversight of academic quality.
9. Develop a renewed commitment to shared governance.
10. Focus on accountability (to serve the public).



# Effective Boards - Policy Governance®

(developed by John Carver)

- Act as a unit
- Represent the “ownership” of the college (community link, one step below ownership vs. one step above CEO)
- Operate by policy. Define decisions and directions in policy. Delegate authority through policy
- Begin with fewer broadest policy statements. Narrow the focus as needed. Stop when accepting “any reasonable interpretation.”



# Effective Boards - Policy Governance®

(developed by John Carver)

- Define vision and goals as “ends” (obsessed by ends).
- Establish limits for “means” in policy (delegated to CEO).
- Define governing processes and standards.
- Monitor CEO performance against policy criteria.



# Policy Governance Policy Categories

Reflect board responsibilities in 4 categories

## 1. Ends

- Policies that state the expected outcomes for those served by the College (board acting on behalf of the ownership)

## 2. Executive Limitations

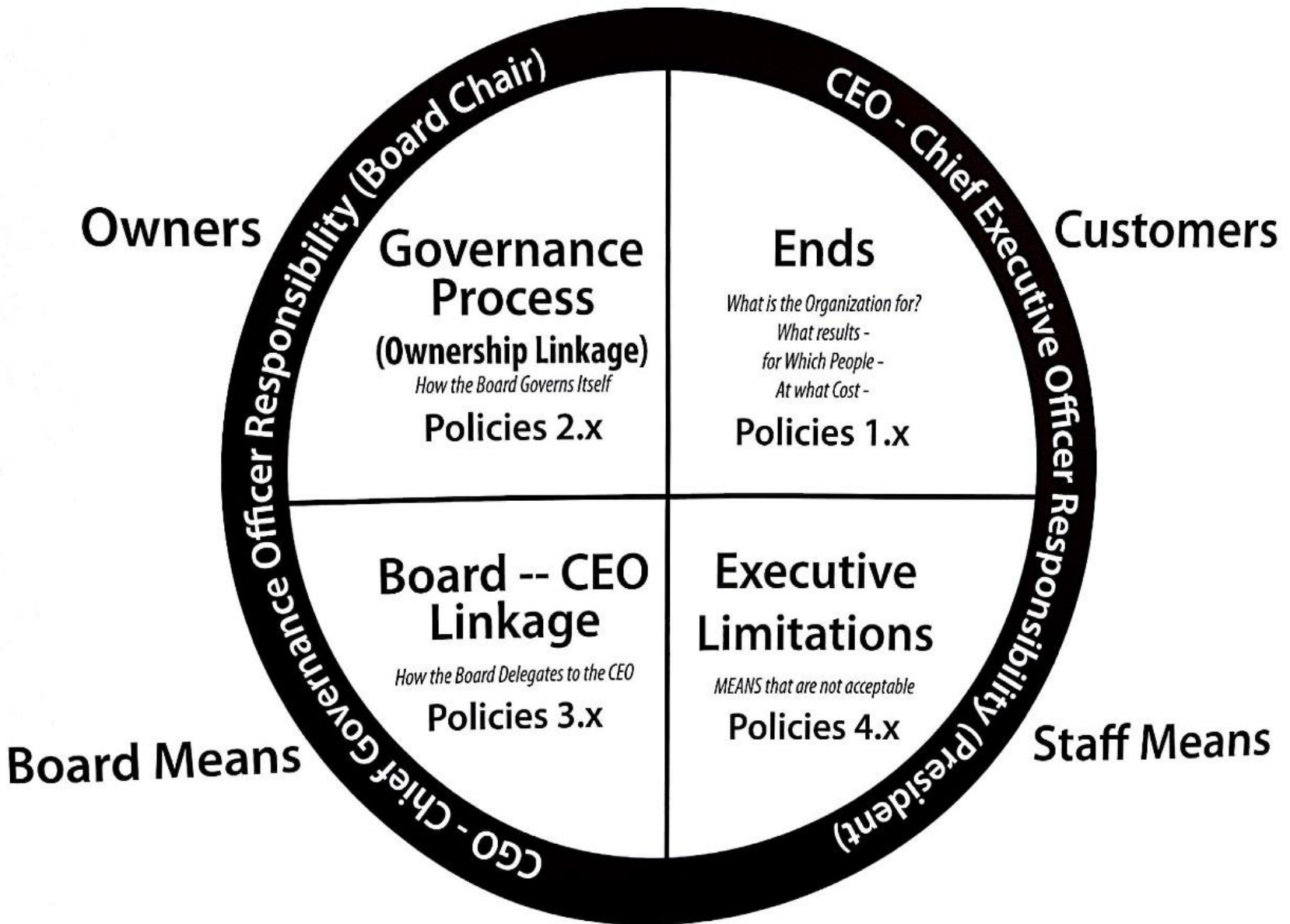
- Defines the ethical, legal, and prudent limits on staff activities
- CEO has authority and responsibility. Sole board employee.

