



UTAH SYSTEM OF
HIGHER EDUCATION

MEMORANDUM

March 21, 2024

Board Policy Updates

Background

As outlined below, the Interim Commissioner recommends approval of amendments to six Board policies and approval of one new Board policy based on the Office of the Commissioner's five-year policy review, stakeholder feedback, and statutory updates or requirements.

R120, Board of Higher Education Bylaws

The following amendments to Board Policy R120 are recommended based on OCHE's five-year policy review:

- Updating the references to align with current Utah Code titles.

R134, Informal Adjudicative Proceedings under the Utah Administrative Procedures Act

The following amendments to Board Policy R134 are recommended based on OCHE's five-year policy review:

- Updating Utah administrative rule [R765-134](#) with the current Board Policy [R134](#) published on USHE's website and then updating R134 on USHE's website to align with the administrative rule template.

R203, Presidential Search Committee Requirements and Board's Selection of Presidents

The following amendments to Board Policy R203 are recommended based on statutory changes in Utah Code section [53B-1-402](#) made during the 2023 Utah Legislative Session that changed the number of Board members from eighteen to ten individuals:

- Changing the number of Board members who must approve a presidential appointment from nine members to five members;
- Removing the requirement that the search committee will include an equal number of Board members and trustees with no more than four of each body;

- Adding language to say the Board must have *good cause to believe* the presidential finalists are *not qualified or unlikely to succeed as president of the institution* for the Board to direct the search committee to resume the search process;
- Adding that the Board may engage a consultant, as appropriate, to assist with the search committee requirements; and
- Non-substantive edits for clarity and consistency with other Board policies.

R212, Chief Executive Officer Travel Oversight

The following amendments to Board Policy R212 are suggested based on recommendations from a Board audit:

- Updating the references to align with current Utah Code titles;
- Updating definitions;
- Requiring that the Commissioner, or their designee, annually submit to the Board chair an itemized record of the Commissioner’s out of state Board-funded travel expenses; and
- Non-substantive edits for clarity and consistency with other Board policies.

The Office of the Commissioner shared these policy edits with the Board’s audit director.

R265, Transcript Notations for Sexual Misconduct or Sex Discrimination and Harassment

Board Policy R265, *Transcript Notations for Sexual Misconduct or Sex Discrimination and Harassment* is recommended as a new Board Policy based on the requirement in Board Policy [R262](#) that the Board establish a method for USHE institutions to communicate students’ serious violations of institutional policies regarding sexual misconduct or sex discrimination and harassment in official institution transcripts. The new Board Policy:

- Explains when USHE institutions shall add a notation on a student’s official transcript;
- Outlines how USHE institutions shall add transcript notations;
- Explains requirements about providing notice to students about transcript notations in institution policy; and
- Outlines how a student may petition to remove a transcript notation.

The Office of the Commissioner shared these policy edits with institution student affairs officers, Title IX coordinators, policy analysts, and general counsels for feedback.

R516, General Student Fees

The following amendments to Board Policy R516 are recommended based on legislation passed in the 2024 Utah General Legislative Session:

- Removing language stating that boards of trustees should particularly assess how general student fees support diversity, equity, and inclusion based on requirements in [H.B. 261](#); and
- Non-substantive edits for clarity and consistency with other Board policies.

R565, Audit Committees

The following amendments to Board Policy R565 are suggested based on recommendations from the Board’s audit director:

- Updating the references;
- Removing the language that states the Board Audit Subcommittee is “a standing subcommittee of the Finance and Facilities Committee”;
- Changing the name of the “Board Audit Subcommittee to the “Board Audit Committee”;
- Non-substantive edits for clarity and consistency with other Board policies.

The Office of the Commissioner shared these policy edits with the Board’s audit director, degree-granting institution audit directors, and vice presidents at the technical colleges for feedback.

Interim Commissioner’s Recommendation

Interim Commissioner Landward recommends that the Board approve amended Board Policies R120, R134, R203, R212, R516, R565 and new Board Policy R265.

Attachments

- Redlined Board Policy R120
- Clean Board Policy R120
- Redlined Board Policy R134
- Clean Board Policy R134
- Redlined Board Policy R203
- Clean Board Policy R203
- Redlined Board Policy R212
- Clean Board Policy R212
- Redlined Board Policy R516
- Clean Board Policy R516
- Redlined Board Policy R565
- Clean Board Policy R565
- New Board Policy R265

R120, Board of Higher Education Bylaws¹

R120-1 Purpose: This policy provides bylaws for the Utah Board of Higher Education (“Board”) that govern how the Board administers the Utah System of Higher Education (“USHE”) and conducts regular Board business.

R-120-2 References

- 2.1 Utah Code § 53B-1-402, Establishment of Board – Powers, ~~Rights, and Responsibilities~~Duties, and Authority – Reports
- 2.2 Utah Code § 53B-1-404, Membership of the Board – Student appointee – Terms – Oath – Officers – Committees – Bylaws – Meetings – Quorum – Vacancies – Compensation – Training
- 2.3 Utah Code § 53B-1-501, ~~Initial Board Membership~~Establishment of Initial Board Membership in 2023
- 2.4 Utah Code Title 67, Chapter 16, Utah Public ~~Employees’ and~~ Officers’ and Employees’ Ethics Act
- 2.5 Utah Code Title 52, Chapter 4, Open and Public Meetings Act
- 2.6 Board Policy R122, Board Conflict of Interest

R120-3 Bylaws

3.1 Offices: The principal office of the Board shall be located at the Utah Board of Higher Education Building, The Gateway, 60 South 400 West, Salt Lake City, Utah. The Board may have such other offices as the Board may designate or as the business of the Board may from time to time require.

3.2 General Powers: Under Utah Code section 53B-1-402, the Board is vested with the power to govern the USHE. The Board shall address all issues requiring its action in a properly convened meeting. The Board may adopt rules and regulations to govern the conduct of its meetings, to manage the Board and to manage and supervise the USHE, in accordance with these bylaws and the laws of this State.

3.3 Board Members: The Board shall consist of 10 members who are residents of the state and appointed by the governor with the advice and consent of the Senate. At least one of the members shall be a student matriculated at a USHE institution. Except as provided in Utah Code section

¹ Adopted June 17, 1970; amended July 28, 1970, September 11, 1970, January 20, 1971, July 27, 1971, December 20, 1973, July 22, 1975, July 14, 1980, August 31, 1981, October 11, 1985, September 12, 1986, August 6, 1987, December 16, 1988 and Bylaws February 24, 1989, June 18, 1993, May 31, 2002, September 11, 2003, March 30, 2012, March 29, 2013, March 30, 2018, and November 19, 2021; and August 10, 2023; ~~and XXX.~~

53B-1-501, the Governor shall appoint Board members to six-year staggered terms, each of which begins on July 1 of the year of appointment. The Governor shall appoint student members to a one-year term. Each member shall hold office until his or her successor has been chosen and qualified.

3.3.1 Oath of Office: A member shall take the official oath of office before entering upon the duties of office. The oath shall be filed with the Division of Archives and Records Services.

3.3.2 Simultaneous Service on Institutions' Boards of Trustees: An individual may not serve simultaneously on the Board and on an institution's board of trustees.

3.3.3 Consecutive Terms: Unless otherwise provided in Utah Code section 53B-1-501, the Governor may appoint a member to a second consecutive full term without a recommendation from the nominating committee. Members who filled the unexpired term that resulted from the vacancy of a member may be appointed to serve up to one consecutive full term thereafter. Student members may not serve more than one full term.

3.3.4 Vacancies: A vacancy in the Board occurring before the expiration of a member's full term shall be immediately filled through the process described in Utah Code section 53B-1-404. An individual appointed to fill a vacancy shall be appointed to serve for the remainder of the unexpired term.

3.3.5 Removal of Board Members: The governor may remove a member of the board for cause after consulting with the president of the Senate.

3.3.6 Resignation: A member of the Board may resign at any time by giving written notice to the Board's chair or secretary. Unless otherwise specified in the notice, the resignation shall take effect upon receipt.

3.3.7 Compensation: A member of the Board shall receive a daily salary for each calendar day that the member attends a Board or Committee meeting as provided by statute. A member may also receive per diem and travel expenses as allowed by Utah Code section 53B-1-404(14).

3.4 Regular Meetings: The Board shall meet regularly at a time and place it shall determine. The Board may also meet, in full or executive session, at the request of the chair, the commissioner, or at least four members of the Board.

3.4.1 Special Meetings: The Board may convene a special meeting, in full or executive session, when called by the Board chair, the commissioner, or by request of four Board

members. The chair or commissioner may designate the location or method for holding any special meeting.

3.5 Notice

3.5.1 Notice to Members of Board: The Board secretary shall notify Board members and institutional presidents of the time and place of regular meetings of the Board at least seven days prior to the meeting, together with an agenda explaining the nature of the business to be acted upon. The Board secretary may provide shorter notice for special meetings.

3.5.2 Notice to the Public: The Board and Executive Committee—when taking action on behalf of the Board in accordance with subsection 3.9.6—shall give public notice of their meetings as required by Utah Code section 52-4-202 of the Open and Public Meetings Act.

3.6 Quorum: The Board must have a quorum to take action. A quorum consists of six members. A quorum of any committee of the Board shall consist of a majority of its members. If less than a quorum is present at the time and place for any such meeting called, the Board or committee meeting may be adjourned without further notice.

3.7 Conducting Board Business

3.7.1 Agenda and Regular Order of Business: The Board chair and the commissioner shall set the agenda for Board meetings in consultation with the Executive Committee. The official agenda shall constitute the principal business at regular meetings of the Board.

3.7.2 Categories of Agenda Items: The Board's business shall be listed in the agenda within the following categories:

3.7.2.1 Action Items: Items that are recommended for action and that require full discussion by the Board.

3.7.2.2 Consent Calendar: Items that are recommended for action and that either have been fully discussed by a Board committee or are non-substantive, routine matters governed by existing policy or statute and do not require discussion by the full Board.

3.7.2.3 Information Items: Items that are not recommended for action, but are for information, such as presentation of institutional reports by heads of institutions and other items for informational purposes.

3.7.3 Consent Calendar: The Board may act on items in the Consent Calendar by voting on items either as a group or as items individually. Any item listed upon the Consent Calendar may, by majority vote of the Board, be transferred to the Action Items at the same or a subsequent meeting and be subject to full discussion and deliberation.

3.7.4 Rules of Procedure: The Board and its committees shall follow Robert's Rules of Order in conducting all meetings.

3.7.5 Open and Public Meetings Act: The Board shall conduct its meetings in compliance with the Open and Public Meetings Act. If the Executive Committee intends to take action on behalf of the Board in accordance with subsection 3.9.6, it shall conduct its meeting in compliance with the Open and Public Meetings Act.

3.7.6 Voting

3.7.6.1 Recording of Votes: The minutes shall contain a record, by each individual member, of each vote taken by the Board.

3.7.6.2 Proxy Voting: Proxy voting shall not be permitted at meetings of the Board or meetings of its committees.

3.8 Board Officers and Staff

3.8.1 The officers of the Board shall be a chair, a vice-chair, and a secretary. The Board's staff shall be the commissioner of higher education and other staff as the commissioner deems necessary.

3.8.2 Appointment, Election and Term of Office

3.8.2.1 Chair and Vice-chair: The Board shall elect a chair and vice-chair from among its members at its August 2023 meeting and its May/June meeting in each odd numbered year thereafter. Beginning on the date of election, the chair and vice-chair shall serve concurrently for two years and until their successors are chosen and qualified. A member may not serve more than two terms as chair.

3.8.2.2 Secretary: The Board shall appoint a full-time employee from the commissioner's staff to serve as secretary at the Board's discretion.

3.8.2.3 Commissioner: Upon approval by the governor and with the advice and consent of the Senate, the Board shall appoint a commissioner of higher education. The commissioner shall serve at the Board's pleasure.

3.8.3 Removal of Board Officers or Commissioner

3.8.3.1 Chair and Vice-Chair: The Board may remove a chair or vice-chair of the Board for cause.

3.8.3.2 Commissioner: Either the Board, or the Governor after consultation with the Board, may terminate the commissioner.

3.8.4 Vacancies: The Board may fill a vacancy in any Board office because of death, resignation, removal, disqualification or otherwise, according to the requirements of statutes and these bylaws, for the unexpired portion of the term.

3.8.5 Chair: The chair shall preside at all meetings of the Board and shall have such other duties, powers and responsibilities as directed by the Board or by these bylaws. In the absence of such specifications, the chair shall have the powers and authority and shall perform and discharge the duties of similar officers serving organizations with similar purposes and objectives as the Board.

3.8.6 Vice-chair: The vice-chair shall act as chair in the absence or disability of the chair and shall have such other duties, powers and responsibilities as the Board or chair may assign. In the event the office of chair becomes vacant, a vice-chair shall act as interim chair until the next regular meeting, at which time the Board shall elect a new chair to serve the balance of the unexpired term. If the office of vice-chair is similarly vacated, the Board shall elect a new vice-chair from among its members at the next regular meeting.

3.8.7 Secretary: The secretary shall make a record and maintain a record of all Board meetings and shall perform such other duties as the Board may direct.

3.8.8 Commissioner

3.8.8.1 Chief Executive Officer: The commissioner shall act as the Board's chief executive officer and, subject to the control of the Board, shall supervise and control all of the business and affairs of the Board. The commissioner may enter

into contracts or execute and deliver instruments that do not exceed \$100,000 on behalf of the Board without Board approval. For contracts or instruments that exceed \$100,000, the commissioner shall first obtain Board approval.

3.8.8.2 Commissioner Interprets Board Policy: The commissioner shall be responsible for interpreting the Board's policies.

3.8.8.3 Advocacy: The commissioner is authorized to advocate on behalf of the Board before the governor, the legislature, and other officials and governmental entities.

3.8.8.4 Commissioner Represents Board: In order to ensure that there is effective follow through in implementing the Board's action, the commissioner shall work with USHE institutions on the Board's behalf to ensure institutions effectively implement the Board's policies, directives, strategies and goals.

3.8.8.5 Information, Reports, Audits: The commissioner is empowered to require information and reports from USHE institutions. The commissioner has the authority, after giving due notice to the presidents, to assign staff to audit records of institutions or otherwise verify data. Such audits shall be in response to the Board's instructions or to verify compliance with the Board's policies or applicable laws. The Board's audit committee shall prioritize the commissioner's audits.

3.8.8.6 Board Policies Properly Executed: After the Board has adopted a new policy or program, or taken an action, the commissioner shall ensure that it is properly carried out. The commissioner will collaborate with the Council of Presidents, and relevant institutional staff to implement new policies or directives and to periodically follow up on that implementation. Presidents shall cooperate with the commissioner to properly execute the Board's policies and directives.

3.8.8.7 Statutory Duties: The commissioner is responsible to: ensure that the Board's policies, programs, and strategic plan are properly executed; furnish information about the USHE and make recommendations regarding that information to the Board; in consultation with the Board's Executive Committee and in accordance with Utah Code section 53B-1-402(2), evaluate and provide support and guidance to USHE institution presidents; provide state-level leadership in any activity affecting an institution of higher education; and perform other duties assigned by the Board.

3.8.9 Commissioner's Staff: The commissioner may appoint and hire a staff of professional, legal, and administrative personnel, including associate commissioners.

3.8.10 Salaries and Benefits

3.8.10.1 Chair and Vice-Chair: The chair and vice-chair are compensated as members of the Board and shall not receive additional salaries.

3.8.10.2 Secretary: The commissioner shall set the salary of the secretary as a member of staff.

3.8.10.3 Commissioner: The Board shall set the salary of the commissioner.

3.8.10.4 Commissioner's Staff: The commissioner shall determine salaries, retirement provisions, and other benefits for the staff in accordance with statute.

