



UTAH SYSTEM OF
HIGHER EDUCATION

MEMORANDUM

TAB F

January 14, 2022

Revisions to R120, *Board of Higher Education Bylaws* and R141, *Functions of the Commissioner of Higher Education*

The revisions to R120 and R141 follow a review conducted by a subcommittee of the Board's Executive Committee.

Revisions to R120: remove the commissioner's responsibilities from the bylaws; create a nomination process, including a nominating committee, for the chair and vice chair positions; clarify the responsibilities of the chair and vice chair(s); join Executive Committee members with the chair in making appointments to standing and special committees; and, absent emergency, require the chair and/or commissioner to provide advance notice to the Board prior to issuing a public statement or press release.

Revisions to R141: add the commissioner's responsibilities that have been removed from R120, including clarifying edits; charge the Executive Committee with evaluating the commissioner's performance annually, including completing an evaluation report; give the Board authority to allocate resources for the performance evaluation; and assign the chair and vice chair(s) supervisory authority over the commissioner with feedback and guidance from the Board.

Executive Committee Recommendation

The Executive Committee reviewed the proposed revisions to R120 and R141 in its January 2022 meeting and has requested the revisions go to the full Board for consideration with a recommendation that the Board adopt the revisions effective immediately.

Commissioner's Recommendation

The Commissioner recommends the Board adopt the revisions to R120, *Board of Higher Education Bylaws* and R141, *Functions of the Commissioner of Higher Education*.

Attachments



R120, Board of Higher Education Bylaws¹

R120-1 Purpose: To provide bylaws for the Board of Higher Education that will govern how the Board administers the Utah System of Higher Education and conducts regular Board business.

R-120-2 References

2.1 [Utah Code § 53B-1-403](#)~~Title 53B, Chapter 1, Section 403~~, Committees

2.2. [Utah Code § 53B-1-404](#)~~Title 53B, Chapter 1, Section 404, Membership of the~~ Board
[Membership and Bylaws](#)

2.3 [Utah Code § 53B-1-501](#)~~Title 53B, Chapter 1, Section 501~~, Initial Board Membership

R120-3 ~~Bylaws~~ 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~~ R120-4 General Powers: Under [Utah Code section](#) 53B-1-402, the Board is vested with the power to govern the Utah System of Higher Education. 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 Utah System of Higher Education, in accordance with these bylaws and the laws of this State.

~~3-3~~ R120-5 Board Members:- The Board shall consist of 18 members who are residents of the state and appointed by the governor with the advice and consent of the Senate. -Two of the members shall be student members, one individual who is enrolled in a certificate program at a technical college at the time of the appointment one individual who is a fully matriculated student enrolled in a degree-granting institution. Except as provided in [Utah Code section](#) 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

¹ Adopted July 1,2020; amended August 21,2020

Governor shall appoint student members to a one-year term. Each member shall hold office until ~~his or~~ [her](#)/[their](#) successor has been chosen and qualified.

3-3-5.1 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.

3-3-5.2 Simultaneous Service on Institutions' Boards of Trustees: An individual may not serve simultaneously on the Board and on an institution's board of trustees.

3-3-5.3 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.

3-3-5.4 Vacancies: A vacancy in the Board occurring before the expiration of a member's full term shall be immediately filled through the nomination and appointment processes described in [Utah Code section](#) 53B-1-404 and 406. An individual appointed to fill a vacancy shall be appointed to serve for the remainder of the unexpired term.

3-3-5.5 Removal of Board Members: The governor may remove a member of the board for cause after consulting with the president of the Senate.

3-3-5.6 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.

3-3-5.7 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 Section 53B-1-404(15).

3-4-R120-6 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 six members of the Board.

3-4-6.1 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 six Board members. The chair or commissioner may designate the location or method for holding any special meeting.

3-5-R120-7 Notice

3-5-7.1 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.

3-5-7.2 Notice to the Public: The Board and Executive Committee—when taking action on behalf of the Board in accordance with ~~S~~section 3-9-13.6—shall -give public notice of their meetings as required by ~~S~~section 52-4-202 of the [Utah](#) Open and Public Meetings Act.

3-6-R120-8 Quorum: The Board must have a quorum to take action. A quorum consists of 10 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-R120-9 Conducting Board Business

3-7-9.1 Agenda and Regular Order of Business: The ~~Board chair~~[Executive Committee in consultation with](#) 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.

