



UTAH SYSTEM OF  
HIGHER EDUCATION

# MEMORANDUM

June 6, 2024

## Board Policy Updates

### Background

As outlined below, the Commissioner recommends the approval of amendments to thirty Board policies, the repeal of nine Board policies, and the approval of three new Board policies based on the Office of the Commissioner's five-year policy review and statutory updates or requirements.

#### R119, Board of Higher Education Qualifications

The following amendments to Board Policy R119 are recommended based on [House Bill 261](#):

- Updating the qualifications of Board members to align with requirements in [House Bill 261](#). This includes removing language about diversity, equity, and inclusion.

The Office of the Commissioner shared this information with presidents and institution general counsels for feedback.

#### R122, Board Conflict of Interest Policy

The following amendments to Board Policy R122 are recommended based on OCHE's five-year policy review and [Senate Bill 192](#):

- Updating the references to align with current Utah Code titles;
- Updating definitions;
- Adding language that states, "a Board member shall not have a conflict of interest in which the Board member's financial, professional, or other personal considerations or interests may directly or indirectly affect their judgment in exercising their duties or responsibilities for the Board";
- Changing substantial interest in the ownership, either legally or equitably, by a Board member, the Board member's spouse, or the Board member's minor children, from at least 15% of the outstanding capital stock of a corporation or a 15% interest in any other business entity to 10% capital stock and/or interest based on statutory updates in [Utah Code section 67-16-3](#);
- Adding information about the duty to not improperly disclose or use private, controlled, or protected information based on statutory updates in [Utah Code section 67-16-4](#); and
- Non-substantive edits for clarity and consistency with other Board policies.

The Office of the Commissioner shared this information with presidents and institution general counsels for feedback.

#### R123, Board Self-Evaluation and Training

The following amendments to Board Policy R123 are recommended based on OCHE's five-year policy review:

- Updating the references to align with current Utah Code titles;
- Updating definitions;
- Changing the frequency of the Board's self-evaluation from annually to every three years;
- Updating the training provided to stakeholders to align with the resources and training provided to institution presidents in [Board Policy R209, Evaluation of Presidents](#); and
- Non-substantive edits for clarity and consistency with other Board policies.

The Office of the Commissioner shared this information with presidents and institution general counsels for feedback.

#### R124, Government Records Access and Management

Board Policy R124 is recommended as a new Board policy based on the requirements in [Utah Code section 63G-2, Chapter 2](#). The new Board policy:

- Outlines the requirements and fee schedule for records access and management matters for the Board and OCHE pursuant to Utah law; and
- Explains the requirements for the record officers, records designation, and records access.

As required by Utah law, this new Board policy will go through the rulemaking process and be codified as administrative rule R765-124. Additionally, administrative rule R765-993 will be repealed because this rule is no longer relevant or needed. The Office of the Commissioner shared this information with presidents and institution general counsels for feedback.

#### R130, Equal Opportunity Initiatives

Board Policy R130 is recommended as a new Board policy based on the Board's compliance obligations in [House Bill 261](#). The new Board policy:

- Outlines compliance obligations and establishes a procedure for accepting and processing an individual's complaint against a USHE institution for an alleged violation of Utah Code sections 53B-1-116, 53B-1-117, and 53B-1-118.

As required by Utah law, this new Board policy will go through the rulemaking process and be codified as administrative rule R765-130.

The Office of the Commissioner shared this information with presidents and institution general counsels for feedback.

*R132. Government Records Access and Management Act*

OCHE recommends the repeal of Board policy R132 based on statutory changes in [Utah Code section 53B-1-402](#) made during the 2023 Utah Legislative Session that changed the Board's duties and authority. The current Board policy outlines Government Records Access and Management Act ("GRAMA") requirements based on state law for Utah System of Higher Education institutions. Institutions have their own GRAMA policies that comply with Utah law. Therefore, this policy is duplicative and can be repealed.

The Office of the Commissioner shared this information with presidents and institution general counsels for feedback.

*R135. Institutional Legal Counsel in the System of Higher Education*

The following amendments to Board Policy R135 are recommended based on [Senate Bill 192](#):

- Updating references to align with current Utah Code titles;
- Stating that a president of a degree-granting institution may appoint attorneys to provide legal advice to the institution; and
- Non-substantive edits for clarity and consistency.

The Office of the Commissioner shared this information with presidents and institution general counsels for feedback.