3.8.11 Contracts: The Board may authorize any officer or officers or agents of the Board, in addition to the officers so authorized by these bylaws, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Board, and such authority may be general or may be confined to specific instances.

3.9 Committees

3.9.1 Committee Appointments: The Board may establish standing committees and such other special committees as the Board or the Board chair may determine to be necessary or appropriate. With the exception of the Executive Committee, the Board chair shall appoint the membership and a chair of all standing and special committees. Each standing committee shall serve concurrent two-year terms with the chair who appointed them.

3.9.2 Standing Committees: The Board shall form the following standing committees:

3.9.2.1 Executive Committee

3.9.2.2 Audit Committee

3.9.3 Staff Support: The commissioner shall provide staffing and support to each standing and special committee.

3.9.4 Committee Membership and Voting of Board Chair and Vice-chair: The chair and vice-chair may be appointed to and serve as regular members of one or more

standing committees, with full power to vote. The chair and vice-chair shall also be ex officio members of each standing committee to which they are not appointed on a regular basis, but in such ex officio capacity shall be without power to vote.

3.9.5 Executive Committee

3.9.5.1 Composition: The Executive Committee shall be comprised of the Board chair, the Board vice-chair, and one committee member at large appointed by the Board chair.

3.9.5.2 Authority: The Executive Committee may meet to address issues, identify areas of concern, set priorities or agenda items, or conduct other business requiring the Board's action during the interim period between Board meetings as provided in this section. The Executive Committee shall report to the Board at the Board's next meeting following an action undertaken.

3.9.5.3 Routine Matters: The Board authorizes the Executive Committee to act upon routine matters during the interim between the Board's regular meetings.

3.9.5.4 Non-routine Matters: The Executive Committee may not act on non-routine matters except under extraordinary and emergency circumstances.

3.9.6 Committee Meetings: Meetings of all committees of the Board may be held upon the call of the committee chair, the Board chair, or at the request of the commissioner.

3.10 Advisory Councils

3.10.1 Council of Presidents: The Board shall establish a Council of Presidents comprised of the presidents from each of the institutions and the commissioner. The commissioner shall serve as Council of Presidents chair.

3.10.2 Student Advisory Council: The Board shall establish a Student Advisory Council composed of students from USHE degree-granting institutions to advise the Student Board Member on issues related to student well-being and student success. The Student Board Member shall also solicit feedback from technical college students during periodic listening sessions held throughout the Student Board Member's term.

3.10.3 Other Advisory Councils: The Board may establish other advisory committees or councils as needed.

3.10.4 All matters requiring Board determination shall be addressed in a properly convened meeting of the Board or Executive Committee.

3.11 Electronic Meetings: The Board and the Executive Committee may convene and conduct an electronic meeting in accordance with [Utah Code section 52-4-207](#) of the Open and Public Meetings Act. The members of the Board and committees who participate by electronic communication may be counted in the quorum that is necessary to conduct and transact the Board's business. Such participation does not alter the requirements of notice, open and public meetings, and other applicable rules of the Board.

3.12 Public Information

3.12.1 Official Pronouncements: The Board chair is the only member of the Board authorized to make official pronouncements for the Board, and then only as authorized by the Board. The commissioner as executive officer of the Board is authorized to speak for the Board and USHE with respect to administrative matters and any policy matters that have received the approval of the Board.

3.12.2 Releases and General Information: The commissioner or designee may issue news releases, general information, and other communications regarding administration of USHE, provided the releases are consistent with Board policies and directives.

3.13 Conflict of Interest

3.13.1 A potential conflict of interest exists when there is a direct and immediate interest or relationship, including a financial interest exceeding \$2,000, with persons or businesses regulated by or directly affected by decisions of the Board, or persons or organizations which may present requests or issues before the Board. Interests or relationships of a Board member, their spouse or other members of the immediate family/household, or of any other person who is constructively controlled by the Board member are included.

3.13.2 Board members shall disclose potential conflicts of interest as outlined in [Board Policy R122, *Board Conflict of Interest*](#). In the event the Board is taking action that involves issues with which a Board member has a potential conflict, the Board member shall orally disclose the conflict during a regularly scheduled public meeting and abstain from participating in discussion or voting on the issue.

3.13.3 Board members are subject to the Utah Public Officers' and Employees' Ethics Act, Utah Code Title 67, Chapter 16. The Commissioner's Office will provide training

materials to Board members that explain the obligations of the Act. Board members are also encouraged to seek counsel from the Board's general counsel or the Attorney General's office if there is any potential doubt as to the applicability of the Act.

3.14 Amendment of Bylaws: The Board may amend these bylaws at any regular meeting, provided that copies of any proposed amendments shall be submitted in writing to each member and to the commissioner at least seven days before the meeting at which they are to be proposed for vote.

R120, Board of Higher Education Bylaws¹

R120-1 Purpose: This policy provides bylaws for the Utah Board of Higher Education (“Board”) that govern how the Board administers the Utah System of Higher Education (“USHE”) and conducts regular Board business.

R-120-2 References

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- 2.3** Utah Code § 53B-1-501, Establishment of Initial Board Membership in 2023
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3.7.4 Rules of Procedure: The Board and its committees shall follow Robert's Rules of Order in conducting all meetings.

3.7.5 Open and Public Meetings Act: The Board shall conduct its meetings in compliance with the Open and Public Meetings Act. If the Executive Committee intends to take action on behalf of the Board in accordance with subsection 3.9.6, it shall conduct its meeting in compliance with the Open and Public Meetings Act.

3.7.6 Voting

3.7.6.1 Recording of Votes: The minutes shall contain a record, by each individual member, of each vote taken by the Board.

3.7.6.2 Proxy Voting: Proxy voting shall not be permitted at meetings of the Board or meetings of its committees.

3.8 Board Officers and Staff

3.8.1 The officers of the Board shall be a chair, a vice-chair, and a secretary. The Board's staff shall be the commissioner of higher education and other staff as the commissioner deems necessary.

3.8.2 Appointment, Election and Term of Office

3.8.2.1 Chair and Vice-chair: The Board shall elect a chair and vice-chair from among its members at its August 2023 meeting and its May/June meeting in each odd numbered year thereafter. Beginning on the date of election, the chair and vice-chair shall serve concurrently for two years and until their successors are chosen and qualified. A member may not serve more than two terms as chair.

3.8.2.2 Secretary: The Board shall appoint a full-time employee from the commissioner's staff to serve as secretary at the Board's discretion.

3.8.2.3 Commissioner: Upon approval by the governor and with the advice and consent of the Senate, the Board shall appoint a commissioner of higher education. The commissioner shall serve at the Board's pleasure.

3.8.3 Removal of Board Officers or Commissioner

3.8.3.1 Chair and Vice-Chair: The Board may remove a chair or vice-chair of the Board for cause.

3.8.3.2 Commissioner: Either the Board, or the Governor after consultation with the Board, may terminate the commissioner.

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3.8.5 Chair: The chair shall preside at all meetings of the Board and shall have such other duties, powers and responsibilities as directed by the Board or by these bylaws. In the absence of such specifications, the chair shall have the powers and authority and shall perform and discharge the duties of similar officers serving organizations with similar purposes and objectives as the Board.

3.8.6 Vice-chair: The vice-chair shall act as chair in the absence or disability of the chair and shall have such other duties, powers and responsibilities as the Board or chair may assign. In the event the office of chair becomes vacant, a vice-chair shall act as interim chair until the next regular meeting, at which time the Board shall elect a new chair to serve the balance of the unexpired term. If the office of vice-chair is similarly vacated, the Board shall elect a new vice-chair from among its members at the next regular meeting.

3.8.7 Secretary: The secretary shall make a record and maintain a record of all Board meetings and shall perform such other duties as the Board may direct.

3.8.8 Commissioner

3.8.8.1 Chief Executive Officer: The commissioner shall act as the Board's chief executive officer and, subject to the control of the Board, shall supervise and control all of the business and affairs of the Board. The commissioner may enter into contracts or execute and deliver instruments that do not exceed \$100,000 on behalf of the Board without Board approval. For contracts or instruments that exceed \$100,000, the commissioner shall first obtain Board approval.

3.8.8.2 Commissioner Interprets Board Policy: The commissioner shall be responsible for interpreting the Board's policies.

3.8.8.3 Advocacy: The commissioner is authorized to advocate on behalf of the Board before the governor, the legislature, and other officials and governmental entities.

3.8.8.4 Commissioner Represents Board: In order to ensure that there is effective follow through in implementing the Board's action, the commissioner shall work with USHE institutions on the Board's behalf to ensure institutions effectively implement the Board's policies, directives, strategies and goals.

3.8.8.5 Information, Reports, Audits: The commissioner is empowered to require information and reports from USHE institutions. The commissioner has the authority, after giving due notice to the presidents, to assign staff to audit records of institutions or otherwise verify data. Such audits shall be in response to the Board's instructions or to verify compliance with the Board's policies or applicable laws. The Board's audit committee shall prioritize the commissioner's audits.

3.8.8.6 Board Policies Properly Executed: After the Board has adopted a new policy or program, or taken an action, the commissioner shall ensure that it is properly carried out. The commissioner will collaborate with the Council of Presidents, and relevant institutional staff to implement new policies or directives and to periodically follow up on that implementation. Presidents shall cooperate with the commissioner to properly execute the Board's policies and directives.

3.8.8.7 Statutory Duties: The commissioner is responsible to: ensure that the Board's policies, programs, and strategic plan are properly executed; furnish information about the USHE and make recommendations regarding that information to the Board; in consultation with the Board's Executive Committee and in accordance with Utah Code section 53B-1-402(2), evaluate and provide support and guidance to USHE institution presidents; provide state-level leadership in any activity affecting an institution of higher education; and perform other duties assigned by the Board.

3.8.9 Commissioner's Staff: The commissioner may appoint and hire a staff of professional, legal, and administrative personnel, including associate commissioners.

3.8.10 Salaries and Benefits

3.8.10.1 Chair and Vice-Chair: The chair and vice-chair are compensated as members of the Board and shall not receive additional salaries.

3.8.10.2 Secretary: The commissioner shall set the salary of the secretary as a member of staff.

3.8.10.3 Commissioner: The Board shall set the salary of the commissioner.

3.8.10.4 Commissioner's Staff: The commissioner shall determine salaries, retirement provisions, and other benefits for the staff in accordance with statute.

3.8.11 Contracts: The Board may authorize any officer or officers or agents of the Board, in addition to the officers so authorized by these bylaws, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Board, and such authority may be general or may be confined to specific instances.

3.9 Committees

3.9.1 Committee Appointments: The Board may establish standing committees and such other special committees as the Board or the Board chair may determine to be necessary or appropriate. With the exception of the Executive Committee, the Board chair shall appoint the membership and a chair of all standing and special committees. Each standing committee shall serve concurrent two-year terms with the chair who appointed them.

3.9.2 Standing Committees: The Board shall form the following standing committees:

3.9.2.1 Executive Committee

3.9.2.2 Audit Committee

3.9.3 Staff Support: The commissioner shall provide staffing and support to each standing and special committee.

3.9.4 Committee Membership and Voting of Board Chair and Vice-chair: The chair and vice-chair may be appointed to and serve as regular members of one or more standing committees, with full power to vote. The chair and vice-chair shall also be ex officio members of each standing committee to which they are not appointed on a regular basis, but in such ex officio capacity shall be without power to vote.

3.9.5 Executive Committee

3.9.5.1 Composition: The Executive Committee shall be comprised of the Board chair, the Board vice-chair, and one committee member at large appointed by the Board chair.

3.9.5.2 Authority: The Executive Committee may meet to address issues, identify areas of concern, set priorities or agenda items, or conduct other business requiring the Board's action during the interim period between Board meetings as provided in this section. The Executive Committee shall report to the Board at the Board's next meeting following an action undertaken.

3.9.5.3 Routine Matters: The Board authorizes the Executive Committee to act upon routine matters during the interim between the Board's regular meetings.

3.9.5.4 Non-routine Matters: The Executive Committee may not act on non-routine matters except under extraordinary and emergency circumstances.

3.9.6 Committee Meetings: Meetings of all committees of the Board may be held upon the call of the committee chair, the Board chair, or at the request of the commissioner.

3.10 Advisory Councils

3.10.1 Council of Presidents: The Board shall establish a Council of Presidents comprised of the presidents from each of the institutions and the commissioner. The commissioner shall serve as Council of Presidents chair.

3.10.2 Student Advisory Council: The Board shall establish a Student Advisory Council composed of students from USHE degree-granting institutions to advise the Student Board Member on issues related to student well-being and student success. The Student Board Member shall also solicit feedback from technical college students during periodic listening sessions held throughout the Student Board Member's term.

3.10.3 Other Advisory Councils: The Board may establish other advisory committees or councils as needed.

3.10.4 All matters requiring Board determination shall be addressed in a properly convened meeting of the Board or Executive Committee.

3.11 Electronic Meetings: The Board and the Executive Committee may convene and conduct an electronic meeting in accordance with Utah Code section 52-4-207 of the Open and Public Meetings Act. The members of the Board and committees who participate by electronic communication may be counted in the quorum that is necessary to conduct and transact the Board's business. Such participation does not alter the requirements of notice, open and public meetings, and other applicable rules of the Board.

3.12 Public Information

3.12.1 Official Pronouncements: The Board chair is the only member of the Board authorized to make official pronouncements for the Board, and then only as authorized by the Board. The commissioner as executive officer of the Board is authorized to speak for the Board and USHE with respect to administrative matters and any policy matters that have received the approval of the Board.

3.12.2 Releases and General Information: The commissioner or designee may issue news releases, general information, and other communications regarding administration of USHE, provided the releases are consistent with Board policies and directives.

3.13 Conflict of Interest

3.13.1 A potential conflict of interest exists when there is a direct and immediate interest or relationship, including a financial interest exceeding \$2,000, with persons or businesses regulated by or directly affected by decisions of the Board, or persons or organizations which may present requests or issues before the Board. Interests or relationships of a Board member, their spouse or other members of the immediate family/household, or of any other person who is constructively controlled by the Board member are included.

3.13.2 Board members shall disclose potential conflicts of interest as outlined in Board Policy R122, *Board Conflict of Interest*. In the event the Board is taking action that involves issues with which a Board member has a potential conflict, the Board member shall orally disclose the conflict during a regularly scheduled public meeting and abstain from participating in discussion or voting on the issue.

3.13.3 Board members are subject to the Utah Public Officers' and Employees' Ethics Act, Utah Code Title 67, Chapter 16. The Commissioner's Office will provide training materials to Board members that explain the obligations of the Act. Board members are also encouraged to seek counsel from the Board's general counsel or the Attorney General's office if there is any potential doubt as to the applicability of the Act.

3.14 Amendment of Bylaws: The Board may amend these bylaws at any regular meeting, provided that copies of any proposed amendments shall be submitted in writing to each member and to the commissioner at least seven days before the meeting at which they are to be proposed for vote.

R134, Informal Adjudicative Proceedings under the Utah Administrative Procedures Act¹

R134-1 The following policy has been codified as Utah Administrative Code R765-134.²

R134-2 References

2.1 Utah Code § 53B-1-402, Establishment of Board – Powers, Duties, and Authority

2.2 Utah Code Title 63G, Chapter 4, Administrative Procedures Act

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

R765-134. Informal Adjudicative ~~Procedures~~ Proceedings uUnder the Utah Administrative Procedures Act.

R765-134.1. Purpose.

The purpose of this rule is to provide ~~rules~~ guidelines and procedures for the application of ~~the Title 63G, Chapter 4,~~ Administrative Procedures Act, Utah Code Title 63, Chapter 46b, and associated regulations, to the public institutions of higher education, the Utah Board of Higher Education (“Board”), and ~~the Utah Higher Education Assistance Authority~~ my529.

R765-134.2. Authority.

This rule is authorized by Subsection 63G-4-102(6).

R765.134.3. Definitions.