3-7-9.2 Categories of Agenda Items: The Board’s business shall be listed in the agenda within the following categories:

3-7-9.2.1 Action Items: Items that are recommended for action and that require full discussion by the Board.

3-7-2-9.2.2 Consent Calendar: Items that are recommended for action and that have been fully discussed by a committee and do not require discussion by the full Board.

3-7-2-9.2.3 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.

3-7-9.3 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 made be subject to full discussion and deliberation.

3-7-9.4 Rules of Procedure: The Board and its committees shall follow Robert's Rules of Order in conducting all meetings.

3-7-9.5 Open and Public Meetings Act: The Board shall conduct its meetings in compliance with the Open and Public Meetings Act. If they Executive Committee intends to take action on behalf of the Board in accordance with Section 3.9.6, it shall conduct its meeting in compliance with the Open and Public Meetings Act.

3-7-9.6 Voting

3-7-9.6.1 Recording of Votes: Any member so requesting shall have ~~her or his~~[their](#) vote recorded in the minutes, or on request of any member the vote of each member shall be recorded.

3-7-9.6.2 Proxy Voting: Proxy voting shall not be permitted at meetings of the Board or the meetings of its committees.

3-8 [R120-10](#) Board Officers and Staff

3-8-10.1 Officers: The officers of the Board shall be a chair, a vice-chair or vice-chairs, and a secretary. The Board's staff shall be the commissioner of higher education, an associate commissioner of academic education, [and an associate commissioner of technical education appointed by the commissioner subject to approval by the Board as outlined in Board policy R141,](#) and other staff as the commissioner deems necessary.

10.2 Nomination, Appointment, Election, and Terms of Office for Chair and Vice Chair

10.2.1 Nomination: [At least 90 days before the expiration of the term of either the chair or a vice chair, the Board will, at its next Board meeting, establish a nominating committee of at least three members of the Board, excluding Board members seeking appointment. The nominating committee will contact each additional member of the Board to assess their interest in serving as the chair or a vice chair of the Board and, for those who express interest in serving, will gather information about their interest and experience. The nominating committee will compile and present the information to the Board, in a closed meeting if necessary, no later than 60 days before the expiration of the relevant term\(s\). Nominations may be made in an open meeting by formal motion by the nominating committee and/or a member of the Board, and self-nominations are](#)

permitted. The terms of the chair and vice chair(s) shall be two years. A new nominating committee shall be elected whenever the chair or vice chair positions are vacant, although if there are multiple vacancies at the same time, those may be addressed by the same nominating committee.

~~**3.8.10.2.1 Chair and Vice Chair(s) Elections and Terms of Office:**~~ Upon motion and vote of a quorum, the Board shall elect a chair and up to two vice-chairs from among its members at its May/June meeting in each even numbered year. Beginning on the date of election, the chair and vice-chair(s) 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.

~~3.8.10.3~~ **Appointment, Election and Term of Office of Secretary and Commissioner**

~~**3.8.2.1 Chair and Vice Chair(s):** The Board shall elect a chair and up to two vice chairs from among its members at its May/June meeting in each even numbered year. Beginning on the date of election, the chair and vice chair(s) 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.~~

~~3.8.2.1~~ **3.8.10.3.1 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~~ **3.8.10.3.2 Commissioner:** Upon approval ~~of~~ 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 and Governor's (after consultation with the Board) pleasure. The commissioner's performance will be evaluated under Board policy R141.

~~**3.8.2.4 Associate Commissioners:** The commissioner shall appoint, subject to approval by the Board, an associate commissioner of technical education and an associate commissioner of academic education. The commissioner may also appoint, without the Board's approval, other associate commissioners as needed. The associate commissioners shall serve at the commissioner's pleasure.~~

~~10.4~~ **3.8.3 Removal of Board Officers or Commissioner**

~~3.8.3~~ **10.4.1 Chair and Vice-Chair:** The Board may remove a chair or vice-chair of the Board for cause.

~~3.8.3~~ **10.4.2 Commissioner:** Either the Board or the Governor, after consultation

with the Board, may terminate the commissioner. ~~The Governor may terminate the commissioner, after consultation with the Board.~~

10.53-8.4 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.

