

R119, Board of Higher Education Qualifications¹

R119-1 The following policy has been codified as Utah Administrative Code R765-119.²

R119-2 References

2.1 Utah Code § 53B-1-405, Qualifications for Board Members

R765. Higher Education (Utah Board of), Administration.

R765-119. Utah Board of Higher Education Qualifications

R765-119.1. Purpose.

This rule establishes qualification for appointment to the Utah Board of Higher Education.

R765-119.2. Authority.

This rule is authorized by Section 53B-1-405.

R765.119.3. Definitions.

(1) “Board” means Utah Board of Higher Education.

R765.119.4. Qualifications

(1) In accordance with Section 53B-1-405, the board shall be made up of members with collective expertise and knowledge in the areas of business, industry, technical education, general education, and advanced education and research in finance, accounting, auditing, law, facilities, real estate, educational delivery models, workforce development, economic development, K-12 education, higher education, educational quality assessments, and financial aid. The board shall also have members with

¹ *Adopted March 25, 2022; amended January 2, 2024; ~~and XXX and XXX.~~*

² This administrative rule must also be approved by the Utah Office of Administrative Rules and minor, non-substantive edits to conform with the Utah Administrative Code style guide may be made.

collective experience working ~~in inclusion, diversity, and equity, and~~ with underrepresented students, first-generation college students, and underserved communities. Additionally, the board shall include members who are first-generation college students or have been members of a board of trustees, or both.

R765.119.5. Board Composition.

(1) Nominees shall be sought from ~~non-traditional and diverse backgrounds, different~~ areas of expertise, and representative geography. ~~Board members shall be appointed, and the board composed, in a manner to reflect balanced and varied representation of the above-listed factors.~~

R765.119.6. Time Commitment.

(1) Preference may be given to individuals who, along with being well-qualified, are available to devote considerable time per month to board service.



R119, Board of Higher Education Qualifications¹

R119-1 The following policy has been codified as Utah Administrative Code R765-119.²

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R765.119.6. Time Commitment.

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R122, Board Conflict of Interest Policy¹

R122-1. Purpose: ~~This policy set forth~~establishes the standards of conduct in compliance with state law that are expected required for members of the ~~State Board of Regents~~Utah Board of Higher Education (“Board”) ~~in areas where~~when there ~~are~~is an actual or potential conflicts of ~~interest between~~ their a board member’s public duties and their private interests ~~and to comply with state law.~~

R122-2. References

~~2.1.~~ **2.1** Utah Code section 53B-2-101(1), Institutions of Higher Education - Corporate bodies - Powers

2.2 Utah Code § 63G-6a-2404, Unlawful Conduct – Exceptions – Classification of Offenses

2.3 Utah Code Title 63G, Chapter 2, Government Records Access and Management Act

~~2.4.~~ **2.4** Utah Code Title 67, Chapter 16, Utah Public Officers’ and Employees’ Ethics Act

~~2.5.~~ **2.5** Utah Code § 75-8-105, ~~§76-8~~ (Receiving or ~~S~~Soliciting a ~~B~~Bribe or Bribery by a ~~P~~Public ~~S~~Servant)

2.6 Board Policy R120, Board of Higher Education Bylaws

R122-3. Definitions

3.1. Regent ~~“Board Member”:~~ **“Regent”** means an individual member of the State Board of Regents an individual appointed to serve on the Utah State Board of Education Board Utah Board of Higher Education.

3.2 “Business Entity” means a sole proprietorship, partnership, association, joint venture, corporation, firm, trust, foundation, or other organization or entity used in carrying on a business.

3.3 “Controlled, Private, or Protected Information” means information classified as controlled, private, or protected by the Utah Government Records Access and Management Act in Utah Code Title 63G, Chapter 2, or other applicable law.

3.4 “Institution” means a degree-granting institution of higher education or a technical college within the state system of higher education, as identified in Utah Code section 53B-2-101(1).

¹ Approved March 28, 2014; amended XXX.

3.52. “Substantial Interest”: ~~“Substantial interest”~~ means the ownership, either legally or equitably, by a ~~Regent~~Board member, the ~~Regent’s~~Board member’s spouse, or the ~~Regent’s~~Board member’s minor children, of at least 105% of the outstanding capital stock of a corporation or a 105% interest in any other business entity.

R122-4: Duties and Responsibilities

~~4.1-4.1~~ **Compliance with Utah Code:** Board members shall comply with all state laws, including requirements under the Utah Public Officers’ and Employees’ Ethics Act in Utah Code Title 67, Chapter 16. 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. Additionally, no Board member shall have personal investments in any business entity which will create a substantial conflict between their private interests and their public duties. (see Board Policy R120, Board of Higher Education Bylaws). ~~Compliance with Utah Statutes:~~ Regents must comply with all state laws, with particular attention to those that govern conflicts of interest and their service as public officials as noted in the references of this policy. B

~~4.23-~~ **Duty to Not Use Official Position for Personal Economic Gain:** ~~Regents~~Board members shall not use or attempt to use their official positions to further substantially ~~substantially~~ their personal economic interests or to secure special privileges or exemptions for themselves or others.

~~4.3~~ **Duty to Not Refrain from Improperly Disclosure or Use of Private, Controlled, or Protected Information:** Board members shall not accept employment or engage in any business or professional activity that they might reasonably expect would require or induce them to improperly disclose controlled information that they have gained by reason of their official position. They shall not accept employment that might impair their independence of judgment in the performance of public duties or accept employment that might interfere with the ethical performance of their public duties.

4.42- Duty to Submit Disclosure Statement

~~4.42.1-~~ RegentsBoard members who are officers, directors, ~~or~~ employees, or who are owners of a substantial interest in any business entity that is or may be involved in ~~any a~~ transaction with the ~~State Board of Regents~~Board, ~~(including UHEAA Utah Education Savings Plan, and UESP)~~ or ~~any other a~~ Utah System of Higher Education (“USHE”) institution ~~of higher education (as defined in Utah Code Ann. §53B-2-101)~~ shall disclose ~~such facts~~this information in a sworn written disclosure statement ~~as set forth in Section 5 of this policy~~ before participating in ~~their any~~ official capacities, if permitted, with

respect to ~~any such~~those transactions. Board members shall disclose this information and annually thereafter. Board members shall submit a disclosure statement if their position or ownership interest in the business entity changes significantly.

~~4.4.2. Regents~~ Board members shall not receive or agree to receive compensation for assisting any person or business entity in any transaction involving a Utah state agency, including the ~~State Board of Regents~~board, (including UHEAA Utah Education Savings Plan and UESP) or any other a Utah USHE institution of higher education (as defined in Utah Code Ann. §53B-2-101), without first disclosing such facts in a sworn, written disclosure statement. The disclosure statement must be submitted within ten days after the date of any agreement between the Bboard member and the person or business entity being assisted or within ten days of the receipt of compensation, whichever is earlier.

4.4.3 Disclosure Statement Requirements: The disclosure statement shall be written and under oath. The Office of the Commissioner of Higher Education (“OCHE”) shall provide a disclosure statement form for Bboard members, as set forth in Section 5 of this policy.

R122-5. Procedures for Submitting 4.4.4 Disclosure Statement Submissions

~~5.1. What to Submit:~~ The disclosure statement must be made in writing and under oath. ~~The disclosure statement shall be in the form attached.~~

5.2. When to Submit:

~~5.2.1. For disclosure statements required by Section 4.2.1., the disclosure statement as provided by the Commissioner’s office must be submitted before the Regent participates in his or her official capacity with respect to such transactions or within thirty (30) days of the adoption of this policy and annually thereafter. The Regent shall submit another disclosure statement whenever his or her position or ownership interest in the business entity changes significantly.~~

~~5.2.2. For disclosure statements required by Section 4.2.2., the disclosure statement must be submitted within ten (10) days after the date of any agreement between the Regent and the person or business entity being assisted or within ten (10) days of the receipt of compensation, whichever is earlier.~~

~~5.3~~ **4.4.4.1 Where to Submit:** -The disclosure statement must be completed and submitted to the ~~Bb~~Board ~~s~~Secretary. -The ~~Bb~~Board ~~s~~Secretary shall then file the disclosure statement with the following offices, as appropriate:

~~4.4.4.1.15.3.1. the Commissioner's Office~~OCHE;

~~4.4.4.1.25.3.2. The state~~ Attorney General's Office; and

~~4.4.4.1.35.3.3. The agency~~ head of the agency ~~with which~~where the transaction is being conducted if the disclosure is required by ~~subs~~Section 4.4a.2.

~~4.4.4.25.4~~ **Review of Statements:** ~~The submitted d~~Disclosure statements will be reviewed by the Conflict of Interest Committee, which includes the Board ~~c~~Chair, ~~v~~Vice ~~c~~Chair, and two other ~~Regents Bboard members~~ as selected by the ~~c~~Chair and ~~v~~Vice ~~c~~Chair ~~as part of the determination of Regent Committee assignments~~. -The ~~d~~Disclosure statements of the Board ~~c~~Chair and ~~v~~Vice ~~c~~Chair will be reviewed by the other ~~Regents board members~~ on the Conflict of Interest Committee.

~~4.4.4.35.5~~ **Public Document:** ~~The d~~Disclosure statements ~~is are classified as~~ a public ~~information documents~~ and shall be available for examination by the ~~public~~ under ~~Utah Code Title 63G, Chapter 2,~~ ~~a Government Records Access and Management Act request.~~

~~4.54~~ **Duty to Recuse Oneself on a Matter Involving a Substantial Interest:** ~~Regents Board members~~ shall recuse themselves from the discussion and vote on any matter that involves any business entity ~~as to which~~where they are officers, directors, or employees, or in which they own a substantial interest.

R122-6. ~~Records of Proceedings~~Meeting Minutes

~~6.1~~ **Minutes:** -The minutes of ~~the State Board of Regents Bboard meetings~~ and ~~all~~ committees with ~~Bboard~~ delegated powers shall ~~contain include~~ the names of ~~those the Regents Bboard members~~ who ~~abstain from participation~~recuse themselves in their official capacities in transactions involving business entities where they are officers, directors, or employees ~~have a position~~ or own a substantial interest and have not filed a disclosure statement as required by this ~~Conflict of Interest Ppolicy~~. - The minutes, however, are not required to record the names of those ~~Regents Bboard members~~ who have filed disclosure statements or any information contained in ~~those the~~ disclosure statements.

R122-7. ~~Boards of Trustees~~ Institutional Policies

7.1. ~~Disclosure Statements:~~ Institutional Boards of Trustees shall adopt similar standards of conduct for their respective Board members including conflict of interest policies within ~~120 days of enactment of this policy.~~ Institutions are required, according to Utah law, to establish a written policy governing conflicts of interest that complies with Utah Code Title 67, Chapter 16.

R122, Board Conflict of Interest Policy¹

R122-1 Purpose: This policy establishes standards of conduct in compliance with state law that are required for members of the Utah Board of Higher Education (“Board”) when there is an actual or potential conflict of interest between a board member’s public duties and their private interests.

R122-2 References

- 2.1 Utah Code section 53B-2-101(1), Institutions of Higher Education - Corporate bodies -Powers
- 2.2 Utah Code § 63G-6a-2404, Unlawful Conduct – Exceptions – Classification of Offenses
- 2.3 Utah Code Title 63G, Chapter 2, Government Records Access and Management Act
- 2.4 Utah Code Title 67, Chapter 16, Utah Public Officers’ and Employees’ Ethics Act
- 2.5 Utah Code § 75-8-105, Receiving or Soliciting a Bribe or Bribery by a Public Servant
- 2.6 Board Policy R120, Board of Higher Education Bylaws

R122-3 Definitions

- 3.1 **“Board Member”** means an individual appointed to serve on the Utah Board of Higher Education.

- 3.2 **“Business Entity”** means a sole proprietorship, partnership, association, joint venture, corporation, firm, trust, foundation, or other organization or entity used in carrying on a business.

- 3.3 **“Controlled, Private, or Protected Information”** means information classified as controlled, private, or protected by the Utah Government Records Access and Management Act in Utah Code Title 63G, Chapter 2, or other applicable law.

- 3.4 **“Institution”** means a degree-granting institution of higher education or a technical college within the state system of higher education, as identified in Utah Code section 53B-2-101(1).

- 3.5 **“Substantial Interest”** means the ownership, either legally or equitably, by a Board member, the Board member’s spouse, or the Board member’s minor child, of at least 10% of the outstanding capital stock of a corporation or a 10% interest in any other business entity.

¹ Approved March 28, 2014; amended XXX.

R122-4 Duties and Responsibilities

4.1 Compliance with Utah Code: Board members shall comply with all state laws, including requirements under the Utah Public Officers' and Employees' Ethics Act in Utah Code Title 67, Chapter 16. 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. Additionally, no Board member shall have personal investments in any business entity which will create a substantial conflict between their private interests and their public duties. (*see Board Policy R120, Board of Higher Education Bylaws*).

4.2 Duty to Not Use Official Position for Personal Economic Gain: Board members shall not use or attempt to use their official positions to further substantially their personal economic interests or to secure special privileges or exemptions for themselves or others.

4.3 Duty to Refrain from Improper Disclosure or Use of Private, Controlled, or Protected Information: Board members shall not accept employment or engage in any business or professional activity that they might reasonably expect would require or induce them to improperly disclose controlled information that they have gained by reason of their official position. They shall not accept employment that might impair their independence of judgment in the performance of public duties or accept employment that might interfere with the ethical performance of their public duties.

4.4 Duty to Submit Disclosure Statement

4.4.1 Board members who are officers, directors, employees, or owners of a substantial interest in any business entity that is or may be involved in a transaction with the Board, Utah Education Savings Plan, or a Utah System of Higher Education ("USHE") institution shall disclose this information in a sworn written disclosure statement before participating in any official capacity, if permitted, with respect to those transactions. Board members shall disclose this information annually. Board members shall submit a disclosure statement if their position or ownership interest in the business entity changes significantly.

4.4.2 Board members shall not receive or agree to receive compensation for assisting any person or business entity in any transaction involving a Utah state agency, including the board, Utah Education Savings Plan, or a USHE institution without first disclosing such facts in a sworn written disclosure statement. The disclosure statement must be submitted within ten days after the date of any agreement between the Board member and the person or business entity being assisted or within ten days of the receipt of compensation, whichever is earlier.

4.4.3 Disclosure Statement Requirements: The disclosure statement shall be written and under oath. The Office of the Commissioner of Higher Education (“OCHE”) shall provide a disclosure statement form for Board members.

4.4.4 Disclosure Statement Submissions

4.4.4.1 Where to Submit: The disclosure statement must be completed and submitted to the Board secretary. The Board secretary shall then file the disclosure statement with the following offices, as appropriate:

4.4.4.1.1 OCHE;

4.4.4.1.2 The Attorney General’s Office; and

4.4.4.1.3 The head of the agency where the transaction is being conducted if the disclosure is required by subsection 4.4.2.

4.4.4.2 Review of Statements: Disclosure statements will be reviewed by the Conflict of Interest Committee, which includes the Board chair, vice chair, and two other Board members selected by the chair and vice chair. Disclosure statements of the Board chair and vice chair will be reviewed by the other board members on the Conflict of Interest Committee.

4.4.4.3 Public Document: Disclosure statements are classified as public documents under Utah Code Title 63G, Chapter 2.

4.5 Duty to Recuse Oneself on a Matter Involving a Substantial Interest: Board members shall recuse themselves from the discussion and vote on any matter that involves a business entity where they are officers, directors, or employees, or in which they own a substantial interest.

R122-6 Meeting Minutes

6.1 Minutes: The minutes of Board meetings and committees with Board delegated powers shall include the names of the Board members who recuse themselves in their official capacities in transactions involving business entities where they are officers, directors, or employees or own a substantial interest and have not filed a disclosure statement as required by this policy. The minutes, however, are not required to record the names of those Board members who have filed disclosure statements or any information contained in the disclosure statements.

R122-7 Institutional Policies

7.1 Institutions are required, according to Utah law, to establish a written policy governing conflicts of interest that complies with Utah Code Title 67, Chapter 16.

R123, Board Self-Evaluation and Orientation Training¹

R123-1. Purpose: ~~The purpose of this policy is to require~~ This policy outlines the requirements for the Utah Board of Regents-Higher Education (“Board”) to conduct an annual self-assessment evaluation every three years of its performance as a governing and policy-making body, in order to strengthen the Board’s effectiveness. The policy is also intended to and meet relevant accreditation standards for Utah’s public colleges and universities Utah System of Higher Education (“USHE”) institutions. This policy also outlines trainings the Board will provide for new Board members, new board of trustees, and new presidents.