¹ Adopted December 11, 1987; amended January 24, 1997; November 18, 2022; 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.

(1) "Adjudicative proceeding" means an institutional action or proceeding described in Utah Code section 63G-4-103. "Act" means Title 63G, Chapter 4, Administrative Procedures Act.

(2) "Institution" means the Board, my529, or an institution listed in Utah Code 53B-1-102. "Adjudicative proceeding" means an institutional action or proceeding described in Section 63G-4-102, Utah Code Annotated (1953).

(3) "Party" means the institution or other person commencing an adjudicative proceeding, all respondents, all persons permitted by the presiding officer to intervene in the proceeding, and all persons authorized by statute or institutional rule to participate as parties in an adjudicative proceeding. "Board" means Utah Board of Higher Education.

(4) "Person" means an individual, group of individuals, partnership, corporation, association, institution, agency, political subdivision or its units, governmental subdivision or its units, public or private organization or entity of any character. "Institution" means an institution that is named in Section 53B-1-102 and Utah Higher Education Assistance Authority.

(5) "Presiding officer" means the chief executive officer of the institution, or an individual or body of individuals designated by the chief executive officer, by institutional rules, or by statute to conduct an adjudicative hearing. "Party" means the institution or other person commencing an adjudicative proceeding, each respondent, any person permitted by the presiding officer to intervene in the proceeding, and any person authorized by statute or institutional rule to participate as parties in an adjudicative proceeding.

(6) "Respondent" means a person against whom an adjudicative proceeding is initiated, whether by an institution or any other person. "Person" means an individual, group of individuals, partnership, corporation, association, institution, agency, political

~~subdivision or its units, governmental subdivision or its units, public or private organization or entity of any character.~~

~~(7) "Presiding officer" means the chief executive officer of the institution, or an individual or body of individuals designated by the chief executive officer, by institutional rules, or by statute to conduct an adjudicative hearing.~~

~~(8) "Respondent" means a person against whom an adjudicative proceeding is initiated, whether by an institution or any other person.~~

R765.134.4. Applicability of Rule and Findings of Board.

(1) The Utah Administrative Procedures Act, Section 63G-4-102, provides certain exemptions from the Act which affect higher education institutions. As a consequence of these statutory provisions, adjudicative proceedings relating to the evaluation, discipline, employment, transfer, reassignment, or promotion of students and faculty, to personnel matters for all employees, to contracts for the purchase and sale of goods and services by the institutions, or to actions required by federal statute or regulation to be conducted solely according to federal procedures are not governed by the Utah Administrative Procedures Act.

(2) Utah Code ~~Sub~~Section 53B-3-106(2) provides that, ~~"State institutions of higher education are 'political subdivisions'...-as these terms are is used in Utah Code Title 41, Chapter 6a, Traffic Code."~~ relating to Traffic Rules and Regulations. The Utah Administrative Procedures Act applies to ~~"an agencies"~~ which as defined in ~~Sub~~Section 63G-4-103(1)(b) does not include ~~"any political subdivision of the state, or any administrative unit of a political subdivision of the state."~~ -Consequently, the institutions are exempt from the Act in matters involving campus traffic regulations not only where students and employees are involved but also where they impact persons other than students and employees. -However, since some aspects of parking and parking lot management may not be covered by Utah Code Title 41, Chapter 6a, ~~Traffic Code~~, hearings relating to parking matters which involve persons other than students and employees may be subject to the Act.

(3)~~(a)~~ Adjudicative proceedings, undertaken by an institution, are to be conducted informally according to the procedures set forth in these rules, enacted under

~~the authority of the Utah Administrative Procedures Act, which affect except for the following matters are exempt from the Act that involve:~~

(i) the evaluation, discipline, employment, transfer, reassignment, or promotion of students and faculty;

(ii) personnel matters for all employees;

(iii) campus traffic;

(iv) contracts for the purchase and sale of goods and services by the institution;

or

(v) actions required by federal statute or regulation to be conducted solely according to federal procedures.

~~(4) -Adjudicative proceedings where parties other than students or employees are involved hereby authorized to be handled informally include, but at not limited to:~~

~~(i) admissions;~~

~~(ii) residence for tuition purposes;~~

~~(iii) financial aid (including the eligibility for and collection of student loans);~~

~~(iv) campus parking;~~

~~(v) campus event participation;~~

~~(vi) former student matters; and~~

~~(vii) former employee matters.~~

~~(b) For any adjudicative proceeding not identified in Subsection (3)(a) that is undertaken by an institution where the parties are students or employees, the proceedings shall be conducted informally according to the procedures set forth in Section R765-134-5.~~

~~(c) For any adjudicative proceeding not identified in Subsection (3)(a) that is taken by an institution where parties other than students or employees are involved are~~

~~authorized to be handled informally according to Section R765-134-5. Such proceedings include:~~

- ~~(i) admissions;~~
- ~~(ii) residence for tuition purposes;~~
- ~~(iii) financial aid (including the eligibility for and collection of student loans);~~
- ~~(iv) campus parking;~~
- ~~(v) campus event participation;~~
- ~~(vi) former student matters; and~~
- ~~(vii) former employee matters.~~

~~(54)~~ The Board makes the following findings as to the appropriateness of informal adjudicative proceedings:

(a) The use of informal procedures as provided in Subsection R765-134.4(3) does not violate any procedural requirement imposed by a statute other than Utah Code Title 63G, Chapter 4~~the Act~~.

(b) The rights of the parties to the proceedings will be reasonably protected by the informal procedures.

(c) The institutions' administrative efficiency will be enhanced by this categorization.

(d) The cost of formal adjudicative proceedings outweighs the potential benefits to the public of a formal adjudicative proceeding.

~~(65)~~ -If fairness is not compromised, an institution may substitute one presiding officer for another during any proceeding. A person who acts as a presiding officer at one phase of a proceeding need not continue as presiding officer through all phases of a proceeding.

(76) -Each institution is authorized to adopt its own categorizations and procedures duly enacted under the authority of the [Act Utah Code Title 63G, Chapter 4](#). Significant variations from the Board's rules and procedures must be approved by the Board.

R765.134.5. Procedures for Informal Adjudicative Proceedings.

(1) An informal adjudicative proceeding shall be commenced by either:

(a) a notice of institutional action, if proceedings are commenced by the institution; or

(b) a request for institutional action, if proceedings are commenced by persons other than the institution.

(2) A notice of institutional action or a request for institutional action shall be filed and served according to the following requirements:

(a) The notice shall be in writing, signed by a presiding officer if the proceeding is commenced by the institution, or by the person invoking the jurisdiction of the institution, or by ~~the person's~~their representative, and shall include:

(i) the names and mailing addresses of ~~each~~all respondents and other persons to whom notice is being given;

(ii) the institution's file number or other reference number;

(iii) the name of the adjudicative proceeding;

(iv) the date that the notice of institutional action or the request for institutional action was mailed;

(v) if a hearing is to be held, a statement of the time and place of any scheduled hearing, a statement of the purpose for which the hearing is to be held, and a statement that a party who fails to attend or participate in the hearing may be held in default;

(vi) if a hearing is not scheduled, a statement that a party may request a hearing within 20 days of the mailing of the notice or such other time as prescribed by institutional rule;

(vii) a statement of the legal authority and jurisdiction under which the adjudicative proceeding is to be maintained or institutional action is requested;

(viii) a statement of the purpose of the adjudicative proceeding, the questions to be decided to the extent known or the facts and reasons forming the basis for relief, and the relief or decision sought by the commencing party; and

(ix) the name, title, mailing address, and telephone number of the presiding officer.

(b) The institution shall mail the notice of institutional action or the request for institutional action to each party.

(3) No answer or other pleading responsive to the allegations contained in the notice of institutional action or the request for institutional action need be filed.

(4) The institution shall hold a hearing only if a hearing is required by statute or rule, or if a hearing is permitted by statute and a hearing is requested by a party within 20 days of the mailing of the notice, or such other time as prescribed by institutional rule. "Hearing" includes not only a face-to-face proceeding but also a proceeding conducted by telephone, television or other electronic means.

(5) In any hearing, the parties named in the notice of institutional action or in the request for institutional action shall be permitted to testify, present evidence, and comment on the issues. Participation may be limited to the named parties.

(6) Hearings will be held only after timely notice to each party.

(7) Discovery is prohibited, and the institution may not issue subpoenas or other discovery orders. ~~The This prohibition against discovery is not intended to discourage parties may gather and share information in a non-coercive~~ manner gathering or sharing of information by the parties.

(8) ~~Each-All~~ parties shall have access to information contained in the institution's files and to all materials and information gathered in any investigation, to the extent permitted by law.

(9) Intervention is prohibited, except that the institution may enact rules permitting intervention where a federal statute or federal rule requires that a state permit intervention.

(10) ~~Each-All~~ hearings shall be open to ~~each-all~~ parties. If the hearing is conducted by telephone, television or other electronic means this criterion is met if each participant in the hearing has an opportunity to participate in, to hear, and, if technically feasible, to see that aspect of the entire proceeding which is significant to the viewer while the proceeding is taking place.

(11) Within a reasonable time after the close of the hearing, or after the parties' failure to request a hearing within the time prescribed by the institution's or this rule, the presiding officer shall issue a signed order in writing that states the following:

- (a) the decision;
- (b) the reasons for the decision;
- (c) a notice of any right of administrative or judicial review available to the parties; and
- (d) the time limits for filing an appeal or request for review.

(12) The presiding officer's order shall be based on the facts appearing in the institution's files and on the facts presented in evidence at any hearings.

(13) ~~Each-All~~ hearings shall be recorded at the institution's expense. Any party, at ~~his-their~~ own expense, may have a reporter approved by the institution prepare a transcript from the institution's record of the hearing.

(14) Nothing in this rule restricts or precludes any investigative right or power given to an institution by a statute other than ~~the Act~~ Utah Code Title 63G, Chapter 4.

(15) The presiding officer may enter an order of default against a party if that party fails to participate in the adjudicative proceeding. The order shall include a statement of the grounds for default and be mailed to each party. A defaulted party may seek to have the institution set aside the default order according to procedures outlined in the Utah Rules of Civil Procedure, ~~Rule 60~~. After issuing the order of default, the presiding officer shall conduct any further proceedings necessary to complete the adjudicative proceeding without the participation of the party in default and determine each issue in the adjudicative proceeding, including those affecting the defaulting party.

(16) If a statute or the institution's rules permit parties to any adjudicative proceeding to seek review of an order, the aggrieved party may file a written request for review within ten days after the issuance of the order with the person or entity designated for that purpose by statute or rule. The form and procedures for such a request are set forth in Section 63G-4-301.

(17) Within ten days after the date that an order on review is issued, or within ten days after the date that a final order is issued for which institutional review is unavailable, any party may file a written request for reconsideration, stating the specific grounds upon which relief is requested. Unless otherwise provided by statute, the filing of the request is not a prerequisite for seeking judicial review of the order or the order on review. The request for reconsideration shall be filed with the institution and one copy shall be sent by mail to each party by the person making the request. The institution president, or a person designated for that purpose, shall issue a written order granting the request or denying the request. If the president or his designee does not issue an order within 20 days after the filing of the request, the request for rehearing shall be considered to be denied.

(18) A party aggrieved may obtain judicial review of final institutional action except in actions where judicial review is expressly prohibited by statute, only after exhausting all administrative remedies available, except that:

(a) a party seeking judicial review need not exhaust administrative remedies if a statute states that exhaustion is not required; ~~and~~

(b) the court may relieve a party seeking judicial review of the requirement to exhaust any or all administrative remedies if the administrative remedies are

inadequate, or exhaustion of remedies would result in irreparable harm disproportionate to the public benefit derived from requiring exhaustion.

(19) A party shall file a petition for judicial review of final institutional action within 30 days after the date that the order constituting the final institutional action is issued. The petition shall name the institution and all other appropriate parties as respondents and shall meet the form requirements specified in ~~the Act~~Utah Code Title 63G, Chapter 4.

(20) The district courts shall have jurisdiction to review by trial de novo all final institutional action resulting from an adjudicative proceeding hereunder, except that final institutional action from proceedings based on a record shall be reviewed by the district courts on the record according to the standards of ~~Utah Code SubS~~Utah Code Section 63G-4-403(4). The form of the petition and procedures for this process are set forth in Utah Code Section 63G-4-403~~2~~.

(21) Unless precluded by statute, the institution may grant a stay of its order, or other temporary remedy during the pendency of judicial review, according to the institution's rules. If the institution denies a stay or denies other temporary remedies requested by a party, the institution's order of denial shall be mailed to all parties and shall specify the reasons why the stay or other temporary remedy was not granted.

(22) An institution may issue an order on an emergency basis without complying with the requirements of ~~the Act~~Utah Code title 63G, Chapter 4 if the facts known by the institution or presented to the institution show that an immediate and significant danger to the public health, safety, or welfare exists, and the threat requires immediate action by the institution. In issuing its emergency order, the institution shall ~~comply with Section 63G-4-502.:~~

(a) limit its order to require only the action necessary to prevent or avoid the danger to the public health, safety, or welfare;

(b) issue promptly a written order, effective immediately, that includes a brief statement of findings of fact, conclusions of law, and reasons for the institutions utilization of emergency adjudicative proceedings; and

(c) give immediate notice to the persons who are required to comply with the order.

(23) If the emergency order issued under this Section 22 will result in the continued infringement or impairment of any legal right or interest of any party, the institution shall commence appropriate adjudicative proceedings in accordance with the other provisions of these rules and Utah Code Title 63G, Chapter 4.

(243)(a) Any person may file a request for institutional action, requesting that the institution issue a declaratory order determining the applicability of a statute, rule, or order within the primary jurisdiction of the institution to specified circumstances. An institution may issue a declaratory order that would substantially prejudice the rights of a person who would be a necessary party, only if that person consents in writing to the determination of the matter by a declaratory proceeding. After receipt of a petition for a declaratory order, the institution may issue a written order:

(i) declaring the applicability of the statute rule, or order in question to the specified circumstances;

(ii) setting the matter for adjudicative proceedings;

(iii) agreeing to issue a declaratory order within a specified time; or

(iv) declining to issue a declaratory order and stating the reasons for its action.

(b) The declaratory order shall contain:

(i) the names of all parties to the proceeding on which it is based;

(ii) the particular facts on which it is based; and

(iii) the reasons for its conclusions.

R134, Informal Adjudicative Proceedings under the Utah Administrative Procedures Act¹

R134-1 The following policy has been codified as Utah Administrative Code R765-134.²

R134-2 References

2.1 Utah Code § 53B-1-402, Establishment of Board – Powers, Duties, and Authority

2.2 Utah Code Title 63G, Chapter 4, Administrative Procedures Act

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

R765-134. Informal Adjudicative Proceedings under the Utah Administrative Procedures Act.

R765-134.1. Purpose.

The purpose of this rule is to provide guidelines and procedures for the application of the Administrative Procedures Act, Utah Code Title 63, Chapter 46b, and associated regulations, to the public institutions of higher education, the Utah Board of Higher Education (“Board”), and my529.

R765-134.2. Authority.

This rule is authorized by Subsection 63G-4-102(6).

R765.134.3. Definitions.

¹ *Adopted December 11, 1987; amended January 24, 1997; November 18, 2022; 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.

(1) "Adjudicative proceeding" means an institutional action or proceeding described in Utah Code section 63G-4- 103.

(2) "Institution" means the Board, my529, or an institution listed in Utah Code 53B-1-102.

(3) "Party" means the institution or other person commencing an adjudicative proceeding, all respondents, all persons permitted by the presiding officer to intervene in the proceeding, and all persons authorized by statute or institutional rule to participate as parties in an adjudicative proceeding.

(4) "Person" means an individual, group of individuals, partnership, corporation, association, institution, agency, political subdivision or its units, governmental subdivision or its units, public or private organization or entity of any character.