10.63-8.5 Chair: The chair shall preside at all ~~meetings of the Board~~ meetings, call special meetings when necessary to address Board business, ensure the integrity and effectiveness of the Board's governance including supervising the Board's fulfillment of its statutory duties and responsibilities, 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.~~

10.73-8.6 Vice-Chair(s): ~~The~~ A vice-chair(s) shall ~~act as chair in the absence or disability of the chair and shall~~ have such ~~other~~ duties, powers and responsibilities as the Executive Committee assigns including, but not limited to, chairing Board committees, leading Board programs or projects, liaising with Board committees and system institutions, and/or representing the Board on state or system task forces or councils ~~the Board or chair may assign.~~ A vice-chair shall also act as chair if the chair is absent or unable to chair. 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.

10.83-8.7 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.

10.93-8.8 Commissioner: 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 Board's business and affairs. The commissioner's other duties and responsibilities are outlined in Board policy R141.

~~**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 system's institutions on the Board's behalf to ensure they 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 the 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, 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 the 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 Utah System of Higher Education and make recommendations regarding that information to the Board, 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.

3.8.9.1 Associate Commissioners: The associate commissioner for technical education shall support the chair of the Technical Education Committee. The

~~associate commissioner for academic education shall support the chair of the Academic Education Committee.~~

R120-11 ~~3.8.10~~ Salaries and Benefits

~~3.8.10~~11.1 **Chair and Vice-Chair:** The chair and vice-chair are compensated as members of the Board and shall not receive salaries.

~~3.8.10~~11.2 **Secretary:** The commissioner shall set the salary of the secretary as a member of staff.

~~3.8.10~~11.3 **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 as described by statute.~~

R 120-12~~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. 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.

R120-13~~3.9~~ Committees

~~3.9.1~~13.1 **Committee Appointments:** The Board shall 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~~The Board chair and no fewer than three Executive Committee members shall appoint the membership and a chair of all standing and special committees and the at large member of the Executive Committee. Each standing committee shall serve concurrent two-year terms ~~with the chair who appointed them~~.

~~3.9.2~~13.2 **Standing Committees:** The Board shall form the following standing committees:

— ~~3.9.13.2.1~~ Executive Committee

— ~~3.9.2.13.2.2~~ Technical Education Committee

— ~~3.9.13.2.3~~ Academic Education Committee

~~3.9.13.2.4~~ Student Affairs and Access Committee

~~3.9.13.2.5~~ Finance and Facilities Committee

~~3.9.13.2.6~~ Audit Committee

3.9.13.3 Special Committees: In addition to the standing committees, the Board may form other special committees as needed.

3.9.13.4 Staff Support: The commissioner shall provide staffing and support to each standing and special committee. [The standing and special committees of the Board shall work with the commissioner's staff through the commissioner.](#)

3.9.13.5 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.

~~3.9.6~~**3.9.13.6 Executive Committee**

~~3.9.13.6.1~~ **Composition:** The Executive Committee shall be comprised of the Board chair, the Board vice-chair(s), the chairs of the ~~technical, academic, student affairs, and finance and facilities~~ standing committees, and [may include the immediate past chair or one committee member at large](#) ~~appointed by the Board chair~~.

~~3.9.13.6.2~~ **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. [Upon a vacancy of the chair or a vice chair, the Executive Committee shall ensure a nominating committee is appointed under subsection 10.2.1.](#) The Executive Committee shall report to the Board at the Board's next meeting following an action undertaken.

~~3.9.13.6.3~~ **Routine Matters:** The Board authorizes the Executive Committee to act upon routine matters during the interim between the Board's regular meetings.

~~3.9.13.6.4~~ **Non-routine Matters:** The Executive Committee may not act on non-routine matters except under extraordinary and emergency circumstances.

13.7 Audit Committee: The Board's Audit Committee shall prioritize the commissioner's audits.

~~3-9~~13.87. **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~~R120-14 Advisory Councils

~~3-10~~14.1 Industry Advisory Council: The Board shall establish an Industry Advisory Council that shall inform the committee for technical education; the committee for academic education; and the State Board of Education. The Industry Advisory Council shall include representation from (a) employers; (b) kindergarten through grade 12 representatives; (c) degree-granting institution faculty; and (d) technical college faculty.

~~3-10~~14.2 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~~14.3 Other Advisory Councils: The Board may establish other advisory committees or councils as needed.

~~3-10~~14.4 All matters requiring Board determination shall be addressed in a properly convened meeting of the Board or Executive Committee.

