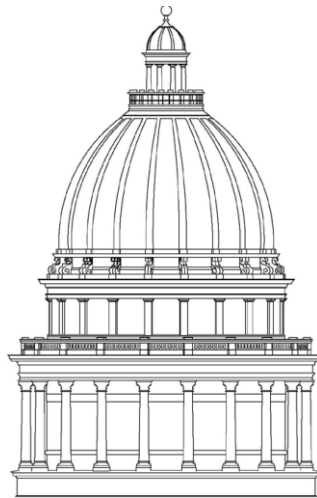


REPORT TO THE
UTAH LEGISLATURE

Number 2022-11



**A Performance Audit of Utah's System
of Higher Education Governance**

October 2022

Office of the
LEGISLATIVE AUDITOR GENERAL
State of Utah



Utah
**LEGISLATIVE
AUDITOR GENERAL**

KADE R. MINCHEY, AUDITOR GENERAL

315 House Building | State Capitol Complex | Salt Lake City, UT 84114 | (801) 538-1033

October 17, 2022

The Utah State Legislature:

Transmitted herewith is our report, A Performance Audit of Utah's System of Higher Education Governance (Report #2022-11). An audit summary is found at the front of the report. The objectives and scope of the audit are explained in the Introduction.

We will be happy to meet with appropriate legislative committees, individual legislators, and other state officials to discuss any items contained in the report in order to facilitate the implementation of the recommendations.

Sincerely,

A handwritten signature in black ink that reads "Kade minchey".

Kade R. Minchey, CIA, CFE
Auditor General
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PERFORMANCE AUDIT

► AUDIT REQUEST

The Legislative Audit Subcommittee asked for a review of the efficiency and effectiveness of Utah's System of Higher Education (USHE). This review ultimately included identifying governance issues and areas of improvement. Our scope does not include a review of the eight technical colleges beyond overall USHE governance.

► BACKGROUND

The Utah System of Higher Education is made up of sixteen public institutions and colleges (eight degree-granting institutions and eight technical colleges). USHE is governed by the Utah Board of Higher Education (board). The board is staffed and supported by the Office of the Commissioner of Higher Education (OCHE). The Commissioner acts as the CEO of higher education in the state.

S.B. 111 (2020), merged the degree-granting and technical college systems of higher education, creating a new Board of Higher Education. The new board was granted the authority to manage, control, and supervise the system.

As our audit will show, notwithstanding clear statute on higher education governance, there remains conflict of authority throughout the system.



KEY FINDINGS

- ✓ The majority of Utah's degree-granting institutions fall below peer and national averages on graduation rates. This is concerning because of the statutory goal for college completion.
- ✓ Utah's System of Higher Education still faces significant governance struggles despite a decision to create a single statewide consolidated governing board in 2020.
- ✓ Code defines the system as one with a consolidated board, however, the current governance structure acts more like a coordinating board.
- ✓ The Utah Board of Higher Education does not fulfill its statutory authority to "monitor, control, and supervise" the Utah System of Higher Education.
- ✓ The Office of the Commissioner of Higher Education could better support the Board of Higher Education.



RECOMMENDATIONS

- ✓ We recommend the Legislature consider the findings in this report and affirm its desired governance model for the Utah System of Higher Education.
- ✓ The board should review its duties and utilize statutory authority to manage the system of higher education more effectively.
- ✓ OCHE, in consultation with the board, should review its duties and identify ways it can enhance the analysis and support it provides to the board.
- ✓ The Legislature should consider a review of the balance of power between the Utah Board of Higher Education and local boards of trustees.



REPORT SUMMARY

The Board of Higher Education Should More Deliberately Exercise Its Authority Under Current Statute

Statute establishes the Board of Higher Education as the primary governing body of Utah’s System of Higher Education. This audit observed several occurrences of insufficient board governance. Within the context of the strategic plan, the board should exercise greater oversight of tuition approval, improve oversight and measurement of operational efficiencies at institutions, and improve the evaluation process for institutional presidents. Improving governance is critical due to poor state outcomes in graduation and retention. A dashboard with additional metrics, as well as national and peer comparison data for each school, can be found [here](#).

The Commissioner’s Office Can Better Assist the Board on System Issues

The role of the Office of the Commissioner of Higher Education (OCHE) is to “ensure that the policies, programs,

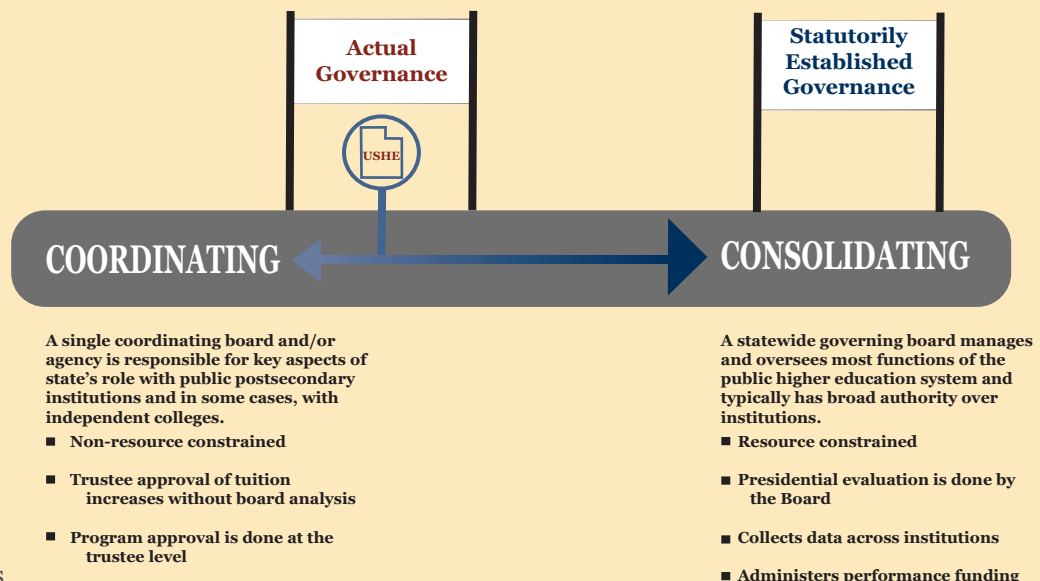
and strategic plan of the board are properly executed”. OCHE could better support the board in its governing role by more effectively promoting oversight and accountability within the system.

Legislature Should Again Affirm Its Governance Desires and Establish Stronger Accountability Mechanisms

Utah’s System of Higher Education has consistently operated under governance confusion. While statute prescribes a consolidated form of governance, the system functions in a more coordinated form. Improvements in governance can be made as the system stands now, but there are options for the Legislature to consider in regards to governance of the system including board size and structure, as well as the type of governance model.

Current Structure and Duties of the Board Can Be Reexamined to Determine Level of Governance

While the Utah System of Higher Education is codified as a consolidating system (rightmost model), there is a consensus among stakeholders that the system acts as a more coordinating board (leftmost model). While the two models share many of the same governance responsibilities, a consolidating board has authority to govern the system.



REPORT TO THE UTAH LEGISLATURE

Report No. 2022-11

A Performance Audit of Utah's System of Higher Education Governance

October 2022

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Chapter I

Introduction

The state of Utah's higher education system is at a critical juncture. We believe the Utah Board of Higher Education (the board) and the Office of the Commissioner of Higher Education (OCHE) need to solidify and clarify their roles in system governance. We also believe the future direction of the system should be further examined by the Legislature. The Legislature has deemed the board as the centerpiece of governance for higher education in the state, with *Utah Code* 53B-1-402(1)(c) granting the board the authority to control, manage, and supervise the system. These responsibilities have distinguished the Utah higher education system as one that has consolidated power. However, since the establishment of higher education in Utah, there has been ongoing tension between the will for a consolidated, centralized governing body and the desire to maintain local control over institutions. While the authority granted by the Legislature is intended to foster a strong, consolidated system of higher education, in practice the board has struggled to provide such a system amid varying opinions of what the system should be.

The impetus for this audit was for the Legislature to understand how higher education entities are performing in their respective roles. There is evidence that the higher education entities in question are unclear about their roles in the system, creating patterns of individualism at the institutions, mission creep, and a lack of effective collaboration and consolidation. This results in legislative investment not being treated as a finite resource. Consequently, certain laws, rules, and expectations do not match with how governance and management of the system are implemented. The capacity of Utah to have a true system of higher education remains uncertain, echoing the history of its beginning in the state.

The Beginnings of the Utah System of Higher Education Echo in Current Governance

The founding of Utah's public higher education system struggled with the question of centralization versus local control. Many states during the twentieth century grappled with the idea of centralization and institutionalism. Utah's higher education institutions were often

The Legislature has made it clear that the Utah Board of Higher Education is the explicit governing authority for the state's higher education system.

Lack of management and governance of the system has promoted greater individualism among institutions leading to less collaboration and consolidation.

predisposed to local control, posing a challenge for policymakers in creating a state-level governing body over higher education. Despite this challenge, the Legislature created a consolidated governing body and codified language for a board with authority over the entire system.

Contradictions in Governing Authority Created a Weak Thread of Centralization

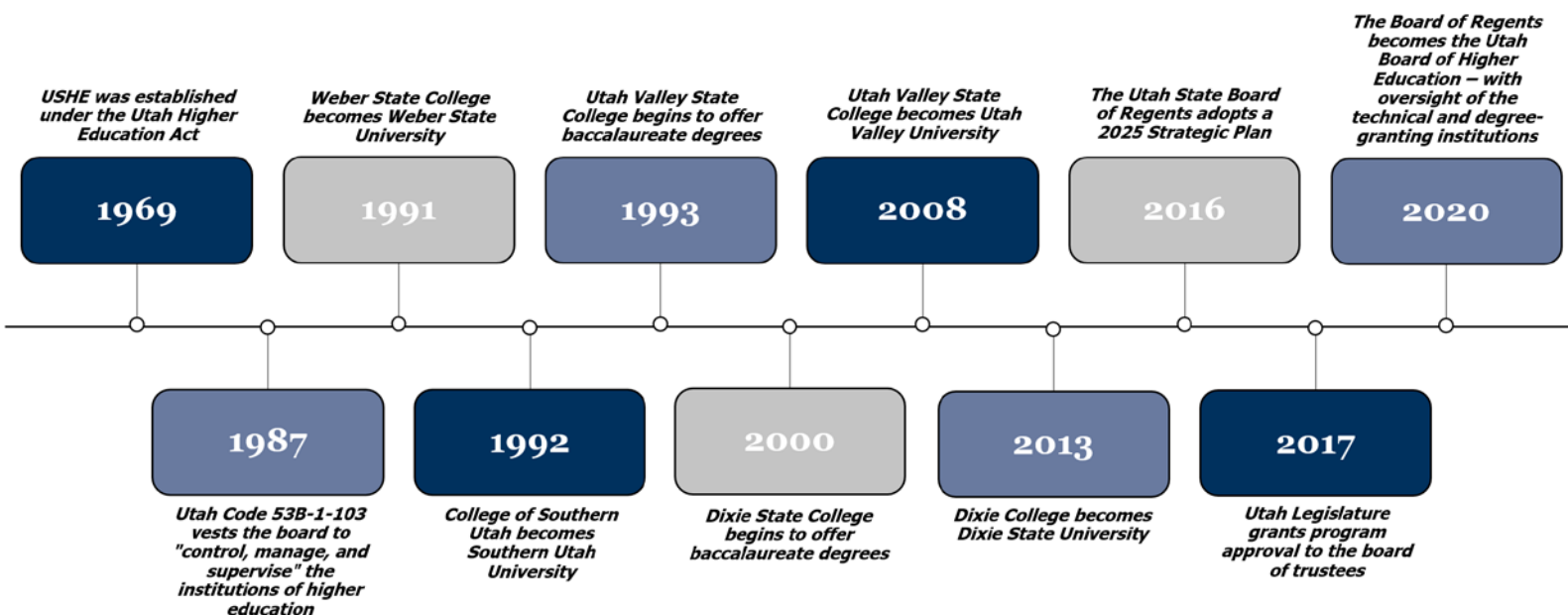
The establishment of Utah's higher education system was fraught with contention over centralization and institutionalization. Early statutory language reflects the conflict between the push for a centralized system and the desire for institutions to be self-governing. For example, early constitutional articles granted powers over higher education institutions to various entities—both to a single state-level board and to local institutional boards.

