

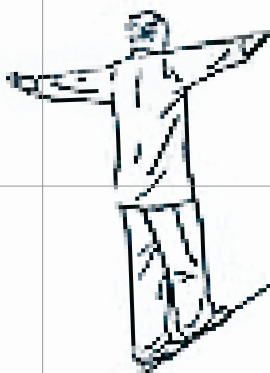


Negotiating the CEO Contract:

BY DR. DESNA L. WALLIN

PICTURE THIS SCENARIO: THE BOARD OF TRUSTEES has just concluded a lengthy selection process for the right person to lead the college in these challenging times. But all the effort has been worth it because you have finally found Dr. “Almost Perfect.” It’s a great fit for the college, the staff and faculty are enthusiastic, and you are eager for the new leader to begin work. All that stands between the new leader and the job is the employment contract.

What the Board Needs to Know



“SOMETIMES KNOWN AS “GOLDEN HANDCUFFS, THESE BENEFITS REFER TO BONUS AND INCENTIVE PAY, DEFERRED COMPENSATION, ANNUITIES, HELP WITH INSURANCE POST-RETIREMENT, SABBATICAL LEAVE, AND 401(k) OR 457(b) CONTRIBUTIONS.”

Each year, over 100 trustees and presidents eager to learn more about negotiating the CEO contract participate in an annual Pre-Congress Academy, co-sponsored by the AACC Presidents Academy, which I conduct along with ACCT Vice President Dr. Narcisa A. Polonio. This article is intended to give everyone the fundamentals of negotiating the CEO contract and serves as a primer on negotiations.

The Basics

Employment contracts are complex legal documents. Ideally, the college attorney is well-versed in employment law and is competent to draft a contract that meets the unique needs of the board and the new leader. Effective contracts take into consideration the particular needs of the college as well as the life-stage, family, and professional needs of the new CEO.

What are the basic elements that the board should be looking for in the contract, whether it is a contract for a new CEO or one to retain a high-performing current CEO? A well-written contract contains four major components: 1) the term of the appointment; 2) the compensation package; 3) the performance-review process; and 4) the separation clause. Let's look at each of these components in more detail.

Term of the Contract

The term of appointment stipulates the period of time covered by the contract. Contract lengths vary, but the most common term of appointment is a three-year contract. While state laws and district practices may limit the ability of boards to define the time and the processes for renewing a contract, there has been a recent shift toward “evergreen” or rolling contracts. These contracts have some provision whereby upon a satisfactory performance evaluation, a year is added onto the existing contract. A multi-year contract with renewable features sends a powerful message to the college and community that the board has trust and confidence in the CEO. It also gives the CEO the latitude that is needed to make difficult and sometimes unpopular decisions for the good of the college.

Compensation Package

Although it is certainly true that a person does not aspire to a community college presidency to become rich, it is a

fallacy to assume that candidates are indifferent to financial considerations. It is the responsibility of the board to provide a contract with a competitive and reasonable compensation package, including both salary and benefits. Many factors must be taken into consideration, including the size and complexity of the college, salary ranges of presidents within the state and region, the experience level of the new CEO, the cost of living in the area, and community expectations and cultural norms.

There are certain benefits that are standard for all or most college employees: health, vacation, personal and sick leave, among others. Other types of insurance may be particularly desirable for a CEO, including increased life and disability insurance.

It is more difficult to determine what special benefits would be attractive to the CEO. For example, if the college is in a very high-cost area, is the board willing to provide a housing allowance? Most boards provide a leased or purchased college car for the use of the president. A new CEO who has to move a household some distance might need help with moving, relocation expenses, and temporary housing. Other benefits, including housing and country club memberships, may be more controversial, and thus the board needs to be sure that its members will stand behind the reasons for those benefits if they should be questioned by faculty, community representatives, or the press.

A variety of possible retention and reward systems may be particularly effective and important to a long-serving CEO. Sometimes known as “golden handcuffs,” these benefits refer to bonus and incentive pay, deferred compensation, annuities, help with insurance post-retirement, sabbatical leave, and 401(k) or 457(b) contributions.

Thoughtful boards will discuss all the financial options legally available to them to attract a new leader and to support and retain a high-performing CEO. Since as tax laws and state and federal laws are constantly changing, it is critically important to develop these contract components with the assistance of a well-informed and qualified attorney.

Performance Review

CEOs need to understand the expectations of the board. Assessing the performance of the president is clearly the responsibility of the board. It is important that the board



carry out that responsibility with integrity, transparency, sensitivity, and fairness. Both the CEO and the board need to be clear in setting mutually agreeable goals and timelines, with a clear understanding of the resources available to accomplish the set goals.

Most community college CEOs have an annual board-conducted review. During that review, goals of the past year are discussed and new goals for the coming year are formulated. If a particular goal from the past year was not achieved, there should be an opportunity to discuss why and to determine if that goal continues to be important or if it has been superseded by more relevant goals. Many boards reach out to ACCT for assistance in conducting presidential evaluations.

In many cases, compensation and the extension of the contract are tied to the CEO performance evaluation. The CEO's role is a challenging one, and expectations for presidential leadership are very high. It is important for boards and CEOs to agree on the prioritization of goals and objectives, because even the best and brightest CEO cannot accomplish all that needs to be done in an exemplary and timely fashion. A realistic set of goals and expectations provides direction and focus for the CEO and helps to assure that both the board and the CEO are on the same track. ACCT recommends that the board and new CEO participate in a facilitated retreat to establish goals and priorities for the new president within three months of his or her taking office.

Termination Clause

All employment agreements end. The termination of an employment agreement, regardless of cause, represents a momentous occasion in the life of a college. If the parting is amicable — retirement, moving to another position after a successful tenure — it is an occasion for celebration and reflection on accomplishments. If the parting is acrimonious — misconduct, conflict with the board, no-confidence vote from the faculty — the resulting bad feelings and bad press can be damaging to the college and the community for years. Thus, it is in the best interest of the board and the CEO to be sure that the process of termination is not overlooked in the employment agreement.

Generally, there are five reasons for termination that should be addressed in the contract: death, disability, resignation, and termination either for cause or without cause. The conditions and consequences of each type of termination should be specified in the contract. Because of the complexity of defining these terms, and the potential long-term financial and legal implications for the college, qualified legal counsel should be involved to protect the interests of both the board and the CEO.

A well-written employment agreement sets the stage for a successful presidential tenure. By giving the CEO a reasonable expectation of continued employment for a set period of time, difficult and sensitive decisions can be made without the fear of displeasing a particular interest group and becoming unemployed on short notice. For the board, the employment agreement standards and expectations, and prioritizes work. It gives the board something specific against which to measure the progress of the college under the leadership of the CEO.

It is important for both parties to share well-defined expectations and develop a document that shapes the basics of the CEO-college relationship. In the next decade, it will be more important than ever for boards to develop customized and competitive employment contracts to attract and retain high-performing CEOs to lead today's community colleges.

Beyond the Basics

If you have any questions about negotiating the CEO contract, I will be available to help navigate the process at the 40th Annual ACCT Community College Leadership Congress Pre-Congress Academy titled "What Trustees Need to Know about Presidential Contracts and Conducting the Presidential Evaluation" in San Francisco on October 7. I look forward to seeing you there!

Desna Wallin is an associate professor in the Department of Lifelong Education, Administration Policy at the University of Georgia in Athens. She is the author of The CEO Contract: A Guide for Presidents and Boards, published by the American Association of Community Colleges (2007). To order, go to www.aacc.nche.edu.