~~3-11~~R120-15 Electronic Meetings: The Board and the Executive Committee may convene and conduct an electronic meeting in accordance with ~~S~~section 52-4-207 of the Utah Open and Public Meetings Act. The members of those 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~~R120-16 Public Information

~~3-12~~16.1 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 the Utah System of Higher Education with respect to any policy matters that have received the approval of the Board, and on administrative matters.

~~3-12~~16.2 Releases and General Information: The commissioner or designee may issue news releases, general information, and other communications regarding administration of the system of higher education, provided the releases are consistent with Board policies and directives.

16.3 Advance Notice to Board Members of Public Statements or Press Releases:

Absent an emergency in which the chair or commissioner may make a public statement without prior notice, prior to issuing a formal public statement or press release on behalf of the Board, either the Board chair or the commissioner shall give Executive Committee members at least one hour of prior notice and Board members as much notice as reasonably possible, on a confidential basis, of the statement and its contents.

~~3-13~~R120-17 Conflicts of Interest

~~3-13~~17.1 A potential conflict of interest is any direct and immediate interest or relationship, including 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. The interest of a spouse or other members of the immediate family/household or the interest of any other person which is constructively controlled by the member is included.

~~3-13~~17.2 Board members shall disclose potential conflicts of interest, in a signed written document provided by the Commissioner's Office. 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~~17.3 Board members are subject to the Ethics Act, Utah Code 67-16-7. The Commissioner's Office will provide training materials to Board members that explain the obligations of the Ethics 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 this section or the Ethics Act.

~~3-14~~R120-18 Amendment of Bylaws: The Board may amend these bylaws at any regular meeting, provided that copies of any proposed amendments ~~shall be~~are 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: To provide bylaws for the Board of Higher Education that will govern how the Board administers the Utah System of Higher Education and conducts regular Board business.

R-120-2 References

2.1 Utah Code [§ 53B-1-403](#), Committees

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vice-chair(s) 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.

10.3 Appointment of Secretary and Commissioner

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

10.3.2 Commissioner: Upon approval of 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 and Governor's (after consultation with the Board) pleasure. The commissioner's performance will be evaluated under Board policy R141.

10.4 Removal of Board Officers or Commissioner

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

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

10.5 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.

10.6 Chair: The chair shall preside at all Board meetings, call special meetings when necessary to address Board business, ensure the integrity and effectiveness of the Board's governance including supervising the Board's fulfillment of its statutory duties and responsibilities, and shall have such other duties, powers and responsibilities as directed by the Board or these bylaws.

10.7 Vice-Chair(s): A vice-chair(s) shall have such duties, powers and responsibilities as the Executive Committee assigns including, but not limited to, chairing Board committees, leading Board programs or projects, liaising with Board committees and system institutions, and/or representing the Board on state or system task forces or councils. A vice-chair shall also act as chair if the chair is absent or unable to chair. 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.

10.8 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.

10.9 Commissioner: 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 Board's business and affairs. The commissioner's other duties and responsibilities are outlined in Board policy R141.

R120-11 Salaries and Benefits

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

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

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

R 120-12 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. 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.

R120-13 Committees

13.1 Committee Appointments: The Board shall establish standing committees and such other special committees as the Board may determine to be necessary or appropriate. The Board chair and no fewer than three Executive Committee members shall appoint the membership and a chair of all standing and special committees and the at large member of the Executive Committee. Each standing committee shall serve concurrent two-year terms.

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

13.2.1 Executive Committee

13.2.2 Technical Education Committee

13.2.3 Academic Education Committee

13.2.4 Student Affairs and Access Committee

13.2.5 Finance and Facilities Committee

13.2.6 Audit Committee

13.3 Special Committees: In addition to the standing committees, the Board may form other special committees as needed.

13.4 Staff Support: The commissioner shall provide staffing and support to each standing and special committee. The standing and special committees of the Board shall work with the commissioner's staff through the commissioner.

13.5 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.

13.6 Executive Committee

13.6.1 Composition: The Executive Committee shall be comprised of the Board chair, the Board vice-chair(s), the chairs of the standing committees, and may include the immediate past chair or one committee member at large.

13.6.2 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. Upon a vacancy of the chair or a vice chair, the Executive Committee shall ensure a nominating committee is appointed under subsection 10.2.1. The Executive Committee shall report to the Board at the Board's next meeting following an action undertaken.