The passage of the Higher Education Act of 1969 marked an official step toward centralizing Utah's higher education system. The act was designed to improve public higher education through a statewide governing board, centralized direction, and master planning. However, the creation of a statewide governing board did not resolve the question of local versus system control. Institutional autonomy being at odds with system governance is a thread that persists into the current day.

Figure 1.1 highlights key milestones and system growth since the passage of the Higher Education Act. Based on available documents, the expansion of baccalaureate institutions appears to have occurred without central statewide planning. The system is now discussing the impacts of limited community college options.

The Higher Education Act of 1969 initiated a more centralized system for higher education in Utah.

Figure 1.1 Notable Events Since the Establishment of the Utah System of Higher Education (USHE). After the passage of the Higher Education Act in 1969, USHE continued to grow and expand the roles and missions of various institutions.



Source: Compiled from numerous historic and current documents regarding Utah's system of higher education.

The contentious journey to centralization for higher education echoes loudly in the current state of the system. Over the years, our office has conducted audits on the governance of higher education, noting that the governing entities have not fulfilled statutory authority and may have roles that are weakly defined. A limited review audit of higher education governance in 2018 highlighted the challenges of a system with a governing body and local institutional governing boards that have a high concentration of authority. The report recommended that the Legislature consider the balance of power between the statewide governing board and local boards of trustees. This current audit reiterates questions about where governance is centered. We believe there is a pressing need to address existing concerns and confusion about how the Utah Board of Higher Education currently operates amid the varying opinions about Utah's system. The section below introduces topics that are discussed in the subsequent chapters of this report.

A 2018 audit of higher education highlighted questions about the balance of power between the Utah Board of Higher Education and local boards of trustees at institutions.

Chapters II and III of this audit discuss how the board and the commissioner’s office need to better comply with current statute.

Chapter IV of this audit examines the relationship between the board and institutions.

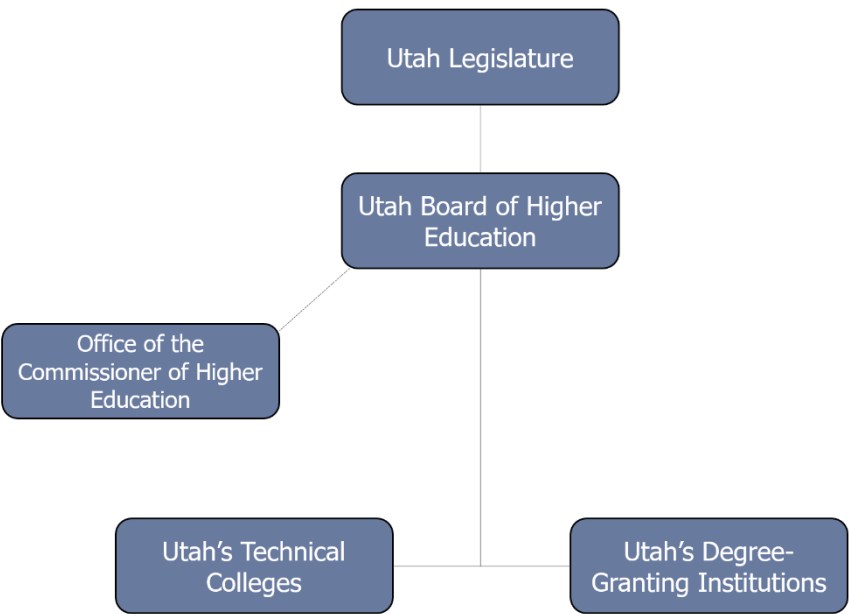
The board is the governing body and with the support of the commissioner’s office provides guidance and sets the strategic direction for the system.

The Legislature Has Established the Utah Board of Higher Education as the Governing Body

The next two chapters address the current condition of public higher education in Utah using federal data and metrics utilized by the state. The chapters will discuss how entities in higher education including the board and OCHE, need to better comply with established statute. Chapters II and III speak to the current framework of the system, where a strong consolidated board is statutorily mandated. The chapters recommend improvements within the existing system. The final chapter of this report delves into the question of what kind of higher education system Utah wants, versus the one it currently has. It examines governing structure of the system and the relationship between the current entities in higher education.

While the higher education system is made up of institutions and colleges, the board was established, in statute, to be the primary governing body for the entire system. The commissioner’s office plays a vital role in supporting the board. Figure 1.2 shows some of the main roles in higher education governance in Utah.

Figure 1.2 Roles Exist for Main Entities in Higher Education Governance, All of Which Can Be Reexamined.



Source: Office of Legislative Research and General Counsel

Each entity plays its own role in higher education governance. The Legislature creates statute and partially funds higher education in the state. The board is the governing body and, with the support of the commissioner's office, provides oversight and accountability and sets the strategic direction for the institutions and colleges of higher education.

Utah's current system of higher education includes sixteen institutions and colleges—eight degree-granting institutions and eight technical colleges. This audit analyzes the governance of the system and uses data from the degree-granting institutions to highlight governance issues. We scoped the technical colleges out of our review due to the recency of the system merger. Future audits should examine governance of the technical colleges.

Despite clear statute on higher education governance, questions persist regarding authority throughout the system. A weak governing body has often left the institutions to fend for themselves and operate outside the dedicated system. There remains a disconnect between how the law defines the system and how the system actually operates. We believe the board structure warrants another review, given the current condition of board enforcement and institutional buy-in and collaboration. Chapter IV offers recommendations for the Legislature to consider regarding higher education governance. The benefits of a higher education system have been well defined over the years, but there are indications that Utah's system is not creating efficient and effective outcomes.

This audit analyzes the governance of Utah's higher education system and uses data from institutions to highlight governance issues.

Chapter IV offers recommendations for the Legislature regarding governance in higher education.

Audit Scope and Objective

In 2018, the Legislature launched the Higher Education Strategic Planning Commission. This commission occurred in tandem with an audit our office conducted that showed significant oversight and governance problems, specifically with tuition approval, metrics, and oversight. The commission hired a group to analyze the state of higher education in Utah and provide recommendations to inform governance for the next twenty to thirty years.¹ The commission's report led to changes in the governance system of higher education

¹ The National Center for Higher Education Management Systems, *A Strategic Plan for Postsecondary Education in Utah*, November 22, 2019

and increased the statutory authority of the board. We recognize the value of this work and the urgency of the Legislative Audit Subcommittee's request for this audit as a continued review of the efficiency and effectiveness of the Utah System of Higher Education. Using data from Utah's eight degree-granting institutions, this report focuses on the following questions about system governance and performance in light of recent changes to the state's higher education structure.

- Chapter II: Is the Utah Board of Higher Education fulfilling its statutory authority to govern the system?
- Chapter III: How can the Utah Office of the Commissioner of Higher Education better serve the board and promote systemwide goals? Can Utah's institutions of higher education collaborate better on systemwide goals and metrics?
- Chapter IV: Is there a disconnect between the legally defined system and how the system currently operates? What are possible options for governance changes to enhance Utah's system of higher education?

Chapter II

The Utah Board of Higher Education Should More Deliberately Exercise Its Authority Under Current Statute

Higher education is at a precipice, becoming more accessible and less traditional than it was in previous years. This trend amplifies the need for clarity in governance and execution of oversight over Utah's system of higher education that is more in line with code. This chapter discusses certain higher education outcomes and the oversight role of the Utah Board of Higher Education (the board) based on current statute. With the board's statutory charge to "control, manage, and supervise the Utah system of higher education,"² it is imperative that the board have mechanisms in place to ensure its limited resources (\$1.3 billion in annual funding) are maximized to achieve the best outcomes for students. We believe there are opportunities for the board to improve its oversight.

Statute currently establishes the board as the primary governing body of the Utah System of Higher Education (USHE). We found that the board can more deliberately exercise its statutory authority and meet expectations set by the Legislature by improving several key areas. More specifically, the board can exercise greater oversight over tuition approval, improve monitoring and measurement of operational efficiencies at institutions, and improve the evaluation process for institutional presidents. These and other improvements are consistent with the promotion of the strategic plan, which is the board's statutory responsibility. Along with these areas for improvement, this chapter also highlights instances of effective governance where the board executed its duties and provided strong leadership, creating a value add for the system that ideally would happen more consistently going forward.

Beyond looking at governance challenges and board effectiveness, we also compared the graduation and retention rates of Utah's public institutions against those of other states. One well-established benefit of higher education is increased earning potential stemming from

The board is to control, manage, and supervise higher education in Utah and ensure that \$1.3 billion of annual funding in limited resources is being maximized to achieve the best outcomes for students.

Consistent with the promotion of the strategic plan, the board needs to exercise its statutory authority more deliberately in overseeing tuition approval, monitoring and measuring operational efficiency at institutions, and evaluating institutional presidents.

² See *Utah Code* 53B-1-402(1)(c)

degree completion. We chose to analyze graduation and retention rates because these measures represent that benefit and are comparable across states. Our findings suggest there is significant room for improvement, as Utah institutions often perform below average in these metrics.