R123-2. References

2.1: ~~Northwest Commission on Colleges and Universities Accreditation Standards Standard 6.B.6 (Governance and Administration), Northwest Commission on Colleges and Universities Accreditation Standards (“The board regularly evaluates its performance and revises, as necessary, its policies to demonstrate to its constituencies that it carries out its responsibilities in an effective and efficient manner.”).~~

2.2: ~~Utah Code Ann. § 52-4-101 et seq., (Open and Public Meetings Act).~~

R123-3. Definitions

3.1: ~~“Board”:~~ means the Utah State Board of Regents-Higher Education.

3.2: ~~“CEO Commissioner” means:~~ the Utah Commissioner of Higher Education and institutional presidents.

3.3: ~~“Executive Committee” is comprised of a c~~ Committee of the Board comprised of the Board Chair, Vice Chair, Immediate Past Chair, and the Chairs of the Board’s three standing committees (Programs Committee, Finance & Facilities Committee, Strategic Planning & Communications Committee) as defined by Board Policy R120, Board of Higher Education Bylaws.

3.4: ~~“Regents Board Members” means:~~ individual members of the Utah Board of Higher Education.

¹ ~~Adopted April 20, 2007; amended XXX.~~

3.5. “Trustees” means: individual members of institutional Boards of Trustees.

R123-4. Policy

4.1. The Board shall ~~conduct annually an evaluation of~~evaluate its performance as a governing ~~and policy making~~ body ~~every three years. The purpose of the self evaluation is~~ to assess the effectiveness of the Board ~~as a whole~~.

4.2. The ~~c~~Executive ~~c~~Committee ~~of the Board shall be~~shall review ~~responsible for reviewing~~ potential self-evaluation instruments and recommending ~~the~~ instrument(s) and procedure(s) to the Board for conducting ~~the a~~ self-evaluation, including, but not limited to, the use of anonymous surveys, on-line assessments, and outside consultants or facilitators as appropriate.

4.3. The Board will ~~have the opportunity to~~ review the ~~c~~Executive ~~c~~Committee’s recommendations and ~~will~~ make the final determination ~~about for the which~~ instrument(s) and procedure(s) ~~to be used in~~use to conducting the self-evaluation.

4.4. The self-evaluation will assess the Board’s performance in several categories, which may include, but are not ~~be~~ limited to:

4.4.1. Board organization;

4.4.2. Policy role;

4.4.3. Policy direction;

4.4.4. ~~Relations with B~~business, community, and political leaders relations;

4.4.5. Board, commissioner, and institutional ~~CEO presidents~~ relations;

4.4.6. Institutional and system operations;

4.4.7. Institutional and system performance;

4.4.8. Board commitment to legal principles and responsibilities;

4.4.9. Board oversight of financial affairs and budgeting (protection and accounting of institutional and system assets);

4.4.10. Board role in ensuring adequate and safe physical facilities;

~~4.4.11-~~ Board role in approving academic programs;

~~4.4.12-~~ Board commitment to the protection of academic freedom;

~~4.4.13-~~ Board commitment to student diversity in staffing and service to access, retention, and completion students;

~~4.4.14-~~ Board leadership;

~~4.4.15-~~ Board advocacy for institutions and the system;

~~4.4.16-~~ Board education;

~~4.4.17-~~ Board goals;

~~4.4.18-~~ Board strengths and accomplishments;

~~4.4.19-~~ Quality of Board meetings; and

~~4.4.20-~~ Board weaknesses and areas in need of improvement.

~~4.5-~~ The Board may solicit-gather input from the cCommissioner, members of the cCommissioner's senior staffexecutive team, presidents, trustees, and others as part of the information it gathers for the self-evaluation.

~~4.6-~~ The Office of the Commissioner will invest in institution presidents by connecting them with and providing management and leadership resources and professional development opportunities related to the evaluation criteria outlined in Board Policy R209, Evaluation of Presidents subsection 5.2. These resources and opportunities may be funded by the institution(s). The Board will annually conduct an orientation for new Board members, new trustees, and new presidents.

~~4.7-~~ In consultation with the executive committee, The Board-commissioner will annually identify seminars, conferences, and trainings that provide opportunities for Board members to improve their knowledge, Boardsmanship skills, and for the Board to improve its overall performance.

R123, Board Self-Evaluation and Training¹

R123-1 Purpose: This policy outlines the requirements for the Utah Board of Higher Education (“Board”) to conduct a self-evaluation every three years of its performance as a governing body in order to strengthen the Board’s effectiveness and meet relevant accreditation standards for Utah System of Higher Education (“USHE”) institutions. This policy also outlines trainings the Board will provide for new Board members, new board of trustees, and new presidents.

R123-2 References

- 2.1** Northwest Commission on Colleges and Universities Accreditation Standards
- 2.2** Utah Code § 52-4-101 et seq., Open and Public Meetings Act

R123-3 Definitions

- 3.1 “Board”** means the Utah Board of Higher Education.

- 3.2 “Commissioner”** means the Utah Commissioner of Higher Education.

- 3.3 “Executive Committee”** is comprised of a committee of the Board as defined by Board Policy R120, *Board of Higher Education Bylaws*.

- 3.4 “Board Members”** means individual members of the Utah Board of Higher Education.

- 3.5 “Trustees”** means individual members of institutional Boards of Trustees.

R123-4 Policy

- 4.1** The Board shall evaluate its performance as a governing body every three years to assess the effectiveness of the Board.

- 4.2.** The executive committee shall review potential self-evaluation instruments and recommend instrument(s) and procedure(s) to the Board for conducting a self-evaluation, including, but not limited to, the use of anonymous surveys, on-line assessments, and outside consultants or facilitators as appropriate.

¹ *Adopted April 20, 2007; amended XXX.*

4.3 The Board will review the executive committee’s recommendations and make the final determination for which instrument(s) and procedure(s) to use to conduct the self-evaluation.

4.4 The self-evaluation will assess the Board’s performance in several categories, which may include, but are not limited to:

4.4.1 Board organization;

4.4.2 Policy role;

4.4.3 Policy direction;

4.4.4 Business, community, and political leader relations;

4.4.5 Board, commissioner, and institutional president relations;

4.4.6 Institutional and system operations;

4.4.7 Institutional and system performance;

4.4.8 Board commitment to legal principles and responsibilities;

4.4.9 Board oversight of financial affairs and budgeting (protection and accounting of institutional and system assets);

4.4.10 Board role in ensuring adequate and safe physical facilities;

4.4.11 Board role in approving academic programs;

4.4.12 Board commitment to the protection of academic freedom;

4.4.13 Board commitment to student access, retention, and completion;

4.4.14 Board leadership;

4.4.15 Board advocacy for institutions and the system;

4.4.16 Board education;

4.4.17 Board goals;

4.4.18 Board strengths and accomplishments;

4.4.19 Quality of Board meetings; and

4.4.20 Board weaknesses and areas in need of improvement.

4.5 The Board may gather input from the commissioner, members of the commissioner's executive team, presidents, trustees, and others for the self-evaluation.

4.6 The Office of the Commissioner will invest in institution presidents by connecting them with and providing management and leadership resources and professional development opportunities related to the evaluation criteria outlined in *Board Policy R209, Evaluation of Presidents* subsection 5.2. These resources and opportunities may be funded by the institution(s).

4.7 In consultation with the executive committee, the commissioner will annually identify seminars, conferences, and trainings that provide opportunities for Board members to improve their knowledge, skills, and overall performance.

R124, Government Records Access and Management¹

R124-1 The following policy has been codified as Utah Administrative Code R765-124.²

R124-2 References

- 2.1** Utah Code § 63G-2, Chapter 2, Rules for Requests for Records
- 2.2** Utah Code § 63G-4, Administrative Procedure Act
- 2.3** Utah Code § 63A-12-104(2), Rulemaking Authority
- 2.4** Utah Code § 53B-16, Part 3, Higher Education – Restricted Records
- 2.5** The Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g
- 2.6** Board Policy R134, Informal Adjudicative Proceedings, under the Utah Administrative Procedures Act

R765. Higher Education (Utah Board of), Administration.

R765-124. Government Records Access and Management.

R765-124.1. Purpose.

The purpose of this rule is to outline requirements and a fee schedule for records access and management matters for the Utah Board of Higher Education and Office of the Commissioner of Higher Education pursuant to Title 63G, Chapter 2, Government Records Access and Management Act.

R765-124.2. Authority.

¹ *Adopted XXX.*

² This administrative rule must also be approved by the Utah Office of Administrative Rules and minor, non-substantive edits to conform with the Utah Administrative Code style guide may be made.

Subsection 63G-2-204(3) authorizes this rule.

R765.124.3. Definitions.

(1) “Archives” means Utah Division of Archives and Records Service.

(2) “Board” means Utah Board of Higher Education.

(3) “Classify” or “Classification” means determining, according to GRAMA, whether a record series, record, or information within a record is public, private, controlled, protected, or access is restricted from disclosure according to Subsection 63G-2-201(3).

(4) “Commissioner” means Commissioner of Higher Education.

(5) “Custody” means the guardianship of records and manuscripts which may include both physical possession, which is protective responsibility, and legal title, which is legal responsibility.

(6) “Designate” or “Designation” means indicating, based on the records officer’s familiarity with a record series, the primary classification that a majority of records in a record series would be given if classified.

(7) “GRAMA” means the Government Records Access and Management Act.

(8) “OCHE” means Office of Commissioner of Higher Education.

(9) “Record” is as defined by Subsection 63G-2-103(25).

(10) “Records Officer” is the individual appointed by the Commissioner and certified by archives to work with archives in the care, maintenance, scheduling, designation, classification, disposal, and preservation of records.

R765.124.4. Records Officer.

The records officer shall comply with all GRAMA requirements.

R765-124-5. Designation of Records.

(1) The records officer shall designate the classification of each record or record series in the custody of the board or OCHE when a written request is made under Section R765-124.7 as either public, private, controlled, protected, or restricted from disclosure under Subsection 53B-16-302 or Subsection 63G-2-201(3).

(2) The records officer shall report the designations for a record series to archives in accordance with Section 63G-2-307.

R765-124-6. Records Designated as Private or Controlled.

(1) When a record is designated as private or controlled, OCHE:

(a) shall file a statement with archives explaining the purposes for which the records are collected and used according to Section 63G-2-601;

(b) shall only use the record for the purposes listed in the statement; and

(c) may share the records with other governmental entities, subject to the restrictions in Section 63G-2-206.

R765-124-7. Requests for Access to Records.

(1) Each requester of records shall:

(a) submit the request in writing and direct it to the records officer at GRAMA Request, 60 South 400 West, Gateway Building 2, Salt Lake City, UT 84101, or by email to the records officer;

(b) use the OCHE GRAMA Request for Records Form; and

(c) include in the request the requestor's name, mailing address, daytime phone number, if available, and a description of the record requested that identifies the record with reasonable specificity according to Section 63G-2-204.

(2) Each requester may not direct an initial request to any board member, OCHE staff, or administrator.

R765-124-8. Fees.

(1) As authorized by Section 63G-2-203, OCHE may charge a reasonable fee to cover OCHE's actual cost of providing a record, which fee may include:

(a) the cost of staff time for compiling the records to meet an individual's request;

(b) cost of staff time for search and retrieval; or

(c) cost of production of the record.

(2) OCHE may not charge a fee for:

(a) reviewing a record to determine whether it is subject to disclosure, except as allowed under Subsection 63G-2-203(5)(b)(i);

(b) inspecting a record; or

(c) the first quarter hour of staff time spent in responding to a request, except as provided in Subsection R765-124-8(4)(d).

(3) If the fees are expected to exceed \$50 or the requester has not paid fees from a previous request, OCHE may require payment of past fees and future estimated fees before beginning to process a request.

(4) OCHE shall charge the following fees for record requests:

(a) The fee for photocopies shall be:

(i) no fee for the first 10 double-sided standard size, non-color white copies of a record request;

(ii) \$.25 per page for standard size, non-color white copies;

(iii) \$.40 per page for standard size, color copies;

(iv) \$1.00 per page for 11 X 17 copies; and

(v) actual production cost for other odd sized copies.

(b) The fee for faxing documents shall be \$1 per page plus telephone charges for long distance over 5 pages.

(c) The fee for certifying a document shall be \$5.00 per certification.

(d) The fee for staff time required to search, compile, or otherwise prepare a record shall be the actual cost required to search, compile, and otherwise prepare records, including electronic records, not to exceed the salary of the lowest paid employee at OCHE who, in the discretion of the record's custodian, has the necessary skill and training to perform the request; except that OCHE shall not charge staff time for the first quarter hour of responding to a record request unless the requester:

(i) is not a Utah media representative; and

(ii) previously submitted a separate request within the 10-day period immediately before the date of the record request to which OCHE is responding.

(e) The fee for mailing and shipping shall be \$5.00 for staff mail preparation time, plus actual mailing costs if greater than \$2.

(f) The fee for other supplies, such as CD's, DVDs, and thumb drives shall be \$10 per item.

(g) The fee for other services, such as fees for third party services, shall be OCHE's actual cost.

(5) Any requester may request a fee waiver, provided that:

(i) the request fits within the limited circumstances allowed under GRAMA; and

(ii) the individual provides appropriate documentation and support to OCHE.

(6) Any requester may appeal the denial of a waiver under Section R765-124-12

R765-124-9. Vexatious Requests.

In accordance with Subsection 63G-2-201(7)(a)(vi), OCHE shall not fulfill a person's records request if the person is determined to be a vexatious requester as defined by Section 63G-2-209.

R765-124-10. Access to Records for Research Purposes.

OCHE's disclosures of records for research purposes shall be made according to Subsection 63G-2-208(8).

R765-124-11. Intellectual Property Rights.

The Commissioner, or the Commissioner's designee, shall make each determination regarding the duplication and distribution of materials held by OCHE and for which the board or OCHE owns the intellectual property rights, as permitted by Subsection 63G-2-201(11).

R765-124-12. Request Amending a Record.

(1) Any individual may contest the accuracy or completeness of any public, private, or protected record concerning the individual by requesting OCHE to amend the record as outlined in Section 63G-2-603.

(2) If OCHE denies the request to amend the record, the requester may:

- (i) submit a written statement contesting the information in the record; or
- (ii) appeal the denial as provided under Subsection 63G-2-603(7).

(3) Upon receipt of a requester's written statement contesting the information, OCHE shall comply with the requirements of Subsection 63G-2-603(6)(b).

R765-124-13. Appeal to the Commissioner of Higher Education.

(1) Each requester may appeal the denial of access to a requested record to the Commissioner as provided under Section 63G-2-401 within 30 days after OCHE sends a notice of denial under Section 63G-2-205 or the record request is considered denied under Subsection 63G-2-204(9), if that subsection applies.

(2) Each requester who is denied access to any record of which the Commissioner is the subject of the record may appeal the denial directly to the chair of board.

R765-124-14. Weighing of Privacy and Access Interests.

The Commissioner, or the Commissioner's designee, may weigh privacy interests against access interests and allow access to specific private or protected records if the interests favoring access outweigh the interests favoring restriction of access as provided under Subsection 63G-2-201(5)(b).

R130, Equal Opportunity Initiatives¹

R130-1 The following policy has been codified as Utah Administrative Code R765-130.²

R130-2 References

2.1 Utah Code § 53B-1-116, Prohibition on the Use of Certain Submissions in Higher Education – Exceptions

2.2 Utah Code § 53B-1-117, Prohibition on the Use of Training in Higher Education – Exceptions

2.3 Utah Code § 53B-1-118, Prohibited Discriminatory Practices – Exceptions

2.4 Utah Code Title 63G, Chapter 3, Utah Administrative Rulemaking Act

2.5 Utah Code § 67-27-107, Prohibition on the Use of Certain Submissions by Governmental Employers – Exceptions

R765. Higher Education (Utah Board of), Administration.

R765-130. Equal Opportunity Initiatives.

R765-130.1. Purpose.

This rule outlines compliance obligations and establishes a procedure for accepting and processing an individual’s complaint against a Utah System of Higher Education institution for an alleged violation of Sections 53B-1-116, 53B-1-117, and 53B-1-118.

R765-130.2. Authority.

¹ *Adopted XXX.*

² This administrative rule must also be approved by the Utah Office of Administrative Rules and minor, non-substantive edits to conform with the Utah Administrative Code style guide may be made.

This rule is authorized by Title 63G, Chapter 3.

R765.130.3. Definitions.

(1) "Institution" means an institution of higher education under Subsection 53B-2-101(1).

R765.130.4. Compliance Obligations.

(1) Institutions are required to comply with Sections 53B-1-116, 53B-1-117, and 53B-1-118.