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

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

13.7 Audit Committee: The Board's Audit Committee shall prioritize the commissioner's audits.

13.8 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.

R120-14 Advisory Councils

14.1 Industry Advisory Council: The Board shall establish an Industry Advisory Council that shall inform the committee for technical education; the committee for academic education; and the State Board of Education. The Industry Advisory Council shall include representation from (a) employers; (b) kindergarten through grade 12 representatives; (c) degree-granting institution faculty; and (d) technical college faculty.

14.2 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.

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

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

R120-15 Electronic Meetings: The Board and the Executive Committee may convene and conduct an electronic meeting in accordance with section 52-4-207 of the Utah Open and Public Meetings Act. The members of those 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.

R120-16 Public Information

16.1 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 the Utah System of Higher Education with respect to any policy matters that have received the approval of the Board, and on administrative matters.

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

16.3 Advance Notice to Board Members of Public Statements or Press Releases:

Absent an emergency in which the chair or commissioner may make a public statement without prior notice, prior to issuing a formal public statement or press release on behalf of the Board, either the Board chair or the commissioner shall give Executive Committee members at least one hour of prior notice and Board members as much notice as reasonably possible, on a confidential basis, of the statement and its contents.

R120-17 Conflicts of Interest

17.1 A potential conflict of interest is any direct and immediate interest or relationship, including 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. The interest of a spouse or other members of the immediate family/household or the interest of any other person which is constructively controlled by the member is included.

17.2 Board members shall disclose potential conflicts of interest, in a signed written document provided by the Commissioner’s Office. 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.

17.3 Board members are subject to the Ethics Act, Utah Code 67-16-7. The Commissioner’s Office will provide training materials to Board members that explain the obligations of the Ethics 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 this section or the Ethics Act.

R120-18 Amendment of Bylaws: The Board may amend these bylaws at any regular meeting, provided that copies of any proposed amendments are 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.

R141, Functions of the Commissioner of Higher Education¹

R141-1 Purpose: To describe the duties and responsibilities of the ~~C~~ommissioner of Higher Education.

R141-2 References

2.1 Utah Code [§ 53B-1-408](#), ~~§53B-1-105 (Qualifications and~~ Duties of the Commissioner of Higher Education)

2.2 [Board Policy and Procedure R120](#), Bylaws of the Board of Higher Education

2.3 [Board Policy and Procedure R143](#), Succession Plan for Commissioner of Higher Education

2.4 [Board Policy and Procedure R203](#), Search Committee Appointment and Function, and Board's ~~members'~~ Selection of Presidents of Institutions

2.5 [Board Policy and Procedure R205](#), Presidential Appointment, Term of Office, and Compensation and Benefits

2.6 [Board Policy and Procedure R209](#), Evaluation of Presidents

R141-3 ~~Functions~~ Duties and Responsibilities: The ~~C~~ommissioner of Higher Education (~~commissioner~~) serves as the [Board of Higher Education's \(Board\)](#) Chief Executive Officer ~~of the Board of Higher Education (Board)~~ and [has the following duties and responsibilities](#)~~performs the following functions:~~

3.1 Business and Affairs: [Subject to the Board, supervises and controls the Board's business and affairs; in consultation with the Council of Presidents and the Executive Committee, prepares and presents agendas for all Board meetings.](#)

¹ Adopted May 18, 2012; amended

3.2+ Policy Implementation, Interpretation, and Coordination: Ensures that the Board's policies, programs, and actions are properly performed; collaborates with the Council of Presidents and institution staff to advise them of new policies and directives and monitors implementation; interprets Board policy and facilitates and coordinates the execution of all Board policies and procedures. Presidents shall cooperate with the commissioner to properly implement the Board's policies and directives. ~~Facilitates and coordinates the execution of all Board policies and procedures.~~

3.3+ Advocacy and Leadership: In support of the State's best interests and the Board's policies, ~~Provides state level leadership in all~~ any activities affecting the Utah System of Higher Education (USHE) ~~in support of the best interests of the state and the policies of the Board of Higher Education, taking a collaborative approach that enhances the ability of member institutions to contribute to state and Board of Higher Education goals.~~ and advocates on the Board's behalf before the governor, the legislature, and other officials and governmental entities.

3.4 Collaboration with Member Institutions: On the Board's behalf, collaborates and works with the system institutions to ensure they contribute to and effectively implement the Board's policies, directives, strategies, and goals.