Graduates from USHE Institutions Have Positive Outcomes, Signifying the Importance of Effective Governance

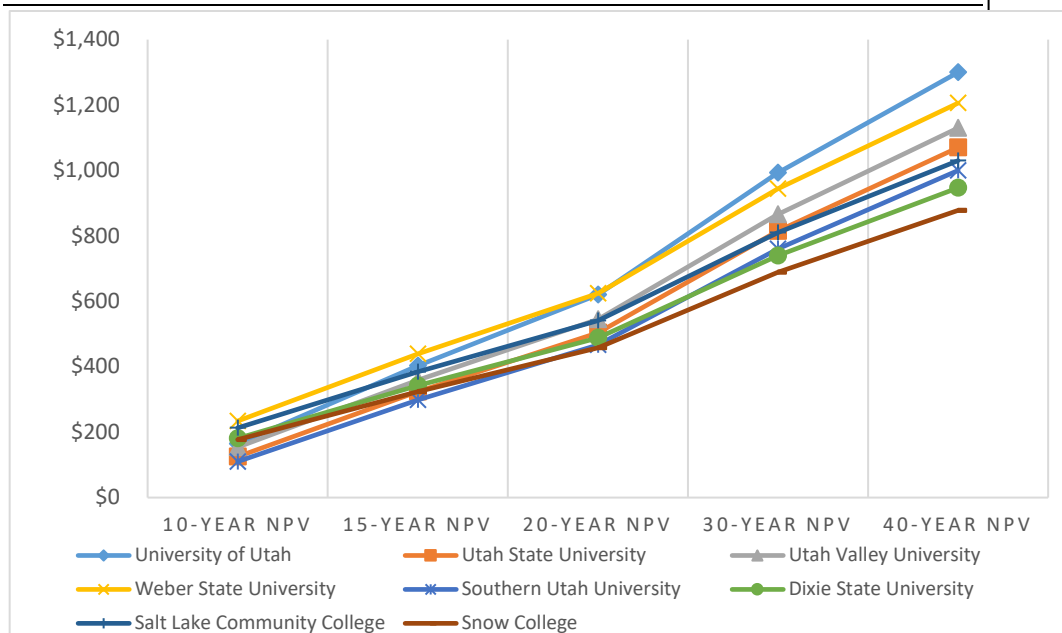
The way higher education is delivered is changing, creating innovative opportunities for those whom a post-secondary education was out of reach. There is an ongoing need for Utah's higher education institutions to adapt to changing times and provide the best possible value to all students. Evidence suggests that USHE institutions provide a positive benefit—i.e., increased earning potential to students who obtain a postsecondary degree or certificate.

There are different approaches and varying opinions about how to quantify the return on investment (ROI) for a college education. The value of a college degree varies widely based on the type of degree and major. A Georgetown University study ranked 4,500 colleges and universities throughout the country using college scorecard data. The data generate an ROI measure by using the net present value for each institution. Utah schools rank fairly well, with the University of Utah having the highest ROI over a forty-year period. Figure 2.1 show the ROI for Utah's eight degree-granting institutions. After forty years, USHE institutions have better outcomes than 50 percent of the other U.S. institutions and colleges included in the study.

Utah's institutions provide increased earning potential to students who obtain a degree or certificate.

Among 4,500 colleges and universities nationwide, Utah institutions ranked in the top 50 percent for ROI.

Figure 2.1 ROI of USHE's Eight Degree-Granting Institutions.
Each institution demonstrates a positive net present value (NPV) over time.



Source: A First Try at ROI: 4,500 College Rankings

Additionally, wage data highlights the benefits of graduating from a USHE institution. The Utah Office of the Commissioner of Higher Education (OCHE) recently published wage data on USHE graduates, comparing their wages one year before and one year after graduation. All levels of postsecondary attainment show additional wage growth, with most degrees resulting in a median increase of \$10,000 or more in annual earnings.

Although USHE's wage data does not detail the outcomes for individual institutions, this information highlights the benefits of completing a USHE education at any level and suggests the need for the governing board to provide effective system oversight.

The Board Can Improve in Key Areas

The Legislature made it clear how the board should lead the system of higher education. The board is considered the governing body and is expected to control, manage, and supervise the state's system of higher education. The board needs to improve in three key

Most degrees result in a median increase of \$10,000 or more in annual earnings.

The Legislature expects the board to control, manage, and supervise the system of higher education.

The board does not sufficiently require rigorous analyses on tuition increases, largely turning over control of a pressing issue that affects students.

Most board members did not question the necessity of tuition increases; 94 percent of votes supported tuition increases with little or no objection.

areas: oversight of tuition, monitoring of system efficiency, and evaluations of institutional presidents. Improvement in these areas would strengthen the board's governance and effectiveness in using state resources. Additionally, our audit revealed several areas of success that can give the board momentum for strong governance in the future.

Weak Tuition Oversight Illustrates the Board's Struggle to Provide Strong Governance

In our 2018 report titled *A Performance Audit of the Utah Board of Regents*, we noted that the board did not provide adequate tuition oversight and that OCHE did not sufficiently analyze tuition proposals. Since then, the tuition proposal process has been revised, but there is still a lack of control and analysis from system leadership. The board is the controlling body for higher education in Utah, yet it largely turns control of tuition increases over to boards of trustees—one of the most important issues affecting students.

Without an appropriate analysis of the tuition increases, there is a possibility for unnecessary tuition inflation. Our process did not audit tuition increases; therefore, we do not dispute the need for such increases. However, we believe that tuition increases should be justified. In board meetings over the past five years, few board members questioned the need for tuition increases or whether there were other ways to obtain the necessary funding. In only one instance was an objection to tuition increases related to a concern about the actual need for an increase or the relevant analysis.³ A five-year tally of board votes on tuition increases showed 94 percent of votes in support of increases and 6 percent against.

³ Generally, objections were contextual to other issues such as the COVID-19 pandemic or high inflation. Board members did not believe it was fair to students to increase tuition in those circumstances but did not critique the validity of the proposals themselves.

These points echo our findings from 2018, which showed minimal independent analysis of tuition increases for USHE institutions. Local boards of trustees have been given more responsibility to analyze tuition proposals. Trustees analyze the proposals using criteria set by the state board and then forward their decision to the state board for consideration. Despite this change, one board member recently questioned what analysis was being done on tuition and fee proposals before the proposals reach the board. We believe further improvements can be made to tuition oversight. In our audit process, OCHE staff recognized that their current analysis could be improved to provide more context for the board regarding tuition proposals.⁴ We recommend that the board offer stronger oversight by better defining the roles that the board, local boards of trustees, and OCHE will play in the tuition analysis process.

Annual Evaluations of Presidents Are Not Adequate

The board is required to evaluate the president of each institution to ensure they are performing well. There are two required evaluations: one in the first year and one every four years thereafter. The four-year evaluation is a comprehensive review; a less comprehensive review is performed annually. For this audit, we chose to review the annual evaluations since these should have a more consistent connection with the presidents and provide more timely feedback than the comprehensive reviews would. We requested annual reviews for the past three years; however, we only received nine annual reviews dating back to 2016. The total number of annual reviews for Utah's colleges and universities should have been at least forty dating back to 2016.

The presidents of higher education institutions are granted power and authority through the board. The presidents use this authority to implement effective and efficient administration and operations, consistent with the statewide master plan for higher education. It is therefore the board's responsibility to objectively determine how well presidents are meeting this mandate. It is possible that all required annual reviews of presidents occurred but were not documented.

⁴ To be discussed in Chapter III.

There was little to no improvement of independent tuition analysis performed by the commissioner's office since our 2018 audit.

Since 2016, only nine annual evaluations of college or university presidents have been documented out of a possible forty.

It is not possible to determine the effectiveness of annual reviews due to the lack of annual reviews performed.

The board shall establish metrics to demonstrate and monitor performance measures on operational efficiency.

However, we are unable to determine what feedback was given by the board and thus cannot report its effectiveness. In our review, we found that one president had at least two annual reviews, one year apart. The remaining annual reviews were one-year reviews for other institutional presidents. Thus, making it impossible to determine how effective these annual reviews are. Furthermore, in some cases, the annual review was not fully completed per requirements. We recommend that the board improve the documentation of annual reports to better link the accountability of institutional presidents with system goals.

The Board Could Improve Its Oversight of Systemwide Operational Efficiency

According to *Utah Code* 53B-1-402(2)(c)(ii), “The Board shall...establish metrics to demonstrate and monitor...performance on measures of operational efficiency.” To achieve this, the board needs to review operational efficiency and better fulfill its statutory obligations to establish corresponding metrics. Given the large quantity of institutional data collected by OCHE on revenues, expenditures, debt ratios, capital expenses, and cost-per-student full-time equivalent calculations, we found additional review could be completed.

The higher education system in Utah is studying operational efficiency items, such as the Huron study⁵ on shared services that presented options to share services at the local, group, and system levels in areas such as payroll and procurement. Our review of other state systems found other examples of measurement and data sharing with regard to operational efficiency that could be options for Utah’s system to enhance its operational efficiency monitoring.

- Texas has an executive vice chancellor of business affairs on its finance committee. This person shares data about system performance, such as total revenues and expenditures and systemwide financial information on operations.
- The Ohio Department of Higher Education provides an institutional efficiency review and implementation plans that

⁵ Huron Consulting Group was hired by OCHE to study the opportunities for shared administrative services in the system of higher education.

require institutions to share practices that will yield significant savings that could be passed on to students.

- The Arizona Board of Regents is required by statute to submit an annual cost-containment report, which summarizes actions taken by institutions to contain costs and specifies savings associated with those actions.

OCHE is a repository for data and can assist with the board's legislative mandate to determine operational efficiency for the system which will be discussed in Chapter III. The commissioner's office can provide context-driven data that would allow comparisons between Utah institutions and their peers, as well as comparisons against national averages. Measuring system efficiency and utilizing context-driven data can strengthen the board's ability to make meaningful decisions for higher education in Utah and ensure the effective use of state funds to promote the best outcomes for students. Student outcomes are discussed in detail in the last section of this chapter.

Instances of Effective Governance Provide a Blueprint for How to Execute Statutory Duties

Despite the lack of execution by the board and examples of poor system performance noted above, there have also been system successes. These successes show the value of effective governance and emphasize the need to ensure that oversight roles are executed more in line with code. In our review of recent changes to code regarding board duties, we found evidence of progress made by the board, but not completion of the specified duties. The board has an opportunity to show stronger governance and oversight by fully executing those duties. The recommendations in this chapter may need to be modified if different governance options are considered, as discussed in Chapter IV.

The commissioner's office can provide context-driven data so the board can make meaningful decisions for Utah's higher education system.

Specific board duties were amended in 2020 to strengthen system governance and to specify that economic, demographic, and performance data should be collected and analyzed.

The Board Should Capitalize on Expectations for Stronger Governance per Recent Legislation. S.B. 111 in 2020 clarified the Legislature’s expectations for the board to govern the system. Figure 2.2 summarizes how the 2020 amendments set higher expectations for strong board governance and provided the board with specific tools with which to govern the system.