## 3. Board/CEO Relationship

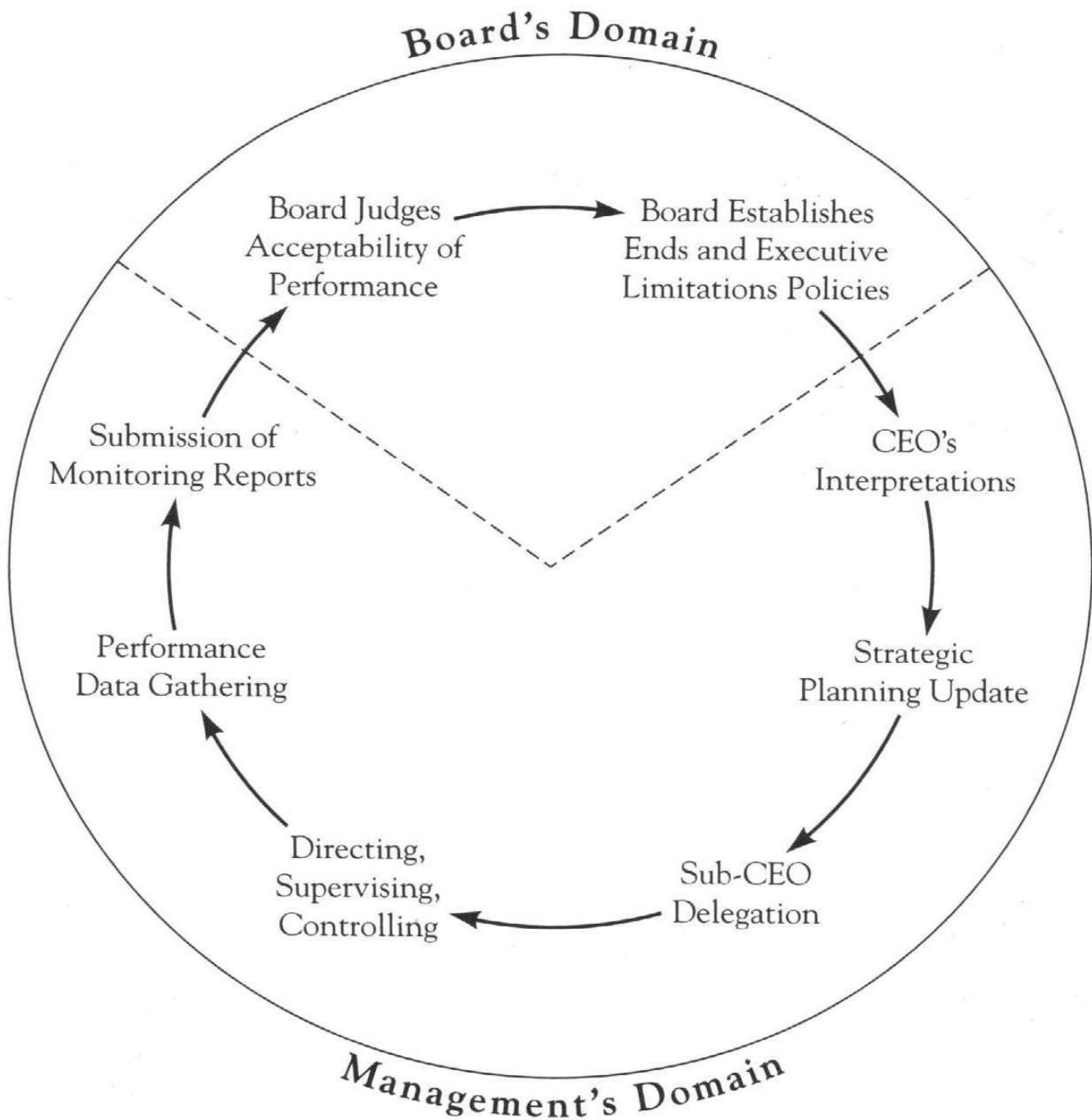
- Board focuses on Ends, the results or the “What,” future needs/trends
- CEO focuses on the Means or the “How”

## 4. Board Governing Process (how board governs itself)











# Similarities

Many similarities among models

- Act as a unit
- Represent community
- Delegate clearly to the CEO
- Focus on end result (student success)
- Govern by policy (board as a whole direction)
- Monitor performance



# Differences

	<b>Policy Governance</b>	<b>Traditional</b>
<b>Policy Categories</b>	Four categories reflect board role	Categories reflect college structure
<b>Goals</b>	Define outcomes for students & community	May be strategic goals
<b>Policy making</b>	Board develops; start with broad values	Usually created by staff
<b>Operational policies</b>	Proscriptive (sets limits; states what “not to do”)	Prescriptive; states what should be done
<b>Community Links</b>	Job #1 of board; external focus	Usually a more internal focus



## To Govern with Excellence, Skills and Behaviors must be Understood and Rehearsed

In order to succeed in their job, Board members must:

- Be clear on their Requirements and Expectations
- Be proficient with required Skills and Behaviors

Just as sports teams, orchestras, and military units must practice, rehearse, or drill in order to achieve excellence and prepare for the unexpected, so must governing boards who wish to govern with Excellence.