(5) "Presiding officer" means the chief executive officer of the institution, or an individual or body of individuals designated by the chief executive officer, by institutional rules, or by statute to conduct an adjudicative hearing.

(6) "Respondent" means a person against whom an adjudicative proceeding is initiated, whether by an institution or any other person.

R765.134.4. Applicability of Rule and Findings of Board.

(1) The Utah Administrative Procedures Act, Section 63G-4-102, provides certain exemptions from the Act which affect higher education institutions. As a consequence of these statutory provisions, adjudicative proceedings relating to the evaluation, discipline, employment, transfer, reassignment, or promotion of students and faculty, to personnel matters for all employees, to contracts for the purchase and sale of goods and services by the institutions, or to actions required by federal statute or regulation to be conducted solely according to federal procedures are not governed by the Utah Administrative Procedures Act.

(2) Utah Code Section 53B-3-106(2) provides that, "State institutions of higher education are 'political subdivisions'...as this term is used in Utah Code Title 41, Chapter 6a" relating to Traffic Rules and Regulations. The Utah Administrative Procedures Act applies to "agencies" which as defined in Section 63G-4-103(1)(b) does not include "any

political subdivision of the state, or any administrative unit of a political subdivision of the state.” Consequently, the institutions are exempt from the Act in matters involving campus traffic regulations not only where students and employees are involved but also where they impact persons other than students and employees. However, since some aspects of parking and parking lot management may not be covered by Utah Code Title 41, Chapter 6a, hearings relating to parking matters which involve persons other than students and employees may be subject to the Act.

(3) Adjudicative proceedings, undertaken by an institution, are to be conducted informally according to the procedures set forth in these rules, enacted under the authority of the Utah Administrative Procedures Act, except for matters that involve:

(i) the evaluation, discipline, employment, transfer, reassignment, or promotion of students and faculty;

(ii) personnel matters for all employees;

(iii) campus traffic;

(iv) contracts for the purchase and sale of goods and services by the institution;

or

(v) actions required by federal statute or regulation to be conducted solely according to federal procedures.

(4) Adjudicative proceedings where parties other than students or employees are involved hereby authorized to be handled informally include, but are not limited to:

(i) admissions;

(ii) residence for tuition purposes;

(iii) financial aid (including the eligibility for and collection of student loans);

(iv) campus parking;

(v) campus event participation;

(vi) former student matters; and

(vii) former employee matters.

(5) The Board makes the following findings as to the appropriateness of informal adjudicative proceedings:

(a) The use of informal procedures as provided in Subsection R765-134.4(3) does not violate any procedural requirement imposed by a statute other than Utah Code Title 63G, Chapter 4.

(b) The rights of the parties to the proceedings will be reasonably protected by the informal procedures.

(c) The institutions' administrative efficiency will be enhanced by this categorization.

(d) The cost of formal adjudicative proceedings outweighs the potential benefits to the public of a formal adjudicative proceeding.

(6) If fairness is not compromised, an institution may substitute one presiding officer for another during any proceeding. A person who acts as a presiding officer at one phase of a proceeding need not continue as presiding officer through all phases of a proceeding.

(7) Each institution is authorized to adopt its own categorizations and procedures duly enacted under the authority of the Utah Code Title 63G, Chapter 4. Significant variations from the Board's rules and procedures must be approved by the Board.

R765.134.5. Procedures for Informal Adjudicative Proceedings.

(1) An informal adjudicative proceeding shall be commenced by either:

(a) a notice of institutional action, if proceedings are commenced by the institution; or

(b) a request for institutional action, if proceedings are commenced by persons other than the institution.

(2) A notice of institutional action or a request for institutional action shall be filed and served according to the following requirements:

(a) The notice shall be in writing, signed by a presiding officer if the proceeding is commenced by the institution, or by the person invoking the jurisdiction of the institution, or by their representative, and shall include:

(i) the names and mailing addresses of all respondents and other persons to whom notice is being given;

(ii) the institution's file number or other reference number;

(iii) the name of the adjudicative proceeding;

(iv) the date that the notice of institutional action or the request for institutional action was mailed;

(v) if a hearing is to be held, a statement of the time and place of any scheduled hearing, a statement of the purpose for which the hearing is to be held, and a statement that a party who fails to attend or participate in the hearing may be held in default;

(vi) if a hearing is not scheduled, a statement that a party may request a hearing within 20 days of the mailing of the notice or such other time as prescribed by institutional rule;

(vii) a statement of the legal authority and jurisdiction under which the adjudicative proceeding is to be maintained or institutional action is requested;

(viii) a statement of the purpose of the adjudicative proceeding, the questions to be decided to the extent known or the facts and reasons forming the basis for relief, and the relief or decision sought by the commencing party; and

(ix) the name, title, mailing address, and telephone number of the presiding officer.

(b) The institution shall mail the notice of institutional action or the request for institutional action to each party.

(3) No answer or other pleading responsive to the allegations contained in the notice of institutional action or the request for institutional action need be filed.

(4) The institution shall hold a hearing only if a hearing is required by statute or rule, or if a hearing is permitted by statute and a hearing is requested by a party within 20 days of the mailing of the notice, or such other time as prescribed by institutional rule. "Hearing" includes not only a face-to-face proceeding but also a proceeding conducted by telephone, television or other electronic means.

(5) In any hearing, the parties named in the notice of institutional action or in the request for institutional action shall be permitted to testify, present evidence, and comment on the issues. Participation may be limited to the named parties.

(6) Hearings will be held only after timely notice to each party.

(7) Discovery is prohibited, and the institution may not issue subpoenas or other discovery orders. This prohibition against discovery is not intended to discourage non-coercive gathering or sharing of information by the parties.

(8) All parties shall have access to information contained in the institution's files and to all materials and information gathered in any investigation, to the extent permitted by law.

(9) Intervention is prohibited, except that the institution may enact rules permitting intervention where a federal statute or federal rule requires that a state permit intervention.

(10) All hearings shall be open to all parties. If the hearing is conducted by telephone, television or other electronic means this criterion is met if each participant in the hearing has an opportunity to participate in, to hear, and, if technically feasible, to see that aspect of the entire proceeding which is significant to the viewer while the proceeding is taking place.

(11) Within a reasonable time after the close of the hearing, or after the parties' failure to request a hearing within the time prescribed by the institution's or this rule, the presiding officer shall issue a signed order in writing that states the following:

- (a) the decision;
- (b) the reasons for the decision;
- (c) a notice of any right of administrative or judicial review available to the parties; and
- (d) the time limits for filing an appeal or request for review.

(12) The presiding officer's order shall be based on the facts appearing in the institution's files and on the facts presented in evidence at any hearings.

(13) All hearings shall be recorded at the institution's expense. Any party, at their own expense, may have a reporter approved by the institution prepare a transcript from the institution's record of the hearing.

(14) Nothing in this rule restricts or precludes any investigative right or power given to an institution by a statute other than Utah Code Title 63G, Chapter 4.

(15) The presiding officer may enter an order of default against a party if that party fails to participate in the adjudicative proceeding. The order shall include a statement of the grounds for default and be mailed to each party. A defaulted party may seek to have the institution set aside the default order according to procedures outlined in the Utah Rules of Civil Procedure. After issuing the order of default, the presiding officer shall conduct any further proceedings necessary to complete the adjudicative proceeding without the participation of the party in default and determine each issue in the adjudicative proceeding, including those affecting the defaulting party.

(16) If a statute or the institution's rules permit parties to any adjudicative proceeding to seek review of an order, the aggrieved party may file a written request for review within ten days after the issuance of the order with the person or entity designated for that purpose by statute or rule. The form and procedures for such a request are set forth in Section 63G-4-301.

(17) Within ten days after the date that an order on review is issued, or within ten days after the date that a final order is issued for which institutional review is unavailable, any party may file a written request for reconsideration, stating the specific

grounds upon which relief is requested. Unless otherwise provided by statute, the filing of the request is not a prerequisite for seeking judicial review of the order or the order on review. The request for reconsideration shall be filed with the institution and one copy shall be sent by mail to each party by the person making the request. The institution president, or a person designated for that purpose, shall issue a written order granting the request or denying the request. If the president or his designee does not issue an order within 20 days after the filing of the request, the request for rehearing shall be considered to be denied.

(18) A party aggrieved may obtain judicial review of final institutional action except in actions where judicial review is expressly prohibited by statute, only after exhausting all administrative remedies available, except that:

(a) a party seeking judicial review need not exhaust administrative remedies if a statute states that exhaustion is not required;

(b) the court may relieve a party seeking judicial review of the requirement to exhaust any or all administrative remedies if the administrative remedies are inadequate, or exhaustion of remedies would result in irreparable harm disproportionate to the public benefit derived from requiring exhaustion.

(19) A party shall file a petition for judicial review of final institutional action within 30 days after the date that the order constituting the final institutional action is issued. The petition shall name the institution and all other appropriate parties as respondents and shall meet the form requirements specified in Utah Code Title 63G, Chapter 4.

(20) The district courts shall have jurisdiction to review by trial de novo all final institutional action resulting from an adjudicative proceeding hereunder, except that final institutional action from proceedings based on a record shall be reviewed by the district courts on the record according to the standards of Utah Code Section 63G-4-403(4). The form of the petition and procedures for this process are set forth in Utah Code Section 63G-4-403.

(21) Unless precluded by statute, the institution may grant a stay of its order, or other temporary remedy during the pendency of judicial review, according to the

institution's rules. If the institution denies a stay or denies other temporary remedies requested by a party, the institution's order of denial shall be mailed to all parties and shall specify the reasons why the stay or other temporary remedy was not granted.

(22) An institution may issue an order on an emergency basis without complying with the requirements of Utah Code title 63G, Chapter 4 if the facts known by the institution or presented to the institution show that an immediate and significant danger to the public health, safety, or welfare exists, and the threat requires immediate action by the institution. In issuing its emergency order, the institution shall:

(a) limit its order to require only the action necessary to prevent or avoid the danger to the public health, safety, or welfare;

(b) issue promptly a written order, effective immediately, that includes a brief statement of findings of fact, conclusions of law, and reasons for the institutions utilization of emergency adjudicative proceedings; and

(c) give immediate notice to the persons who are required to comply with the order.

(23) If the emergency order issued under this Section 22 will result in the continued infringement or impairment of any legal right or interest of any party, the institution shall commence appropriate adjudicative proceedings in accordance with the other provisions of these rules and Utah Code Title 63G, Chapter 4.

(24)(a) Any person may file a request for institutional action, requesting that the institution issue a declaratory order determining the applicability of a statute, rule, or order within the primary jurisdiction of the institution to specified circumstances. An institution may issue a declaratory order that would substantially prejudice the rights of a person who would be a necessary party, only if that person consents in writing to the determination of the matter by a declaratory proceeding. After receipt of a petition for a declaratory order, the institution may issue a written order:

(i) declaring the applicability of the statute rule, or order in question to the specified circumstances;

(ii) setting the matter for adjudicative proceedings;

- (iii) agreeing to issue a declaratory order within a specified time; or
 - (iv) declining to issue a declaratory order and stating the reasons for its action.
- (b) The declaratory order shall contain:
- (i) the names of all parties to the proceeding on which it is based;
 - (ii) the particular facts on which it is based; and
 - (iii) the reasons for its conclusions.

R203, Presidential Search Committee Appointment and Function Requirements, and Board's Selection of Presidents of Institutions¹

R203-1- Purpose: ~~This policy provides direction requirements for establishing~~ presidential search committees and for ~~appointing the Utah Board of Higher Education's ("Board") selection of~~ presidents in the Utah System of Higher Education ("USHE").

R203-2- References

- 2.1-** ~~Utah Code § 53B-2-102, Board to Appoint President of Each Institution~~ Appointment of Institution of Higher Education Presidents
- 2.2-** ~~§ 52-4-202~~ Utah Code § 52-4-202, Public Notice of Meetings – Emergency Meetings
- 2.3-** ~~Utah Code Title 52 Chapter 4 § 11-13-223,~~ Open and Public Meetings Act
- 2.4-** ~~Policy and Procedures R120~~ Board Policy R120, Bylaws of the Board of Higher Education Bylaws; 3-3.2.4, Selection of President

R203-3- Presidential Search Committees

3.1. Board is Equal Opportunity Employer: The ~~Board of Higher Education ("Board")~~ Board is an equal opportunity employer. ~~The Board's action decision to employ hire a presidents at a USHE institution shall be made only based upon selection only after an extensive search, including, national advertising of vacanciesthe position nationally, thoroughly screening of the applicants, and searching evaluating for applicants without regard to race, ethnicity, color, sexual orientation, gender identity, sex, marital status, disability, national origin, veteran's status, or religionus persuasion.~~

3.2. Early Beginning of the Search Process: Appointing a presidents is one of the Board's foremost responsibilities and the Board shall give the search process its highest priority. The Board ~~c~~Chair shall initiate the search process as soon as practicable after a vacancy is announced. The Board may appoint an interim president during the search process if ~~circumstances dictatenecessary.~~

¹ Adopted November 20, 1978; amended May 18, 1982, ~~and~~ October 11, 1985, ~~and~~ September 12, 1986, ~~and~~ September 18, 1992, ~~and~~ November 13, 1998, ~~and~~ September 13, 2002, ~~and~~ December 12, 2002, ~~and~~ September 5, 2008, and May 29, 2009. ~~Revisions approved~~ Amended on August 27, 2010, ~~and~~ January 25, 2013, ~~and~~ March 30, 2018, ~~and~~ XXX.

3.3- Chair Appoints Search Committee: The Board shall establish a search committee that includes representatives of faculty, staff, students, the institution's ~~of higher education~~ board of ~~trustees~~, alumni, the ~~outgoing institution's of higher education~~ President's executive council or cabinet, and the Board. The search committee shall be co-chaired by a member of the Board ~~members~~ and the Chair of the institution's board of trustees. ~~The search committee will include an equal number of Board members and trustees with no more than four of each body.~~ The Board Chair shall select the other members of the search committee with particular emphasis on ensuring that all institutions stakeholders and the community are well-represented. ~~The Commissioner~~ of the Utah System of Higher Education ~~("Commissioner~~ ("Commissioner"), or their designee.) and staff shall support and manage the search process. The Board may engage a consultant, as appropriate, to assist with the search committee requirements.

3.4- Recruitment: ~~For each search,~~ The Board, through the Commissioner, shall create a comprehensive, active recruiting plan to ensure a strong, diverse pool of potential candidates ~~for institution of higher education~~ Presidents. ~~The search committee may engage a consultant, as appropriate, to assist in the recruitment process.~~ As part of a successful recruiting plan, all Board members, trustees, search committee members, the Commissioner, presidents, vice presidents, deans, department heads, faculty, students, alumni, friends of the institution, and members of the community ~~must~~ should seek out and nominate qualified individuals and encourage ~~ing~~ them to apply for the position.

3.5- Duties of the Search Committee: The search committee shall meet regularly and ~~shall~~, by a majority vote of those present, determine and direct all activities of the committee. The committee shall host constituent meetings to seek public input regarding the qualifications of ideal candidates and explain the search process. The committee shall have the duty to establish qualifications for the position, ~~to~~ search for qualified individuals, ~~to~~ receive nominations and applications, ~~to~~ review the qualifications of nominees and applicants, ~~to~~ seek out information about nominees and applicants, ~~to~~ interview nominees and applicants as a committee, and ~~to~~ transmit to the Board the names of at least three but not more than five ~~(5)~~ persons who are fully qualified to serve as president of the institution. The Commissioner and ~~his or her~~ their staff shall provide information, ~~and~~ make confidential inquiries, and give reports about each candidate to the search committee.