Figure 2.2 Amendments to Higher Education Code in 2020 Specified Board Duties. Increased specificity of duties reflects the Legislature’s heightened expectations of strong board leadership for system issues.

2018 Code	2020 Code
Administer statewide functions including system data collection and reporting	Collect and analyze data* including economic data, demographic data, and data related to [performance] metrics
Establish unified budget, finance, and capital funding priorities and practice	Create and implement a strategic finance plan, including setting tuition and administering performance funding*
Coordinate and support articulation agreements	Create a seamless articulated education system for Utah students, including aligning general education requirements*
N/A	Maximize efficiency through shared administrative services

**Emphasis Added*

We recognize that progress has been made toward fulfilling these new responsibilities, such as tracking program duplication and aligning performance funding metrics and strategic plan goals, but more work is needed to fully execute these legislative expectations, particularly in aligning general education requirements. And despite the responsibility that OCHE and the institutions have to collaborate with and support the board,⁶ the board is ultimately responsible to fulfill these duties and ensure system success. As described in the next section, there are cases where the board has exhibited this type of strong system leadership. Going forward, the board must capitalize on the opportunity to fully execute these new duties and provide strong system governance more consistently.

The Board Has Led Positive Initiatives. We found examples of effective governance such as appropriate implementation of the capital

⁶ We will discuss OCHE’s role to support the board in Chapter III.

development process, development of a new systemwide strategic plan, and the coordination of an advising corps program and a mental health initiative. These successful initiatives are summarized in Figure 2.3.

Figure 2.3. The Board Has Some Recent Successful Initiatives.

Capital Development	Strategic Planning	Utah College Advising Corps	Mental Health Initiative
<ul style="list-style-type: none"> • System coordination adequately prioritized building requests 	<ul style="list-style-type: none"> • Established the new 2021 Strategic Plan with accountability measures in place 	<ul style="list-style-type: none"> • Proven program to increase college attendance • Garnered systemwide support 	<ul style="list-style-type: none"> • Fostered systemwide collaboration for common mental well-being framework

Source: Auditor Generated

For example, the Higher Education Amendments in 2020 charged the board with establishing and promoting “a state-level vision and goals for higher education that emphasize system priorities...”⁷ The board oversaw the creation of a new strategic plan that is aligned with performance funding metrics. That oversight should continue, including monitoring OCHE’s work towards fulfilling the plan and ensuring that the plan remains consistent moving forward, as we address in Chapter III.

Strong board governance, backed by staff support, is how the system should function per statute. The approaches that led to the successes above can provide a framework for future system governance. We believe the heightened expectations specified in new code, along with the influx of many new board members, provides an opportunity for the board to execute its duties more fully and better manage Utah’s system of higher education. The system needs stronger oversight, as shown by underperformance in several important metrics.

As per statute, the board has established a statewide strategic plan, which includes completion.

Recent board successes can provide a framework for a stronger governance model for the future.

⁷ **Utah Code** 53B-1-402(2)(a). This section also lists the system priorities as quality; affordability; access and equity; completion; workforce alignment and preparation for high-quality jobs; and economic growth.

Key System Outcomes of USHE Institutions Are Lower Than Those of Other States and Peers and Need to Improve

This last section of the chapter examines some of the possible consequences of subpar board governance by analyzing data from Utah's public degree-granting institutions. Accountability and structural authority are mechanisms for feedback and improvement among system entities and without them, outcomes may falter. In FY 2022, the Utah Legislature invested roughly \$1.3 billion in higher education—nearly 14 percent of the total state funded budget. By way of comparison, Utah spends more on higher education than our neighboring states and states with similar populations do. However, states with similar educational appropriations have higher graduation rates among students seeking a bachelor's degree. Despite studies suggesting state investment in higher education positively impacts student outcomes, Utah's graduation and retention rates are often lower than what is seen among peer states. These findings suggest that Utah can improve its ROI for higher education.

The Board Should Ensure That Value Is Maximized for Public Higher Education Investment

In FY 2022, Utah ranked in the top half nationally for higher education spending (22nd out of 49 reporting states). Also, Utah's public institutions have some of the lowest tuition in the country due to the high level of investment by the Legislature. Because of the significant investment of state tax dollars, the Legislature has a critical need to ensure that the higher education system is performing as desired and expected.

One way to compare higher education investment among states is to look at appropriations by full-time equivalent (FTE) students. The State Higher Education Executive Officers Association (SHEEO) releases a *State Higher Education Finance Report* each year that identifies state funding levels and national contributions. Figure 2.4

In FY 2022, the Legislature invested \$1.3 billion in higher education; states with similar appropriations have higher graduation rates than Utah does.

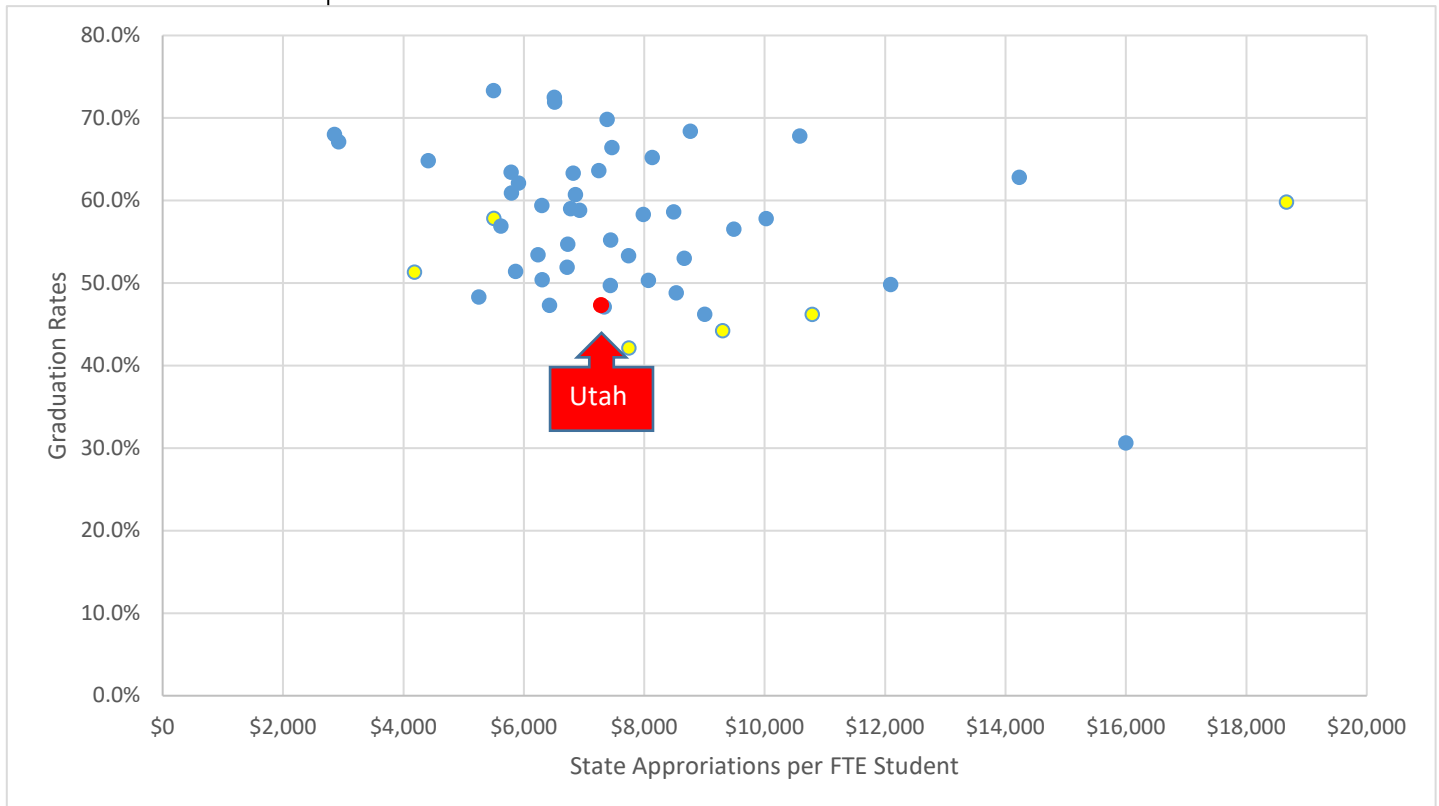
Due to the high investment by the Legislature, Utah's public higher education institutions have some of the lowest tuition in the country.

presents a six-year average of state appropriations⁸ per FTE⁹ student with graduation rates at four-year institutions.

⁸ State support is defined as a broad measure of how much money the state provides from state tax appropriations, non-tax funds (e.g., lottery revenue), and funds appropriated to other state entities for higher education (e.g., employee fringe benefits) to support all higher education. This measure does not include any sums for capital outlays and debt service, or sums derived from federal sources, student tuition and fees, or auxiliary enterprises.

⁹ The state appropriations per FTE student shown in Figure 2.4 are six-year averages. The calculations are as follows: Education Appropriations = Tax Appropriations + Non-Tax Support + NonAppropriated Support + Endowment + Previous Appropriations + Other Support + ARRA Funds + Local Support - Return Appropriations - MultiYear Appropriations - Non-Credit - Independent Operating - Independent Aid - Out of State Aid - Research Appropriations - Agricultural Extension Appropriations - Hospital Appropriations - Medical School Appropriations

Figure 2.4 Utah Is Close to the National Average on Higher Education Spending but Is Near the Bottom in Graduation Rates¹⁰. Utah (red dot) spends roughly the same as other states per full-time equivalent (FTE) student yet has one of the lowest graduation rates in the country. Utah spends, on average, \$7,282 per FTE student; the national average is \$7,692. Note that neighboring states are shown as yellow dots.



Sources: State Higher Education Executive Officers Association and the National Center of Education Statistics, Integrated Postsecondary Education Data System

Figure 2.4 shows that Utah's appropriations per FTE student are near average, but graduation rates are comparatively much lower. SHEEO's method of looking at state appropriations per FTE student is one of the few ways we found to compare state investment in higher education.¹¹ We believe legislators need to know how Utah compares

Relative to other states, Utah's appropriations per FTE student are near average, but the state's graduation rates are among the lowest.

¹⁰ Graduation rates are calculated at 150 percent of the expected time. This means that the rates include students who take up to six-years to graduate from four-year institutions and three-years to graduate from two-year institutions. This accounts for students graduating outside the "normal" expected time frame.

¹¹ It is important to note that not all students are full-time equivalent, but this measure allows us to look at state level investment across the country.

against other states and determine if outcomes are aligning with spending levels.