*R136. Language Proficiency in the Utah System of Higher Education*

The following amendments to Board Policy R136 are recommended based on OCHE's five-year policy review:

- Updating the references to align with current Utah Code titles;
- Removing references to the Utah Higher Education Assistance Authority; and
- Non-substantive edits for clarity and consistency with other Board policies.

The Office of the Commissioner shared this information with presidents and institution general counsels for feedback.

### R165, Concurrent Enrollment

The following amendments to Board Policy R165 are recommended based on [House Bill 29](#) and [House Bill 493](#):

- Updating the definition of USHE institution to include technical colleges to align with [House Bill 493](#);
- Updating information about sensitive materials in compliance with [House Bill 29](#); and
- Non-substantive edits for clarity and consistency with other Board policies.

The Office of the Commissioner shared this information with presidents, concurrent enrollment directors, and institution general counsels for feedback.

### R200, Program Course Approval and Reporting

OCHE recommends repeal of Board policy R200 because relevant portions of this policy have been added to Board policies R401 and R402.

The Office of the Commissioner shared this information with presidents and institution general counsels for feedback.

### R205, Presidential Appointment, Compensation, and Benefits

The following amendments are recommended to Board Policy R205:

- Adding “fiscal year” to CUPA salary benchmarks and allowing adjustments if too few institutions participated in the survey, for equity, or other factors determined by the Board’s Executive Committee;
- Allowing for adjustments to presidential salaries that are below benchmark;
- Adding inflation as a consideration for vehicle allowances;
- Aligning the policy with [House Bill 438](#); and
- Non-substantive edits for clarity and consistency with other Board policies.

The Office of the Commissioner shared this information with presidents and institution general counsels for feedback.

### R209, Evaluation of Presidents

The following amendment to Board Policy R209 is recommended based on [House Bill 261](#):

- Removing the requirement that a president utilize data in [Board Policy R805](#) in order to be compliant with [House Bill 261](#).

The Office of the Commissioner shared this information with presidents and institution general counsels for feedback.

*R211, President Emeritus Designation*

The following amendments to Board Policy R211 are recommended:

- Updating references to align with current Utah Code titles;
- Removing the requirement that a president must obtain tenure status at the institution to receive the president emeritus designation; and
- Non-substantive edits for clarity and consistency with other Board policies.

The Office of the Commissioner shared this information with presidents and institution general counsels for feedback.

*R254, Secure Area Hearing Rooms*

The following amendments to Board Policy R254 are recommended based on OCHE's five-year policy review and [Senate Bill 192](#):

- Updating the references to align with current Utah Code titles;
- Adding information in accordance with Utah law that an institution may make a policy that allows a resident of a dormitory located at the institution to request only roommates who are not licensed to carry a concealed firearm; and
- Non-substantive edits for clarity and consistency with other Board policies.

The Office of the Commissioner shared this information with presidents and institution general counsels for feedback.

*R256, Student Disciplinary Processes*

The following amendments to Board Policy R256 are recommended based on OCHE's five-year policy review and [House Bill 414](#):

- Updating the references to align with current Utah Code titles;
- Repealing current administrative rule R765-801 and replacing it with administrative rule R765-256;
- Updating to align with due process requirements in [House Bill 414](#); and
- Non-substantive edits for clarity and consistency with other Board policies.

The Office of the Commissioner shared this information with presidents and institution general counsels for feedback.

### R260, Transcript Fee Waiver

Board Policy 260 is recommended as a new Board policy based on requirements in [Senate Bill 223](#). The new Board policy:

- Outlines when a Utah System of Higher Education institution is required to waive transcript fees for a student.

The Office of the Commissioner shared this information with presidents and institution general counsels for feedback.

### R262, Student Safety

The following amendments to Board Policy R262 are recommended based on OCHE's five-year policy review and [Senate Bill 192](#):

- Updating the references to align with current Utah Code titles;
- Changing certain requirements to align with Utah law, including institutions now being required to report to the Education Interim Committee and Criminal Justice Committee about student safety and their campus safety plans, removing the requirement that the Board identify and provide resources that institutions may use to develop safety training curricula, removing the requirement that the Board assist institutions to enter into memorandums of understanding with local law enforcement, and removing the requirement that institutions provide their campus safety plans annually to the Board; and
- Non-substantive edits for clarity and consistency with other Board policies.

The Office of the Commissioner shared this information with presidents and institution general counsels for feedback.