(2) The Utah Board of Higher Education is required to comply with requirements in Sections:

(a) 53B-1-116(7)(a)-(b)

(b) 53B-1-116(8)(a)-(b)

(c) 53B-1-117(5)(a)-(b)

(d) 53B-1-117(6)(a)-(b)

(e) 53B-1-118(4)

(f) 53B-1-118(6)(a)(i)-(ii)

(g) 53B-1-118(6)(b)

(h) 53B-1-118(12)(a)(i)-(ii)

(i) 53B-1-118(13)(a)-(b)

R765.130.5. Complaint Procedures.

(1) An individual may submit a report alleging a violation of Section 53B-1-116, 53B-1-117, or 53B-1-118 through Ethics Point or contact the Utah Board of Higher Education's Secretary to discuss other reporting options.

(3) The Office of the Commissioner of Higher Education (OCHE) will review the report and determine whether it includes a credible allegation of a violation of Section 53B-1-116, 53B-1-117, or 53B-1-118. If the allegation is credible, then the Commissioner will assign an investigator.

(4) The investigator will gather relevant evidence to determine whether there is preponderance of the evidence the institution engaged in a violation of Section 53B-1-116, 53B-1-117, or 53B-1-118.

(5) The investigator will issue a written report outlining the allegations, relevant evidence, and whether there is a preponderance of the evidence that the institution engaged in prohibited conduct under Section 53B-1-116, 53B-1-117, or 53B-1-118.

(6) If the Board determines the institution violated Section 53B-1-116, 53B-1-117, or 53B-1-118, the Board will work with the institution, on or before 30 days after that determination, to create a remediation plan and will give the institution 180 days after the day the institution receives the remediation plan to cure the violation. The institution shall provide written documentation to the Board outlining the steps the institution took to cure the violation.

R765.130.6. Report to Higher Education Appropriations Subcommittee.

(1) On or before November 1 of each year, the Board shall submit a report to the Higher Education Appropriations Subcommittee that includes the review process, each institution's compliance determination, or if a violation is identified, the violation, remediation plan, and progress to cure the violation.

~~R132, Government Records Access and Management Act Guidelines¹~~

~~**R132-1. Purpose:** To provide Board policy and guidelines for institutional policy in matters related to the Government Records Access and Management Act (GRAMA).~~

~~R132-2. References~~

- ~~2.1. Utah Code §H63G-2-204(2)H (Rules for Requests of Records)~~
- ~~2.2. Utah Code §63A-12-104(2) (Rulemaking Authority)~~
- ~~2.3. Utah Code §H53B-16-3H (Higher Education: Restricted Records)~~
- ~~2.4. The Family Educational Rights and Privacy Act of 1974 (Buckley Amendment) H20 U.S.C. §1232g~~

~~R993-3. Definitions~~

~~**3.1. Classification:** "Classification," "classify," and their derivative forms mean determining whether a record series, record, or information within a record is public, private, controlled, protected, or exempt from disclosure under GRAMA Section §H63G-2-201(3)H.~~

~~**3.2. Designation:** "Designation," "designate," and their derivative forms mean indicating, based on the Records Officer's familiarity with a record series, the primary classification that a majority of records in a record series would be given if classified.~~

~~**3.3. Exempt Records:** "Exempt records" are records to which access is restricted pursuant to court rule, another state statute, federal statute, or federal regulation, such as, for higher education institutions, Restricted Sponsored Research/Technology Transfer Records (Utah Code H§53B-16-301H, H302H, H303H, H304H, H305H) and The Family Educational Rights and Privacy Act of 1974 (HBuckley AmendmentH).~~

~~R132-4. Policy Guidelines~~

¹Approved June 19, 1992; amended April 24, 1997 and December 21, 2009.

4.1. Records Officer: Each President shall appoint one or more records officers to provide for the care, maintenance, scheduling, disposal, classification, designation, access, and preservation of the institution's records.

4.2. Written Requests for Access to Records: Each institution shall specify where and to whom written requests for access to records shall be directed. An institution may specify one central office to receive all GRAMA requests for access to institutional records or it may prefer to specify several offices or individuals to receive these requests in order to accommodate the size, complexity or diversity of the institutional records systems. (See GRAMA Section §H63G-2-204(2)H.)

4.3. Institutional Officers Responsible to Undertake the Various Requirements of GRAMA: GRAMA Section §63A-12-104(2) allows each institution to specify the level within the institution at which various requirements of GRAMA shall be undertaken, as follows:

4.3.1. Designation of Records: Each institution shall evaluate the record series that it uses or creates, shall proceed to designate, as soon as possible, how each such record series is classified, beginning with the designation of those records or record series for which requests for access are anticipated, and shall report the designations to state archives. (See GRAMA §H307H)

4.3.2. Statement of Purpose for Collecting Information: When an institution designates a record as private or controlled, the institution must also file a statement with state archives explaining the purposes for which the records are collected and used by the institution. (See GRAMA §H601H.) The institutional may use the record only for the purposes listed in that statement. However, sharing of records with other governmental entities is allowed, subject to the restrictions of GRAMA §H206H.

4.3.3. Weighing of Privacy and Access Interests: Institutional policy may empower the President or his or her designee to weigh privacy interests against access interests and to allow more liberal access to certain private or protected records if the interests favoring access outweigh the interests favoring restriction of access. (See GRAMA §H201(5)(b)H.) If someone other than the President is designated to exercise this weighing authority the designee should be at the highest possible level within the institution's structure. This weighing authority is particularly relevant to business confidentiality claims under GRAMA §H9H.

4.3.4. Appeals to President or Designee: A dissatisfied records access requester has a right to an appeal to the President or his or her designee. If a designee will routinely decide these appeals, then that designee shall be specified by institutional policy. An

institution may provide that specific sub-units of the institution are separate "governmental entities" for purposes of GRAMA and specify the individual or position considered the head of each such "governmental entity" for purposes of appeals. (See GRAMA §H401H)

4.3.5. Fees and Fee Waivers: If an institution charges a reasonable fee to cover the institution's cost of duplicating a record, or for compiling the record in a form other than that maintained by the institution, the institution shall adopt a fee schedule as provided by GRAMA §H203H. Institutional policy shall also establish at what level in the institution determinations are made regarding the waiver of fees, as permitted by GRAMA §H203(3)H.

4.3.6. Access for Research Purposes: Institutional policy shall establish at what level in the institution determinations are to be made regarding requests for access to records for research purposes, as permitted by GRAMA §H202(3)H.

4.3.7. Institution Owned Intellectual Property Rights: Institutional policy shall establish at what level in the institution determinations are to be made regarding the duplication and distribution of materials for which the institution owns the intellectual property rights, as permitted by GRAMA §H201(10)H.

4.3.8. Sponsored Research and Technology Transfer: Institutions engaged in sponsored research and technology transfer projects shall designate by whom and by what procedures the institution may restrict access to portions of technology transfer and sponsored research records for the purpose of securing and maintaining proprietary protection of intellectual property rights, or for competitive or proprietary purposes as a condition of actual or potential participation in a sponsored research or technology transfer agreement, as provided by new sections §H53B-16-301H through 305.

4.3.9. Written Claim of Business Confidentiality: If an institution intends to accept written claims of business confidentiality, it shall develop procedures for reviewing the requests for reasonableness and for managing the restricted records. (See GRAMA §H305(2)H and 30H9H)

4.3.10. Segregation: Institutions may choose to adopt policy and procedures to segregate records or information within records that a future requester will be entitled to inspect, from records or information within records that the requester will not be entitled to inspect, in order to simplify the segregation process at the time the request for access is made. (See GRAMA §H30H8)

~~4.4. Appeals from Individual Contests of the Accuracy or Completeness of Personal Records:~~ An individual may contest the accuracy or completeness of records concerning him or her. Appeals from such decisions are governed by the Utah Administrative Procedures Act (UAPA). If an institution desires to conduct appeals from such decisions informally rather than formally it must adopt institutional policy to that effect. (See GRAMA §H603H)

~~4.5. Anonymity of Donors and Prospective Donors:~~ If an institution intends to offer anonymity to donors or prospective donors it shall designate to whom and by what procedure the donor may request such anonymity in writing. (See GRAMA §305(37))

R132, Government Records Access and Management Act Guidelines¹

R132-1. Purpose: To provide Board policy and guidelines for institutional policy in matters related to the Government Records Access and Management Act (GRAMA).

R132-2. References

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- 2.2. Utah Code §63A-12-104(2) (Rulemaking Authority)
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4.4. Appeals from Individual Contests of the Accuracy or Completeness of Personal Records: An individual may contest the accuracy or completeness of records concerning him or her. Appeals from such decisions are governed by the Utah Administrative Procedures Act (UAPA). If an institution desires to conduct appeals from such decisions informally rather than formally it must adopt institutional policy to that effect. (See GRAMA §603H)

4.5. Anonymity of Donors and Prospective Donors: If an institution intends to offer anonymity to donors or prospective donors it shall designate to whom and by what procedure the donor may request such anonymity in writing. (See GRAMA §305(37))

R135, Institutional Legal Counsel in the System of Higher Education¹

R135-1. Purpose: To provide for the appointment and coordination of institutional offices of legal counsel within the Utah System of Higher Education (“USHE”) for degree-granting institutions.

R135-2. References

~~2.1. Utah Code- § 53B-2-114, Degree-granting Institution Attorneys§53B-2-106(2) (Coordination of Legal Affairs Within the Institution and the System)~~

~~2.2. Policy and Procedures R131, Functions of the State Board of Regents~~

R135-3. Policy

~~3.1. Appointment of Attorneys:~~ ~~Subject to the authority of the Board of Regents, these Policies and Procedures, and specific Board of Regent approval, the~~ The pPresident of each institution with the approval of the institution's Board of Trustees a degree-granting USHE institution may create an office of legal counsel and appoint attorneys to provide legal advice to the institution's administration and to coordinate legal affairs within the institution.

~~3.2. Authority of the Board~~Coordination: The Board shall coordinate the activities of attorneys described in subsection 3.1. The Commissioner or their designee shall coordinate, together with the Attorney General's Office, statewide efforts to provide training and development opportunities for attorneys at the institutions and to enhance the exchange of information, ideas, and expertise between and among higher education attorneys at the institutions and in the Attorney General's Office. The Board has reserved for itself the establishment of policies and procedures having statewide implications. By its effective coordination of legal counsel among the institutions and with the Office of the Attorney General, the Board shall seek to optimize the benefit of such legal counsel to the System as a whole and to each institution.

~~3.3. Board approval:~~ The Board may approve the establishment of an office of legal counsel at an institution upon a demonstration of need pursuant to the following criteria:

¹ Adopted May 14, 1993; amended April 14, 2000; and June 29, 2000; and XXX.

~~**3.3.1. On-campus Availability:** Legal counsel must be located on campus to adequately monitor and coordinate campus legal affairs, determine priorities for the institutions' legal needs, review contracts and otherwise practice preventive law, coordinate legal affairs with academic and administrative policy and decision making, attend on-campus hearings, and provide administrators and other campus personnel seeking assistance with ready access to needed legal services.~~

~~**3.3.2. Response Time:** Certain matters require immediate response. The administration must be able to direct an institutional legal counsel to reorder priorities and respond in a timely manner.~~

~~**3.3.3. Area of Expertise:** The institution, or the System as a whole, has a need for a particular legal expertise (For example, patent, trademark, or communications counsel) which is not available from the Attorney General's Office.~~

~~**3.3.4. Familiarity with Collateral Issues:** In order to perform effectively, a legal counsel must have an ongoing familiarity with similar or collateral issues at the institution.~~

~~**3.3.5. Lack of Alternative Support:** The Office of the Attorney General is unable to meet the institution's need for legal counsel services.~~

~~**3.3.6. Costs to State:** The costs to the state to retain institutional legal counsel compare favorably with the costs to the state for the institution to rely on legal services provided by the Attorney General's Office.~~

~~**3.34. Funded from Internal Sources:** The office of legal counsel shall be funded by the institution from internal reallocation of resources and not from new state appropriations requested for this purpose. The institution shall fund compensation costs and related office expenses for the office of legal counsel and an attorney appointed according to subsection 3.1.~~

~~**3.5. Coordination of Legal Affairs within the Institution:** The President may designate the institutional office of legal counsel to coordinate the legal affairs within the institution.~~

~~**3.46. Cooperation with the Attorney General's Office:** An president appointed attorney appointed according to subsection 3.1 shall not conduct litigation, settle claims covered by the State Risk Management Fund, or issue a formal legal legal opinions, but shall, in all respects, cooperate with the Office of the Attorney General 's effort to in providing appropriate legal representation to the the degree-granting institution.~~

~~3.46.1:~~ The institutional office of legal counsel shall communicate to and cooperate with the Attorney General on all matters which may be expected to impact on litigation or on one or more other System institutions.

~~3.46.2:~~ Issues and conflicts relating to interpretations of federal or state statutes, regulations, or rules are subject to resolution by opinions from the Attorney General's Office.

~~**3.7. Coordination of System Wide Training and Development by the Office of the Commissioner:** The Commissioner or his/her designee shall coordinate, together with the Attorney General's Office, state wide efforts to provide training and development opportunities for attorneys at the institutions and to enhance the exchange of information, ideas and expertise between and among higher education attorneys at the institutions and in the Attorney General's Office.~~

~~**3.8. Develop Range of Expertise at the Institutions and Across the System:** The institutional attorneys and the Office of the Commissioner shall cooperate with the Attorney General's Office to encourage the development of a balanced range of expertise at the institutions and across the System and to provide mechanisms to share resources and expertise, as appropriate.~~

~~**3.10. Periodic Report to the Board:** Upon request, each institution shall provide a report to the Board of Regents on the activities of the institutional office of legal counsel in a format provided by the Office of the Commissioner.~~



R135, Institutional Legal Counsel in the System of Higher Education¹

R135-1 Purpose: To provide for the appointment and coordination of institutional offices of legal counsel within the Utah System of Higher Education (“USHE”) for degree-granting institutions.

R135-2 References

2.1 Utah Code § 53B-2-114, Degree-granting Institution Attorneys

R135-3 Policy

3.1 Appointment of Attorneys: The president of a degree-granting USHE institution may create an office of legal counsel and appoint attorneys to provide legal advice to the institution's administration and to coordinate legal affairs within the institution.

3.2 Coordination: The Board shall coordinate the activities of attorneys described in subsection 3.1. The Commissioner or their designee shall coordinate, together with the Attorney General's Office, statewide efforts to provide training and development opportunities for attorneys at the institutions and to enhance the exchange of information, ideas, and expertise between and among higher education attorneys at the institutions and in the Attorney General's Office. The Board has reserved for itself the establishment of policies and procedures having statewide implications. By its effective coordination of legal counsel among the institutions and with the Office of the Attorney General, the Board shall seek to optimize the benefit of such legal counsel to the System as a whole and to each institution.

3.3 Funded from Internal Sources: The institution shall fund compensation costs and related office expenses for the office of legal counsel and an attorney appointed according to subsection 3.1.

3.4 Cooperation with the Attorney General's Office: An attorney appointed according to subsection 3.1 shall not conduct litigation, settle claims covered by the State Risk Management Fund, or issue a formal legal opinion, but shall, in all respects, cooperate with the Office of the Attorney General in providing legal representation to the degree-granting institution.

¹ Adopted May 14, 1993; amended April 14, 2000; June 29, 2000; and XXX.

3.4.1 The institutional office of legal counsel shall communicate to and cooperate with the Attorney General on all matters which may be expected to impact on litigation or on one or more other System institutions.

3.4.2 Issues and conflicts relating to interpretations of federal or state statutes, regulations, or rules are subject to resolution by opinions from the Attorney General's Office.

R136, Language Proficiency in the Utah System of Higher Education¹

~~R136-1.~~ **R136-1 Purpose:** To provide for the use of languages other than English for communications with non-English speakers, ~~to~~ promote English proficiency, and ~~to~~ encourage enhanced language training in the Utah System of Higher Education (“USHE”).

~~R136-2.~~ **R136-2 References**

~~2.1~~ Utah Code § 53B-2-106, Duties and Responsibilities of the President of a Degree-Granting Institution of Higher Education – Approval by Board of Trustees.