3.6- Confidentiality: The search committee shall keep all information about applicants and nominees strictly confidential. The committee should exercise special care to avoid disclosure of confidential information and ~~to~~ protect the right of all applicants and nominees to privacy and anonymity, as well as search committee members' candid views on each applicant in search committee meetings insofar as is possible. The Committee co-chairs and the executive assistant/secretary shall emphasize and constantly remind all search committee members of the importance of preserving the confidentiality of all information made available to all members of the committee. ~~The Board of Higher Education will make public the names of the finalists to be~~

~~interviewed by the full membership of the Board.~~ The search committee may not forward an individual to the Board as a finalist unless two-thirds of the search committee members, as verified by the Commissioner, find the individual to be qualified and likely to succeed as an ~~an~~ institution of higher education ~~the institution's president.~~ The Board will make public the names of the finalists to be interviewed by the Board.

3.7 Interviews of Qualified Applicants: The search committee shall review the comprehensive files on all applicants and ~~shall~~ interview ~~these~~ applicants ~~that who~~ appear to be qualified and show strong potential to serve as a successful president.

3.7.1 At the conclusion of all interviews, the search committee shall discuss openly and fully each applicant. All committee members should give the committee the benefit of ~~his or her~~ their candid views on each candidate.

3.8 Search Committee Vote: Following the interviews discussion, the search committee members shall vote by secret ballot on each interviewee ~~who~~ has indicated ~~her/his~~ their willingness to serve as president. The voting procedure shall be as follows:

3.8.1 By electronic or other means, the committee members will answer yes or no to the following questions for each candidate: "Is this individual qualified and likely to succeed as the institution's next president?"

3.8.2 The Commissioner's staff shall tally the votes and present the results to the search committee. Only those candidates who have received a 2/3 two thirds majority vote by the search committee may be forwarded to the Board members for consideration.

3.8.3 The search committee is not required to send more than three finalists, even if more than three candidates have received a 2/3 two thirds majority vote. The committee may decide to either send the highest scoring 3-5 three to five candidates or hold additional votes to narrow the list to the number of candidates the committee wishes to forward to the Board. If the voting results in fewer than three candidates with 2/3 two thirds majority votes, the co-chairs may allow for further discussion of candidates and then call for subsequent votes or the committee may report to the Board Chair that it was unable to find three qualified candidates, at which time the Board Chair may direct the committee to continue recruiting and interviewing until it can forward at least three candidates, or the Board Chair may end the committee's service and form a new committee.

3.8.4 The co-chairs shall forward the finalists to the Board for consideration.

3.8.5 The Board shall select an institution of higher education president from among the finalists presented by the search committee. If the Board ~~is not satisfied~~ has good cause to

~~believe with~~ the finalists forwarded by a search committee ~~are not qualified or unlikely to succeed as president of the institution~~, the Board may direct the search committee to resume the search process until the search committee has forwarded three finalists with which the Board is satisfied, or the Board ~~Chair~~ may appoint a new search committee.

3.9. Proxy Voting by Search Committee Members: Search committee members may vote by proxy, but no search committee member may vote on a candidate unless ~~he or she has~~ they have interviewed the candidate. The proxy vote will be transmitted to the committee co-chairs by email or other verifiable written form.

R203-4. President Selection by Board ~~M~~members

4.1. Files and Reference Information Available to Board ~~M~~members: The Commissioner ~~or their designee~~ will provide the Board ~~members~~ with the comprehensive files of all finalists for their review prior to the ~~time of the candidates'~~ scheduled interviews. If the Board deems it ~~to be~~ necessary, the Commissioner ~~or their designee~~ will make additional ~~contacts inquiries~~ to gather ~~added more~~ information on the finalists and report ~~his or her~~ their findings to the Board.

4.2. Schedule of On-Campus Interviews: The Commissioner ~~or their designee~~ will schedule all finalists for on-campus interviews and make the necessary arrangements with all finalists and the institution. ~~Pursuant to~~ In compliance with the Utah's Open and Public Meetings Act, the Board will make public the names of all finalists to be interviewed by the ~~full non-student members of the Board in such time as to be in compliance with state law~~ prior to the scheduled interviews.

4.3. Finalists' On-Campus Meetings and Interviews with the Board:

4.3.1. Prior to ~~the candidates being interviewed~~ interviews with by the full Board ~~interviews~~, the finalists shall ~~present in public meetings as well as~~ meeting with on-campus groups, including the institution's ~~b~~Board of ~~t~~Trustees, the ~~president's~~ cabinet, faculty, ~~and~~ staff, and students. The Commissioner or staff shall provide feedback from these groups to the Board.

4.3.2. The Board, along with the ~~b~~board of ~~t~~trustees executive committee, shall interview the finalists on campus in a closed executive session.

4.4. Deliberations after Interviews: After the interviews of the finalists are completed, the Board, the trustee executive committee (up to a maximum of five trustees), and the Commissioner shall comprehensively discuss the strengths and weakness of each ~~candidate~~ finalist.

4.5- Preliminary Qualification of Candidates: Prior to seeking consensus to appoint the president, ~~the~~ Board members shall consider the question: “Is one or more of these candidates fully qualified, and will one or more of them, in our judgment, perform the duties as president of this institution with distinction?” . If a majority of the members present appear to agree with the above question, the Board members will proceed to appoint a new president. If, however, a majority appear to disagree with this question, the Board members will request the search committee to reconvene and to search for additional qualified persons.

4.6- Board of Trustees May Petition for Consultation: Prior to the final selection of a ~~p~~President, the ~~b~~Board of ~~t~~Trustees may petition the Board to arrange for more extended communications regarding the selection of the ~~p~~President.

4.7- Voting to Appoint a President: ~~In compliance with the Utah Open and Public Meetings Act, T~~the Board will vote to appoint a new president in a ~~public meeting properly noticed meeting that complies with the Open and P public Mmeetings Act. A finalist can be appointed only upon an affirmative vote of five members of the Board. Nine votes or more will be required to appoint a president.~~

R203, Presidential Search Committee Requirements and Board’s Selection of Presidents¹

R203-1 Purpose: This policy provides requirements for presidential search committees and for the Utah Board of Higher Education’s (“Board”) selection of presidents in the Utah System of Higher Education (“USHE”).

R203-2 References

- 2.1 Utah Code § 53B-2-102, Appointment of Institution of Higher Education Presidents
- 2.2 Utah Code § 52-4-202, Public Notice of Meetings – Emergency Meetings
- 2.3 Utah Code Title 52 Chapter 4, Open and Public Meetings Act
- 2.4 Board Policy R120, Board of Higher Education Bylaws

R203-3 Presidential Search Committees

3.1 Equal Opportunity Employer: The Board is an equal opportunity employer. The Board’s decision to hire a president at a USHE institution shall be made only after an extensive search, including advertising the position nationally, thoroughly screening the applicants, and evaluating applicants without regard to race, ethnicity, color, sexual orientation, gender identity, sex, marital status, disability, national origin, veteran’s status, or religion.

3.2 Beginning of the Search Process: Appointing a president is one of the Board’s foremost responsibilities and the Board shall give the search process its highest priority. The Board chair shall initiate the search process as soon as practicable after a vacancy is announced. The Board may appoint an interim president during the search process if necessary.

3.3 Chair Appoints Search Committee: The Board shall establish a search committee that includes representatives of faculty, staff, students, the institution’s board of trustees, alumni, the institution’s executive council or cabinet, and the Board. The search committee shall be co-chaired by a member of the Board and the chair of the institution’s board of trustees. The Board chair shall select the other members of the search committee with particular emphasis on ensuring that stakeholders and the community are well-represented. The Commissioner of

¹ *Adopted November 20, 1978; amended May 18, 1982, October 11, 1985, September 12, 1986, September 18, 1992, November 13, 1998, September 13, 2002, December 12, 2002, September 5, 2008, and May 29, 2009. Amended on August 27, 2010, January 25, 2013, March 30, 2018, and XXX.*

Higher Education (“Commissioner”), or their designee, and staff shall support and manage the search process. The Board may engage a consultant, as appropriate, to assist with the search.

3.4 Recruitment: For each search, the Board, through the Commissioner, shall create a comprehensive, active recruiting plan to ensure a strong, diverse pool of potential candidates. As part of a successful recruiting plan, all Board members, trustees, search committee members, the Commissioner, presidents, vice presidents, deans, department heads, faculty, students, alumni, friends of the institution, and members of the community should seek out and nominate qualified individuals and encourage them to apply for the position.

3.5 Duties of the Search Committee: The search committee shall meet regularly and, by a majority vote of those present, determine and direct all activities of the committee. The committee shall host constituent meetings to seek public input regarding the qualifications of ideal candidates and explain the search process. The committee shall have the duty to establish qualifications for the position, search for qualified individuals, receive nominations and applications, review the qualifications of nominees and applicants, seek out information about nominees and applicants, interview nominees and applicants as a committee, and transmit to the Board the names of at least three but not more than five persons who are fully qualified to serve as president of the institution. The Commissioner and their staff shall provide information, make confidential inquiries, and give reports about each candidate to the search committee.

3.6 Confidentiality: The search committee shall keep all information about applicants and nominees strictly confidential. The committee should exercise special care to avoid disclosure of confidential information and protect the right of all applicants and nominees to privacy and anonymity, as well as search committee members’ candid views on each applicant in search committee meetings insofar as is possible. The committee co-chairs and the executive assistant/secretary shall emphasize and constantly remind all search committee members of the importance of preserving the confidentiality of all information made available to all members of the committee. The search committee may not forward an individual to the Board as a finalist unless two thirds of the search committee members, as verified by the Commissioner, find the individual to be qualified and likely to succeed as the institution’s president. The Board will make public the names of the finalists to be interviewed by the Board.

3.7 Interviews of Qualified Applicants: The search committee shall review the comprehensive files on all applicants and interview the applicants who appear to be qualified and show strong potential to serve as a successful president.

3.7.1 At the conclusion of all interviews, the search committee shall discuss openly and fully each applicant. All committee members should give the committee the benefit of their candid views on each candidate.

3.8 Search Committee Vote: Following the interviews discussion, the search committee members shall vote by secret ballot on each interviewee who has indicated their willingness to serve as president. The voting procedure shall be as follows:

3.8.1 By electronic or other means, the committee members will answer yes or no to the following questions for each candidate: “Is this individual qualified and likely to succeed as the institution’s next president?”.

3.8.2 The Commissioner’s staff shall tally the votes and present the results to the search committee. Only those candidates who have received a two thirds majority vote by the search committee may be forwarded to the Board for consideration.

3.8.3 The search committee is not required to send more than three finalists, even if more than three candidates have received a two thirds majority vote. The committee may decide to either send the highest scoring three to five candidates or hold additional votes to narrow the list to the number of candidates the committee wishes to forward to the Board. If the voting results in fewer than three candidates with two thirds majority votes, the co-chairs may allow for further discussion of candidates and then call for subsequent votes or the committee may report to the Board chair that it was unable to find three qualified candidates, at which time the Board chair may direct the committee to continue recruiting and interviewing until it can forward at least three candidates, or the Board chair may end the committee’s service and form a new committee.

3.8.4 The co-chairs shall forward the finalists to the Board for consideration.

3.8.5 The Board shall select an institution of higher education president from among the finalists presented by the search committee. If the Board has good cause to believe the finalists forwarded by a search committee are not qualified or unlikely to succeed as president of the institution, the Board may direct the search committee to resume the search process until the search committee has forwarded three finalists with which the Board is satisfied, or the Board chair may appoint a new search committee.

3.9 Proxy Voting by Search Committee Members: Search committee members may vote by proxy, but no search committee member may vote on a candidate unless they have interviewed the candidate. The proxy vote will be transmitted to the committee co-chairs by email or other verifiable written form.

R203-4 President Selection by Board

4.1 Files and Reference Information Available to Board: The Commissioner or their designee will provide the Board with the comprehensive files of all finalists for their review prior to the candidates’ scheduled interviews. If the Board deems it necessary, the Commissioner or

their designee will make additional inquiries to gather more information on the finalists and report their findings to the Board.

4.2 Schedule of On-Campus Interviews: The Commissioner or their designee will schedule all finalists for on-campus interviews and make the necessary arrangements with all finalists and the institution. In compliance with the Utah Open and Public Meetings Act, the Board will make public the names of all finalists to be interviewed by the non-student members of the Board prior to the scheduled interviews.

4.3 Finalists' On-Campus Meetings and Interviews with the Board

4.3.1 Prior to interviews with the Board, the finalists shall present in public meetings as well as meeting with on-campus groups, including the institution's board of trustees, the cabinet, faculty, staff, and students. The Commissioner or staff shall provide feedback from these groups to the Board.

4.3.2 The Board, along with the board of trustees executive committee, shall interview the finalists on campus in a closed executive session.

4.4 Deliberations after Interviews: After the interviews of the finalists are completed, the Board, the trustee executive committee (up to a maximum of five trustees), and the Commissioner shall comprehensively discuss the strengths and weakness of each finalist.

4.5 Preliminary Qualification of Candidates: Prior to seeking consensus to appoint the president, Board members shall consider the question: "Is one or more of these candidates fully qualified, and will one or more of them, in our judgment, perform the duties as president of this institution with distinction?". If a majority of the members present appear to agree with the above question, the Board members will proceed to appoint a new president. If, however, a majority appear to disagree with this question, the Board members will request the search committee to reconvene and to search for additional qualified persons.

4.6 Board of Trustees May Petition for Consultation: Prior to the final selection of a president, the board of trustees may petition the Board to arrange for more extended communications regarding the selection of the president.

4.7 Voting to Appoint a President: In compliance with the Utah Open and Public Meetings Act, the Board will vote to appoint a new president in a public meeting. A finalist can be appointed only upon an affirmative vote of five members of the Board.



R212, Chief Executive Officer Travel Oversight¹

R212-1 Purpose: To provide the Utah Board of Higher Education and the Utah System of Higher Education institution Boards of Trustees oversight of the Commissioner's and President's, respectively, out of state travel in order to ensure institution Presidents and the Commissioner are transparent and accountable in the use of state resources.

R212-2 References

- 2.1** Utah Code [§53B-1-402](#), Establishment of Board -- Powers, Duties, and Authority -- Reports
- 2.2** Utah Code [§53B-2-102](#), Appointment of Institution of Higher Education Presidents
- 2.3** [Board Policy R120](#), Board of Higher Education Bylaws

R212-3 Policy

3.1 Travel: Travel is an integral and expected part of a President's and Commissioner's roles.

3.2 Institution Boards of Trustees Oversight: Each institution President, or their designee, shall annually submit to its Board of Trustees Chair an itemized record of the President's out of state institution-funded travel expenses. The itemized list shall include:

3.2.1 Travel dates and locations;

3.2.2 The purpose of the travel; and

3.2.3 Total expenses for each trip.

3.3 President's Travel Audit: Institutions shall annually audit out of state Presidential travel and submit audit reports to the manager of audit and financial services by January 15 of each year.

3.4 Utah Board of Higher Education Oversight: The Commissioner, or their designee, shall annually submit to the Board Chair an itemized record of the Commissioner's out of state Board-funded travel expenses. The itemized list shall include:

3.4.1 Travel dates and locations;

¹ *Adopted September 16, 2011 as Board Policy R566; amended January 25, 2013, and March 31, 2017, and XXX.*

3.4.2 The purpose of the travel; and

3.4.3 Total expenses for each trip.

3.5 Commissioner's Travel Audit: The Office of the Commissioner of Higher Education shall annually audit the Commissioner's out of state travel.

R212, Chief Executive Officer Travel Oversight¹

R212-1 Purpose: To provide the Utah Board of Higher Education and the Utah System of Higher Education institution Boards of Trustees oversight of the Commissioner's and President's, respectively, out of state travel in order to ensure institution Presidents and the Commissioner are transparent and accountable in the use of state resources.