3.5+ Master Planning: ~~Coordinates the USHE's master planning efforts of the Utah System of Higher Education (USHE) through~~ by developing and implementing, jointly with leadership from the Board ~~of Higher Education~~ and institutions, a strategic planning process ~~for USHE~~ that ~~collectively~~ marshals system and institutional resources to address the educational needs of the ~~s~~State.

3.6+ Public Information: Consistent with the direction given by the Board, ~~s~~ Serves as the ~~spokesman-spokesperson~~ for the Utah System of Higher Education consistent with direction established by the Board USHE.

3.7+ Council of Presidents: Serves as Chair ~~person~~ man of the Council of Presidents ~~in a collegial and collaborative manner,~~ including coordinating ~~on~~ of meeting agendas and Council recommendations to the Board; and facilitating communication among the presidents.

3.8+ Presidential Hiring and Review: Coordinates the presidential hiring processes on behalf of the Board and ~~provides the Board with~~ makes recommendations to the Board regarding the finalists recommended by the search committee. ~~3.7 Presidential Review:~~ Facilitates presidential review processes and ~~provides the Board with his or her~~ makes recommendations to the Board regarding presidential performance and compensation.

3.9 Information, Reports, and Audits: Has authority to require information and reports from the institutions and, after giving notice to the relevant president, may assign staff audit records of institutions or otherwise verify data. Such audits shall be conducted either in response to the Board’s instructions or to verify compliance with the Board’s policies and/or applicable law. The Board’s audit committee shall prioritize the commissioner’s audits.

3.10~~8~~ Consultation: Provides leadership, advice, and consultation ~~as may be sought by~~ to institutional Presidents or as directed by the Board.

3.11~~9~~ Support Programs: Administers approved statewide support programs, subject to applicable Board policies.

~~3.10 Board Agenda: Prepares and presents the agenda for all Board meetings after consultation with the Council of Presidents and the Board.~~

3.12~~1~~ Policy ConsiderationsAdvice and Recommendations: Provides sound professional advice and recommendations to the Board on all Board and committee action items and all matters that do or should come to the attention of the Board including advice on institutional and system budget requests, new programs, policy proposals, and an overall legislative agenda, independent of any one group’s or interest’s perspective ~~to the Board of Higher Education on all board and committee action agenda items, and all matters that do or should come to the attention of the Board of Higher Education, including advice on institutional and system budget requests, new programs, policy proposals, and an overall legislative agenda.~~

3.13~~2~~ Communications: Supports the work of individual presidents and serves as a liaison between presidents and the Board ~~of Higher Education;~~ directs ~~continuous~~ communication and collaboration between the colleges and universities, the Board ~~of Higher Education,~~ and the Office of the Commissioner; ~~related to~~ n problems and issues of common interest to ~~the Utah System of Higher Education~~ USHE; establishes and maintains positive, productive relationships with the Board ~~of Higher Education,~~ ~~the~~ institutional presidents, ~~the~~ boards of trustees, and the legislative and executive branches of ~~state government~~ Utah; When issuing a formal public statement or press releases on behalf of the Board the commissioner shall provide advance notice to the Board as outlined in Board Policy R120-16.3.

3.14~~3~~ Reporting Relationship of theOversees **Commissioner’s Staff:** Leads the staff of the Office of the Commissioner of Higher Education (OCHE) ~~so that~~ to ensure it fulfills its statutory responsibilities and duties to the Board ~~of Higher Education.~~

R141-4 Evaluation of Commissioner’s Performance: The commissioner will undergo a performance evaluation annually. The evaluation will assess the commissioner’s performance of the

functions outlined in section 141-3. The Executive Committee will conduct the evaluation and may retain a qualified consultant or pay to use evaluation software or tools to assist with the evaluation including to help engage system stakeholders to provide information related to the commissioner's performance.

4.1 Evaluation Report: On a form provided by the Board, the Executive Committee will complete a performance evaluation and will share its findings with the Board within 60 days of the start of the evaluation process. The report may include recommendations to the Board, including that the commissioner engage in a performance improvement plan to help address performance deficits. Board members may provide feedback on the report to the Executive Committee within 14 days and the Board may meet to discuss the report at the request of any Board member. At the close of the feedback period, the Executive Committee will finalize the report. The Executive Committee will meet with the commissioner to review the final report including any recommendations and will share the final report with the Board. If the report includes recommendations, the recommendations will be added to the Board's next agenda and the Board may act on them via motion. Because they relate to a performance evaluation, the report and any recommendations shall not be made public and shall only be discussed in closed meetings and the Board may set performance expectations, require a performance improvement plan, or apply corrective action in a closed meeting. However, the Board can only take action to remove the commissioner via motion in an open meeting.