~~2.2~~ Utah Code § 63G-1-201, Official State Language

~~2.1.~~ Utah Code §, Duties and Responsibilities of the President

~~2.2.~~ Utah Code §, Official State Language

~~R136-3.~~ **R136-3 Policy**

~~3.1.3.1~~ **Official State Language:** English is the official language of Utah and is the sole language of the government. ~~Pursuant to Utah Code §63-14-1.5 institutions and the Utah Higher Education Assistance Authority (UHEAA) may use languages other than English for communications with non-English speakers in accordance with this rule.~~

~~3.2.3.2~~ **Communications in Order to Encourage English Proficiency:** USHE institutions and ~~UHEAA~~ the Board may use languages other than English to ~~establish~~ communicate with non-English speakers. These communications ~~may~~ include, but are not limited to, explaining educational opportunities in order to encourage and support access and participation in institutional education, ~~and~~ institutional or ~~UHEAA~~ Board policies and procedures ~~in order to encourage and support participation in institutional and UHEAA education,~~ training and other related programs, ~~including or~~ English proficiency training. ~~Such~~ The communications shall promote the principle that non-English speaking children and adults should become able to read, write, and understand English as quickly as possible.

¹ Adopted January 17, 2003; amended XXX.

~~3.3.3.3~~ Foreign Language Instruction: USHE institutions and ~~UHEAA~~ the Board shall continue to emphasize and support foreign language instruction as an integral and important function of Utah higher education.

~~3.4.~~ 3.4 English as a Second Language Instruction: USHE institutions and ~~UHEAA~~ the Board shall support, initiate, continue and expand formal and informal programs in English as a Second Language.

R136, Language Proficiency in the Utah System of Higher Education¹

R136-1 Purpose: To provide for the use of languages other than English for communications with non-English speakers, promote English proficiency, and encourage enhanced language training in the Utah System of Higher Education (“USHE”).

R136-2 References

- 2.1 Utah Code § 53B-2-106, Duties and Responsibilities of the President of a Degree-Granting Institution of Higher Education – Approval by Board of Trustees.
- 2.2 Utah Code § 63G-1-201, Official State Language

R136-3 Policy

- 3.1 **Official State Language:** English is the official language of Utah and is the sole language of the government.
- 3.2 **Communications in Order to Encourage English Proficiency:** USHE institutions and the Board may use languages other than English to communicate with non-English speakers. These communications may include, but are not limited to, explaining educational opportunities in order to encourage and support access and participation in institutional education, institutional or Board policies and procedures, training and other related programs, or English proficiency training. The communications shall promote the principle that non-English speaking children and adults should become able to read, write, and understand English as quickly as possible.
- 3.3 **Foreign Language Instruction:** USHE institutions and the Board shall continue to emphasize and support foreign language instruction as an integral and important function of Utah higher education.
- 3.4 **English as a Second Language Instruction:** USHE institutions and the Board shall support, initiate, continue and expand formal and informal programs in English as a Second Language.

¹ *Adopted January 17, 2003; amended XXX.*

R165, Concurrent Enrollment¹

R165-1 The following policy has been codified as Utah Administrative Code R765-165².

R165-2 References

- 1.1 Utah Code Title 53E, Chapter 10, Part 3, Concurrent Enrollment
- 1.2 Utah Code § 53E-4-206, Career and College Readiness Mathematics Competency Standards
- 1.3 Utah Code § 53B-1-402, Establishment of Board – Power, Duties, and Authority
- 1.4 Utah Code § 53B-1-109, Coordination of Higher Education and Public Education Information Technology Systems – Use of Unique Student Identifier
- 1.5 Utah Code § 53E-4-308, ~~Coordination of Higher Education and Public Education Information Technology Systems~~Unique Student Identifier
- 1.6 Utah Code Title 53G, Chapter 11, Part 4, Background Checks
- 1.7 Utah Code § 53B-16-205.5, Snow College Concurrent Education Program
- 1.8 Utah Code § 53E-10-307, Concurrent Enrollment Courses for Accelerated Foreign Language Students
- 1.9 Utah Administrative Code R277-407, School Fees
- 1.10 Utah Code § 53G-10-103, Sensitive Instructional Materials

R765. Higher Education (Utah Board of), Administration.

¹ Approved January 22, 1988; amended June 10, 2005, July 28, 2006, May 29, 2009, November 18, 2011, May 16, 2014, September 16, 2016, May 17, 2019, and May 15, 2020. Board Policy replaced by Utah Administrative Code on August 10, 2023; *amended XXX*.

² This administrative rule must also be approved by the Utah Office of Administrative Rules and minor, non-substantive edits to conform with the Utah Administrative Code style guide may be made.

R765-165. Concurrent Enrollment.

R765-165-1. Purpose.

The purpose of this rule is to establish the rules and procedures that govern Utah System of Higher Education (“USHE”) institutions when providing concurrent enrollment opportunities to Utah public education students. This rule does not apply when a USHE institution is contracting concurrent opportunities with public education students in other states or with private high schools located within Utah.

R765-165-2. Authority.

This rule is authorized by Title 53E, Chapter 10, Part 3.

R765-165-3. Definitions.

(1) "Concurrent Enrollment" (“CE”) means college courses that Utah System of Higher Education institutions offer to public school under a contractual agreement between the USHE institution and a Local Education Agency (“LEA”). Students continue to be enrolled in public schools, are counted in average daily membership, receive credit toward graduation, and concurrently receive college credit for courses. CE is distinct from early college admission.

(2) "Career and Technical Education Courses" and "CTE" mean higher education courses that align to Utah State Board of Education 11-digit assignment codes beginning with "30 Agriculture" through "41 Work-Based Learning" that are not designated as general education courses, and that may qualify for funding under the Strengthening Career and Technical Education for the 21st Century Act, Pub. L. No. 115 224.

(3) "Contractual Basis" means courses and instruction offered under an annual contract between a LEA and a USHE institution. Contractual basis CE is eligible for state funding through the appropriation for CE authorized under Section 53E-10-30~~23~~.

(4) "Early College" means enrollment in college credit courses by high school students who are academically prepared, meet college admissions requirements, have left high school prior to graduation, and are no longer counted in average daily membership. CE policies and funding mechanisms do not apply to early college admission enrollment. Early college admission enrollments are reported as regular enrollments by USHE institutions.

(5) "Early College High School" means a public high school, generally affiliated with a college or university, whose academic goal is to assist accelerated students in earning college credit up to an associate degree concurrent with a high school diploma. Students are counted in the average daily membership of the high school. College credit is earned through CE and early college courses. The early college high school negotiates for and pays any applicable tuition and fees for early college courses.

(6) "Instructor" means a licensed LEA K-12 educator who qualifies and is approved to teach CE courses as an adjunct faculty within an institution's academic department.

(7) "Interactive Video Conferencing" and "IVC" mean two-way, real-time transmission of audio and video signals between computer equipment at two or more locations.

(8) "Local Education Agency" and "LEA" mean a school board, public school district or public charter school.

(9) "Non-contractual Basis" means college credit courses public education students pursue on their own initiative. Such students must enter into an agreement between the student, the student's parent or guardian, the high school administrator, and the USHE institution for the student to take the course; the course is considered to be offered on a non-contractual basis. The student is responsible for all enrollment expenses. USHE institutions report non-contractual enrollments as regular enrollments. Non-contractual basis CE is not eligible for state funding.

(10) "Qualifying Experience" means a LEA employee's experience in an academic field that qualifies the LEA employee to teach a CE course in the academic field and may include the employee's (a) number of years teaching in the academic field; (b) holding a higher level secondary teaching credential issued by the Utah State Board of Education ("USBE"); (c) research, publications, or other scholarly work in the academic field; (d) continuing professional education in the academic field; (e) a portfolio of work related to the academic field; or (f) professional work experience or certifications in the academic field as defined by Section 53E-10-301(9).

(11) "Sensitive Material" means instructional material that is pornographic or indecent material as that term is defined in Section 76-10-1235.

(12~~1~~) "Snow College Concurrent Education Program" and "Snow CE" mean a consistent two-year schedule of CE courses that Snow College delivers through IVC. Snow CE courses create a pathway for secondary school students, particularly in rural

high schools, to earn college credits that apply toward earning an Associate of Science or Associate of Arts degree, or satisfy scholarship requirements and other objectives that best meet students' needs. Snow CE includes advisory support to participating secondary school students and their high school counselors to ensure that students' CE courses align with their academic and career goals. Rule R765-165 governs the Snow CE program. Funding is appropriated under Section 53B-16-205.5.

(132) "Plan for College and Career Readiness" means secondary school process for academic and career planning, facilitated by school counselors with students and their parents or guardians.

(143) "Supervision of CE Instructors" means professional development opportunities institutions provide to public educators who qualify as CE instructors to prepare them to teach the CE post-secondary curriculum.

(154) "Technology Delivered Instruction" means course instructions provided to students by common technology such as broadcast, interactive videoconferencing, or the Internet.

(165) "Technology Intensive CE" and "TICE" mean hybrid CE courses that blend different learning activities, both in classrooms and online. TICE courses include common course assessments and, when possible, utilize open education resources. Each USHE institution may offer TICE courses.

(176) "Unique Student Identifier" and "SSID" mean an alphanumeric code assigned to each public education student for identification purposes.

(187) "Utah Board of Higher Education" and "UBHE" mean the governing body for the Utah System of Higher Education.

(198) "Utah System of Higher Education" and "USHE" mean the system of public colleges and universities governed by the Utah Board of Higher Education.

(1920) "USHE Institution" and "Institution" and "Eligible Institution" as defined in Section 53E-10-301(4), mean a degree-granting institution of higher education or a technical college -within the state system of higher educationUtah System of Higher Education as defined in Section 53B-1-102, -otherwise known as an "eligible institution" as defined under Section 53E-10-301(4)or a degree-granting institution of higher education or a technical college within the Utah System of Higher Education as defined in Section 53B-1-102, that offers an online concurrent enrollment course. ; -or an "eligible institution" that offers an online concurrent enrollment course. degree-granting institution of higher education within the Utah System of Higher Education.

(21~~0~~) "Utah State Board of Education" and "USBE" mean the system of public education districts and charter schools governed by the Utah State Board of Education.

R765-165-4. Purpose of CE Program.

The CE program provides course options to a prepared high school student who earns high school and college credit. The CE program is intended to allow a student to complete a high school diploma while concurrently earning credits for first or second-year coursework at a USHE Institution, which can accelerate college completion and reduce college costs. To accomplish the purpose for the CE program, the UBHE and the USBE shall ensure that the following is done:

(1) High Quality Opportunities - CE courses shall provide high quality, college-level academic and career and technical education opportunities to qualified high school students.

(2) Qualitative Safeguards - College instruction offered in the high school setting must have qualitative safeguards to preserve the rigor and standards of college requirements. The ~~USHE-eligible i~~institution granting the college credit ~~or technical education~~ for a given course is responsible to establish appropriate qualitative safeguards. To help ensure quality, consistent instruction, and student success, the ~~sponsoring-eligible~~ institutions should officially enroll students as CE students.

(3) Participating Institutions - USHE ~~degree-granting~~ institutions may participate in the contractual basis CE program in compliance with controlling law and consistent with USBE rules governing the use of public education funds.

(4) Program Evaluation - The USBE and UBHE shall work in close cooperation in developing, implementing, and evaluating the CE program.

R765-165-5. Students.

(1) Student Status - Students must be enrolled in, and counted in the average daily membership of, a Utah public school and have high school student status before and throughout enrollment in CE courses. Students must complete contractual basis CE courses prior to their high school graduation or participation in high school graduation exercises. Students who have received a diploma, whose class has graduated from high school, or who have participated in graduation exercises are not eligible to participate in the CE program.

(2) Eligibility Requirements - USHE institutions and LEAs shall jointly establish student eligibility requirements. To predict a successful experience, institutions and LEAs may require:

- (a) students are in grade 9, 10, 11, or 12;
- (b) a grade point average, ACT score, or a placement score which predicts success, which is generally considered to be a "B" grade point average or ACT score of 22 or higher;
- (c) supportive letters of recommendation;
- (d) approval of high school and college officials;
- (e) appropriate placement assessments for courses such as mathematics and English;
- (f) completion of Secondary Math I, II, and III with a "C" average or better course grade in all three classes to enroll in a CE mathematics course;
- (g) completion of institutionally established prerequisites for a course; and
- (h) have on file a completed plan for college and career readiness.

(3) CE Participation Form and Parent Permission to Participate - Before allowing an eligible student to participate in the CE program for the academic year, an institution shall ensure the student has completed the USHE CE participation form, signed an acknowledgement of program participation requirements, and obtained a permission form signed by a parent or guardian.

(4) Identification of Eligible Students - LEAs have the primary responsibility for identifying students who are eligible to participate in the CE program.

(5) Advising - USHE institutions and LEAs shall jointly coordinate advising to prospective or current high school students who participate in the CE program. Advising shall include information on general education requirements at USHE institutions and how the students can choose CE courses to avoid duplication or excess credit hours.

(6) Tracking Student Achievement - USHE institutions and LEAs shall jointly coordinate information technology systems to track individual students' academic achievement through both education systems in accordance with Sections 53B-1-109 and 53E-4-308.

(a) USBE and USHE staff shall coordinate access to the SSID of a public education student who later attends a USHE institution ~~within the Utah System of Higher Education~~.

(b) USHE information technology systems shall utilize the SSID of all students who have previously been assigned a unique student identifier.

(7) Advising Report - Twelve weeks after the end of each semester, participating institutions may request from the ~~Commissioner's~~ Office of the Commissioner of Higher Education a report listing each public high school student admitted to a USHE institution who was enrolled in 12 or more credit hours of CE courses per year and completed at least six of those credit hours from that institution. The report shall include:

- (a) the student's name and SSID;
- (b) the student's LEA;
- (c) the name of each CE course taken by the student;
- (d) the institution where the student enrolled to take each CE course; and
- (e) the number of college credits the student earned in each CE course with a designation that indicates which credits the student earned at a grade "C" or higher.

R765-165-6. Courses.

(1) Choice of Courses - The courses offered through CE shall be introductory-level general education, career and technical education, pre-major college courses, or select upper division courses when approved by the Utah Board of Higher Education after consulting with the USBE. CE courses must assist students in earning post-secondary certificates or degrees. CE may only include college or technical education courses that correspond to high school courses typically offered in grades 11 or 12. Courses selected shall reflect the strengths and resources of the respective schools and USHE institutions. CE offerings shall be limited to courses in English, mathematics, fine arts, humanities, science, social science, world languages, and career and technical education.

(2) Accelerated Foreign Language Courses -- ~~USHE i~~nstitutions may offer 3000 level foreign language courses to accelerated foreign language students, including dual language immersion students.

(3) Master List - The Office of the Commissioner of Higher Education and the USBE will jointly approve courses that are added to an institution-specific CE Master List. Only courses taken from the master list for a given academic year shall be reimbursed from state CE funds.

(4) Changes to CE Master List - USHE institutions, after consultation with LEAs, shall provide the USBE with proposed new course offerings, including syllabi and curriculum materials by November 15 of the year preceding the school year in which courses shall be offered.

(5) Number of Courses - In general, institutions should limit the number of CE courses so they can focus on quality instruction and assure coordinated professional development activities for participating teachers and transferability of credit from institution to institution.

(6) Institution Responsibility - The offering USHE -institution is responsible for course content, procedures, examinations, teaching materials, and monitoring of CE courses taught at a high school. The institution shall ensure the curriculum is consistent with Utah law and of comparable rigor and quality with courses offered on the institution campus. The institution shall ensure CE curriculum standards of instruction, practices for administering and grading assessments, and the course grade rubric are the same as when the course is taught on the institution campus. When possible, department exams should be used in the CE course. For courses that transfer as equivalent credit among USHE institutions, the institution shall ensure articulated learning outcomes are met.

(7) Learning Materials - Under Section 53G-4-402, CE learning materials are not subject to selection by the local school board.

(8) Under section 53G-10-103, "Sensitive material - Under Section 53G-10-103," does not include an instructional material for a concurrent enrollment CE course that contains sensitive material and for which a parent receives notice from the course provider of the material before enrollment of the parent's child and gives the parent's consent by enrolling the parent's child. A USHE institution shall provide parental notice for any courses that contain sensitive material prior to the student's enrollment in the CE course.

R765-165-7. Credit.

(1) Permanent College Transcript - The registrations and grades of each CE course shall be recorded on permanent college transcripts. A student who registers for a CE course shall commit to having the final course grade recorded on that student's permanent college record, regardless of the results.

(2) Credit Value - College level courses taught in the high school shall carry the same credit hour value as when taught on a ~~college or university~~ USHE institution campus and shall apply toward graduation from a USHE ~~i~~nstitution on the same basis as courses taught at the USHE institution where the credits are earned.

(3) Credit Hours Permitted - Individual students shall be permitted to earn up to 30 semester hours of college credits per year through contractual CE. Credits earned in excess of 30 must be on a non-contractual basis.

(4) Institution Credit - USHE institutions shall be responsible for course registration and awarding students college credit for CE courses.

(5) Transferability - Credit earned through the CE program shall be transferable between USHE institutions. Students should be encouraged to seek advice from a college academic adviser to make course choices that will meet the student's educational goals.