# Application of the Policy Governance Process to the issue of Board Ethics

Resolve any scenario by answering the following questions.

1. What has the board already said in its relevant policies?

- A. Ends
- B. Executive Limitations
- C. Board-Management Delegation
- D. Governance Process

2. According to the board's policies, does this scenario refer to anything that has been delegated to the CEO?

If yes, Does the scenario suggest that the CEO is in compliance with a reasonable Interpretation of the board's Ends and Executive Limitations policies?

If no, Does this scenario reflect behavior consistent with the board's Governance Process and Board-Management Delegation policies?



## Application of the Policy Governance Process to the issue of Board Ethics (continued)

3. What action, if any, should the board or board member now take? *(Specify the board or board member actions that you believe would be consistent with board governance and management delegation policies.)*
4. If the action you propose involves a possible board policy change:
  - 4a. What amendments or additions do you suggest?
  - 4b. What further information, if any, does the board need before deciding on this change?



**Nepotism Scenario:** A significant funder is threatening to stop contributing to a nonprofit organization unless given a board seat. What should the board do?

1. What has the board already said in its relevant policies?

Ends: N/A

Executive Limitations: N/A

Board-Management Delegation: N/A

Governance Process: The board exists on behalf of the ownership

Policy4.0:

Continual board development will include orientation of new board members in the board's Governance Process (4.1.4).

The board acts as an informed agent of the ownership (4.2).

Board members' loyalty to the ownership must be un-conflicted by any personal interest as a consumer (4.5.1).



**Nepotism Scenario:** A significant funder is threatening to stop contributing to a nonprofit organization unless given a board seat. What should the board do?

2. According to the board's policies, does this scenario refer to anything that has been delegated to the CEO? No

IF NO:

2b. Does this scenario reflect behavior consistent with the board's Governance Process and Board-Management Delegation policies? Yes (*Explain your answer.*)

The scenario concerns decisions about future board composition.



**Nepotism Scenario:** A significant funder is threatening to stop contributing to a nonprofit organization unless given a board seat. What should the board do?

3. What action, if any, should the board or board member now take?  
*(Specify the board or board member actions that you believe would be consistent with Board Governance and Management Delegation)*

The funder has already demonstrated strong commitment to the organization's ends. He or she should be informed of the board's policies and expectations especially the requirements that board members must act in the interests of the owners and that no individual board member has authority over the organization.

If the individual commits to contributing to the board's governance as indicated, his or her candidacy should receive due consideration for nomination as determined in the bylaws. (Note that whereas funders are owners in for-profit corporations, they are not necessarily owners in nonprofit organizations.)



**Gift Scenario:** CEO of a construction firm has just been issued a contract for work at the institution approved by the Board. The CEO explains that he knows they are uncompensated for their work and would like to give each Trustee a gift card as a token of his appreciation for all they do. What should the board do?

1. What has the board already said in its relevant policies?

Ends: N/A

**Executive Limitations:** The CEO will not: Let the board be unaware if, in the CEO's opinion, the board is not in compliance with its own policies on Governance Process and Board-CEO Linkage, particularly in the case of board behavior that is detrimental to the work relationship between the board and the CEO. (Policy 4.11)(f).



**Gift Scenario:** CEO of a construction firm has just been issued a contract for work at the institution approved by the Board. The CEO explains that he knows they are uncompensated for their work and would like to give each Trustee a gift card as a token of his appreciation for all they do. What should the board do?

1. What has the board already said in its relevant policies? (cont'd)

Board-Management Delegation: N/A

Governance Process:

The board commits itself and its members to ethical, businesslike, and lawful conduct, including proper use of authority and appropriate decorum when acting as board members (Policy 2.30).

Board members must avoid conflict of interest with respect to their fiduciary responsibility (Policy 2.32).

# To accept or not?

When evaluating whether you can accept a gift or thing of value, you must consider both:

- The **source** of the gift
- The **nature** of the gift





# Supplemental Compensation

A Trustee of a state institution is prohibited from soliciting or accepting compensation for the performance of his public duties.

Private parties are likewise prohibited from offering or giving supplemental compensation to trustees.





**Gift Scenario:** CEO of a construction firm has just been issued a contract for work at the institution approved by the Board. The CEO explains that he knows they are uncompensated for their work and would like to give each Trustee a gift card as a token of his appreciation for all they do. What should the board do?

2. According to the board's policies, does this scenario refer to anything that has been delegated to the CEO? (this is for discussion)

If yes, Does the scenario suggest that the CEO is in compliance with a reasonable Interpretation of the board's Ends and Executive Limitations policies?

If no, Does this scenario reflect behavior consistent with the board's Governance Process and Board-Management Delegation policies?

3. What action, if any, should the board or board member now take? *(Specify the board or board member actions that you believe would be consistent with Governance Process and Board-Management Delegation policies.)*



Thank You!