R212-2 References

- 2.1** Utah Code § 53B-1-402, Establishment of Board -- Powers, Duties, and Authority -- Reports
- 2.2** Utah Code § 53B-2-102, Appointment of Institution of Higher Education Presidents
- 2.3** Board Policy R120, Board of Higher Education Bylaws

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3.2.1 Travel dates and locations;

3.2.2 The purpose of the travel; and

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3.3 President's Travel Audit: Institutions shall annually audit out of state Presidential travel and submit audit reports to the manager of audit and financial services by January 15 of each year.

3.4 Utah Board of Higher Education Oversight: The Commissioner, or their designee, shall annually submit to the Board Chair an itemized record of the Commissioner's out of state Board-funded travel expenses. The itemized list shall include:

3.4.1 Travel dates and locations;

¹ *Adopted September 16, 2011 as Board Policy R566; amended January 25, 2013, and March 31, 2017, and XXX.*

3.4.2 The purpose of the travel; and

3.4.3 Total expenses for each trip.

3.5 Commissioner's Travel Audit: The Office of the Commissioner of Higher Education shall annually audit the Commissioner's out of state travel.

R516, General Student Fees¹

R516-1 Purpose: To ~~establish-outline~~ the process for establishing, reviewing, revising, and repealing general student fees for institutions in the Utah System of Higher Education (“USHE”).

R516-2 References

- 2.1 Utah Code Title 53Bb Chapter 1, Governance, Powers, Rights, and Responsibilities
- 2.2 Utah Code § 53B-7-101, Combined Requests for Appropriations
- 2.3 20 U.S. Code § 1091b, Institutional Refunds
- 2.4 Board Policy R510, Tuition
- 2.5 Board Policy R514, Refunds of Tuition, Fees, and Other Student Charges
- 2.6 Board Policy R511, Tuition Disclosures and Consultation
- 2.7 Board Policy R590, Issuance of Bonds for Colleges and Universities

R516-3 Definitions

3.1 “Degree-granting Institution” means an institution of higher education described in Utah Code section 53-B-1-102(1)(a).

3.2 “General Student Fees” means institution-wide mandatory fees assessed to students upon registration to benefit students broadly and to support student ~~inclusion~~belonging, enrichment, and success as a campus community.

3.3 “General Student Fee Advisory Board” is an institutional committee comprised of students, faculty, and administrators that oversees the establishment, review, revision, or repeal of general student fees.

3.4 “Technical College” means an institution of higher education described in Utah Code section 53B-1-102(1)(b).

R516-4 Affordability in the Utah System of Higher Education: The Utah Board of Higher Education (“Board”) has established affordability as a top priority. To support that priority, institutions and boards of trustees should consider all alternatives before recommending new fees or fee increases. Boards of trustees should rigorously scrutinize requests for student fees and fee increases, ensuring they

¹ Amended September 16, 2022; ~~and XXX~~.

are justifiable, reasonable, and benefit students broadly, as described herein. ~~Boards of trustees should particularly assess how general student fees support diversity, equity, and inclusion.~~

R516-5 Authority for Establishing General Student Fees: The Board is statutorily responsible to establish all general student fees. The Board normally establishes general student fees concurrently with tuition rates. Technical colleges are not authorized to charge general student fees. Therefore, the provisions of this policy shall not apply to technical colleges.

5.1 General Student Fee Purpose: Institutions must identify the specific purpose for which revenue generated from a general student fee will be used. Institutions may not use revenue from general student fees to fund instruction, academic support, general administrative expenses, or other expenses that should reasonably be covered with state appropriations or tuition. Institutions may request general student fees for the following purposes:

5.1.1 Student-Approved Facility Construction: Revenue from general student fees may be pledged to secure bonds to construct or renovate a specific facility that the student body approved in accordance with subsection 6.6. Such facilities shall be for the enrichment of the student experience and may not be for the construction of instructional space.

5.1.2 Student-Approved Facility Operation: Revenue from general student fees may be used to fund operation and maintenance, capital improvements, and other necessary operating expenses for student-approved facilities in subsection 5.1.1.

5.1.3 Student Activities, Programs, and Services: Revenue from general student fees may be used to fund activities, programs, and services from which the general student body may benefit.

5.2 Publication of General Student Fees: Institutions shall publish tuition and general student fees on their websites.

5.3 Revenue from General Student Fees: Revenue from general student fees is restricted to the specific program areas, facilities, and services for which they are approved and shall be established to cover budgeted expenses. Institutions may accumulate fund balances for large expenditures or reserves needing multi-year revenues only if planned, budgeted, and pre-approved by the institution's board of trustees. Institutions shall annually budget general student fee revenue and expenses and shall account for the revenue of each general student fee individually and separately from other sources.

5.4 Policy Implementation for Existing General Student Fees: An institution's general student fee advisory board, president, and board of trustees shall review existing general student

fees to determine if the fees align with the categories in subsection 5.1. Existing fees that do not align with subsection 5.1 shall be considered for repeal, transition to tuition, or for an exception to this policy as granted by the ~~Utah Board of Higher Education~~.

R516-6 Process for Creating, Revising, and Repealing General Student Fees

6.1 General Student Fee Advisory Board: Each institution shall establish a general student fee advisory board which shall oversee establishing, revising, maintaining, or repealing general student fees.

6.1.1 Composition of Board: The majority of the General Student Fee Advisory Board shall be comprised of currently enrolled students. Administrators and faculty may also be appointed to the advisory board. The board shall be chaired by a currently enrolled student.

6.1.2 Appointment and Procedures of the Board: Each institution will adopt policies and procedures for appointing members of the general student fee advisory board and for the operation of the board consistent with this policy.

6.2 Institutional Policy: Each institution shall develop a general student fee policy to govern the institution's processes for establishing, reviewing, revising, or repealing general student fees. The institutional policy shall include the following elements:

6.2.1 Establishing Fees: Establishing new student fees shall be supported by a demonstrated need, a clear statement describing the purpose of the fee, and a sound budget plan.

6.2.2 Reviewing Fees: Each institution's general student fee advisory board and board of trustees shall annually review each general student fee to ensure the fee still meets established objectives. The general student fee advisory board shall require an annual report from each student fee program manager, review institutional enrollment projections and enrollment impact on general student fee revenue, examine whether each general student fee maybe proportionally adjusted with enrollment change, and assess the adequacy of fund balances as allowed in subsection 5.3. The general student fee advisory board shall provide a report of their annual review of each general student fee, including any recommendations for revision or repeal, to the board of trustees, which shall review the information and may make recommendations or revision or repeal of a general student fee.

6.2.3 Revising Fees: Proposed revisions to general student fees must include a rationale for the proposed change and a revised budget plan.

6.2.4 Repealing Fees: Institutions may recommend the repeal of a general student fee when pledged revenue is no longer needed for debt service or when programs, services, or activities are discontinued, or an alternative funding source is identified.

6.2.5 Five-Year Comprehensive Review: Beginning in 2020-21 and every five years thereafter, the general student fee advisory board and the board of trustees shall comprehensively review all general student fees and determine whether each fee should be retained, transitioned to tuition or state appropriations, or repealed. The board of trustees shall submit a report of their comprehensive review including the justification for each fee determination to the ~~Utah Board of Higher Education~~.

6.2.6 Sunset of Student Approved Facility Construction Fees: Each general student fee established for constructing or renovating a student-approved facility under subsection 5.1.1 shall be repealed by the beginning of the academic year after bond obligations end. Fees created or adjusted for student-approved facility operation under 5.1.2 shall continue and be annually reviewed and adjusted according to the procedures set in this policy.

6.3 Student Notice and Student Hearing: Institutions proposing a new general student fee, revising an existing general student fee, or repealing a general student fee shall:

6.3.1 Notify currently enrolled students using a method(s) that the institution determines best reaches the majority of students (e.g. email, text, social media, student newspaper, digital signage, etc.) of the proposed change and the date, time, and location of a student hearing on the proposal.

6.3.2 Hold a student hearing which shall be attended by at least one student representative from the general student fee advisory board. The student representative shall provide a summary of student comments received during the hearing to the institution's board of trustees. The hearing may be held in conjunction with the institution's' truth-in-tuition hearing.

6.4 Board of Trustees Oversight and Review: The institution's board of trustees shall review requests to establish, revise, or repeal a general student fee and make a recommendation. The board of trustees shall consider the general student fee advisory board's recommendations and accompanying documentation of demonstrated need, purpose, and budget plan and shall ensure the recommendations comply with the purposes stated in this policy, including that they are justifiable, reasonable, and benefit students broadly, as described herein. The board of trustees shall provide its recommendations to the ~~Utah Board of Higher Education~~ for approval.

6.5 Board of Higher Education Approval: The Board shall consider a board of trustees' recommendation and, by majority vote in a public Board meeting, approve, modify, or deny the establishment, revision, continuance, or repeal of a general student fee.

6.6 General Student Body Voting for General Student Fee Funded Facility

Construction and Operation: Except as provided by subsection 6.6.4, institutions proposing new general student fees for student-approved facility construction or renovation projects shall conduct a vote of the student body.

6.6.1 Institutions shall notify currently enrolled students and provide them the following information regarding the purpose and amount of the proposed fees at least 30 days prior to a vote:

6.6.1.1 Details of the proposed facility and estimated costs for construction;

6.6.1.2 The projected amount of the general student fee needed to fund the debt service for the cost of facility construction or renovation;

6.6.1.3 The estimated length of debt service;

6.6.1.4 The estimated costs, over the life of the facility, for the operation of the facility including operation and maintenance and capital improvements; and

6.6.1.5 The projected amount of the general student fee to cover the cost of facility operation including operations and maintenance, capital improvements, and other necessary operating expenses.

6.6.2 A majority of voting students must vote in favor of the proposal to move forward to the board of trustees.

6.6.3 In establishing a general student fee for student-approved facility construction, the board of trustees shall consider the results of the student body vote including the percentage of the student body who voted in the election and the percentage of students who voted in favor of the proposal.

6.6.4 General student fees that are proposed to renovate or replace an existing student-approved facility do not require a vote of the student body if the project does not expand the facility's capacity and does not exceed \$10,000,000 for institutions with a research mission, \$6,000,000 for other degree-granting institutions with more than 10,000 student headcount and \$4,000,000 for other degree-granting institutions.

R516-7 Audit: In conjunction with the annual review of USHE institution tuition use required by Board Policy R510-4, the USHE auditor shall review the selected institutions' general student fees for compliance with this policy.

R516-8 Option to Waive General Student Fees: Institutions may waive general student fees in whole or in part for students without prior Board authorization.

R516, General Student Fees¹

R516-1 Purpose: To outline the process for establishing, reviewing, revising, and repealing general student fees for institutions in the Utah System of Higher Education (“USHE”).

R516-2 References

- 2.1 Utah Code Title 53B Chapter 1, Governance, Powers, Rights, and Responsibilities
- 2.2 Utah Code § 53B-7-101, Combined Requests for Appropriations
- 2.3 20 U.S. Code § 1091b, Institutional Refunds
- 2.4 Board Policy R510, Tuition
- 2.5 Board Policy R514, Refunds of Tuition, Fees, and Other Student Charges
- 2.6 Board Policy R511, Tuition Disclosures and Consultation
- 2.7 Board Policy R590, Issuance of Bonds for Colleges and Universities

R516-3 Definitions

- 3.1 **“Degree-granting Institution”** means an institution of higher education described in Utah Code section 53B-1-102(1)(a).

- 3.2 **“General Student Fees”** means institution-wide mandatory fees assessed to students upon registration to benefit students broadly and to support student belonging, enrichment, and success as a campus community.

- 3.3 **“General Student Fee Advisory Board”** is an institutional committee comprised of students, faculty, and administrators that oversees the establishment, review, revision, or repeal of general student fees.

- 3.4 **“Technical College”** means an institution of higher education described in Utah Code section 53B-1-102(1)(b).

R516-4 Affordability in the Utah System of Higher Education: The Utah Board of Higher Education (“Board”) has established affordability as a top priority. To support that priority, institutions and boards of trustees should consider all alternatives before recommending new fees or fee increases. Boards of trustees should rigorously scrutinize requests for student fees and fee increases, ensuring they are justifiable, reasonable, and benefit students broadly, as described herein.

¹ Amended September 16, 2022; and XXX.

R516-5 Authority for Establishing General Student Fees: The Board is statutorily responsible to establish all general student fees. The Board normally establishes general student fees concurrently with tuition rates. Technical colleges are not authorized to charge general student fees. Therefore, the provisions of this policy shall not apply to technical colleges.

5.1 General Student Fee Purpose: Institutions must identify the specific purpose for which revenue generated from a general student fee will be used. Institutions may not use revenue from general student fees to fund instruction, academic support, general administrative expenses, or other expenses that should reasonably be covered with state appropriations or tuition.

Institutions may request general student fees for the following purposes:

5.1.1 Student-Approved Facility Construction: Revenue from general student fees may be pledged to secure bonds to construct or renovate a specific facility that the student body approved in accordance with subsection 6.6. Such facilities shall be for the enrichment of the student experience and may not be for the construction of instructional space.

5.1.2 Student-Approved Facility Operation: Revenue from general student fees may be used to fund operation and maintenance, capital improvements, and other necessary operating expenses for student-approved facilities in subsection 5.1.1.

5.1.3 Student Activities, Programs, and Services: Revenue from general student fees may be used to fund activities, programs, and services from which the general student body may benefit.

5.2 Publication of General Student Fees: Institutions shall publish tuition and general student fees on their websites.

5.3 Revenue from General Student Fees: Revenue from general student fees is restricted to the specific program areas, facilities, and services for which they are approved and shall be established to cover budgeted expenses. Institutions may accumulate fund balances for large expenditures or reserves needing multi-year revenues only if planned, budgeted, and pre-approved by the institution's board of trustees. Institutions shall annually budget general student fee revenue and expenses and shall account for the revenue of each general student fee individually and separately from other sources.

5.4 Policy Implementation for Existing General Student Fees: An institution's general student fee advisory board, president, and board of trustees shall review existing general student fees to determine if the fees align with the categories in subsection 5.1. Existing fees that do not

align with subsection 5.1 shall be considered for repeal, transition to tuition, or for an exception to this policy as granted by the Board.

R516-6 Process for Creating, Revising, and Repealing General Student Fees

6.1 General Student Fee Advisory Board: Each institution shall establish a general student fee advisory board which shall oversee establishing, revising, maintaining, or repealing general student fees.

6.1.1 Composition of Board: The majority of the General Student Fee Advisory Board shall be comprised of currently enrolled students. Administrators and faculty may also be appointed to the advisory board. The board shall be chaired by a currently enrolled student.

6.1.2 Appointment and Procedures of the Board: Each institution will adopt policies and procedures for appointing members of the general student fee advisory board and for the operation of the board consistent with this policy.

6.2 Institutional Policy: Each institution shall develop a general student fee policy to govern the institution's processes for establishing, reviewing, revising, or repealing general student fees. The institutional policy shall include the following elements:

6.2.1 Establishing Fees: Establishing new student fees shall be supported by a demonstrated need, a clear statement describing the purpose of the fee, and a sound budget plan.

6.2.2 Reviewing Fees: Each institution's general student fee advisory board and board of trustees shall annually review each general student fee to ensure the fee still meets established objectives. The general student fee advisory board shall require an annual report from each student fee program manager, review institutional enrollment projections and enrollment impact on general student fee revenue, examine whether each general student fee maybe proportionally adjusted with enrollment change, and assess the adequacy of fund balances as allowed in subsection 5.3. The general student fee advisory board shall provide a report of their annual review of each general student fee, including any recommendations for revision or repeal, to the board of trustees, which shall review the information and may make recommendations or revision or repeal of a general student fee.

6.2.3 Revising Fees: Proposed revisions to general student fees must include a rationale for the proposed change and a revised budget plan.

6.2.4 Repealing Fees: Institutions may recommend the repeal of a general student fee when pledged revenue is no longer needed for debt service or when programs, services, or activities are discontinued, or an alternative funding source is identified.