R765-165-8. Tuition, Fees, and Other Charges.

Regular tuition and fees may not be charged to high school students for participation in this program.

~~(1) Admissions Fee—Students may be assessed a one-time admissions application fee per institution, which satisfies the general admissions application fee requirement for a full-time or part-time student at an institution. The institution may not charge any additional admissions application fees for continuous enrollment at that institution following high school graduation.~~

~~(12) Partieicipation-Participation Fee - The an UBHE-eligible institution may charge course a one-time fees for students to participate in the CE program. Paying this fee shall not satisfy the general admissions application fee required for full-time or part-time students at a USHE institution.~~

~~(23) Partial CE Tuition -- USHE An eligible institution, with the exception of technical colleges as defined in 53B-2a-106 Utah Code section 53B-1-102, institutions may charge a secondary student partial tuition for each CE course for which the student receives college credit in the following amounts:~~

(a) a USHE institution may charge a CE student who qualifies for free or reduced school lunch partial tuition of up to \$5 per credit hour;

(b) if a CE course is taught by a public school educator in a public school facility, a USHE institution may charge up to \$10 per credit hour;

(c) if a CE course is taught over interactive video conferencing (IVC), a USHE institution may charge up to \$15 per credit hour; and

(d) if a CE course is taught on a USHE campus, a USHE institution may charge up to \$30 per credit hour.

(4) The UBHE shall annually report to the Legislature's Higher Education Appropriations Subcommittee on regular tuition savings to CE students, any partial CE tuition charged, and justification for the distribution of money appropriated for CE, pursuant to Section 53E-10-308.

(5) Fee Waivers - CE program costs attributable only to college credit or enrollment are not subject to fee waiver under Rule R277-407. A student's costs related to CE classes, which may include consumables, lab fees, copying, and material costs, as well as textbooks required for the course, are subject to fee waiver consistent with Rule R277-407. The LEA shall be responsible for these waivers. The contract between the USHE institution and the LEA may address the responsibility for fee waivers.

R765-165-9. Location and Delivery.

CE courses shall be offered at the most appropriate location, using the most appropriate educational technology for the course content, the faculty, and the students involved. Instruction may be delivered through live classroom instruction or other accepted instruction technologies. Instruction normally occurs during the school day with students released from regular high school coursework to participate in CE.

(1) Students within Commuting Distance - Qualified students residing within commuting distance of a USHE institution may pursue their CE study on the institution campus with approval from their LEA.

(2) Designated Service Region Delivery - Each USHE institution has the responsibility for offering CE courses within their designated service region per UBHE policy R315. If the local institution chooses not to offer a CE course, a LEA may ask another USHE institution to provide the course.

(3) Right of First Refusal

(a) A LEA shall contact the USHE institution with responsibility for that LEA's service region to request a CE course offering. The local institution shall indicate in writing whether it will offer the requested course within 30 days of the LEA contact and request.

(b) The LEA may contact another USHE institution to request sponsorship of the course(s) under Subsection R765-165-9(3)(a) if:

(i) the institution with responsibility in the service region chooses not to offer the CE course(s), or has reached its capacity to offer the CE course(s); or

(ii) if the LEA determines the institution's course includes instructional materials that are either sensitive materials as defined by Section 53G-10-103, or are otherwise prohibited by state law or USBE rule.

(c) Exception for Technology Delivered Courses - CE courses which meet the definition of "Technology Delivered Instruction" are subject to designated service region requirements. Institutions desiring to offer technology delivered CE courses outside their designated service region must receive a written endorsement from the local institution for each course they desire to offer before contracting with LEAs outside their designated service area. An annual system review of technology delivered courses shall be completed prior to November 30 of the year preceding the school year in which courses shall be offered to assure efficient and effective use of resources.

R765-165-10. CE Instructor Qualifications.

~~(1) College or university~~ USHE institution faculty or public school educators teach CE courses for the offering institution.

~~(2)~~ Selection of CE ~~i~~nstructors LEAs and the participating USHE institution shall jointly select instructors for CE courses. Selection criteria for instructors are the same as those criteria applied to other adjunct faculty appointments in specific departments within the USHE institution. Once approved as an adjunct, a CE instructor who teaches a CE course in 2018-19 or 2019-20 may continue to teach CE courses given curricular standards and student performance outcomes in the CE instructor's classes meet sponsoring academic department standards. Institutions shall establish a process for determining, in consultation with LEA partners, whether an eligible instructor who previously taught a CE course is no longer qualified to teach the CE course. The appropriate academic department at the institution must approve each CE instructor prior to teaching a CE class.

~~(3)~~ Institutional Faculty CE Instructors - A USHE institution faculty member is an eligible CE instructor.

~~(4)~~ LEA Employee Instructor Qualifications - A LEA employee is an eligible CE instructor if the LEA employee is licensed under statutory Education Professional

Licensure, is supervised by an institution of higher education, and meets the following requirements:

(a) is approved as an eligible instructor by the institution of higher education that provides the CE course taught by the LEA employee as provided under Subsection R765-165-10(4);

(b) has an upper level mathematics credential issued by the State Board of Education, or

(c) teaches a CE course that the LEA employee taught during the 2018-19 or 2019-20 school year.

(54) A USHE institution shall approve a LEA employee as an eligible instructor:

(a) for a career and technical education CE course, if the LEA employee has:

(i) a degree, certificate, or industry certification in the ~~CE~~CE course's academic field; or

(ii) qualifying experience, as determined by the USHE institution ~~of higher education~~.

(b) for a CE course other than a career and technical education course, if the LEA employee has:

(i) a master's degree or higher in the CE course's academic field;

(ii) a master's degree or higher in any academic field and at least 18 completed credit hours of graduate course work in an academic field that is relevant to the CE course; or

(iii) qualifying experience including:

(A) the number of years of teaching experience;

(B) student performance on qualifying test scores or AP exams on courses that the LEA employee teaches;

(C) continuing education in a master's degree or higher in any academic field; or

(D) other criteria established by the institution of higher education.

(65) Appeals Process for Instructor Qualification Approvals - If a designated service area USHE institution determines a LEA employee is not qualified to teach a CE course and the LEA has exhausted all administrative remedies available at the institution, the LEA may appeal the decision in writing to the Commissioner of Higher Education within 15 calendar days of the institution's final decision. The Commissioner shall appoint an appeals committee consisting of an associate

commissioner and two USHE chief academic officers who are uninvolved in the decision being appealed.

(a) The appeals committee will review the LEA's appeal and the institution's decision.

(b) The institution and LEA will provide the appeals committee with any material documents and information necessary for a complete review. The committee may request additional documentation or information as necessary.

(c) The appeals committee will provide a recommendation to the Commissioner, which may include affirming or reversing the institution's decision.

(d) The Commissioner shall make a final decision and issue it to the institution and the LEA in writing.

(e) After the Commissioner has issued a decision, there will be no further appeals or reviews.

(76) Criminal Background Checks - USHE faculty who are not public school educators and who teach CE courses defined under this policy in a high school shall complete a criminal background check consistent with Title 53G, Chapter 11, Part 4, Background Checks. The faculty's institution must determine if a criminal background check is required and, if so, must complete the background check and maintain required documentation consistent with the law.

(87) Faculty Development - CE instructors shall be included as fully as possible in the academic life of the supervising academic department. USHE institutions and LEAs shall jointly initiate faculty development, including appropriate workshop experiences to adequately prepare instructors to teach CE students and course content prior to offering CE courses. If a USHE institution uses an instructor of record or co-teaching instructional model, the institution faculty shall fully engage and prepare the public school educator to successfully teach the curriculum prior to the beginning of the course. Each CE instructor must complete any faculty development required by the sponsoring academic department at the institution prior to teaching the CE class. USHE institution faculty shall be responsible to understand and comply with federal and state laws governing public school student privacy and student records.

R765-165-11. Funding.

(1) Source of Funds - Each year that the Legislature appropriates funds for accelerated learning programs, a portion of those accelerated learning funds shall be allocated to the CE program.

(2) Eligibility to Receive Concurrent Funds - To qualify for funds, a CE program shall comply with the requirements described in Section 53E-10-302, including rules adopted in accordance with Section 53E-10-307.

(3) Allocation of Funds - Money appropriated to the USBE for CE shall first be allocated between LEAs and the UBHE based upon completed student credit hours taught by public school educators and taught by ~~college or university~~USHE institution faculty. "Completed" means that a student earned credit for the course. CE funds may not reimburse institutions for CE courses repeated by students. In accordance with Section 53F-2-409, funds shall be allocated as follows:

(a) for courses that are taught by public school educators where the cost of instruction is borne by the LEA, 60 percent shall be allocated to LEAs and 40 percent shall be allocated to the UBHE; and

(b) for courses that are taught by ~~college or university~~USHE institution faculty or where the cost of instruction is borne by the USHE institution, 40 percent shall be allocated to LEAs; and 60 percent shall be allocated to the UBHE.

(4) Distribution of Funds among USHE Institutions - The UBHE shall make rules regarding the allocation of funds pertaining to USHE institutions participating in contractual basis CE. Each institution, except Snow CE, shall receive a pro-rated amount according to the number of semester credit hours completed. The Snow CE Program, which receives a separate appropriation through Section 53B-16-205.5 for instructional, advising, and administrative costs, shall not receive the pro-rated per credit funding as long as the separate appropriation funding is in place.

(5) Annual Reports - Annual reports shall be provided to legislative committees as follows:

(a) Higher Education Appropriations - USHE staff shall annually report to the Higher Education Appropriations Subcommittee on CE participation and growth, including data on what higher education tuition would have been charged for the hours of CE credit granted as required by Section 53E-10-308.

(b) Public Education Appropriations - USHE and USBE staff shall annually report to the Public Education Appropriations Subcommittee an accounting of the

money appropriated for CE; and a justification of the split described in Subsection R765-165-11(2).

R765-165-12. Annual CE Contract.

Collaborating LEAs and USHE institutions shall annually sign a contract that establishes the terms, conditions, and duties for the institution to offer CE courses to the LEA's students.

(1) Annual Contract Content - The contracts shall include relevant policy for student eligibility and participation, course eligibility and delivery, and faculty eligibility and professional development. USHE and USBE staff shall review and amend the contract annually, as needed, to reflect current statute and rule.

(2) Annual Contract Deadline - Copies of each annual contract entered into between institutions and LEAs for the upcoming school year must be submitted by each institution to the USHE system office no later than May 30 annually. USHE shall convey copies of all contracts to USBE.



R165, Concurrent Enrollment¹

R165-1 The following policy has been codified as Utah Administrative Code R765-165².

R165-2 References

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R765. Higher Education (Utah Board of), Administration.

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R765-165-1. Purpose.

The purpose of this rule is to establish the rules and procedures that govern Utah System of Higher Education (“USHE”) institutions when providing concurrent enrollment opportunities to Utah public education students. This rule does not apply when a USHE institution is contracting concurrent opportunities with public education students in other states or with private high schools located within Utah.

R765-165-2. Authority.

This rule is authorized by Title 53E, Chapter 10, Part 3.

R765-165-3. Definitions.

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(4) "Early College" means enrollment in college credit courses by high school students who are academically prepared, meet college admissions requirements, have left high school prior to graduation, and are no longer counted in average daily membership. CE policies and funding mechanisms do not apply to early college admission enrollment. Early college admission enrollments are reported as regular enrollments by USHE institutions.

(5) "Early College High School" means a public high school, generally affiliated with a college or university, whose academic goal is to assist accelerated students in earning college credit up to an associate degree concurrent with a high school diploma. Students are counted in the average daily membership of the high school. College credit is earned through CE and early college courses. The early college high school negotiates for and pays any applicable tuition and fees for early college courses.

(6) "Instructor" means a licensed LEA K-12 educator who qualifies and is approved to teach CE courses as an adjunct faculty within an institution's academic department.

(7) "Interactive Video Conferencing" and "IVC" mean two-way, real-time transmission of audio and video signals between computer equipment at two or more locations.

(8) "Local Education Agency" and "LEA" mean a school board, public school district or public charter school.

(9) "Non-contractual Basis" means college credit courses public education students pursue on their own initiative. Such students must enter into an agreement between the student, the student's parent or guardian, the high school administrator, and the USHE institution for the student to take the course; the course is considered to be offered on a non-contractual basis. The student is responsible for all enrollment expenses. USHE institutions report non-contractual enrollments as regular enrollments. Non-contractual basis CE is not eligible for state funding.

(10) "Qualifying Experience" means a LEA employee's experience in an academic field that qualifies the LEA employee to teach a CE course in the academic field and may include the employee's (a) number of years teaching in the academic field; (b) holding a higher level secondary teaching credential issued by the Utah State Board of Education ("USBE"); (c) research, publications, or other scholarly work in the academic field; (d) continuing professional education in the academic field; (e) a portfolio of work related to the academic field; or (f) professional work experience or certifications in the academic field as defined by Section 53E-10-301(9).

(11) "Sensitive Material" means instructional material that is pornographic or indecent material as that term is defined in Section 76-10-1235.

(12) "Snow College Concurrent Education Program" and "Snow CE" mean a consistent two-year schedule of CE courses that Snow College delivers through IVC. Snow CE courses create a pathway for secondary school students, particularly in rural

high schools, to earn college credits that apply toward earning an Associate of Science or Associate of Arts degree, or satisfy scholarship requirements and other objectives that best meet students' needs. Snow CE includes advisory support to participating secondary school students and their high school counselors to ensure that students' CE courses align with their academic and career goals. Rule R765-165 governs the Snow CE program. Funding is appropriated under Section 53B-16-205.5.

(13) "Plan for College and Career Readiness" means secondary school process for academic and career planning, facilitated by school counselors with students and their parents or guardians.

(14) "Supervision of CE Instructors" means professional development opportunities institutions provide to public educators who qualify as CE instructors to prepare them to teach the CE post-secondary curriculum.

(15) "Technology Delivered Instruction" means course instructions provided to students by common technology such as broadcast, interactive videoconferencing, or the Internet.

(16) "Technology Intensive CE" and "TICE" mean hybrid CE courses that blend different learning activities, both in classrooms and online. TICE courses include common course assessments and, when possible, utilize open education resources. Each USHE institution may offer TICE courses.

(17) "Unique Student Identifier" and "SSID" mean an alphanumeric code assigned to each public education student for identification purposes.

(18) "Utah Board of Higher Education" and "UBHE" mean the governing body for the Utah System of Higher Education.

(19) "Utah System of Higher Education" and "USHE" mean the system of public colleges and universities governed by the Utah Board of Higher Education.

(20) "USHE Institution" and "Institution" and "Eligible Institution" as defined in Section 53E-10-301(4), mean a degree-granting institution of higher education or a technical college within the Utah System of Higher Education as defined in Section 53B-1-102, or a degree-granting institution of higher education or a technical college within the Utah System of Higher Education as defined in Section 53B-1-102, that offers an online concurrent enrollment course.

(21) "Utah State Board of Education" and "USBE" mean the system of public education districts and charter schools governed by the Utah State Board of Education.

R765-165-4. Purpose of CE Program.

The CE program provides course options to a prepared high school student who earns high school and college credit. The CE program is intended to allow a student to complete a high school diploma while concurrently earning credits for first or second-year coursework at a USHE Institution, which can accelerate college completion and reduce college costs. To accomplish the purpose for the CE program, the UBHE and the USBE shall ensure that the following is done:

(1) High Quality Opportunities - CE courses shall provide high quality, college-level academic and career and technical education opportunities to qualified high school students.

(2) Qualitative Safeguards - College instruction offered in the high school setting must have qualitative safeguards to preserve the rigor and standards of college requirements. The eligible institution granting the college credit for a given course is responsible to establish appropriate qualitative safeguards. To help ensure quality, consistent instruction, and student success, the eligible institutions should officially enroll students as CE students.

(3) Participating Institutions - USHE institutions may participate in the contractual basis CE program in compliance with controlling law and consistent with USBE rules governing the use of public education funds.

(4) Program Evaluation - The USBE and UBHE shall work in close cooperation in developing, implementing, and evaluating the CE program.

R765-165-5. Students.

(1) Student Status - Students must be enrolled in, and counted in the average daily membership of, a Utah public school and have high school student status before and throughout enrollment in CE courses. Students must complete contractual basis CE courses prior to their high school graduation or participation in high school graduation exercises. Students who have received a diploma, whose class has graduated from high school, or who have participated in graduation exercises are not eligible to participate in the CE program.