Utah Graduation and Retention Rates Are Lower Than Those of Other States

Nationwide, Utah has one of the lowest graduation and retention rates for four-year public institutions. The ability to hold institutions accountable is crucial to upholding high standards for higher education in the state. While graduation and retention rates are not the only determining factors of success, they are quantifiable and comparable data points that serve as an indicator for higher education outcomes. Graduation rates are indicative of student completion, which is an important factor of higher education considering the benefits like wage growth for graduates. Retention is important for reducing the population of adults with some college and no degree—a demographic that higher education stakeholders are focused on.

In 2019,¹² Utah ranked 44th in graduation rates for four-year public institutions (data includes 50 states and the District of Columbia). Graduation rates are measured at 150 percent of time (6 years for four-year institutions and 3 years for two-year institutions) to account for students graduating outside of the “normal” expected timeframe. Utah performs better for two-year public universities, ranking 26th out of the 47 states that reported data.

Retention rates tell a similar story. Utah ranked 46th for retention rates at four-year institutions in 2019 (out of 50 states and the District of Columbia). Two-year institutions fared slightly better, with Utah ranking 30th out of the 47 reporting states.¹³ According to the National Student Clearinghouse Research Center, Utah’s population of adults with some college and no degree was 386,318 as of 2021. This represents the number of people who were not retained and did not complete their degree or certificate in Utah, sometimes missing out on the benefits of higher education.

Graduation and retention rates are quantifiable and comparable data points that serve as an indicator for higher education outcomes.

In 2019, Utah ranked 44th out of 50 states for graduation rates for four-year public institutions.

As of 2021, Utah had more than 386,000 former students who had some college and no degree.

¹² 2019 was chosen for this data because we wanted to include the most recent year before the COVID-19 pandemic.

¹³ When looking at part-time retention rates, Utah’s students are much more likely to be retained. Four-year institutions ranked 23rd and two-year institutions ranked 19th.



Audit Dashboard Highlights Underperformance Among Utah Schools Compared with That of Peer Schools

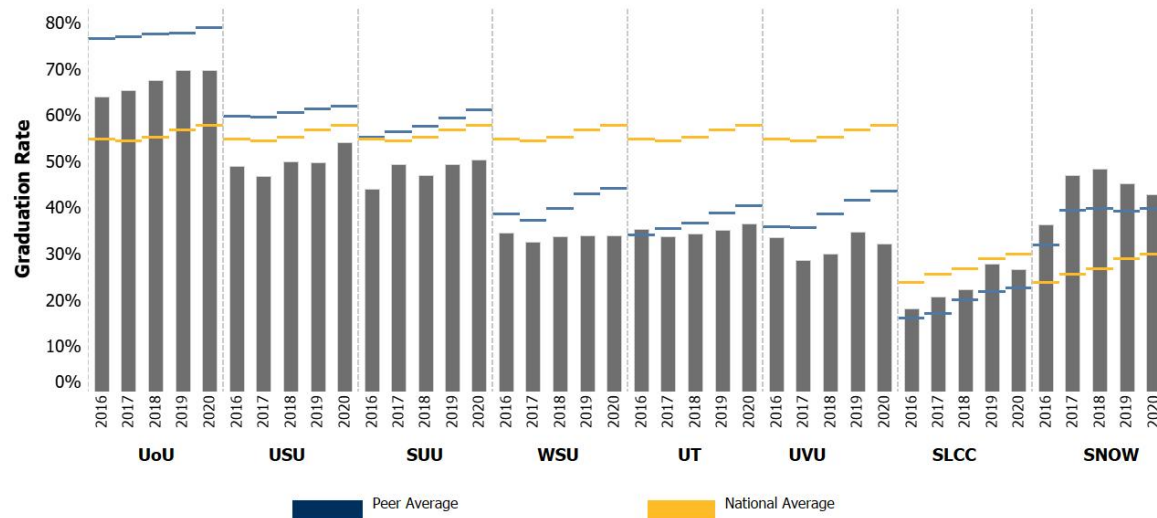
To assess efficiency and effectiveness, the audit team created a dashboard by selecting certain federally reported variables to compare student outcomes of USHE institutions against peer and national averages. This dashboard provides an opportunity for the board to address the recommendation of honing operational efficiency and using context-driven data for decision making. Open enrollment policies for some USHE institutions may affect the type of students that attend those schools compared to institutions with selective admission policies. These and other differences are captured in the dashboard data.

The dashboard¹⁴ highlights institutional and student outcomes. It includes metrics on graduation, retention, revenue, expenditures, cost, debt, loans, and eight-year outcomes. To view these data from Utah's eight degree-granting institutions, click or scan the accompanying QR code. This dashboard provides decision makers with contextual data on USHE institutional performance compared to national and peer averages.

¹⁴ The dashboard conclusions reflect the need to create context for the outcomes of higher education in Utah. However, only certain variables collected at the federal level can be used to systematically look at outcomes for higher education. The audit team understands this limitation and acknowledges that these metrics do not represent the totality of variables that determine the success of an institution.

Figure 2.5 The Graduation Rates of Most USHE Institutions Are Lower Than Those of Their Peers. Six of the eight degree-granting institution fall below peer or national averages, or both.

Source: College Score Card Data



The graduation rates of six of Utah's eight degree-granting institutions are lower than those of their peers, as shown in Figure 2.5. Six Utah institutions also fall below the national average for graduation.

Given the underperformance of Utah institutions of higher education based these key metrics, coupled with deficiencies of the board in fulfilling its duties, it is uncertain whether the ROI is requisite with the appropriations the system receives from the Legislature. The state appropriates a large portion of state funds to higher education and studies show that degrees from Utah institutions provide an economic benefit to graduates. This improved oversight and fulfillment of statutory duties are needed from the board to ensure that the system is maximizing Utah's investment in higher education.

Six out of eight degree granting institutions' graduation rates fall below the national average.

Studies show that degrees from Utah institutions provide economic benefit. Therefore, the board needs to ensure that the system is maximizing the state's investment.

Recommendations

1. We recommend that the Utah Board of Higher Education review its duties and utilize statutory authority to manage the Utah System of Higher Education more effectively to ensure that the value of higher education is being maximized.

2. We recommend that the Utah Board of Higher Education provide stronger oversight by ensuring that rigorous analyses are conducted for tuition proposals.
3. We recommend that the Utah Board of Higher Education strengthen the documentation of the annual presidential evaluation process to show greater accountability between institutional presidents and the board.
4. We recommend that the Utah Board of Higher Education adopt metrics that demonstrate and monitor the performance of operational efficiency at the institutions.

Chapter III

The Commissioner's Office Can Better Assist the Board on System Issues

Inadequate information, along with inconsistent metrics, goals, and strategic plans may have contributed to ineffective systemwide governance by the Utah Board of Higher Education (the board). The Office of the Commissioner of Higher Education (OCHE) must furnish information about the Utah System of Higher Education (USHE) and make pertinent recommendations to the board. As mentioned in Chapter II, the Legislature recently appropriated \$1.3 billion to higher education in Utah, and proper oversight is needed to ensure that this substantial investment benefits the system. Mechanisms for accountability, such as performance funding and strategic planning are in place to enhance this oversight but could be used more effectively. OCHE plays a key role in supporting this oversight and accountability. OCHE needs to use its expertise and the available data to improve board governance by focusing the board on system issues and identifying items that could hamper the effective use of appropriations. This chapter addresses specific tools and responsibilities that OCHE can improve upon to more fully support the board.

OCHE Can Improve Its Staff Support Role, Which Is Essential to Good Governance

OCHE has access to large amounts of state and federal data that it can analyze to provide information to the board and highlight system issues. Additionally, OCHE has been given various tools it can use to evaluate the data it collects and provide findings and recommendations to the board. Our review of presidential evaluations, tuition analysis, performance funding, and strategic planning offers examples where OCHE's evaluation and sharing of data can be improved.

The board needs to receive adequate information to inform its decisions. Given the time constraints inherent to a volunteer board, OCHE's role in supporting the board is key for effective governance. More specifically, OCHE needs to improve its analysis of data and information, more fully inform the board's decisions, and help the board focus on key system concerns.

The commissioner's office must provide expertise and data analysis to improve board governance.

Large amounts of state and federal data are available to the commissioner's office for analytical evaluation.

The commissioner's office is responsible to the board to ensure policies, programs, and strategic plans are properly executed.

Code and Policy Establish OCHE as Support Staff for the Board

OCHE's duties and responsibilities are found in both *Utah Code* and Utah System of Higher Education (USHE) policy. As shown in Figure 3.1, duties articulated in code tend to apply to the general function of OCHE, which is to support the board and provide information for the board's decision-making. These duties affirm that OCHE is responsible for supporting the board by seeing that its decisions are executed across the system and by responding to specific requests by the board.

Figure 3.1 The Commissioner of Higher Education Has Clear Duties to Support the Board.

<i>Utah Code</i> 53B-1-408(3)
The commissioner is responsible to the board to:
(a) ensure that the policies, programs, and strategic plan of the board are properly executed;
(b) furnish information about the Utah system of higher education and make recommendations regarding that information to the board;
(c) provide state-level leadership in any activity affecting an institution of higher education; and
(d) perform other duties assigned by the board in carrying out the board's duties and responsibilities.

Source: *Utah Code* 53B-1-408(3)

As stated in *Utah Code*, the board can “prescribe the duties and functions of the commissioner,”¹⁵ subject to the parameters listed in Figure 3.1. These specific responsibilities, which are assigned to OCHE in USHE policy, fall into several broad categories, as shown in Figure 3.2.

¹⁵ See *Utah Code* 53B-1-408(2)(c)(ii)

Figure 3.2 OCHE Has Multiple Tools It Can Use to Support the Board.



Source: Auditor generated

These responsibilities represent tools that OCHE can use to support the board and implement the board's decisions across the system. These tools allow OCHE to provide information, data, and analyses that the board can use to govern the system, including decision-making for presidential evaluations, performance funding, tuition increases, and strategic plans and goals. OCHE can improve its use of several tools summarized in Figure 3.2, which we address in the next section.

OCHE Should More Effectively Analyze System Information to Inform the Board

As noted in Chapter II, USHE institutions are underperforming in several important metrics relative to peer institutions. We found only a few instances of OCHE producing context-driven data, despite having access to such data. Additionally, we found various briefs written by OCHE about issues such as financial aid and excessive credit hours, but the briefs were not accompanied by recommendations to the

The commissioner's office can utilize tools such as institution collaboration and policy implementation to assist the board.

We found only a few instances of the commissioner's office producing context-driven data.

The commissioner's office must ensure that presidential reviews are complete and accurate to inform board decisions on the president's performance and compensation.

The commissioner's office needs to have more rigorous review of tuition increase requests and offer advice and recommendations to the board.

board. We believe these are missed opportunities for OCHE to focus the board's attention on system concerns and provide options to address those concerns.

While the board is ultimately responsible for system decision-making, statute enables the board to enlist OCHE's help to fulfill board duties. Board members rely on OCHE to inform their decisions about presidential reviews and tuition increase analyses. OCHE has access to large amounts of data and information about the system but has not adequately used this resource to focus and inform the board on these issues. The result: decisions are being made without adequate information.

