

USHE Guidance on Board Secretaries and Professional Staffing for Trustees¹

Purpose: The Utah Legislature passed [SB 240, Higher Education Institutional Governance](#), in the 2026 General Session. The bill became effective May 6, 2026. Among other issues, SB 240 clarified the role of legal counsel at Utah System of Higher Education (“USHE”) degree-granting institutions and directed the Utah Board of Higher Education (“UBHE”) to provide independent, professional staffing and advising support to all USHE institutions’ Boards of Trustees.

I. Legal Counsel as Board Secretaries

Both [Utah Code section 53H-3-405\(5\)](#) (as amended by SB 240) and [Board Policy R135, Legal Services for Utah System of Higher Education Degree-granting Institutions](#) provide direction on the role of legal counsel at such institutions. Importantly, legal counsel may not serve in or exercise an administrative role, function, or office except for those that are primarily legal or regulatory.

USHE interprets the statute and policy to allow institutions to appoint any institution staff as Secretary to the Board of Trustees. However, if an institution appoints legal counsel as Board Secretary to fulfill the functions related to policy and governance, the institution must also appoint an Assistant or Deputy Board Secretary to fulfill the administrative functions of that role.

If legal counsel is appointed as Secretary of the Board and a legal conflict arises on a matter that involves the legal counsel’s role as counsel to the institution, the Board of Trustees Chair may direct the Assistant or Deputy Board Secretary to step into the role of Board Secretary on that matter until the legal conflict is resolved.

II. Professional Staffing and Advising Support for Trustees

As noted, UBHE is required to provide professional staffing and advising support to Boards of Trustees under [Utah Code section 53H-3-201](#) (as amended by SB 240). This role is distinct from Board Secretary. UBHE may appoint one or more staff from the Office of the Commissioner to provide this support. UBHE staff in this role will provide support to and assist trustees as follows:

- Governance and system policy support;

- Presidential evaluation and performance goals development support;
- Formal and informal training on the roles of UBHE and Boards of Trustees;
- Assist trustees in fulfilling their statutory duty to act in alignment with UBHE;
- Serve as a primary liaison between Boards of Trustees, the Commissioner, UBHE, and institutional leadership, and facilitate effective communication and issue resolution;
- Support trustees in consulting with presidents on:
 - Institutional organization and structure; and
 - Governance of faculty, tenure and post tenure process, and personnel policies;
- Advise trustees on their fiduciary responsibilities and authorized powers, including governance, ethics, open and public meetings act compliance, and risk oversight;
- Advise and support trustees as they prepare and approve institutional strategic plans;
- Assist trustees as they monitor progress, outcomes, and performance metrics tied to strategic priorities;
- Support trustees in consulting with the president on, and approving recommendations regarding, tuition and fees recommendations to the Board of Higher Education;
- Advise trustees on institutional budget processes and provide guidance on financial stewardship, transparency, and statutory compliance;
- Support trustees in reviewing, considering, and approving or denying awards, credentials, minors, and emphases, new program proposals, program changes, program terminations, and expedited program approvals;
- Advise trustees on audit and risk oversight responsibilities;
- Support the creation or operation of trustee audit committees;
- Provide guidance on internal audit oversight, fiscal controls, and accountability;
- Assist trustees in meeting statutory reporting requirements and Board policy obligations;
- Plan and support trustee onboarding, orientation, and ongoing governance education;
- Promote best practices in trustee operations, meeting preparation, agenda development, and decision-making;
- Represent the Commissioner's Office in meetings with institutional leadership, trustees, and external stakeholders as assigned;
- Keep abreast of governance trends, higher education law, and best practices to inform trustee support and system guidance; and
- Ensure alignment with Board policies and statutory requirements.