(2) Eligibility Requirements - USHE institutions and LEAs shall jointly establish student eligibility requirements. To predict a successful experience, institutions and LEAs may require:

(a) students are in grade 9, 10, 11, or 12;

(b) a grade point average, ACT score, or a placement score which predicts success, which is generally considered to be a "B" grade point average or ACT score of 22 or higher;

(c) supportive letters of recommendation;

(d) approval of high school and college officials;

(e) appropriate placement assessments for courses such as mathematics and English;

(f) completion of Secondary Math I, II, and III with a "C" average or better course grade in all three classes to enroll in a CE mathematics course;

(g) completion of institutionally established prerequisites for a course; and

(h) have on file a completed plan for college and career readiness.

(3) CE Participation Form and Parent Permission to Participate - Before allowing an eligible student to participate in the CE program for the academic year, an institution shall ensure the student has completed the USHE CE participation form, signed an acknowledgement of program participation requirements, and obtained a permission form signed by a parent or guardian.

(4) Identification of Eligible Students - LEAs have the primary responsibility for identifying students who are eligible to participate in the CE program.

(5) Advising - USHE institutions and LEAs shall jointly coordinate advising to prospective or current high school students who participate in the CE program. Advising shall include information on general education requirements at USHE institutions and how the students can choose CE courses to avoid duplication or excess credit hours.

(6) Tracking Student Achievement - USHE institutions and LEAs shall jointly coordinate information technology systems to track individual students' academic achievement through both education systems in accordance with Sections 53B-1-109 and 53E-4-308.

(a) USBE and USHE staff shall coordinate access to the SSID of a public education student who later attends a USHE institution.

(b) USHE information technology systems shall utilize the SSID of all students who have previously been assigned a unique student identifier.

(7) Advising Report - Twelve weeks after the end of each semester, participating institutions may request from the Office of the Commissioner of Higher Education a report listing each public high school student admitted to a USHE

institution who was enrolled in 12 or more credit hours of CE courses per year and completed at least six of those credit hours from that institution. The report shall include:

- (a) the student's name and SSID;
- (b) the student's LEA;
- (c) the name of each CE course taken by the student;
- (d) the institution where the student enrolled to take each CE course; and
- (e) the number of college credits the student earned in each CE course with a designation that indicates which credits the student earned at a grade "C" or higher.

R765-165-6. Courses.

(1) Choice of Courses - The courses offered through CE shall be introductory-level general education, career and technical education, pre-major college courses, or select upper division courses when approved by the Utah Board of Higher Education after consulting with the USBE. CE courses must assist students in earning post-secondary certificates or degrees. CE may only include college or technical education courses that correspond to high school courses typically offered in grades 11 or 12. Courses selected shall reflect the strengths and resources of the respective schools and USHE institutions. CE offerings shall be limited to courses in English, mathematics, fine arts, humanities, science, social science, world languages, and career and technical education.

(2) Accelerated Foreign Language Courses - USHE institutions may offer 3000 level foreign language courses to accelerated foreign language students, including dual language immersion students.

(3) Master List - The Office of the Commissioner of Higher Education and the USBE will jointly approve courses that are added to an institution-specific CE Master List. Only courses taken from the master list for a given academic year shall be reimbursed from state CE funds.

(4) Changes to CE Master List - USHE institutions, after consultation with LEAs, shall provide the USBE with proposed new course offerings, including syllabi and curriculum materials by November 15 of the year preceding the school year in which courses shall be offered.

(5) Number of Courses - In general, institutions should limit the number of CE courses so they can focus on quality instruction and assure coordinated professional

development activities for participating teachers and transferability of credit from institution to institution.

(6) Institution Responsibility - The offering USHE institution is responsible for course content, procedures, examinations, teaching materials, and monitoring of CE courses taught at a high school. The institution shall ensure the curriculum is consistent with Utah law and of comparable rigor and quality with courses offered on the institution campus. The institution shall ensure CE curriculum standards of instruction, practices for administering and grading assessments, and the course grade rubric are the same as when the course is taught on the institution campus. When possible, department exams should be used in the CE course. For courses that transfer as equivalent credit among USHE institutions, the institution shall ensure articulated learning outcomes are met.

(7) Learning Materials - Under Section 53G-4-402, CE learning materials are not subject to selection by the local school board.

(8) Sensitive material - Under Section 53G-10-103, does not include an instructional material for a CE course that contains sensitive material and for which a parent receives notice from the course provider of the material before enrollment of the parent's child and gives the parent's consent by enrolling the parent's child. A USHE institution shall provide parental notice for any courses that contain sensitive material prior to the student's enrollment in the CE course.

R765-165-7. Credit.

(1) Permanent College Transcript - The registrations and grades of each CE course shall be recorded on permanent college transcripts. A student who registers for a CE course shall commit to having the final course grade recorded on that student's permanent college record, regardless of the results.

(2) Credit Value - College level courses taught in the high school shall carry the same credit hour value as when taught on a USHE institution campus and shall apply toward graduation from a USHE institution on the same basis as courses taught at the USHE institution where the credits are earned.

(3) Credit Hours Permitted - Individual students shall be permitted to earn up to 30 semester hours of college credits per year through contractual CE. Credits earned in excess of 30 must be on a non-contractual basis.

(4) Institution Credit - USHE institutions shall be responsible for course registration and awarding students college credit for CE courses.

(5) Transferability - Credit earned through the CE program shall be transferable between USHE institutions. Students should be encouraged to seek advice from a college academic adviser to make course choices that will meet the student's educational goals.

R765-165-8. Tuition, Fees, and Other Charges.

Regular tuition and fees may not be charged to high school students for participation in this program.

(1) Participation Fee - an eligible institution may charge course fees for students to participate in the CE program.

(2) Partial CE Tuition – An eligible institution, with the exception of technical colleges as defined in [Utah Code section 53B-1-102](#), may charge a secondary student partial tuition for each CE course for which the student receives college credit in the following amounts:

(a) a USHE institution may charge a CE student who qualifies for free or reduced school lunch partial tuition of up to \$5 per credit hour;

(b) if a CE course is taught by a public school educator in a public school facility, a USHE institution may charge up to \$10 per credit hour;

(c) if a CE course is taught over interactive video conferencing (IVC), a USHE institution may charge up to \$15 per credit hour; and

(d) if a CE course is taught on a USHE campus, a USHE institution may charge up to \$30 per credit hour.

(4) The UBHE shall annually report to the Legislature's Higher Education Appropriations Subcommittee on regular tuition savings to CE students, any partial CE tuition charged, and justification for the distribution of money appropriated for CE, pursuant to Section 53E-10-308.

(5) Fee Waivers - CE program costs attributable only to college credit or enrollment are not subject to fee waiver under Rule R277-407. A student's costs related to CE classes, which may include consumables, lab fees, copying, and material costs, as well as textbooks required for the course, are subject to fee waiver consistent with Rule R277-407. The LEA shall be responsible for these waivers. The contract between the USHE institution and the LEA may address the responsibility for fee waivers.

R765-165-9. Location and Delivery.

CE courses shall be offered at the most appropriate location, using the most appropriate educational technology for the course content, the faculty, and the students involved. Instruction may be delivered through live classroom instruction or other accepted instruction technologies. Instruction normally occurs during the school day with students released from regular high school coursework to participate in CE.

(1) Students within Commuting Distance - Qualified students residing within commuting distance of a USHE institution may pursue their CE study on the institution campus with approval from their LEA.

(2) Designated Service Region Delivery - Each USHE institution has the responsibility for offering CE courses within their designated service region per UBHE policy R315. If the local institution chooses not to offer a CE course, a LEA may ask another USHE institution to provide the course.

(3) Right of First Refusal

(a) A LEA shall contact the USHE institution with responsibility for that LEA's service region to request a CE course offering. The local institution shall indicate in writing whether it will offer the requested course within 30 days of the LEA contact and request.

(b) The LEA may contact another USHE institution to request sponsorship of the course(s) under Subsection R765-165-9(3)(a) if:

(i) the institution with responsibility in the service region chooses not to offer the CE course(s), or has reached its capacity to offer the CE course(s); or

(ii) if the LEA determines the institution's course includes instructional materials that are either sensitive materials as defined by Section 53G-10-103, or are otherwise prohibited by state law or USBE rule.

(c) Exception for Technology Delivered Courses - CE courses which meet the definition of "Technology Delivered Instruction" are subject to designated service region requirements. Institutions desiring to offer technology delivered CE courses outside their designated service region must receive a written endorsement from the local institution for each course they desire to offer before contracting with LEAs outside their designated service area. An annual system review of technology delivered courses shall be completed prior to November 30 of the year preceding the school year in which courses shall be offered to assure efficient and effective use of resources.

R765-165-10. CE Instructor Qualifications.

(1) USHE institution faculty or public school educators teach CE courses for the offering institution.

(2) Selection of CE instructors LEAs and the participating USHE institution shall jointly select instructors for CE courses. Selection criteria for instructors are the same as those criteria applied to other adjunct faculty appointments in specific departments within the USHE institution. Once approved as an adjunct, a CE instructor who teaches a CE course in 2018-19 or 2019-20 may continue to teach CE courses given curricular standards and student performance outcomes in the CE instructor's classes meet sponsoring academic department standards. Institutions shall establish a process for determining, in consultation with LEA partners, whether an eligible instructor who previously taught a CE course is no longer qualified to teach the CE course. The appropriate academic department at the institution must approve each CE instructor prior to teaching a CE class.

(3) Institutional Faculty CE Instructors - A USHE institution faculty member is an eligible CE instructor.

(4) LEA Employee Instructor Qualifications - A LEA employee is an eligible CE instructor if the LEA employee is licensed under statutory Education Professional Licensure, is supervised by an institution of higher education, and meets the following requirements:

(a) is approved as an eligible instructor by the institution of higher education that provides the CE course taught by the LEA employee as provided under Subsection R765-165-10(4);

(b) has an upper level mathematics credential issued by the State Board of Education, or

(c) teaches a CE course that the LEA employee taught during the 2018-19 or 2019-20 school year.

(5) A USHE institution shall approve a LEA employee as an eligible instructor:

(a) for a career and technical education CE course, if the LEA employee has:

(i) a degree, certificate, or industry certification in the CE course's academic field; or

(ii) qualifying experience, as determined by the USHE institution.

(b) for a CE course other than a career and technical education course, if the LEA employee has:

(i) a master's degree or higher in the CE course's academic field;

(ii) a master's degree or higher in any academic field and at least 18 completed credit hours of graduate course work in an academic field that is relevant to the CE course; or

(iii) qualifying experience including:

(A) the number of years of teaching experience;

(B) student performance on qualifying test scores or AP exams on courses that the LEA employee teaches;

(C) continuing education in a master's degree or higher in any academic field; or

(D) other criteria established by the institution of higher education.

(6) Appeals Process for Instructor Qualification Approvals - If a designated service area USHE institution determines a LEA employee is not qualified to teach a CE course and the LEA has exhausted all administrative remedies available at the institution, the LEA may appeal the decision in writing to the Commissioner of Higher Education within 15 calendar days of the institution's final decision. The Commissioner shall appoint an appeals committee consisting of an associate commissioner and two USHE chief academic officers who are uninvolved in the decision being appealed.

(a) The appeals committee will review the LEA's appeal and the institution's decision.

(b) The institution and LEA will provide the appeals committee with any material documents and information necessary for a complete review. The committee may request additional documentation or information as necessary.

(c) The appeals committee will provide a recommendation to the Commissioner, which may include affirming or reversing the institution's decision.

(d) The Commissioner shall make a final decision and issue it to the institution and the LEA in writing.

(e) After the Commissioner has issued a decision, there will be no further appeals or reviews.

(7) Criminal Background Checks - USHE faculty who are not public school educators and who teach CE courses defined under this policy in a high school shall complete a criminal background check consistent with Title 53G, Chapter 11, Part 4,

Background Checks. The faculty's institution must determine if a criminal background check is required and, if so, must complete the background check and maintain required documentation consistent with the law.

(8) Faculty Development - CE instructors shall be included as fully as possible in the academic life of the supervising academic department. USHE institutions and LEAs shall jointly initiate faculty development, including appropriate workshop experiences to adequately prepare instructors to teach CE students and course content prior to offering CE courses. If a USHE institution uses an instructor of record or co-teaching instructional model, the institution faculty shall fully engage and prepare the public school educator to successfully teach the curriculum prior to the beginning of the course. Each CE instructor must complete any faculty development required by the sponsoring academic department at the institution prior to teaching the CE class. USHE institution faculty shall be responsible to understand and comply with federal and state laws governing public school student privacy and student records.

R765-165-11. Funding.

(1) Source of Funds - Each year that the Legislature appropriates funds for accelerated learning programs, a portion of those accelerated learning funds shall be allocated to the CE program.

(2) Eligibility to Receive Concurrent Funds - To qualify for funds, a CE program shall comply with the requirements described in Section 53E-10-302, including rules adopted in accordance with Section 53E-10-307.

(3) Allocation of Funds - Money appropriated to the USBE for CE shall first be allocated between LEAs and the UBHE based upon completed student credit hours taught by public school educators and taught by USHE institution faculty.

"Completed" means that a student earned credit for the course. CE funds may not reimburse institutions for CE courses repeated by students. In accordance with Section 53F-2-409, funds shall be allocated as follows:

(a) for courses that are taught by public school educators where the cost of instruction is borne by the LEA, 60 percent shall be allocated to LEAs and 40 percent shall be allocated to the UBHE; and

(b) for courses that are taught by USHE institution faculty or where the cost of instruction is borne by the USHE institution, 40 percent shall be allocated to LEAs; and 60 percent shall be allocated to the UBHE.

(4) Distribution of Funds among USHE Institutions - The USHE shall make rules regarding the allocation of funds pertaining to USHE institutions participating in contractual basis CE. Each institution, except Snow CE, shall receive a pro-rated amount according to the number of semester credit hours completed. The Snow CE Program, which receives a separate appropriation through Section 53B-16-205.5 for instructional, advising, and administrative costs, shall not receive the pro-rated per credit funding as long as the separate appropriation funding is in place.

(5) Annual Reports - Annual reports shall be provided to legislative committees as follows:

(a) Higher Education Appropriations - USHE staff shall annually report to the Higher Education Appropriations Subcommittee on CE participation and growth, including data on what higher education tuition would have been charged for the hours of CE credit granted as required by Section 53E-10-308.

(b) Public Education Appropriations - USHE and USBE staff shall annually report to the Public Education Appropriations Subcommittee an accounting of the money appropriated for CE; and a justification of the split described in Subsection R765-165-11(2).

R765-165-12. Annual CE Contract.

Collaborating LEAs and USHE institutions shall annually sign a contract that establishes the terms, conditions, and duties for the institution to offer CE courses to the LEA's students.

(1) Annual Contract Content - The contracts shall include relevant policy for student eligibility and participation, course eligibility and delivery, and faculty eligibility and professional development. USHE and USBE staff shall review and amend the contract annually, as needed, to reflect current statute and rule.

(2) Annual Contract Deadline - Copies of each annual contract entered into between institutions and LEAs for the upcoming school year must be submitted by each institution to the USHE system office no later than May 30 annually. USHE shall convey copies of all contracts to USBE.

200, Program/Course Approval and Reporting

200.1 Purpose

To establish processes and criteria for all programs and courses offered by a technical college to be approved by and reported to the Board of Higher Education and the legislature, in accordance with UCA 53B-2a-104(2)(i), balancing appropriate oversight and quality control with timely, market-driven college responsiveness to regional employer needs.

200.2 Approval

Board of Higher Education approval: January 4, 2006. Replaced June 18, 2009. Revised April 10, 2014; June 12, 2014; June 11, 2015; June 8, 2016; September 14, 2016; May 18, 2017; September 13, 2017; May 17, 2018.

200.3 References

UCA 53B-2a-104, Utah System of Technical Colleges Board of Trustees—Powers and Duties
Policy 100, UTech Mission, Vision, and Guiding Principles
Policy 204, Tuition and Fees

200.4 Definitions

4.1 Program: A sequence of educational and skill-developing experiences that lead to workplace competencies. Each program shall fully prepare a student for entry into specified employment related to the program. This mission-related, post-secondary training shall be approved in accordance with this policy and by the Council on Occupational Education and shall lead to the awarding of only one program certificate.

4.2 Course: A set of pre-determined, related competencies grouped into a logical sequence.

4.3 Program Certificate: An official credential issued to a student by a college registrar documenting that the student has completed a program. Each program certificate shall have only one curriculum tied thereto.

4.4 Substantive Change: A change in the objectives, length, content, or other revisions equaling or exceeding 25% of an existing educational program.

200.5 Approval of Courses, Programs, and Certificates

A course, program, or certificate, or a revision of an approved program or certificate, must be approved as provided herein prior to being offered by a technical college.