Presidential Reviews Must Be Complete. For presidential reviews, policy states that OCHE "facilitates presidential review processes and makes recommendations to the board regarding presidential performance and compensation." Although the four-year comprehensive evaluations were fairly robust, they did not address each evaluation criterion listed in USHE policy. In other words, standards and measures were inconsistently applied across evaluations of college and university presidents.

OCHE staff facilitate the comprehensive reviews and have a role in ensuring that the reviews are complete and accurate to inform board decisions on presidential performance and compensation. OCHE staff reported that they are currently revising the evaluation processes. As noted in Chapter II, tuition increase analysis is another area in which OCHE can improve.

Tuition Increase Analysis Should Be Reviewed. In policy, OCHE is tasked generally to "provide 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." As tuition increases are an item that comes before the board, OCHE has a role in reviewing the increases and providing the board with pertinent advice and recommendations.

As noted in Chapter II, OCHE trains boards of trustees on tuition analysis and trustees are more involved in the tuition setting process. However, there is still uncertainty about the level of rigorous analysis performed on institutional tuition increase requests. OCHE should be providing this analysis. Under the current process, OCHE staff send

out forms to each institution for their tuition increase requests, collect the proposals, and submit them to the board for review. We were not told of any specific analyses conducted by OCHE staff regarding the merit of the proposals. This suggests that there was no review of options to cover increased fiscal needs other than a tuition increase.

We did not audit the validity of tuition increases and are not questioning such increases. The audit team's concern is that the board is making decisions about tuition increases based on limited options and analysis which could lead to unnecessary tuition inflation. OCHE staff noted that they plan to provide the board with more context on the proposals and additional analysis in this area. Improvement by OCHE in both presidential reviews and tuition analyses not only will inform board decisions better but will also help the board address shortcomings in those areas we addressed in Chapter II.

We recommend that OCHE, in consultation with the board, review its duties and identify ways to enhance the analysis and support the office provides to the board.

Improvements to Accountability Mechanisms Could Create Better Outcomes

As discussed in Chapter II, a degree from a USHE institution provides positive outcomes for its graduates. It is therefore important to track and monitor the attainment of these degrees. OCHE has implemented performance funding and a strategic plan to monitor this; however, the execution of these two accountability mechanisms has been ineffective.

The Legislature implemented performance funding in fiscal year 2013, but fiscal year 2016 marked the beginning of a stable set of comparable metrics. From fiscal years 2016 to 2023, the Legislature appropriated nearly \$74 million in performance funding. The metrics for performance funding are one of the few tools for the Legislature and the board to measure accountability. We believe this system of performance funding is valuable. However, it is unclear if these metrics are driving performance. We found that since 2016, with some minor exceptions, most of the institutions received all of their performance funding each year. This makes it difficult to determine if the metrics are fostering institutional improvement or if the metrics are weak and easy to achieve. The failure to adequately use

The board is making decisions about tuition increases based on limited information, which could lead to unnecessary tuition inflation.

Since 2016, most institutions received all of their performance funding; thus, we were unable to determine if current metrics were fostering institutional improvement.

Consistent goals tied to performance funding metrics could improve accountability for institutional outcomes.

With new performance metrics in place, the commissioner’s office must set levels within these metrics to challenge institutions and hold them to higher standards of improvement.

performance metrics to boost outcomes was recognized by the Legislature and other higher education entities, and a new set of metrics were legislatively mandated for fiscal year 2024. We believe OCHE needs to ensure that these new metrics assist in maximizing system value.

Strategic planning is another mechanism to monitor system performance. The board adopted a strategic plan in 2016, which went through yearly changes until it was completely revised in 2020. Inconsistency in statewide metrics and goals creates challenges in implementing those goals. Having consistent goals that are aligned with performance funding metrics could also help improve accountability for institutional outcomes.

Previous Metrics May Not Have Challenged Institutions

USHE staff and board members point to performance funding as being the only financial lever the system’s governing bodies can control. However, leaders in higher education assert that performance funding metrics have not always fostered accountability and could be more equitable.

The new set of metrics has been simplified and refined with systemwide goals in mind. The new performance metrics came after a commissioned report by the National Center for Higher Education Management Systems (NCHEMS), which was part of an effort to improve system accountability and innovation. With new performance metrics in place, OCHE must set levels within these metrics to challenge the institutions and hold them to higher standards of improvement. Figure 3.3 compares the previous and new performance metrics.

Figure 3.3 Performance Metrics Previous to Fiscal Year 2023 Compared with New Metrics. The new performance metrics are simplified and have a slightly different focus.

Previous Performance Metrics	New Performance Metrics*
Completion	Access
Underserved Students	
Market Demand	Timely Completion
Research	
Awards per FTE	High Yield Jobs

*These metrics go into effect for fiscal year 2024.

The system's new performance metrics in Figure 3.3 focus on access (increased enrollment in higher education for Utah high school graduates), timely completion (graduation from certificates and degree programs), and high-yield jobs (alignments with high wage, high demand jobs). These metrics align with the new systemwide strategic plan and, ideally, will create meaningful improvements for USHE institutions beyond the previous performance metrics.

Figure 3.4 shows trends in performance funding for Utah's eight degree-granting institutions over the past eight years. The percentages are averages of the five metrics listed above,¹⁶ with varying weights. When an institution does not fully reach or make improvement on a goal, it receives only a percentage of or none of the funding for that metric. Figure 3.4 indicates that most institutions received 80 percent to 100 percent of their performance funding in previous years. A previous audit titled *A Performance Audit of Social Service Agencies' Performance Measures*¹⁷ highlights the deficiencies of maxed-out performance metrics for agencies, which raises the question of how well these metrics have challenged institutions to make improvements for institutional and student success.

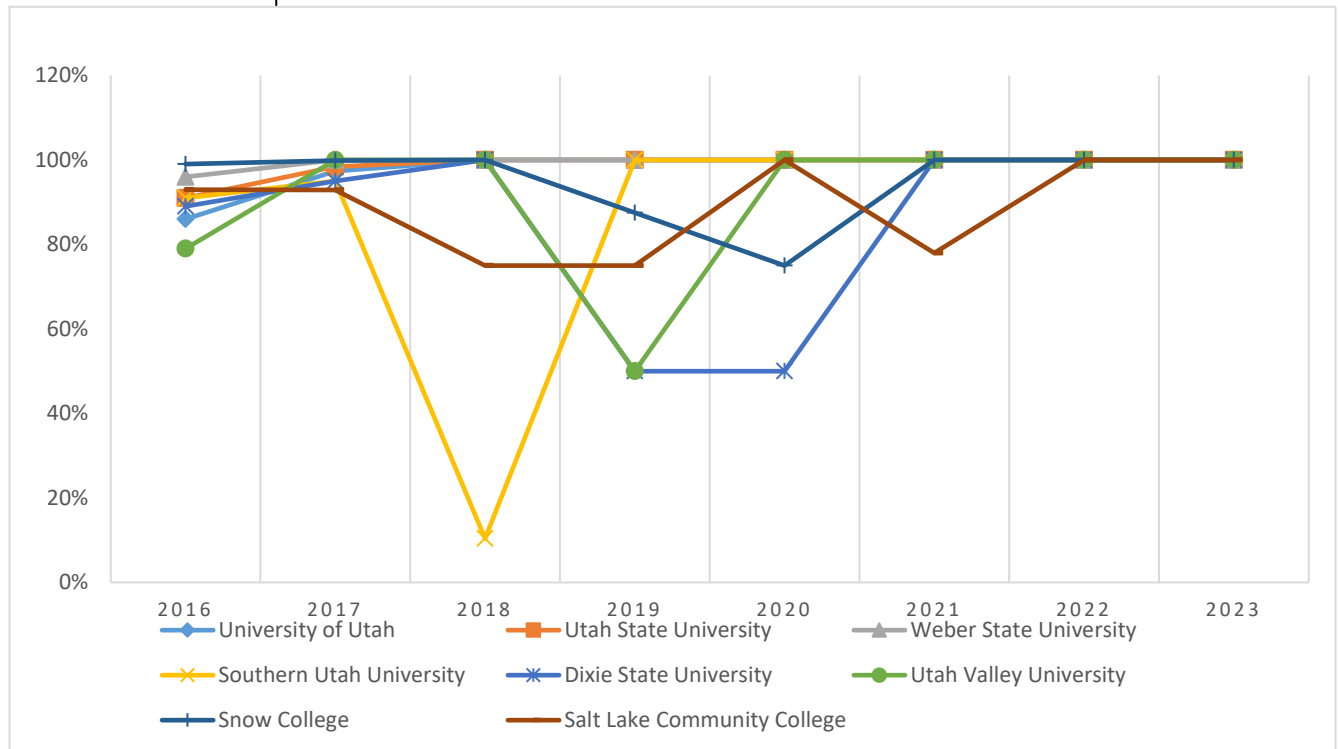
New performance metrics focus on access, timely completion, and high yield jobs.

Most institutions receive 80 to 100 percent of performance funding.

¹⁶ Only the University of Utah and Utah State University were measured on their research performance.

¹⁷ Office of the Legislative Auditor General, *A Performance Audit of Social Service Agencies' Performance Measures*, https://olag.utah.gov/olag-doc/2021-12_RPT.pdf

Figure 3.4 Percentage of Performance Funding Awarded during Fiscal Years 2016 to 2023. This figure shows the average percentage of performance funding received by each USHE institution.



These amounts are based on the averages of the five performance funding metrics each institution was held to each year. The U of U and USU have a research function that the other degree-granting institutions do not.

Maxed out performance metrics represent a failed opportunity to challenge institutions to achieve better outcomes.

Figure 3.4 demonstrates a pattern in higher education, where performance goals have not adequately challenged institutions to improve. Maxed-out performance metrics represent a failed opportunity to further challenge institutions and push for better outcomes. Recent changes to *Utah Code* provide an opportunity to address these shortcomings and create improved accountability and oversight.

New Code Provides Opportunity for Better Accountability

Clarification of code by the Legislature led to the creation of improved performance metrics.

The Legislature clarified code after the NCHEMS report, which aimed to improve system governance. The study resulted in the creation of new performance metrics in collaboration with various entities in higher education. These metrics will hopefully align better with institutional goals and create a mechanism to better hold institutions accountable to system and statewide goals. This year marks the first time that institutions were required to report on how they intend to use legislative performance funding, highlighting efforts

for greater transparency. The Legislature should continue to ensure that new performance metrics create system effectiveness and promote continued improvement.

Changes in code following the NCHEMS report clarified some of the lack in reporting and duties for the system of higher education. The new statute, created in 2020, outlined better objectives and goals for the system in the form of a strategic plan. It also created an improved process for information sharing and reporting. Despite these clearer expectations, we have observed a lack of full compliance with current statute and policy by both the board and OCHE. We discuss these findings in the current and previous chapters of this audit report.