R140-5 Supervision of Commissioner: With feedback and guidance from the Board, the chair and vice chair(s) shall have the authority and responsibility to manage and supervise the commissioner including developing and overseeing a performance improvement plan or corrective action passed by the Board.

R140-6 Commissioner's Staff

6.1 Appointment of Associate Commissioners: Subject to the approval of the Board, the commissioner shall appoint an associate commissioner of technical education and an associate commissioner of academic education. The commissioner may also appoint, without the Board's approval, other associate commissioners as needed. The associate commissioners shall serve at the commissioner's pleasure.

~~**3-13-1 6.2 Hiring of Other Staff:**~~ The commissioner may appoint and hire professional, legal, and administrative staff. All members of the Commissioner's staff shall be hired upon recommendation of the Commissioner and shall report directly to him or her the commissioner. The standing and special committees of the Board shall work with the Commissioner's staff through the Commissioner.

~~3-13-26.2.1~~ Associate Commissioners and other staff members involved in committee work and other assignments shall report to the Commissioner, who shall then report to the Board; unless, on a case-by-case basis, the Commissioner ~~on a case-by-case basis~~ specifically requires an Associate Commissioner or staff member to report directly to the Board.

~~3-13-36.2.2~~ In fulfilling committee assignments, Members of the Board ~~in fulfilling committee assignments~~ should be cognizant of lines of authority and should obtain the Commissioner's authorization ~~into~~ dealing with Associate Commissioners or other staff members.

6.3 Salaries and Benefits: As described by statute, the commissioner shall determine salaries and benefits, including retirement, for the commissioner's staff.

R141, Functions of the Commissioner of Higher Education¹

R141-1 Purpose: To describe the duties and responsibilities of the commissioner of Higher Education.

R141-2 References

2.1 Utah Code [§ 53B-1-408](#), Qualifications and Duties of the Commissioner of Higher Education

2.2 Board [Policy R120](#), Bylaws of the Board of Higher Education

2.3 Board [Policy R143](#), Succession Plan for Commissioner of Higher Education

2.4 Board [Policy R203](#), Search Committee Appointment and Function, and Board's Selection of Presidents of Institutions

2.5 Board [Policy R205](#), Presidential Appointment, Term of Office, and Compensation and Benefits

2.6 Board [Policy R209](#), Evaluation of Presidents

R141-3 Duties and Responsibilities: The commissioner of Higher Education (commissioner) serves as the Board of Higher Education's (Board) Chief Executive Officer and has the following duties and responsibilities:

3.1 Business and Affairs: Subject to the Board, supervises and controls the Board's business and affairs; in consultation with the Council of Presidents and the Executive Committee, prepares and presents agendas for all Board meetings.

3.2 Policy Implementation, Interpretation, and Coordination: Ensures that the Board's policies, programs, and actions are properly performed; collaborates with the Council of Presidents and institution staff to advise them of new policies and directives and monitors

¹ Adopted May 18, 2012; amended

implementation; interprets Board policy and facilitates and coordinates the execution of all Board policies and procedures. Presidents shall cooperate with the commissioner to properly implement the Board's policies and directives.

3.3 Advocacy and Leadership: In support of the State's best interests and the Board's policies, provides state level leadership in all activities affecting the Utah System of Higher Education (USHE) and advocates on the Board's behalf before the governor, the legislature, and other officials and governmental entities.

3.4 Collaboration with Member Institutions: On the Board's behalf, collaborates and works with the system institutions to ensure they contribute to and effectively implement the Board's policies, directives, strategies, and goals.

3.5 Master Planning: Coordinates USHE's master planning efforts by developing and implementing, jointly with leadership from the Board and institutions, a strategic planning process that marshals system and institutional resources to address the educational needs of the State.

3.6 Public Information: Consistent with the direction given by the Board, serves as the spokesperson for USHE.

3.7 Council of Presidents: Serves as Chairperson of the Council of Presidents, including coordinating meeting agendas and Council recommendations to the Board and facilitating communication among the presidents.