5.1 Courses

5.1.1 Courses within Programs: Approval of a program as provided in this policy shall constitute approval of all courses within the program.

5.1.2 Stand-alone Courses: Courses which are not part of an approved certificate program, whether mission-related (200.6) or community interest (200.7), shall be approved by a college chief instructional officer designated by the technical college president, and reported to the college board of directors as an information item (i.e., not requiring approval) in the next regularly scheduled meeting after approval by the instructional officer. Documentation specified in 200.8 shall be retained on file by the college.

5.2 Program Certificates

5.2.1 College Board of Trustees Approval: College programs and substantive changes to approved programs shall be approved by the college board of trustees based on the requirements of 200.6. For programs that are less than 900 hours and are not eligible for federal financial aid, final approval is delegated to the college board, and the programs may be implemented immediately upon college board and any required accreditation approval.

5.2.2 College Board Approval Documentation: For programs and substantive changes approved by the technical college board of trustees, documentation specified in 200.8 shall be forwarded to the Commissioner Higher Education for review and inclusion in technical college program inventories.

5.2.3 Commissioner Approval: Technical college programs that are 900 hours or longer or are seeking federal financial aid eligibility, and substantive changes to these programs, which have been approved by the college board of trustees shall be submitted to the Commissioner of Higher Education for approval. If the Commissioner concurs that the proposal meets the agreed-upon criteria established by the Board of Higher Education as provided in 200.6, he or she shall approve the request within five working days. If the Commissioner does not concur that the proposal meets the agreed-upon criteria, the proposal shall be returned to the college with comments, and the technical college may resubmit the proposal once identified adjustments are made. For financial aid-eligible programs, final approval is delegated to the Commissioner, and the programs may be implemented immediately upon Commissioner approval.

5.2.4 Board of Higher Education Information: For programs and substantive changes approved by the Commissioner under 200.5.2.3, documentation specified in 200.8 shall be submitted to the Board of Higher Education in their next regularly scheduled meeting as information items.

5.2.5 Non-substantive Changes: Program changes less than the 25% referenced in 200.4.4 shall be approved by a college chief instructional officer designated by the technical college president. Relevant updates to the documentation specified in 200.8.1 and 200.8.2 shall be forwarded to the Commissioner for inclusion in technical college program inventories.

5.3 Reporting of Secondary Students' Activities: Secondary Students' educational activities or experiences shall be reported in technical college data summaries insofar as their enrollments may provide partial or complete fulfillment of competencies required for completion of a program certificate as defined in Policy 205.7.1. Exceptions to this rule shall be approved in writing by the Commissioner of Higher Education for one of the following reasons:

5.3.1 Rural School Exception: Instruction is occurring in a rural area and would otherwise not occur should the college cease providing it.

5.3.2 Articulation Exception: Knowledge and/or skills acquired can provide partial or complete fulfillment of competencies required for completion of a program certificate offered at another technical college.

5.3.3 Pathways Exception: The course provides introductory instruction in a field in which a program certificate is offered by the college, as part of an established and documented educational pathway agreement between the college, local public education provider(s), and/or other institution(s) of higher education.

200.6 Criteria for Offering Programs, Certificates, and Courses

Except for courses provided in 200.7, all courses, certificates, and programs offered by a college shall meet the following criteria as determined by the applicable approving entities specified in 200.5:

6.1 Course/Program/Certificate Approval: The course/program/certificate must be approved as provided in 200.5.

6.2 Career and Technical Education Mission: Except as provided in 200.7, the course/program/certificate shall be directly related to meeting the needs of Utah's employers for technically skilled workers by preparing adult and secondary students to enter, re-enter, upgrade to, or advance within current or emerging occupations that generally do not require an associate or more advanced degree, as provided in Policy 100 (Mission Statement) and UCA 53B-1-101.5(2).

6.3 Program Duplication: The course/program/certificate shall not unnecessarily duplicate career and technical education programs between the technical college and another public or higher education institution in the region served by the college, as provided in UCA 53B-2a-112(2), and shall not include credit-based academic programs typically offered by community colleges or other institutions of higher education, as provided in UCA 53B-2a-106(4).

6.4 Basic Skills: The course/program/certificate may offer basic instruction in areas such as reading, language arts, and mathematics that are necessary for student success in a chosen career and technical education or job-related program, as provided in UCA 53B-2a-106(2)(b).

6.5 Course, Program, or Certificate Need/Market Demand: The course/program/certificate shall meet a documented need by one or more Utah employers for new trained workers or for upgraded employee skills, with the need being sufficient to merit the allocation of technical college resources.

6.6 Occupational Advisory Committee Validation and Support: An occupational advisory committee shall exist for every program approved by the Council on Occupational Education.

6.7 Resource Availability: The technical college shall have sufficient financial, capital, and human resources to support the course/program/certificate, and the course/program/certificate need must be sufficient to justify allocation of college resources (200.6.5).

6.8 Course Length: Each course, whether within a program or standing alone, shall be assigned a course length which represents the expected time it would take a typical student to complete the course in a traditional classroom/lab-based format.

6.9 Program/Certificate Information: The program certificate and/or accompanying transcript for each program/certificate shall include a program/certificate title and sufficient detail such that a prospective employer or others viewing it will understand what the student accomplished in earning the certificate.

200.7 Community Interest Courses

A technical college may offer non-mission-related educational experiences or activities intended to enhance student skills for personal interest and to introduce the community to training opportunities at the college. As provided in UCA 53B-2a-106(2)(c), similar community offerings for these courses must be

limited, and the courses must be financially self-supporting through student fees. These courses are not reported to the Council on Occupational Education nor to the state legislature.

200.8 Documentation for Course/Program/Certificate Approval

The following documentation shall be provided for approval of all courses, programs, and certificates, to be submitted and retained as provided in 200.5.

8.1 Program/Certificate Description: Program title, program length, Classification of Instructional Programs (CIP) code, and summary of scope and purpose.

8.2 Program/Certificate Outline: Course numbers, course titles, course descriptions and objectives, course lengths, specializations, emphases, course sequencing, and program structure as relevant.

8.3 Employer Support

8.3.1 Market Demand/Need: Summary of the criteria specified in 200.6.5, with documentation attached as needed.

8.3.2 Employer Advisory Committee: (Not required for stand-alone courses as defined in 200.5.1.2, although documented employer need/demand as provided in 200.6.5 shall be required.) Summary of the criteria specified in 200.6.6, with references to committee documentation filed with the college.

8.4 Approval: Date and reference to documentation of approval (such as signed memorandum, meeting minutes, etc.) by the person or entity specified in 200.5, with attestation that the relevant criteria specified in 200.6 have been duly reviewed, satisfied, and approved.

200, Program/Course Approval and Reporting

200.1 Purpose

To establish processes and criteria for all programs and courses offered by a technical college to be approved by and reported to the Board of Higher Education and the legislature, in accordance with UCA 53B2a-104(2)(i), balancing appropriate oversight and quality control with timely, market-driven college responsiveness to regional employer needs.

200.2 Approval

Board of Higher Education approval: January 4, 2006. Replaced June 18, 2009. Revised April 10, 2014; June 12, 2014; June 11, 2015; June 8, 2016; September 14, 2016; May 18, 2017; September 13, 2017; May 17, 2018.

200.3 References

UCA 53B-2a-104, Utah System of Technical Colleges Board of Trustees – Powers and Duties
Policy 100, UTech Mission, Vision, and Guiding Principles
Policy 204, Tuition and Fees

200.4 Definitions

4.1 Program: A sequence of educational and skill-developing experiences that lead to workplace competencies. Each program shall fully prepare a student for entry into specified employment related to the program. This mission-related, post-secondary training shall be approved in accordance with this policy and by the Council on Occupational Education and shall lead to the awarding of only one program certificate.

4.2 Course: A set of pre-determined, related competencies grouped into a logical sequence.

4.3 Program Certificate: An official credential issued to a student by a college registrar documenting that the student has completed a program. Each program certificate shall have only one curriculum tied thereto.

4.4 Substantive Change: A change in the objectives, length, content, or other revisions equaling or exceeding 25% of an existing educational program.

200.5 Approval of Courses, Programs, and Certificates

A course, program, or certificate, or a revision of an approved program or certificate, must be approved as provided herein prior to being offered by a technical college.

5.1 Courses

5.1.1 Courses within Programs: Approval of a program as provided in this policy shall constitute approval of all courses within the program.

5.1.2 Stand-alone Courses: Courses which are not part of an approved certificate program, whether mission-related (200.6) or community interest (200.7), shall be approved by a college chief instructional officer designated by the technical college president, and reported to the college board of directors as an information item (i.e., not requiring approval) in the next regularly scheduled meeting after approval by the instructional officer. Documentation specified in 200.8 shall be retained on file by the college.

5.2 Program Certificates

5.2.1 College Board of Trustees Approval: College programs and substantive changes to approved programs shall be approved by the college board of trustees based on the requirements of 200.6. For programs that are less than 900 hours and are not eligible for federal financial aid, final approval is delegated to the college board, and the programs may be implemented immediately upon college board and any required accreditation approval.

5.2.2 College Board Approval Documentation: For programs and substantive changes approved by the technical college board of trustees, documentation specified in 200.8 shall be forwarded to the Commissioner Higher Education for review and inclusion in technical college program inventories.

5.2.3 Commissioner Approval: Technical college programs that are 900 hours or longer or are seeking federal financial aid eligibility, and substantive changes to these programs, which have been approved by the college board of trustees shall be submitted to the Commissioner of Higher Education for approval. If the Commissioner concurs that the proposal meets the agreed-upon criteria established by the Board of Higher Education as provided in 200.6, he or she shall approve the request within five working days. If the Commissioner does not concur that the proposal meets the agreed-upon criteria, the proposal shall be returned to the college with comments, and the technical college may resubmit the proposal once identified adjustments are made. For financial aid-eligible programs, final approval is delegated to the Commissioner, and the programs may be implemented immediately upon Commissioner approval.

5.2.4 Board of Higher Education Information: For programs and substantive changes approved by the Commissioner under 200.5.2.3, documentation specified in 200.8 shall be submitted to the Board of Higher Education in their next regularly scheduled meeting as information items.

5.2.5 Non-substantive Changes: Program changes less than the 25% referenced in 200.4.4 shall be approved by a college chief instructional officer designated by the technical college president. Relevant updates to the documentation specified in 200.8.1 and 200.8.2 shall be forwarded to the Commissioner for inclusion in technical college program inventories.

5.3 Reporting of Secondary Students' Activities: Secondary Students' educational activities or experiences shall be reported in technical college data summaries insofar as their enrollments may provide partial or complete fulfillment of competencies required for completion of a program certificate as defined in Policy 205.7.1. Exceptions to this rule shall be approved in writing by the Commissioner of Higher Education for one of the following reasons:

5.3.1 Rural School Exception: Instruction is occurring in a rural area and would otherwise not occur should the college cease providing it.

5.3.2 Articulation Exception: Knowledge and/or skills acquired can provide partial or complete fulfillment of competencies required for completion of a program certificate offered at another technical college.

5.3.3 Pathways Exception: The course provides introductory instruction in a field in which a program certificate is offered by the college, as part of an established and documented educational pathway agreement between the college, local public education provider(s), and/or other institution(s) of higher education.

200.6 Criteria for Offering Programs, Certificates, and Courses

Except for courses provided in 200.7, all courses, certificates, and programs offered by a college shall meet the following criteria as determined by the applicable approving entities specified in 200.5.

6.1 Course/Program/Certificate Approval: The course/program/certificate must be approved as provided in 200.5.

6.2 Career and Technical Education Mission: Except as provided in 200.7, the course/program/certificate shall be directly related to meeting the needs of Utah's employers for technically skilled workers by preparing adult and secondary students to enter, re-enter, upgrade to, or advance within current or emerging occupations that generally do not require an associate or more advanced degree, as provided in Policy 100 (Mission Statement) and UCA 53B-1-101.5(2).

6.3 Program Duplication: The course/program/certificate shall not unnecessarily duplicate career and technical education programs between the technical college and another public or higher education institution in the region served by the college, as provided in UCA 53B-2a-112(2), and shall not include credit-based academic programs typically offered by community colleges or other institutions of higher education, as provided in UCA 53B-2a-106(4).

6.4 Basic Skills: The course/program/certificate may offer basic instruction in areas such as reading, language arts, and mathematics that are necessary for student success in a chosen career and technical education or job-related program, as provided in UCA 53B-2a-106(2)(b).

6.5 Course, Program, or Certificate Need/Market Demand: The course/program/certificate shall meet a documented need by one or more Utah employers for new trained workers or for upgraded employee skills, with the need being sufficient to merit the allocation of technical college resources.

6.6 Occupational Advisory Committee Validation and Support: An occupational advisory committee shall exist for every program approved by the Council on Occupational Education.

6.7 Resource Availability: The technical college shall have sufficient financial, capital, and human resources to support the course/program/certificate, and the course/program/certificate need must be sufficient to justify allocation of college resources (200.6.5).

6.8 Course Length: Each course, whether within a program or standing alone, shall be assigned a course length which represents the expected time it would take a typical student to complete the course in a traditional classroom/lab-based format.

6.9 Program/Certificate Information: The program certificate and/or accompanying transcript for each program/certificate shall include a program/certificate title and sufficient detail such that a prospective employer or others viewing it will understand what the student accomplished in earning the certificate.

200.7 Community Interest Courses

A technical college may offer non-mission-related educational experiences or activities intended to enhance student skills for personal interest and to introduce the community to training opportunities at the college. As provided in UCA 53B-2a-106(2)(c), similar community offerings for these courses must be

limited, and the courses must be financially self-supporting through student fees. These courses are not reported to the Council on Occupational Education nor to the state legislature.

200.8 Documentation for Course/Program/Certificate Approval

The following documentation shall be provided for approval of all courses, programs, and certificates, to be submitted and retained as provided in 200.5.

8.1 Program/Certificate Description: Program title, program length, Classification of Instructional Programs (CIP) code, and summary of scope and purpose.

8.2 Program/Certificate Outline: Course numbers, course titles, course descriptions and objectives, course lengths, specializations, emphases, course sequencing, and program structure as relevant.

8.3 Employer Support

8.3.1 Market Demand/Need: Summary of the criteria specified in 200.6.5, with documentation attached as needed.

8.3.2 Employer Advisory Committee: (Not required for stand-alone courses as defined in 200.5.1.2, although documented employer need/demand as provided in 200.6.5 shall be required.) Summary of the criteria specified in 200.6.6, with references to committee documentation filed with the college.

8.4 Approval: Date and reference to documentation of approval (such as signed memorandum, meeting minutes, etc.) by the person or entity specified in 200.5, with attestation that the relevant criteria specified in 200.6 have been duly reviewed, satisfied, and approved.

R205, Presidential Appointment, Compensation, and Benefits¹

R205-1 Purpose: To provide for the appointment, compensation, benefits, and terms of employment of ~~p~~Presidents of institutions.

R-205-2 References

2.1 ~~Utah Code § 53B-2-102~~Utah Code § 53B-1-402, ~~(Board to Appoint President of Each Institution)~~Powers, Duties, and Authority

2.2 Utah Code § 53B-2-106.1, Tenure

2.3 ~~Board Policy R209~~, Evaluation of Presidents

2.4 ~~Board Policy R715~~Board Policy R715, Institutional Residences

R205-3 Terms of Employment

3.1 Appointments: The Utah Board of Higher Education (“Board”) shall appoint presidents. Presidents shall serve at the pleasure of the Board and at such salary and related benefits as appropriate to the institution, as determined by the Board.

R205-4 ~~Degree-Granting~~Presidential Compensation

4.1 Salary Adjustments: Annual presidential salary adjustments will be based on established presidential salary benchmarks, ~~and~~ legislatively appropriated ~~cost of living (COLA)~~salary increases, and other factors as determined by the Board.

4.2 Market Increases: To ensure market competitiveness, the Commissioner of Higher Education’s (“commissioner”)s Office, in consultation with institutions and, with approval from the ~~Compensation Board’s Executive~~ Committee (“Executive Committee”), will identify presidential salary benchmarks.

4.2.1 Presidential salary benchmarks will be the median of presidential salaries from peer institutions as reported publicly to the College and Professional Association for Human Resources (“CUPA”) for the current fiscal year. Peer

¹ *Adopted April 25, 1978, ~~Amended~~ February 26, 1988, March 25, 1988, November 4, 1994, January 16, 2004, ~~and~~ August 19, 2005, April 18, 2008, May 17, 2013, March 28, 2014, July 15, 2016, ~~and~~ September 17, 2021, and June 6, 2024.*

institutions shall be determined by relevant institutional comparators including institutional mission, size, and budget. The adopted salary benchmark percentile and institution peer group definition may be adjusted if too few institutions participated in the CUPA salary survey for the reference year, for equity reasons, or other factors as determined by the Executive Committee.