The previous chapter describes the importance of context-driven data to compare outcomes of Utah institutions to peer and national averages. This is especially important because performance metrics differ between states and cannot be equivocated due to measurement variations. Both context-driven data and performance metrics can drive policy discussions and help to assess and create accountability for institutions of higher education. To create meaningful accountability measures, it is essential to maintain metrics and goals consistent so that expectations can be achieved.

We recommend that the Office of the Commissioner of Higher Education monitor and study the success of new performance metrics for the Utah System of Higher Education.

Strategic Plan Goals and Metrics Should Remain Consistent

In 2016, the board adopted a strategic plan to take the system through 2025. Figure 3.5 shows three categories in that plan: Affordable Participation, Timely Completion, and Innovative Discovery, each with a single goal at the system level. While these general categories have stayed consistent, one-third of the specific goals within the categories, on average, were revised each year. This is contrary to guidance from the Governmental Accounting Standards Board, which lists consistency as one of the important elements to consider for performance measures.

Context-driven data and performance metrics can drive policy discussions and assess institutional accountability.

In 2016, a strategic plan through 2025 was initiated; however, one-third of the plan's specific goals were changed annually.

Figure 3.5 Strategic Plan Goals Have Changed Frequently.
Inconsistent goals may have made it difficult to track progress toward goals.



Source: Auditor compilation and analysis

In January 2018, a Workforce and Research category replaced the Innovative Discovery category, and the old goal for Innovative Discovery was moved to the Timely Completion category. Two of the three original goals from 2016 were also revised. These were not instances where the desired goal was simply adjusted; rather, a whole new unit of measurement was selected.¹⁸ For example, the Affordable Participation goal changed from increasing the enrollment of high

¹⁸ Just changing the goal would look like this hypothetical: in 2017, the goal was to increase the percentage of Utah high school graduates enrolling in college to 75% by 2025 and in 2018 they changed that goal to 77% enrollment by 2025.

school graduates in Utah higher education to ensuring that average tuition and fees not exceed a certain percentage of Utah's median household income.

Additional categories and goals were added in November 2018. By the end of 2019, the original three categories with a single goal each had developed into six categories with nine systemwide goals and eight sets of institutional goals.¹⁹ In 2020, following mandated amendments to higher education statute, feedback groups were formed to study and propose new statewide attainment goals that would align with performance funding metrics. That exercise resulted in a new strategic plan that was adopted in May 2021 with twelve goals in six categories. While the categories are similar to those found in previous plans, only one of the goals was comparable to the 2017 goals.

We believe these frequent changes have made it difficult to make and track progress toward the goals, although we recognize the latest changes were statutorily prompted. As shown in Chapter II, graduation rates are a performance outcome that USHE institutions have not performed well on compared to their peers. We found that the goal for timely completion (i.e., graduation rate) had three different iterations from 2017 to 2021, which likely did not help graduation rates to improve. We believe that the board needs to be aware of key information such as subpar graduation rates, so as to maintain effective oversight. Frequent updates on the strategic plan, which OCHE staff have provided since the new plan was adopted, are important to provide the board with this essential knowledge. OCHE should continue to provide such updates to inform board decisions.

We recommend that OCHE work with the board and institutions to keep strategic plan goals and metrics consistent and aligned with performance funding metrics.

Recommendations

1. We recommend that the Office of the Commissioner of Higher Education, in consultation with the board, review its duties and

¹⁹ Institutional goals were implemented following Senate Bill 238 in 2017, which granted the board the authority to create "expected contributions of individual institutions of higher education towards these goals."

The goal for timely completion changed three times from 2017 through 2021, which may not have improved graduation rates.

The commissioner's office needs to provide the board with context-driven data that can help inform board decisions.

identify ways to enhance the analysis and support the office provides to the board.

2. We recommend that the Office of the Commissioner of Higher Education monitor and study the success of new performance metrics for the Utah System of Higher Education.
3. We recommend that the Office of the Commissioner of Higher Education work with the board and institutions to keep strategic plan goals and metrics consistent and aligned with performance funding metrics.

Chapter IV

The Legislature Should Again Affirm Its Desired Governance Model and Establish Stronger Accountability Mechanisms

Governance of higher education in Utah has been an issue for many years. In 2018, we raised significant questions about governance in our audit titled *Higher Education Governance by the Board of Regents and the Boards of Trustees Needs Reexamination*.²⁰ For several months preceding the 2018 audit, and for one year after its completion, the Legislature examined governance issues at great length and even commissioned a report that led to legislation with important governance changes. Ultimately, those changes reaffirmed the legislative intent for Utah to have a strong, central governing board over higher education. However, in 2022, the statement we made in 2018 is still true: “Important USHE governance issues exist.”²¹

We agree that a strong, central governance model is a viable option for the Utah System of Higher Education (USHE) to operate within. Unfortunately, the Legislature’s governance desires currently do not exist in practice. A strong consolidating board of higher education has been established in statute, but in practice, a coordinating governance body exists that, in the past, has largely abdicated its authority to local boards of trustees.

Our office audits to existing laws, rules, standards, and best practices and we did so in Chapters II and III. Our audit findings and recommendations in those chapters can help align the governance of the system of higher education with current policy in state statute. We believe that this consolidating model, with proper execution, can deliver results for higher education in Utah. However, it will take considerable effort to change the system from its current state of having a coordinating board to the statutory charge of having a consolidating board. Accordingly, we recommend that the Legislature again consider its desired governance model and institute

The Legislature has examined governance issues and affirms that the higher education system is to have a strong, central governing board.

The board has largely turned over its authority to local boards of trustees.

A considerable effort will be required for the system to change from its current model of a coordinating board to a consolidating board.

²⁰ Office of the Legislative Auditor General, *Higher Education Governance by the Board of Regents and the Boards of Trustees Needs Reexamination*, https://olag.utah.gov/olag-doc/18_dilr.pdf

²¹ Ibid. pg. 1

accountability measures to ensure that governance changes are executed.

This chapter offers governance options for the Legislature to consider that may help address USHE's persistent governance issues and questions.

Higher Education Governance Policy and Practice Are Not Aligned

As discussed in Chapters II and III of this report, the Utah Board of Higher Education (the board) continues to struggle to provide a central, consolidating system of higher education. Our audit found instances where the board did not fully exercise its authority or willingly delegated by the board to institutional governing boards (boards of trustees). Governance systems for higher education typically have either a consolidating board (strong statewide control) or a coordinating board (strong institutional control). For many years the Legislature has defined a strong consolidating role for the board, granting it authority to control and manage the state's system of higher education. The board, however, has not been effective in managing the system, as noted in previous audits. Following these audits, the Legislature facilitated a lot of work to address these governance issues and questions. This included creating the Higher Education Strategic Planning Commission (the commission).

The commission sponsored Senate Bill (S.B.) 111 in 2020, and the bill's approval reaffirmed legislative intent to have a strong state board of higher education that controls and manages the system. S.B. 111 also restructured the system and granted the board more authority to address past governance issues. Still, the application of governance and the management of the system do not match existing laws, rules, and expectations. This has led to a transformation into a current governance state that is strongly trending toward a less regulated system of higher education.

The Main Distinction Between Governance Systems Depends on Whether the Board Is Granted the Power to Govern

Higher education governance systems in the United States generally adopt one of two models: statewide control or institutional control. The statewide control model is governed by a consolidating

Governance systems for higher education typically have strong statewide control or strong institutional control.

Senate Bill 111 (2020) reaffirmed legislative intent to have a strong board that controls and manages the system.

board, while the institutional control model is governed by a coordinating board.

- Consolidating board – authority resides with a statewide governing board, but some power is delegated to institutions.
- Coordinating board – a statewide board organizes resources and academic programs, but most authority resides with the institutions.

Governance duties assigned to each board vary from state to state. Our review of board duties across the country found that one state’s consolidating board can have almost any of the same duties as another state’s coordinating board. For instance, Utah’s consolidating board and Alabama’s coordinating board both approve institutional missions. This pattern is consistent with various common duties across U.S. higher education governing boards.

The main difference in duties between the two kinds of boards is where governance authority is statutorily assigned. This distinction is what defines a board of higher education. *Utah Code* 53B-1-402(1)(c) states that the Utah Board of Higher Education “controls, manages, and supervises the Utah system of higher education.” More than any assignment of duties, this section sets the expectation that the board is to function as a consolidating board. The board’s ability to govern in this manner has been reviewed multiple times in the past, with persistent concerns.

Past Audits Have Raised Questions About Board Structure and Governance Ability

Past audits have raised concerns about board structure and governance. Given the continued challenges in fulfilling some of these duties, we believe a review of the current board structure is necessary. Figure 4.1 lists several key issues identified in previous audits.

State consolidating boards can have almost any of the same duties as state coordinating boards.

Given that past audits have raised concerns about board structure and governance, we believe a review of board structure is necessary.

Figure 4.1 Past Audits Described Confusion and Concerns Regarding System Governance. Concerns are reflected in the following questions and findings that were presented in the audits.

Is the balance of power between the state board and local boards of trustees appropriate?
Are there adequate reporting relationships between the board, presidents, and trustees?
The board has turned over its authority on tuition increases to boards of trustees.
Strategic metrics and goals have not been consistently tracked.

Source: Higher Education Governance by the Board of Regents and the Boards of Trustees Needs Reexamination and A Performance Audit of the Utah Board of Regents

The Legislature has responded to the recommendations from previous audits and has affirmed its desired system governance. However, these issues have persisted since 2018²² despite recommendations from our office and outside consultants, as discussed in the next section.

The Higher Education Strategic Planning Commission Reaffirmed a Consolidating (Centralized) Board

The Legislature prioritized the need to address ongoing governance issues and questions. They created the Higher Education Strategic Planning Commission to address system concerns about governance. The commission then engaged the National Center for Higher Education Management Systems (NCHEMS) to consult on these issues.

NCHEMS provided multiple governance options in its 2019 report, including options for either a consolidating board or a coordinating board. Their report followed on the heels of our 2018 audit, which encouraged the Legislature to determine whether the balance of power between the state and local boards needed adjusting. As a baseline for any governance option, NCHEMS recommended that the governing board be given broad authority over certain processes, including strategic planning and state-level goals, institutional quality and performance reviews, mission approval,

A 2019 NCHEMS report recommended that the board be given broad authority over certain processes such as strategic planning and state-level goals, institutional quality, and data collection and analysis.

²² Although there have been improvements, as noted in Chapters II and III.

selection of presidents, finance plans, shared administrative services, data collection and analysis, and overseeing system initiatives. NCHEMS' coordinating or consolidating models would then provide flexibility on how these powers and authorities would be delegated and carried out by system or institutional actors.