6.2.5 Five-Year Comprehensive Review: Beginning in 2020-21 and every five years thereafter, the general student fee advisory board and the board of trustees shall comprehensively review all general student fees and determine whether each fee should be retained, transitioned to tuition or state appropriations, or repealed. The board of trustees shall submit a report of their comprehensive review including the justification for each fee determination to the Board.

6.2.6 Sunset of Student Approved Facility Construction Fees: Each general student fee established for constructing or renovating a student-approved facility under subsection 5.1.1 shall be repealed by the beginning of the academic year after bond obligations end. Fees created or adjusted for student-approved facility operation under 5.1.2 shall continue and be annually reviewed and adjusted according to the procedures set in this policy.

6.3 Student Notice and Student Hearing: Institutions proposing a new general student fee, revising an existing general student fee, or repealing a general student fee shall:

6.3.1 Notify currently enrolled students using a method(s) that the institution determines best reaches the majority of students (e.g. email, text, social media, student newspaper, digital signage, etc.) of the proposed change and the date, time, and location of a student hearing on the proposal.

6.3.2 Hold a student hearing which shall be attended by at least one student representative from the general student fee advisory board. The student representative shall provide a summary of student comments received during the hearing to the institution's board of trustees. The hearing may be held in conjunction with the institution's' truth-in-tuition hearing.

6.4 Board of Trustees Oversight and Review: The institution's board of trustees shall review requests to establish, revise, or repeal a general student fee and make a recommendation. The board of trustees shall consider the general student fee advisory board's recommendations and accompanying documentation of demonstrated need, purpose, and budget plan and shall ensure the recommendations comply with the purposes stated in this policy, including that they are justifiable, reasonable, and benefit students broadly, as described herein. The board of trustees shall provide its recommendations to the Board for approval.

6.5 Board of Higher Education Approval: The Board shall consider a board of trustees' recommendation and, by majority vote in a public Board meeting, approve, modify, or deny the establishment, revision, continuance, or repeal of a general student fee.

6.6 General Student Body Voting for General Student Fee Funded Facility

Construction and Operation: Except as provided by subsection 6.6.4, institutions proposing new general student fees for student-approved facility construction or renovation projects shall conduct a vote of the student body.

6.6.1 Institutions shall notify currently enrolled students and provide them the following information regarding the purpose and amount of the proposed fees at least 30 days prior to a vote:

6.6.1.1 Details of the proposed facility and estimated costs for construction;

6.6.1.2 The projected amount of the general student fee needed to fund the debt service for the cost of facility construction or renovation;

6.6.1.3 The estimated length of debt service;

6.6.1.4 The estimated costs, over the life of the facility, for the operation of the facility including operation and maintenance and capital improvements; and

6.6.1.5 The projected amount of the general student fee to cover the cost of facility operation including operations and maintenance, capital improvements, and other necessary operating expenses.

6.6.2 A majority of voting students must vote in favor of the proposal to move forward to the board of trustees.

6.6.3 In establishing a general student fee for student-approved facility construction, the board of trustees shall consider the results of the student body vote including the percentage of the student body who voted in the election and the percentage of students who voted in favor of the proposal.

6.6.4 General student fees that are proposed to renovate or replace an existing student-approved facility do not require a vote of the student body if the project does not expand the facility's capacity and does not exceed \$10,000,000 for institutions with a research mission, \$6,000,000 for other degree-granting institutions with more than 10,000 student headcount and \$4,000,000 for other degree-granting institutions.

R516-7 Audit: In conjunction with the annual review of USHE institution tuition use required by Board Policy R510-4, the USHE auditor shall review the selected institutions' general student fees for compliance with this policy.

R516-8 Option to Waive General Student Fees: Institutions may waive general student fees in whole or in part for students without prior Board authorization.

R565, Audit Committees¹

R565-1 Purpose: To provide for the functions and responsibilities of audit committees within the Utah System of Higher Education (~~“System~~USHE”).

R565-2 References

- 2.1 ~~Utah Code §53B-6-102~~Utah Code §53B-6-102, (Standardized Systems Prescribed by the Board)
- 2.2 ~~Utah Code §53B-7-101~~Utah Code §53B-7-101, (~~Combined Requests for Appropriations – Board Review of Operating Budgets – Submission of Budgets – Recommendations – Hearing request – Appropriation formulas – Allocations – Dedicated credits – Financial affairs~~Financial Affairs Under the General Supervision of the Board)
- 2.3 Utah Code ~~§63I-5~~Utah Code Title §63I, Chapter ~~-5~~, (Utah Internal Audit Act)
- 2.4 ~~Board Policy R561~~Board Policy R561, Accounting and Financial Controls
- 2.5 ~~Board Policy R567~~Board Policy R567, Internal Audit Program
- 2.6 International Standards for the Professional Practice of Internal Auditing (IIA Standards), Institute of Internal Auditors, ~~International Standards for the Professional Practice of Internal Auditing (IIA Standards)~~

R565-3 Audit Committees

3.1 Board Audit C~~Sub~~committee: The Utah Board of Higher Education (“Board”) shall establish and maintain a Board Audit ~~Subcommittee as a standing S~~ubcommittee of the ~~Finance and Facilities~~ Committee.

3.2 Creation of Trustee Audit Committees: Each institution’s Board of Trustees shall create a standing Audit Committee to assist the full board in overseeing financial matters and to oversee institutional internal audit activities, in accordance with the *Internal Audit Act* and IIA Standards.

R565-4 Board and Trustee Audit Committee Charters

4.1 Audit Charters: The Board Audit ~~C~~Subcommittee and institution ~~B~~boards of ~~T~~rustees’ ~~a~~Audit ~~e~~Committees shall establish respective audit charters that outline their purpose, authority,

¹ *Adopted November 22, 1977; amended June 27, 1978, September 2, 1999, March 18, 2005, March 9, 2007, October 29, 2010, March 31, 2017, ~~and~~ November 16, 2018, and XXX.*

and responsibilities. The audit charters shall grant appropriate access to data, information, records, and personnel needed to conduct audit activities.

4.2 Authority

4.2.1 Board of Higher Education Audit Subcommittee: The Board of Higher Education Audit Subcommittee shall provide advice and recommendations to the Board of Higher Education regarding oversight and internal controls of the system and individual intuitions. Although the Board of Higher Education Audit Subcommittee is not vested with decision making authority on behalf of the Board of Higher Education, the Board of Higher Education Audit Subcommittee has authority to:

4.2.1.1 Access Data: Access any and all data, information, records, and personnel to fulfill its purpose and responsibilities;

4.2.1.2 Confer with Others: Confer with external auditors, legal counsel, and others as necessary; and

4.2.1.3 Investigate: Conduct or authorize investigations into any matters considered necessary to achieve its purpose.

4.2.2 Trustee Audit Committee: Trustee Audit Committees shall provide advice and recommendations to the Board of Trustees regarding institutional oversight and internal controls. Although Trustee Audit Committees are not vested with decision making authority on behalf of the Board of Trustees, the Trustee Audit Committee has authority to:

4.2.2.1 Oversee: Oversee the internal audit activities within the institution;

4.2.2.2 Confer: Confer with external auditors, legal counsel, and others as necessary;

4.2.2.3 Assist: Assist in resolving disagreements between institutional representatives and external auditors;

4.2.2.4 Access: Access any and all data, information, records, and personnel to fulfill its purpose and responsibilities;

4.2.2.5 Investigate: Conduct or authorize investigations into any matters considered necessary to achieve its purpose; and

4.2.2.6 Consult: Consult with institutional representatives, the Board of Trustees, and the Board of Higher Education Audit Subcommittee concerning the adequacy of the institution's internal audit activities, staffing levels, and internal controls.

4.3 Committee Membership

4.3.1 Board of Higher Education Audit ~~C~~Subcommittee: The Board ~~of Higher Education~~-Audit ~~Subcommittee-Committee~~ shall consist of at least three but no more than five members, including at least three members of the Board ~~of Higher Education~~. The Chair of the Board will appoint the ~~s~~CSubcommittee ~~e~~Chair and members. When practicable, at least one of the ~~e~~Committee members should have financial expertise either through professional certification or experience.

4.3.2 Trustee Audit Committee: The ~~t~~Trustee ~~a~~Audit ~~e~~Committee shall consist of at least three but no more than five members, including at least three members of the ~~b~~Board of ~~t~~Trustees. The Committee members will be appointed by the ~~t~~Trustee ~~e~~Chair. Unless a ~~e~~Committee ~~e~~Chair is appointed by the ~~b~~Board ~~e~~Chair, the members of the ~~e~~Committee may designate a ~~e~~Chair by majority vote. When practicable, at least one of the ~~e~~Committee members should have financial expertise either through professional certification or experience.

4.4 Meetings

4.4.1 Board ~~of Higher Education~~-Audit ~~C~~Subcommittee: The ~~s~~CSubcommittee shall meet at least three times per year to review audit activities. The ~~s~~CSubcommittee may meet with ~~b~~Boards of ~~t~~Trustees, institutional administrators, and auditors. ~~Board of Higher Education~~The Office of the Commissioner of Higher Education (“OCHE”) staff shall prepare and provide meeting agendas along with appropriate briefing materials.

4.4.2 Trustee Audit Committee: The ~~Trustee Audit~~ ~~e~~Committee shall meet at least three times a per year, with additional meetings as needed. The ~~C~~committee may invite institutional administrators, auditors, and others to attend meetings and provide pertinent information. Meeting agendas will be prepared and provided in advance to members, along with appropriate briefing materials. Informal minutes will be prepared.

4.5 Responsibilities

4.5.1 The Board ~~of Higher Education~~-Audit ~~C~~Subcommittee shall:

4.5.1.1 ~~Communicate between the Subcommittee and Trustee Audit Committees~~Communication: Schedule meetings and correspondence as necessary to maintain regular, independent communication and information flow between the Board ~~of Higher Education~~-Audit ~~C~~Subcommittee and ~~t~~Trustee ~~a~~Audit ~~e~~Committees (via ~~t~~Trustee ~~e~~Chairs and ~~t~~Trustee ~~a~~Audit ~~e~~Committee ~~e~~Chairs).~~;~~

4.5.1.2 ~~Receive and Reports Review Annual Financial Statements~~: Receive and review reports from ~~t~~Trustee ~~a~~Audit ~~e~~Committees (via ~~t~~Trustee ~~e~~Chairs and ~~t~~Trustee

~~a~~Audit ~~e~~Committee ~~e~~Chairs) regarding the annual financial statements, including a summary of significant accounting and reporting issues.

4.5.1.3 ~~Receive and Review Annual Financial Audits:~~ Receive and review reports from ~~†~~Trustee ~~a~~Audit ~~e~~Committees (via ~~†~~Trustee ~~e~~Chairs and ~~†~~Trustee ~~a~~Audit ~~e~~Committee ~~e~~Chairs) regarding the results of the annual financial statement audit, including audit scope and approach, any restrictions on the auditor's activities or on access to requested information, and any significant disagreements with institutional representatives.

4.5.1.4 ~~Receive and Review Standards of Conduct:~~ Receive and review reports from the ~~Board Audit~~Utah ~~s~~System ~~of Higher Education (“USHE”)~~ ~~a~~Audit ~~d~~Director and institution auditors regarding the control environment, means of communicating standards of conduct, and practices with respect to risk assessment and risk management.

4.5.1.5 ~~Receive and Review Systems of Internal Control:~~ Receive and review reports from the ~~system~~ ~~USHE~~Board ~~a~~Audit ~~d~~Director and institution auditors regarding systems of internal control.

4.5.1.6 ~~Receive and Review Complaint Reports:~~ Receive and review reports from institutions regarding the receipt, retention, and treatment of complaints, including anonymous complaints about accounting, auditing, internal control, and other related issues.

4.5.1.7 ~~Review Compliance:~~ Review reports from the ~~system~~ ~~USH~~Board ~~E~~ ~~a~~Audit ~~d~~Director and institution auditors regarding systems for monitoring compliance with all applicable laws and regulations.

4.5.1.8 ~~Review Instances of Noncompliance:~~ Obtain regular updates from institutions regarding instances of material noncompliance that might have implications for ~~the System~~USHE~~the Board~~.

4.5.1.9 ~~Receive Internal Audit Reports:~~ Receive annual summary reports from ~~†~~Trustee ~~a~~Audit ~~e~~Committees (via ~~T~~rustee ~~e~~Chairs and ~~†~~Trustee ~~a~~Audit ~~e~~Committee ~~e~~Chairs) regarding the results of the internal auditing program at each institution, including any restrictions and limitations on internal auditing activities.

4.5.1.10 ~~Report on Recommendations:~~ At least annually, the ~~C~~subcommittee will provide a report or minutes of meetings to the full Board ~~of Higher Education~~-detailing the Committee's activities and recommendations.~~57~~

4.5.2 The Trustee Audit Committee shall:

4.5.2.1 Communicate with External Auditors: Schedule meetings and correspondence as necessary to maintain regular, independent communication and information flow between the Trustee Audit Committee and external auditors.

4.5.2.2 Review Institutional Financial Statements: Review the institution's financial statements, including significant accounting and reporting issues. This includes reviewing the management discussion and analysis of the financial statements, along with any analyses prepared by institutional administration and/or external auditors setting forth significant financial reporting issues and judgments made in connection with the preparation of the financial statements.

4.5.2.3 Review the Annual Financial Audit with Administration: Review with the administration and the external auditors the results of the annual financial statement audit, including audit scope and approach, any restrictions on the auditor's activities or on access to requested information, and any significant disagreements with institutional representatives.

4.5.2.4 Review an Institution's Control Environment: Review information regarding the institution's control environment, means of communicating standards of conduct, and practices with respect to risk assessment and risk management.

4.5.2.5 Confer with Auditors: Confer with external and internal auditors regarding the quality of institutional systems of internal control.

4.5.2.6 Review the Treatment of Complaints: Review information regarding the receipt, retention, and treatment of complaints, including anonymous complaints about accounting, auditing, internal control, and other related issues.

4.5.2.7 Review the Adequacy of Auditing Personnel: Review with campus administrators and other institutional representatives the adequacy of the institution's auditing personnel, staffing levels, and controls.

4.5.2.8 Monitoring Compliance: Review information provided by the administration regarding systems for monitoring compliance with all applicable laws and regulations.

4.5.2.9 Review Instances of Noncompliance: Obtain regular updates from institutional administrators and/or legal counsel regarding instances of material noncompliance that might have implications for the institution.

4.5.2.10 ~~Review Internal Audit Functions with Administration:~~ Review with the administration and the ~~e~~Chief ~~i~~Internal ~~a~~Audit ~~e~~Executive the charter, plans, activities, staffing and organizational structure of the internal audit function.

4.5.2.11 ~~Review Auditing Restrictions and/or Limitations:~~ Review any restrictions and limitations on internal auditing activities.

4.5.2.12 ~~Oversee the Chief Internal Audit Executive:~~ Appoint, evaluate performance, if necessary, dismiss the institution's ~~e~~Chief ~~i~~Internal ~~a~~Audit ~~e~~Executive.

4.5.2.13 ~~Review Reports from the Chief Internal Audit Executive:~~ Receive and review internal audit reports and/or periodic summaries of internal audit activities prepared by the ~~e~~Chief ~~i~~Internal ~~a~~Audit ~~e~~Executive.

4.5.2.14 ~~Schedule Meetings with the Chief Internal Audit Executives:~~ Schedule meetings and correspondence as necessary to maintain regular, independent communication and information flow between the ~~e~~Committee and the institution's ~~e~~Chief ~~i~~Internal ~~a~~Audit ~~e~~Executive.

4.6 Reporting

4.6.1 ~~Board of Higher Education~~ Audit ~~C~~Subcommittee

4.6.1.1. ~~C~~Subcommittee Reports to the Full Board: At least annually, the ~~s~~CSubcommittee will provide a report or minutes of meetings to the full Board ~~of Higher Education~~ detailing the Committee's activities and recommendations.