4.2.2. The Commissioner’s Office shall assess presidential salary benchmarks annually before July 1 and provide recommendations to the ~~Compensation~~ Executive Committee.

4.2.2.1 Should a proposed salary adjustment exceed a 10% increase, the Commissioner’s Office will consult with the Vice President of Finance at the institution to determine if the full adjustment is feasible. If the full adjustment is not feasible, the Compensation Committee may elect to award the adjustment in steps over the course of two or more years.

4.3 ~~COLA~~ Legislatively Appropriated Increases and Sequencing: If a president’s salary is below the market salary benchmark as determined in subsection 4.2, tThe ~~Compensation Executive~~ Committee will first consider a market adjustment to the salary. Next, the Executive Committee will consider a cost-of-living adjustment (“COLA”) such that the president’s salary in the next fiscal year is equal to the current ~~previous~~ fiscal year’s market benchmark plus the inflation expectation as represented by the legislatively appropriated COLA, labor market increase, or other state appropriation designed to maintain the real wages of employees. Finally, the Executive Committee will consider whether any additional salary change shall be administered based on legislative appropriations, presidential performance, or other factors as determined by the Committee. If a president’s salary is greater than or equal to the market salary benchmark as determined in subsection 4.2, the Executive Committee will first consider a COLA and then any additional salary change based on legislative appropriations, presidential performance, or other factors as determined by the Committee.
~~may award COLA increases to presidents who are at or above the established salary benchmarks. If a president is below the established benchmark, the Compensation Committee will first apply the COLA increase and then may add an additional market competitiveness increases to reach the benchmark but not exceed the benchmark.~~

~~**4.4** Once a president’s salary reaches the benchmark, the Board may grant increases based on exceptional circumstances.~~

4.45 Private Supplemental Funding: Institutions may not supplement a president’s salary with private donated funds. Presidents appointed prior to October 1, 2021 who were granted privately-funded supplemental income at the time of their appointment may retain the supplemental income for the duration of their term as president. Institutions shall report all

supplemental income annually ~~before~~ July 1 to the ~~Compensation Committee~~ Commissioner's Office.

4.56 Outside Employment: Presidents appointed after October 1, 2021 may not engage in paid outside employment, including serving on boards or commissions, unless the Board grants an exception.

4.56.1 When considering granting an exception, the Board shall ensure the proposed outside employment will not interfere with the president's ability to successfully discharge their duties as president.

4.56.2 Presidents who are authorized to engage in paid outside employment shall ~~annually on July 1~~ report their income to the ~~Compensation Committee~~ Commissioner's Office annually before July 1.

~~R205-5~~ **Technical College President Compensation**

~~5.1 Market Increases:~~ To ensure market competitiveness, the ~~Commissioner's Office, in consultation with institutions, and with approval from the Compensation Committee,~~ will identify presidential salary benchmarks.

~~5.1.1~~ The target salary for each technical college president shall be the midpoint of their respective market range.

~~5.2~~ The Commissioner's Office shall employ methods and/or outside firms approved by the Compensation Committee to determine a market range for the salary of each college president approximately once every three years.

~~5.3 COLA Increases:~~ The Compensation Committee may award COLA increases to presidents who are at or above the established salary benchmarks. If a president is below the established benchmark, the Compensation Committee will first apply the COLA increase and then may add an additional market competitiveness increases to reach the benchmark but not exceed the benchmark.

~~5.4~~ Once a president's salary reaches the benchmark, the Board may grant increases based on exceptional circumstances.

~~5.5 Private Supplemental Funding:~~ Institutions may not supplement a president's salary with private donated funds. Presidents appointed prior to October 1, 2021 who were granted privately funded supplemental income at the time of their appointment may retain the supplemental income for the duration of their term as president. Institutions shall report all supplemental income annually by July 1 to the Compensation Committee.

~~**5.6 Outside Employment:** Presidents appointed after October 1, 2021 may not engage in paid outside employment, including serving on boards or commissions, unless the Board grants an exception.~~

~~**5.6.1** When considering granting an exception, the Board shall ensure the proposed outside employment will not interfere with the president's ability to successfully discharge their duties as president.~~

~~**5.6.2** Presidents who are authorized to engage in paid outside employment shall annually on July 1 report their income to the Compensation Committee.~~

R205-56: Benefits

56.1 General Benefits: Presidents shall receive the same staff benefits as all other institutional employees.

~~**6.2 Institutional Vehicle:** Presidents may receive an automobile for official use.~~

~~**56.23 Vehicle Allowance:** If Presidents elect not to receive an institutional vehicle, they may receive a vehicle allowance. The Compensation Executive Committee shall set the rate for allowances and may adjust this rate annually based on the Consumer Price Index inflation or other factors as determined by the Committee. When using a personal vehicle for official business, presidents may receive mileage reimbursement at a rate set by the Board. To reflect the personal vehicle allowance benefit, the presidential mileage reimbursement rate shall be lower than the mileage reimbursement rate provided to other institutional employees. A president receiving a vehicle allowance may not also receive an institutional vehicle as a benefit.~~

~~**5.2.1 Expiration of Institutional Vehicle Election:** Any president who has not elected to receive an institutional vehicle for official use prior to June 6, 2024 will receive the vehicle allowance.~~

~~**56.34 Degree-Granting Institutional Residences:** In accordance with Board Policy R715, Institutional Residences ~~Board Policy R715~~, presidents of degree-granting institutions that have a designated institutional residence may live in the residence. Institutions shall maintain institutional residences.~~

~~**56.45 Degree-Granting Housing Allowance:** Presidents of degree-granting institutions that do not have a designated institutional residence may will receive a housing allowance at a rate approved by the Compensation Executive Committee. Presidents of institutions with a designated institutional residence may receive the housing allowance if the designated institutional residence~~

does not meet the president's housing needs, the president domiciles in a residence other than the designated institutional residence, and the Board approves the housing allowance.

R205-~~67~~ Tenure

~~67.1~~ Should the Board appoint a president who is already a tenured faculty member of the Utah System of Higher Education ("USHE") institution over which they will preside, the president shall retain their tenure status.

~~67.2~~ Should the Board appoint a president who earned tenure at an institution other than the USHE institution over which they will preside, the Board—at the time of appointment or during the president's term—may grant tenure to the president in an academic department of the USHE institution over which they will preside in accordance with the procedure established in this policy.

~~67.3~~ Should the Board appoint a president who has not earned tenure at any institution, neither the Board nor the USHE institution at which the president is appointed may grant tenure to the president.

~~67.4~~ Granting Tenure

~~67.4.1~~ A president who wishes to be granted tenure under this policy shall submit a written request to the commissioner and provide documentation verifying his or her earned tenure at an accredited institution.

~~67.4.2~~ Upon receiving the president's verifying documentation, the commissioner shall confer with the chief academic officer who—after consulting with the academic department in which the president will be granted tenure—shall advise the commissioner whether tenure is feasible.

~~67.4.3~~ After determining the president is eligible for tenure, the commissioner shall consult with the Board's executive committee and the institution's board of trustees chair regarding the president's request. The ~~commissioner~~ board of trustees may then grant or deny the request.

~~67.5~~ Tenure After the President's Term

~~67.5.1~~ When a president who has been granted tenure gives the Board notice of their intent to resign or retire and requests to remain at the institution as a tenured faculty member, the commissioner shall instruct the institution to proceed with the president's faculty appointment.

67.5.2 Consistent with the appointment, the institution shall determine the salary, benefits, and rank for the tenured position and shall bear all costs of the tenured position.

67.5.3 After the president begins the appointment as a tenured faculty member, Utah law related to tenure, and the institution's tenure policies, workload, and performance standards shall thereafter govern the president's employment.

67.6 Tenure After Removal of the President

67.6.1 Presidents serve at the pleasure of the Utah Board of Higher Education. If the Board terminates a president's appointment or asks a president to resign in lieu of their appointment being terminated, the institution shall assess the former president's tenure status through its standard process.

R205-78 Annual Compensation Report of President Compensation: Before July 1 each year, ~~t~~The Commissioner's Office of the Commissioner shall prepare and submit to the Compensation Executive Committee ~~an annual report by July 1 a report~~ detailing president and commissioner compensation for the previous year. Compensation from private sources and outside paid employment directly associated with the president or commissioner's service shall be included in this report.

R205-89 Policy Applicable to the Commissioner of Higher Education

89.1 ~~With the exception of institutional residence or housing allowances, for which the commissioner is not eligible, t~~This policy shall apply to the ~~c~~Commissioner of Higher Education, as appropriate. ~~The commissioner is not eligible for an institutional residence or housing allowance.~~

89.2 The ~~Presidential Compensation~~Executive Committee shall annually determine ~~market and performance compensation~~ adjustments using salary data from regional SHEEOs of governing boards and make commissioner salary adjustments consistent with the considerations and sequencing in section 4 of this policy as applicable.

R205, Presidential Appointment, Compensation, and Benefits¹

R205-1 Purpose: To provide for the appointment, compensation, benefits, and terms of employment of presidents of institutions.

R-205-2 References

- 2.1 Utah Code § 53B-1-402, Board Powers, Duties, and Authority
- 2.2 Utah Code § 53B-2-106.1, Tenure
- 2.3 Board Policy R209, Evaluation of Presidents
- 2.4 Board Policy R715, Institutional Residences

R205-3 Terms of Employment

3.1 Appointments: The Utah Board of Higher Education (“Board”) shall appoint presidents. Presidents shall serve at the pleasure of the Board and at such salary and related benefits as appropriate to the institution, as determined by the Board.

R205-4 Presidential Compensation

4.1 Salary Adjustments: Annual presidential salary adjustments will be based on established presidential salary benchmarks, legislatively appropriated salary increases, and other factors as determined by the Board.

4.2 Market Increases: To ensure market competitiveness, the Commissioner of Higher Education’s (“commissioner”) Office, in consultation with institutions and, with approval from the Board’s Executive Committee (“Executive Committee”), will identify presidential salary benchmarks.

4.2.1 Presidential salary benchmarks will be the median of presidential salaries from peer institutions as reported publicly to the College and Professional Association for Human Resources (“CUPA”) for the current fiscal year. Peer institutions shall be determined by relevant institutional comparators including institutional mission, size, and budget. The adopted salary benchmark percentile and institution peer group definition may be adjusted if too few institutions

¹ *Adopted April 25, 1978. Amended February 26, 1988, March 25, 1988, November 4, 1994, January 16, 2004, August 19, 2005, April 18, 2008, May 17, 2013, March 28, 2014, July 15, 2016, September 17, 2021, and June 6, 2024.*

participated in the CUPA salary survey for the reference year, for equity reasons, or other factors as determined by the Executive Committee.

4.2.2. The Commissioner’s Office shall assess presidential salary benchmarks annually before July 1 and provide recommendations to the Executive Committee.

4.2.2.1 Should a proposed salary adjustment exceed a 10% increase, the Commissioner’s Office will consult with the Vice President of Finance at the institution to determine if the full adjustment is feasible. If the full adjustment is not feasible, the Compensation Committee may elect to award the adjustment in steps over the course of two or more years.

4.3 Legislatively Appropriated Increases and Sequencing: If a president’s salary is below the market salary benchmark as determined in subsection 4.2, the Executive Committee will first consider a market adjustment to the salary. Next, the Executive Committee will consider a cost-of-living adjustment (“COLA”) such that the president’s salary in the next fiscal year is equal to the current fiscal year’s market benchmark plus the inflation expectation as represented by the legislatively appropriated COLA, labor market increase, or other state appropriation designed to maintain the real wages of employees. Finally, the Executive Committee will consider whether any additional salary change shall be administered based on legislative appropriations, presidential performance, or other factors as determined by the Committee. If a president’s salary is greater than or equal to the market salary benchmark as determined in subsection 4.2, the Executive Committee will first consider a COLA and then any additional salary change based on legislative appropriations, presidential performance, or other factors as determined by the Committee.

4.4 Private Supplemental Funding: Institutions may not supplement a president’s salary with private donated funds. Presidents appointed prior to October 1, 2021 who were granted privately-funded supplemental income at the time of their appointment may retain the supplemental income for the duration of their term as president. Institutions shall report all supplemental income annually before July 1 to the Commissioner’s Office.

4.5 Outside Employment: Presidents appointed after October 1, 2021 may not engage in paid outside employment, including serving on boards or commissions, unless the Board grants an exception.

4.5.1 When considering granting an exception, the Board shall ensure the proposed outside employment will not interfere with the president’s ability to successfully discharge their duties as president.

4.5.2 Presidents who are authorized to engage in paid outside employment shall report their income to the Commissioner’s Office annually before July 1.

R205-5 Benefits

5.1 General Benefits: Presidents shall receive the same staff benefits as all other institutional employees.

5.2 Vehicle Allowance: Presidents may receive a vehicle allowance. The Executive Committee shall set the rate for allowances and may adjust this rate annually based on inflation or other factors as determined by the Committee. When using a personal vehicle for official business, presidents may receive mileage reimbursement at a rate set by the Board. To reflect the personal vehicle allowance benefit, the presidential mileage reimbursement rate shall be lower than the mileage reimbursement rate provided to other institutional employees. A president receiving a vehicle allowance may not also receive an institutional vehicle as a benefit.

5.2.1 Expiration of Institutional Vehicle Election: Any president who has not elected to receive an institutional vehicle for official use prior to June 6, 2024 will receive the vehicle allowance.

5.3 Degree-Granting Institutional Residences: In accordance with Board Policy R715, *Institutional Residences*, presidents of degree-granting institutions that have a designated institutional residence may live in the residence. Institutions shall maintain institutional residences.

5.4 Degree-Granting Housing Allowance: Presidents of degree-granting institutions that do not have a designated institutional residence may receive a housing allowance at a rate approved by the Executive Committee. Presidents of institutions with a designated institutional residence may receive the housing allowance if the designated institutional residence does not meet the president’s housing needs, the president domiciles in a residence other than the designated institutional residence, and the Board approves the housing allowance.

R205-6 Tenure

6.1 Should the Board appoint a president who is already a tenured faculty member of the Utah System of Higher Education (“USHE”) institution over which they will preside, the president shall retain their tenure status.

6.2 Should the Board appoint a president who earned tenure at an institution other than the USHE institution over which they will preside, the Board—at the time of appointment or during the president’s term—may grant tenure to the president in an academic department of the USHE

institution over which they will preside in accordance with the procedure established in this policy.

6.3 Should the Board appoint a president who has not earned tenure at any institution, neither the Board nor the USHE institution at which the president is appointed may grant tenure to the president.

6.4 Granting Tenure

6.4.1 A president who wishes to be granted tenure under this policy shall submit a written request to the commissioner and provide documentation verifying his or her earned tenure at an accredited institution.

6.4.2 Upon receiving the president's verifying documentation, the commissioner shall confer with the chief academic officer who—after consulting with the academic department in which the president will be granted tenure—shall advise the commissioner whether tenure is feasible.

6.4.3 After determining the president is eligible for tenure, the commissioner shall consult with the Board's executive committee and the institution's board of trustees chair regarding the president's request. The board of trustees may then grant or deny the request.

6.5 Tenure After the President's Term

6.5.1 When a president who has been granted tenure gives the Board notice of their intent to resign or retire and requests to remain at the institution as a tenured faculty member, the commissioner shall instruct the institution to proceed with the president's faculty appointment.

6.5.2 Consistent with the appointment, the institution shall determine the salary, benefits, and rank for the tenured position and shall bear all costs of the tenured position.

6.5.3 After the president begins the appointment as a tenured faculty member, Utah law related to tenure, and the institution's tenure policies, workload, and performance standards shall thereafter govern the president's employment.

6.6 Tenure After Removal of the President

6.6.1 Presidents serve at the pleasure of the Utah Board of Higher Education. If the Board terminates a president's appointment or asks a president to resign in lieu of their

appointment being terminated, the institution shall assess the former president's tenure status through its standard process.

R205-7 Annual Compensation Report: Before July 1 each year, the Commissioner's Office shall prepare and submit to the Executive Committee a report detailing president and commissioner compensation for the previous year. Compensation from private sources and outside paid employment directly associated with the president or commissioner's service shall be included in this report.

R205-8 Policy Applicable to the Commissioner of Higher Education

8.1 With the exception of institutional residence or housing allowances, for which the commissioner is not eligible, this policy shall apply to the commissioner.

8.2 The Executive Committee shall annually determine adjustments using salary data from regional SHEEOs of governing boards and make commissioner salary adjustments consistent with the considerations and sequencing in section 4 of this policy as applicable.