### R264, Student Religious Accommodations

The following amendments to Board Policy R264 are recommended based on [Senate Bill 192](#):

- Removing requirements for religious accommodations because institutions are now required under Utah law to have their own religious accommodation policy. This will not change an individual's right to religious accommodations, the rights will now be outlined in each institution's policies and procedures.

The Office of the Commissioner shared this information with presidents and institution general counsels for feedback.

### R310, System-wide Vision and Mission Statements

OCHE recommends the repeal of Board Policy R310. The Board defines their vision and mission statements in their strategic plan and therefore a Board policy is duplicative.

The Office of the Commissioner shared this information with presidents and institution general counsels for feedback.

### R461, Access, Admission, and Articulation

The following amendments to Board Policy R461 are recommended based on [House Bill 261](#):

- Updating the references to align with current Utah Code titles;
- Removing language that does not comply with [House Bill 261](#); and
- Non-substantive edits for clarity and consistency with other Board policies.

The Office of the Commissioner shared this information with presidents and institution general counsels for feedback.

### R470, General Education

The following amendments to Board Policy R470 are recommended based on [House Bill 261](#):

- Updating the references to align with current Utah Code titles;
- Removing language that does not comply with [House Bill 261](#); and
- Non-substantive edits for clarity and consistency with other Board policies.

The Office of the Commissioner shared this information with presidents and institution general counsels for feedback.

### R481, Academic Freedom, Professional Responsibility, Tenure, Termination, and Post-Tenure Review

The following amendments to Board Policy R481 are recommended based on [House Bill 438](#):

- Updating the references to align with current Utah Code titles;
- Adding relevant reporting requirements from [Board Policy R483](#) into this policy;
- Adding additional reporting requirements for presidents that include the number of faculty members who left the institution prior to receiving tenure and the number denied tenure;
- Adding requirements from [House Bill 438](#);
- Non-substantive edits for clarity and consistency with other Board policies.

The Office of the Commissioner shared this information with presidents, institution CAOs, and institution general counsels for feedback.

### R483, Award of Tenure

OCHE recommends repealing Board Policy R483. Relevant requirements are being added to [Board Policy R481](#), and procedures for the reduction of awards of tenure are no longer germane.

The Office of the Commissioner shared this information with presidents, institution CAOs, and general counsels for feedback.

### R512, Resident Student Status

The following amendments to Board Policy R512 are recommended based on [Senate Bill 115](#), [Senate Bill 192](#), and [House Bill 248](#):

- Updating the references to align with current Utah Code titles;
- Adding exceptions to resident student status for: (1) immediate family members who completed one year of grades 9-12 in a Utah LEA while a military service member was assigned in Utah; (2) foreign service members and their immediate family members; and (3) students who are inmates; and
- Non-substantive edits for clarity and consistency with other Board policies

The Office of the Commissioner shared this information with presidents, institution residency coordinators, and general counsels for their feedback.

### R513, Tuition Waivers and Reductions

The following amendments to Board Policy R513 are recommended based on [House Bill 261](#) and [House Bill 286](#).

- Updating the references to align with current Utah Code titles;
- Removing language that does not comply with [House Bill 261](#);
- Updating language about alumni legacy nonresident scholarships to align with [House Bill 286](#) stating, in part, that presidents may waive an amount up to one academic school year's equivalent of the nonresident portion of tuition for alumni legacy nonresident scholarships; and
- Non-substantive edits for clarity and consistency with other Board policies

The Office of the Commissioner shared this information with presidents and institution general counsels for feedback.

### R548, Institutional Discretionary Funds Administration and Accountability

The following amendments to Board Policy R548 are suggested based on recommendations from the Board's Audit Director:

- Updating the references;



- Removing the language that states, “the annual certification shall include the auditor’s opinion concerning the fairness of presentation in accordance with generally accepted auditing standards for reporting on prescribed format statements and the institution’s compliance with this policy” to align policy requirements with the Institute of Internal Auditors standards; and
- Non-substantive edits for clarity and consistency with other Board policies.

The Office of the Commissioner shared these policy edits with presidents, the Board’s Audit Director, degree-granting institution audit directors, institution general counsels, and Vice Presidents at the technical colleges for feedback.