4.6.2 Trustee Audit Committee

4.6.2.1 ~~Trustee Audit Committees Report to the Full Board of Trustees:~~ At least annually, the ~~T~~Trustee Audit ~~e~~Committee shall provide a report or minutes of meetings to the full Board of Trustees detailing the Committee's activities and recommendations.

4.6.2.2 ~~Meetings with the Board Audit Subcommittee:~~ The ~~t~~Trustees ~~e~~Chair and ~~t~~Trustees ~~a~~Audit ~~e~~Committee ~~e~~Chair shall meet at least annually with the Board ~~of Higher Education~~ Audit ~~C~~Subcommittee to provide updates on the institutional activities required by this policy.

4.6.2.3 ~~Annual Reports:~~ The ~~e~~Committee shall prepare an annual report summarizing internal and external audit results from the prior year and an audit plan for the upcoming year. This report shall be submitted to ~~the the Board~~Board ~~of Higher Education~~ ~~a~~Audit ~~d~~Director no later than five business days before the annual Board ~~of Higher Education~~ Audit ~~C~~Subcommittee meeting.

R565, Audit Committees¹

R565-1 Purpose: To provide for the functions and responsibilities of audit committees within the Utah System of Higher Education (“USHE”).

R565-2 References

- 2.1** Utah Code §53B-6-102, Standardized Systems Prescribed by the Board
- 2.2** Utah Code §53B-7-101, Combined Requests for Appropriations – Board Review of Operating Budgets – Submission of Budgets – Recommendations -- Hearing request -- Appropriation formulas -- Allocations -- Dedicated credits -- Financial affairs
- 2.3** Utah Code Utah Code Title 63I, Chapter 5, Utah Internal Audit Act
- 2.4** Board Policy R561, Accounting and Financial Controls
- 2.5** Board Policy R567, Internal Audit Program
- 2.6** International Standards for the Professional Practice of Internal Auditing (IIA Standards), Institute of Internal Auditors

R565-3 Audit Committees

3.1 Board Audit Committee: The Utah Board of Higher Education (“Board”) shall establish and maintain a Board Audit Committee.

3.2 Creation of Trustee Audit Committees: Each institution’s Board of Trustees shall create a standing Audit Committee to assist the full board in overseeing financial matters and to oversee institutional internal audit activities, in accordance with the *Internal Audit Act* and IIA Standards.

R565-4 Board and Trustee Audit Committee Charters

4.1 Audit Charters: The Board Audit Committee and institution Boards of Trustees’ Audit Committees shall establish respective audit charters that outline their purpose, authority, and responsibilities. The audit charters shall grant appropriate access to data, information, records, and personnel needed to conduct audit activities.

¹ Adopted November 22, 1977; amended June 27, 1978, September 2, 1999, March 18, 2005, March 9, 2007, October 29, 2010, March 31, 2017, November 16, 2018, and XXX.

4.2 Authority

4.2.1 Board Audit Committee: The Board Audit Committee shall provide advice and recommendations to the Board regarding oversight and internal controls of the system and individual intuitions. Although the Board Audit Committee is not vested with decision making authority on behalf of the Board, the Board Audit Committee has authority to:

4.2.1.1 Access Data: Access any and all data, information, records, and personnel to fulfill its purpose and responsibilities;

4.2.1.2 Confer with Others: Confer with external auditors, legal counsel, and others as necessary; and

4.1.2.3 Investigate: Conduct or authorize investigations into any matters considered necessary to achieve its purpose.

4.2.2 Trustee Audit Committee: Trustee Audit Committees shall provide advice and recommendations to the Board of Trustees regarding institutional oversight and internal controls. Although Trustee Audit Committees are not vested with decision making authority on behalf of the Board of Trustees, the Trustee Audit Committee has authority to:

4.2.2.1 Oversee: Oversee the internal audit activities within the institution;

4.2.2.2 Confer: Confer with external auditors, legal counsel, and others as necessary;

4.2.2.3 Assist: Assist in resolving disagreements between institutional representatives and external auditors;

4.2.2.4 Access: Access any and all data, information, records, and personnel to fulfill its purpose and responsibilities;

4.2.2.5 Investigate: Conduct or authorize investigations into any matters considered necessary to achieve its purpose; and

4.2.2.6 Consult: Consult with institutional representatives, the Board of Trustees, and the Board Audit Committee concerning the adequacy of the institution's internal audit activities, staffing levels, and internal controls.

4.3 Committee Membership

4.3.1 Board of Higher Education Audit Committee: The Board Audit Committee shall consist of at least three but no more than five members, including at least three members of the Board. The Chair of the Board will appoint the Committee Chair and members. When

practicable, at least one of the Committee members should have financial expertise either through professional certification or experience.

4.3.2 Trustee Audit Committee: The Trustee Audit Committee shall consist of at least three but no more than five members, including at least three members of the Board of Trustees. The Committee members will be appointed by the Trustee Chair. Unless a Committee Chair is appointed by the Board Chair, the members of the Committee may designate a Chair by majority vote. When practicable, at least one of the Committee members should have financial expertise either through professional certification or experience.

4.4 Meetings

4.4.1 Board Audit Committee: The Committee shall meet at least three times per year to review audit activities. The Committee may meet with Boards of Trustees, institutional administrators, and auditors. The Office of the Commissioner of Higher Education (“OCHE”) staff shall prepare and provide meeting agendas along with appropriate briefing materials.

4.4.2 Trustee Audit Committee: The Trustee Audit Committee shall meet at least three times a per year, with additional meetings as needed. The Committee may invite institutional administrators, auditors, and others to attend meetings and provide pertinent information. Meeting agendas will be prepared and provided in advance to members, along with appropriate briefing materials. Informal minutes will be prepared.

4.5 Responsibilities

4.5.1 The Board Audit Committee shall:

4.5.1.1 Communication: Schedule meetings and correspondence as necessary to maintain regular, independent communication and information flow between the Board Audit Committee and Trustee Audit Committees (via Trustee Chairs and Trustee Audit Committee Chairs).

4.5.1.2 Reports: Receive and review reports from Trustee Audit Committees (via Trustee Chairs and Trustee Audit Committee Chairs) regarding the annual financial statements, including a summary of significant accounting and reporting issues.

4.5.1.3 Annual Financial Audits: Receive and review reports from Trustee Audit Committees (via Trustee Chairs and Trustee Audit Committee Chairs) regarding the results of the annual financial statement audit, including audit scope and approach, any restrictions on the auditor’s activities or on access to requested information, and any significant disagreements with institutional representatives.

4.5.1.4 Standards of Conduct: Receive and review reports from the Board Audit Director and institution auditors regarding the control environment, means of communicating standards of conduct, and practices with respect to risk assessment and risk management.

4.5.1.5 Internal Control: Receive and review reports from the Board Audit Director and institution auditors regarding systems of internal control.

4.5.1.6 Complaint Reports: Receive and review reports from institutions regarding the receipt, retention, and treatment of complaints, including anonymous complaints about accounting, auditing, internal control, and other related issues.

4.5.1.7 Compliance: Review reports from the Board Audit Director and institution auditors regarding systems for monitoring compliance with all applicable laws and regulations.

4.5.1.8 Noncompliance: Obtain regular updates from institutions regarding instances of material noncompliance that might have implications for the Board.

4.5.1.9 Internal Audit: Receive annual summary reports from Trustee Audit Committees (via Trustee Chairs and Trustee Audit Committee Chairs) regarding the results of the internal auditing program at each institution, including any restrictions and limitations on internal auditing activities.

4.5.1.10 Recommendations: At least annually, the Committee will provide a report or minutes of meetings to the full Board detailing the Committee's activities and recommendations.

4.5.2 The Trustee Audit Committee shall:

4.5.2.1 Communication: Schedule meetings and correspondence as necessary to maintain regular, independent communication and information flow between the Trustee Audit Committee and external auditors.

4.5.2.2 Institutional Financial Statements: Review the institution's financial statements, including significant accounting and reporting issues. This includes reviewing the management discussion and analysis of the financial statements, along with any analyses prepared by institutional administration and/or external auditors setting forth significant financial reporting issues and judgments made in connection with the preparation of the financial statements.

4.5.2.3 Review the Annual Financial Audit with Administration: Review with the administration and the external auditors the results of the annual financial statement audit, including audit scope and approach, any restrictions on the auditor's activities or on access to requested information, and any significant disagreements with institutional representatives.

4.5.2.4 Review an Institution's Control Environment: Review information regarding the institution's control environment, means of communicating standards of conduct, and practices with respect to risk assessment and risk management.

4.5.2.5 Confer with Auditors: Confer with external and internal auditors regarding the quality of institutional systems of internal control.

4.5.2.6 Complaints: Review information regarding the receipt, retention, and treatment of complaints, including anonymous complaints about accounting, auditing, internal control, and other related issues.

4.5.2.7 Auditing Personnel: Review with campus administrators and other institutional representatives the adequacy of the institution's auditing personnel, staffing levels, and controls.

4.5.2.8 Monitoring Compliance: Review information provided by the administration regarding systems for monitoring compliance with all applicable laws and regulations.

4.5.2.9 Noncompliance: Obtain regular updates from institutional administrators and/or legal counsel regarding instances of material noncompliance that might have implications for the institution.

4.5.2.10 Internal Audit Functions: Review with the administration and the Chief Internal Audit Executive the charter, plans, activities, staffing and organizational structure of the internal audit function.

4.5.2.11 Auditing Restrictions and/or Limitations: Review any restrictions and limitations on internal auditing activities.

4.5.2.12 Chief Internal Audit Executive: Appoint, evaluate performance, if necessary, dismiss the institution's Chief Internal Audit Executive.

4.5.2.13 Reports from the Chief Internal Audit Executive: Receive and review internal audit reports and/or periodic summaries of internal audit activities prepared by the Chief Internal Audit Executive.

4.5.2.14 Meetings: Schedule meetings and correspondence as necessary to maintain regular, independent communication and information flow between the Committee and the institution's Chief Internal Audit Executive.

4.6 Reporting

4.6.1 Board Audit Committee

4.6.1.1. Committee Reports: At least annually, the Committee will provide a report or minutes of meetings to the full Board detailing the Committee's activities and recommendations.

4.6.2 Trustee Audit Committee

4.6.2.1 Report: At least annually, the Trustee Audit Committee shall provide a report or minutes of meetings to the full Board of Trustees detailing the Committee's activities and recommendations.

4.6.2.2 Meetings: The Trustees Chair and Trustees Audit Committee Chair shall meet at least annually with the Board Audit Committee to provide updates on the institutional activities required by this policy.

4.6.2.3 Annual Reports: The Committee shall prepare an annual report summarizing internal and external audit results from the prior year and an audit plan for the upcoming year. This report shall be submitted to the Board Audit Director no later than five business days before the annual Board Audit Committee meeting.

R265, Transcript Notations for Sexual Misconduct or Sex Discrimination and Harassment¹

R265-1 Purpose: To establish a method for the Utah System of Higher Education (“USHE”) institutions to communicate students’ serious violations of institutional policies regarding sexual misconduct or sex discrimination and harassment in official institution transcripts, as required by Board Policy R262, Student Safety, and in accordance with the Family Educational Rights and Privacy Act.

R265-2 References

- 2.1** Utah Code § 53B-3, Enforcement of Regulations at Institutions
- 2.2** Utah Code § 53B-2-101, Institutions of higher education -- Corporate bodies -- Powers
- 2.3** Board Policy R262, Student Safety
- 2.4** Board Policy R253, Campus Discipline
- 2.5** Board Policy R256, Student Disciplinary Processes
- 2.6** Family Educational Rights and Privacy Act

R265-3 Definitions

3.1 “Expulsion or Dismissal” means a permanent separation from a USHE institution. Some USHE institutions use the term “dismissal” and others use “expulsion”. Institutions should use the term that applies to their institution.

3.2 “Formal Disciplinary Action” for this policy means when a USHE institution has investigated and found a student responsible for violation(s) of institutional policies regarding sexual misconduct or sex discrimination and harassment which resulted in either a dismissal/expulsion or suspension.

3.3 “Suspension” means a temporary separation from a USHE institution, often for a specific period of time, with the option of a possible future return.

3.4 “USHE Institutions” means institutions as defined in Utah Code section 53B-2-101.

¹ Adopted XXX.

R265-4 Transcript Notation

4.1 USHE institutions shall add a notation on a student's official transcript when there is formal disciplinary action accordingly:

4.1.1 Procedures for Recording. Institutions shall appoint a designee who will inform the registrar when the institution has taken formal disciplinary action against a student and to notate the student's transcript to reflect the disciplinary action.

4.1.2 Transcript Notation for Suspension. The formal disciplinary action notation for suspension shall include a clear statement that the student was suspended, such as "Formal Disciplinary Action--Suspension" or "FDA--Suspension". It shall not contain any information about the underlying specific conduct associated with the notation. Alternatively, the institution may provide information about the transcript notation in a formal letter attached to the official transcript.

4.1.3 Transcript Notation for Dismissal/Expulsion. The formal disciplinary action notation for expulsion shall include a clear statement that the student was dismissed/expelled, such as "Formal Disciplinary Action—Dismissal or Expulsion" or "FDA—Dismissal/Expulsion". It shall not contain any information about the underlying specific conduct associated with the notation. Alternatively, the institution may provide information about the transcript notation in a formal letter attached to the official transcript.

4.1.4 Transcript Key. The institution's transcript key or transcript key website shall include the definitions for the institution's transcript notations for formal disciplinary action and instruct the USHE receiving institution that the institution shall contact the transferring institution for further information regarding details of the underlying conduct associated with the transcript notation. The transferring institution may share information about the student's formal disciplinary action with school officials in the USHE receiving institution who have a legitimate educational interest in the behavior of the student. Institutions shall use reasonable methods to ensure that school officials obtain access to only those education records in which they have a legitimate educational interest.

4.2 Student Transfer During Proceedings: If a student transfers to another USHE institution while under investigation, and the institutions are aware of the transfer, then the transferring institution shall issue an updated transcript with the added notation if the investigation results in formal disciplinary action once the disciplinary action is final.

4.3 Notice: The institution shall have a policy about transcript notations for formal disciplinary action. In matters where a student is charged with violating institutional policies regarding sexual misconduct or sex discrimination and harassment that could result in a suspension or dismissal/expulsion, the institution shall provide the student with written notice of the institution's formal disciplinary action transcript notation policy.

4.4 Removal of Transcript Notation: Institutions shall establish policies or procedures for removing a notation from a transcript, when warranted.

4.4.1 Suspension. A notation for a suspension shall remain on the student's transcript for at least one year from the date the student was reinstated at the institution or, if the student does not return to the institution, one year from the last day when the suspension ended. After that time, the student may petition to have the notation removed from their transcript.

4.4.2 Expulsion. Generally, a notation for expulsion shall remain on a student's transcript permanently. However, institutions may establish policies and procedures that allow an expelled student to petition the institution to have the transcript notation removed. In their policies, institutions may establish criteria that the appropriate decisionmakers must meet before the notation may be removed. Removal of a notation for expulsion should be rare, however, and the threshold for removal shall be appropriately rigorous.

4.5 Using Transcript Notations in an Admission Decision: Disciplinary transcript notations shall not be used as the sole determining factor for an admission decision. Institutions shall not deny admission to applicants whose transcript includes a disciplinary notation without considering additional information from the applicant and/or other available sources. Institutions are encouraged to establish policies that can help transferring students succeed who have formal disciplinary action while also ensuring the safety of the campus community.

4.6 Minimum Requirement: This policy establishes the minimum requirements for transcript notations for formal disciplinary action. Institutions are not precluded from establishing additional requirements for transcript notations and policies related to transcript notations.