3.8 Presidential Hiring and Review: Coordinates the presidential hiring processes on behalf of the Board and makes recommendations to the Board regarding the finalists recommended by the search committee; facilitates presidential review processes and makes recommendations to the Board regarding presidential performance and compensation.

3.9 Information, Reports, and Audits: Has authority to require information and reports from the institutions and, after giving notice to the relevant president, may assign staff audit records of institutions or otherwise verify data. Such audits shall be conducted either in response to the Board's instructions or to verify compliance with the Board's policies and/or applicable law. The Board's audit committee shall prioritize the commissioner's audits.

3.10 Consultation: Provides leadership, advice, and consultation to institutional Presidents or as directed by the Board.

3.11 Support Programs: Administers approved statewide support programs, subject to applicable Board policies.

3.12 Advice and Recommendations: Provides sound professional advice and recommendations to the Board on all Board and committee action items and all matters that do or should come to the attention of the Board including advice on institutional and system budget requests, new programs, policy proposals, and an overall legislative agenda, independent of any one group's or interest's perspective.

3.13 Communications: Supports the work of individual presidents and serves as a liaison between presidents and the Board; directs communication and collaboration between the colleges and universities, the Board, and the Office of the Commissioner on problems and issues of common interest to USHE; establishes and maintains positive, productive relationships with the Board, institutional presidents, boards of trustees, and the legislative and executive branches of Utah. When issuing a formal public statement or press releases on behalf of the Board the commissioner shall provide advance notice to the Board as outlined in Board Policy R120-16.3.

3.14 Oversees Commissioner's Staff: Leads the staff of the Office of the Commissioner of Higher Education (OCHE) to ensure it fulfills its statutory responsibilities and duties to the Board.

R141-4 Evaluation of Commissioner's Performance: The commissioner will undergo a performance evaluation annually. The evaluation will assess the commissioner's performance of the functions outlined in section 141-3. The Executive Committee will conduct the evaluation and may retain a qualified consultant or pay to use evaluation software or tools to assist with the evaluation including to help engage system stakeholders to provide information related to the commissioner's performance.

4.1 Evaluation Report: On a form provided by the Board, the Executive Committee will complete a performance evaluation and will share its findings with the Board within 60 days of the start of the evaluation process. The report may include recommendations to the Board, including that the commissioner engage in a performance improvement plan to help address performance deficits. Board members may provide feedback on the report to the Executive Committee within 14 days and the Board may meet to discuss the report at the request of any Board member. At the close of the feedback period, the Executive Committee will finalize the report. The Executive Committee will meet with the commissioner to review the final report including any recommendations and will share the final report with the Board. If the report includes recommendations, the recommendations will be added to the Board's next agenda and the Board may act on them via motion. Because they relate to a performance evaluation, the report and any recommendations shall not be made public and shall only be discussed in closed meetings and the Board may set performance expectations, require a performance improvement

plan, or apply corrective action in a closed meeting. However, the Board can only take action to remove the commissioner via motion in an open meeting.

R140-5 Supervision of Commissioner: With feedback and guidance from the Board, the chair and vice chair(s) shall have the authority and responsibility to manage and supervise the commissioner including developing and overseeing a performance improvement plan or corrective action passed by the Board.

R140-6 Commissioner's Staff

6.1 Appointment of Associate Commissioners: Subject to the approval of the Board, the commissioner shall appoint an associate commissioner of technical education and an associate commissioner of academic education. The commissioner may also appoint, without the Board's approval, other associate commissioners as needed. The associate commissioners shall serve at the commissioner's pleasure.

6.2 Hiring of Other Staff: The commissioner may appoint and hire professional, legal, and administrative staff. All members of the commissioner's staff shall be hired upon recommendation of the commissioner and shall report directly to the commissioner.

6.2.1 Associate commissioners and other staff members involved in committee work and other assignments shall report to the commissioner, who shall then report to the Board unless, on a case-by-case basis, the commissioner specifically requires an associate commissioner or staff member to report directly to the Board.

6.2.2 In fulfilling committee assignments, members of the Board should be cognizant of lines of authority and should obtain the commissioner's authorization to deal with associate commissioners or other staff members.

6.3 Salaries and Benefits: As described by statute, the commissioner shall determine salaries and benefits, including retirement, for the commissioner's staff.