*R607. PRIME Program Grant*

The following amendments to Board Policy R607 are suggested based on [House Bill 22](#) and OCHE’s review:

- Adding that the grant award amount shall be set annually based on available funding and the number of eligible applicants; and
- Clarifying that a student who receives a reasonable accommodation related to the scholarship requirements under the Americans with Disabilities Act (ADA) or Section 504 of the Rehabilitation Act by their institution’s ADA coordinator may obtain a modification to the scholarship requirements.

The Office of the Commissioner shared this information with presidents and institution financial aid directors for feedback.

*R608. Opportunity Scholarship*

The following amendments to Board Policy R608 are suggested based on policy updates to the Utah Administrative Code and OCHE’s review:

- Changing the numbering from Board Policy R608 to R612 based on the updated administrative rule. OCHE will update the Board policy to link to the administrative rule;
- Clarifying requirements for when a student must enroll, or seek deferment, at an institution to obtain scholarship funds; and
- Clarifying that a student who receives a reasonable accommodation related to the scholarship requirements under the Americans with Disabilities Act (ADA) or Section 504 of the Rehabilitation Act by their institution’s ADA coordinator may obtain a modification to the scholarship requirements.

The Office of the Commissioner shared this information with presidents and institution financial aid directors for feedback.

R610, UHEAA Federal Family Education Loan Program

OCHE recommends the repeal of Board Policy R610 because the Utah Higher Education Assistance Authority (UHEAA) was dissolved in 2021.

The Office of the Commissioner shared this information with presidents and institution general counsels for feedback.

R611, Veterans Tuition Gap Program

The following amendments to Board Policy R611 are recommended based on OCHE's review:

- Clarifying that the terms "Utah resident" and "military veteran" are defined in Board Policy R512 for the allocation of program funds to eligible institutions; and
- Stating the Board may annually distribute a minimum allocation to participating institutions that do not have enough eligible graduates to receive a meaningful allocation.

The Office of the Commissioner shared this information with presidents and institution financial aid directors for feedback.

R615, Talent Development Award Program

The following amendments to Board Policy R615 are recommended based on OCHE's review:

- Changing the numbering from Board Policy R619 to R615 and updating the current policy to administrative rule R765-615. OCHE will update the Board policy to link to the administrative rule;
- Requiring completion of a FAFSA in accordance with [Board Policy R623](#); and
- Allowing for prioritization of awards to continuing students so that students are able to receive funding through the length of their academic program.

The Office of the Commissioner shared this information with presidents and institution financial aid directors for feedback.

R616, Adult Learner Grant Program

The following amendments to Board Policy R616 are recommended based on [House Bill 261](#) and OCHE's review:

- Clarifying that, when establishing a process for award grants, the institution shall, in addition to other criteria, prioritize grants based on financial need using an eligible recipient's eligibility index from the FAFSA, which may include a maximum eligibility index number set by the institution; and
- Removing language that does not comply with [House Bill 261](#).

The Office of the Commissioner shared this information with presidents and institution financial aid directors for feedback.

*R617, Karen Mayne Public Safety Officer Scholarship Program*

The following amendments to Board Policy R617 are recommended based on OCHE's review:

- Adding that the Board may discontinue further grant awards if the legislative appropriation is insufficient to cover the costs associated with the scholarship.

The Office of the Commissioner shared this information with presidents and institution financial aid directors for feedback.

*R621, Terrel H. Bell Education Scholarship Program*

The following amendments to Board Policy R621 are recommended based on OCHE's review:

- Updating the definition of part-time enrollment to mean the participating institution's definition of half-time enrollment for the program in which the student is enrolled;
- Adding to eligibility criteria for the scholarship that a student must be admitted or making reasonable progress to meet a participating institution's criteria for admission to an approved program.

The Office of the Commissioner shared this information with presidents and institution financial aid directors for feedback.

*R627, First Responder Mental Health Services Grant*

The following amendments to Board Policy R627 are recommended based on [House Bill 67](#) and OCHE's review:

- Adding the definitions of first responder, first responder agency, first responder volunteer, and retiree;
- Updating the definition of eligible institution to include a private, nonprofit institution of higher education in Utah that is accredited by the Northwest Commission on Colleges and Universities;
- Updating award requirements;
- Adding that the Board shall annually select and publish two periods of at least 30 days in which it will accept applicants for the scholarship program; and
- Updating information regarding awarding grant funds to students.

The Office of the Commissioner shared this information with presidents and institution financial aid directors for feedback.

R649, Utah Higher Education Assistance Authority Privacy Policy

OCHE recommends the repeal of Board Policy R649 because the Utah Higher Education Assistance Authority (UHEAA) was dissolved in 2021.

The Office of the Commissioner shared this information with presidents and institution general counsels for feedback.

R685, Utah Educational Savings Plan Trust

OCHE recommends the repeal of Board Policy R685 because the provisions in this policy are governed by my529 and no longer required to be in Board of Higher Education policy.

The Office of the Commissioner shared this information with presidents and institution general counsels for feedback.

R801, Equal Opportunity, Diversity and Nondiscrimination

The following amendments to Board Policy R801 are suggested based on [House Bill 261](#):

- Updating the references;
- Amending the language to comply with federal law and [House Bill 261](#); and
- Non-substantive edits for clarity and consistency with other Board policies.

The Office of the Commissioner shared this information with presidents and institution general counsels for feedback.

R805, Gender, Race, and Ethnicity Representation within the Utah System of Higher Education Workforce

OCHE recommends the repeal of Board Policy R805 to comply with the requirements in [House Bill 261](#).

The Office of the Commissioner shared this information with presidents and institution general counsels for feedback.

R811, Guidelines for Classification of Non-Exempt Personnel

The following amendments to Board Policy R811 are suggested based on OCHE's five-year policy review and [House Bill 261](#):

- Updating the references;
- Removing the market survey requirement by the Office of the Commissioner because this is done by USHE institutions;

- Adding language to state how a USHE institution classifies non-exempt employees in alignment with federal law;
- Amending the language to comply with federal law and [House Bill 261](#); and
- Non-substantive edits for clarity and consistency with other Board policies.

The Office of the Commissioner shared this information with presidents, the Utah Higher Education Personnel Administration Committee, and institution general counsels for their feedback.

R821, Employee Benefits

The following amendments to Board Policy R821 are suggested based on OCHE’s five-year policy review and [29 C.F.R. Part 541](#), Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales, and Computer Employees:

- Updating the references;
- Updating definitions;
- Adding language to state how a USHE institution classifies non-exempt employees in alignment with federal law;
- Stating that an employee will retain their accrued vacation and sick benefits as well as their graduated years of service if their status changes from exempt to non-exempt and vice versa; and
- Non-substantive edits for clarity and consistency with other Board policies.

The Office of the Commissioner shared this information with presidents, the Utah Higher Education Personnel Administration Committee, and institution general counsels for their feedback.

R847, Criminal Background Checks

OCHE recommends the repeal of Board Policy R847 based on [Senate Bill 192](#). Institutions are required to have their own criminal background checks that are consistent with Utah law and therefore this policy is duplicative.

The Office of the Commissioner shared this information with presidents and institution general counsels for feedback.

**Commissioner’s Recommendation**

The Commissioner recommends that the Board approve amending, repealing, and adding the new Board policies listed above.

**Attachments**

- Redlined Board Policy R119
- Clean Board Policy R119
- Redlined Board Policy R122

- Clean Board Policy R122
- Redlined Board Policy R123
- Clean Board Policy R123
- Redlined Board Policy R132
- Clean Board Policy R132
- Redlined Board Policy R135
- Clean Board Policy R135
- Redlined Board Policy R136
- Clean Board Policy R136
- Redlined Board Policy R165
- Clean Board Policy R165
- Redlined Board Policy R200
- Clean Board Policy R200
- Redlined Board Policy R205
- Clean Board Policy R205
- Redlined Board Policy R209
- Clean Board Policy R209
- Redlined Board Policy R211
- Clean Board Policy R211
- Redlined Board Policy R254
- Clean Board Policy R254
- Redlined Board Policy R256
- Clean Board Policy R256
- Redlined Board Policy R262
- Clean Board Policy R262
- Redlined Board Policy R264
- Clean Board Policy R264
- Redlined Board Policy R310
- Clean Board Policy R310
- Redlined Board Policy R461
- Clean Board Policy R461
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- Redlined Board Policy R621
- Clean Board Policy R621
- Redlined Board Policy R627
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- Redlined Board Policy R649
- Clean Board Policy R649
- Redlined Board Policy R685
- Clean Board Policy R685
- Redlined Board Policy R801
- Clean Board Policy R801
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- Clean Board Policy R805
- Redlined Board Policy R811
- Clean Board Policy R811
- Redlined Board Policy R821
- Clean Board Policy R821
- Redlined Board Policy R847
- Clean Board Policy R847
- New Board Policy R124

- New Board Policy R130
- New Board Policy R260