In 2020, the Higher Education Strategic Planning Commission sponsored S.B. 111. This changed the structure of Utah's system of higher education, but reaffirmed the decision to have a strong, consolidating board oversee the system. S.B. 111 followed the structure outlined by NCHEMS to combine Utah's degree-granting institutions with Utah's technical colleges and to combine the governing bodies for each system under a single statewide board. S.B. 111 also granted authority to the statewide board for all the processes listed in the paragraph above.

Current Audit Findings Show That Governance Issues and Confusion Remain

Despite the current statutory structure to have a strong consolidating board, we found that institutional boards of trustees continue to play a prominent role in governance. This includes the authority of the board of trustees to approve programs, assist in presidential reviews, and approve institutional strategic plans and missions. Except for program approval, each of these items go to the board for final review. The board can reject certain decisions made by trustees if the board determines such decisions do not align with system goals or strategies. The board's review of trustee decisions may range from a consent calendar item²³ to a full discussion.

Tuition increases are an example of a process where the board has an approval role for decisions made by institutional boards of trustees. As we discussed in previous chapters of this report, the board appears to rarely question tuition increases proposals and relies heavily on the reviews of institutional boards of trustees. Without a state-level review of the increase proposals, approval of these proposals is essentially turned over to boards of trustees.

²³ The consent calendar contains dozens of items for board approval and is approved in one sweeping board vote because the items are typically non-controversial or have already been vetted.

In 2020, Utah's degree-granting institutions combined with the technical colleges under one system and one board.

Institutional boards of trustees play a pivotal role in the governance process.

The Legislature and the board have delegated duties to trustees, which sends a mixed message about what balance of power is desired between state and local governing boards.

Despite the Legislature's expressed desire for a strong, centralized board, actual practice is closer to a decentralized model.

We believe a strong consolidating board is viable. However, persistent governance issues and the changing landscape of higher education require a reexamination of board structure.

Both the Legislature and the board have delegated duties to trustees. Many of these delegations were in place before the 2020 amendments and were not adjusted afterward. This sends a mixed message about the desired balance of power between state and local governing boards.²⁴ During our audit process, a few institutional presidents mentioned that having various reporting lines creates confusion about who presidents are beholden to, again, a scenario that mirrors findings from our 2018 audit. While institutional boards of trustees may have the closest relationship with presidents and provide them with support and counsel, they do not hire, fire, or set compensation for the presidents. Beyond confusing reporting lines, these decisions about sharing governance duties between state and local boards give institutional boards more control and put the state board in somewhat of a coordinating board role.

If the board or the Legislature wants the board to have stronger governance authority, they can reduce the authority delegated to the institutional trustees. If, however, more local control is desired, a revision of governance structure and statute would be necessary. From the time the Legislature last reviewed system governance in detail—and confirmed the decision to have a centralized board—we have observed the system moving more toward a coordinating (decentralized) model. We therefore believe a review of higher education governance is necessary once again. Accordingly, we provide options for consideration in the next section.

Current Structure and Duties of Board Can Be Reexamined to Determine Level of Governance

While we believe a strong consolidating board is a viable governance model for the state, persistent governance issues and the changing landscape of higher education necessitate a reexamination of board structure to determine if there is a more effective and efficient way to govern Utah's system of higher education.

²⁴ We recognize that the COVID-19 pandemic may have played a role in the realigned duties not being considered, as the board's attention was focused on other emergent needs. Regardless, from an auditor's perspective, there are issues stemming from S.B. 111 that still need to be addressed.

The board's role is to set priorities for the system of higher education; however, the board has turned over various governance functions to institutional boards of trustees. The need for the board to focus on what is most relevant and appropriate for the system requires a great deal of time and effort. The board is composed of successful and capable individuals who volunteer their finite time to ensure the governance of higher education is being performed. The board needs to ensure it is operating at maximum capacity, utilizing all the available authority, resources, and tools to create an effective and efficient system of higher education. Improving the board may require the Legislature to consider options such as resizing or restructuring, as well as reviewing whether a coordinating board is the desired model for the future. Inherent in this discussion is the need to assess the overall philosophy of Utah's system of higher education.

A Guiding Philosophy for the System Should Be Addressed

There appears to be confusion among system leaders on the guiding philosophy of the system. For example, one president suggests it is simply to avoid unnecessary duplication of programs. The Education Commission of the States recommended the following components for an effective governing system:

- “Changing the role of the system board and senior leadership from governing and managing institutions to providing strategic leadership for the system as a whole to serve students and link the system capacity to the future economy and quality of life of each of the state's regions.
- Establishing and gaining consensus on clear measurable system goals and the contributions that individual institutions are expected to make toward these goals.
- Increasing the autonomy of institutions and management responsibility of presidents while holding them accountable for performance in terms of system goals and each institution's mission.”²⁵

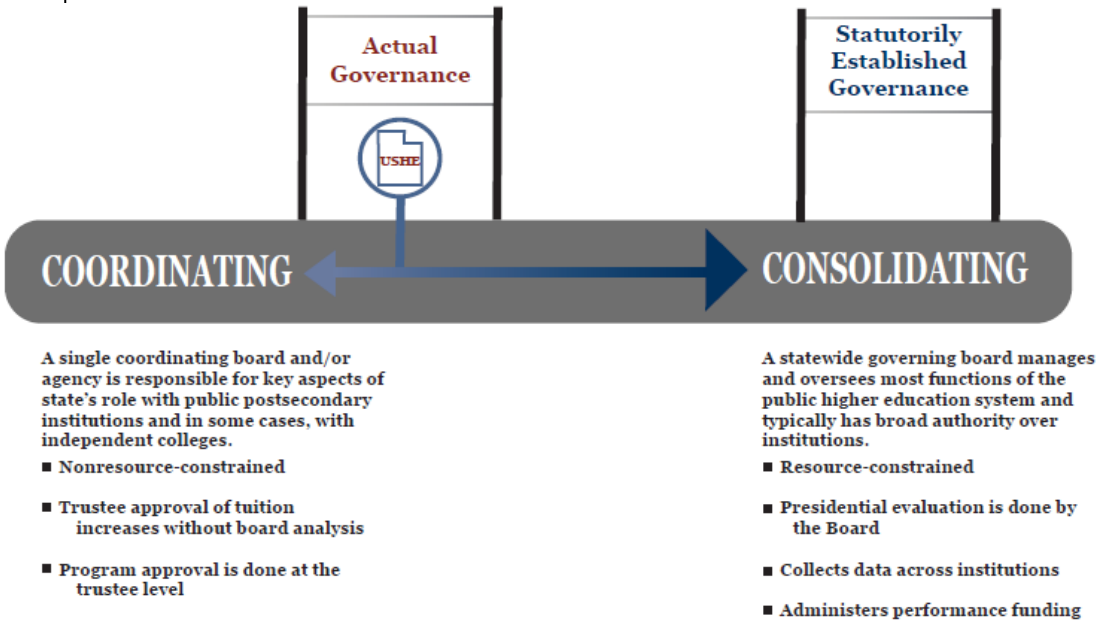
Confusion about the guiding philosophy of the system currently exists.

²⁵ Education Commission of the States, *State Policy Leadership for the Future: History of State Coordination and Governance and Alternatives for the Future*, <https://files.eric.ed.gov/fulltext/ED565897.pdf>, pg. 39-40

Confusion exists within the system about whether the board is to provide strong governance or coordinate the institutions.

As discussed in Chapter III, there has been an uncertain level of commitment to a consistent strategic plan and its accompanying metrics. This has contributed to inconsistent messaging on what is expected of each institution to support the system. Additionally, there is confusion within the system about whether the board is to provide strong governance or simply coordinate the institutions. This confusion about how the system operates—and is expected to operate—is summarized in Figure 4.2. The rest of the chapter addresses options for the Legislature to consider if it decides that clarifications or changes to system governance and philosophy are needed in statute. These options are meant to be informational to aid the Legislature in decision-making.

Figure 4.2 Statutorily Established Governance and Actual Governance Practices are Currently Misaligned.



Sources: Auditor Generated, Utah Code, Education Commission of the States

As noted in Chapter II and in previous audits, the board has struggled to provide the strong, consolidating governance that is expected of it. The recommendations we provide in those chapters would help the board function more like code outlines it to. If the Legislature decides to continue with a consolidating board, a review of the balance of power between the board and local boards of trustees may be necessary. Another option that could accompany those recommendations for improving the consolidating board role could be to review the structure and size of the board.

The Legislature may need to review the balance of power between the board and trustees if a consolidating board is the desired governance structure.

Board Size Should Be Reviewed

A review of the structure of the board is a possibility when considering options to prompt system efficiencies. While the board was recently restructured in the system merger, there remains an opportunity to assess how well the current board arrangement functions. Interviews with higher education stakeholders, including a focus on board members, noted some of the challenges of navigating the board given its current size.

Utah's board currently has eighteen members (sixteen members and two student members). This size encourages an environment with many voices and perspectives, which can be positive but hard to manage.

When looking at boards of neighboring states (Figure 4.3), Utah has the largest board size. Most other states have boards between eight and thirteen members. Not all members of the Utah board participate and contribute to board governance and committees, which can lead to an erosion of board duties and can hinder the board's capabilities.

A review of the board size and structure may need to occur to ensure greater system efficiency.

Utah has the largest board size compared to boards of neighboring states.

Figure 4.3 Board Sizes of Neighboring State Are Smaller Than Utah's. Utah has the largest board out of its neighboring states.

State	Higher Education Board Composition
Arizona	12 members (11 voting and 1 non-voting)
Colorado	11 members
Nevada	13 regents
Idaho	8 members (7 appointed, 1 elected by voters)
New Mexico	12 members
Wyoming	9 members (9 voting and 2 non-voting)
Utah	18 members

Source: Auditor compilation and analysis

States with single, statewide governing boards have an average of eleven members; Utah's eighteen-member board is the largest among neighboring states.

We recommend that the Legislature consider options for board sizing and consolidation.

Furthermore, neighboring states with single, statewide governing boards have an average of eleven members. Their size ranges from eight to eighteen, with Utah having the largest board of states with this governance structure. We note that there is no specific tie to board size and efficiency; governance, policies, practices, and board relationships are the main drivers of an efficient and effective board. Still, in our professional opinion, having performed multiple audits on various types of boards, we believe boards with five to seven members operate best.

In a potential framework of reduced board size, the Legislature also could consider evaluating the duties and responsibilities of the board. The current duties of the board have left some of the volunteer board members feeling maxed-out with regard to their potential to create impact within the system. A relook and possible downsize of duties would be required if board size and structure were to be revamped.

Due to challenges faced in board governance, we recommend that the Legislature consider options of board sizing and consolidation. Other considerations for board structure may include the designating of advisory members and the establishment of non-voting members. Another approach to consider is the Utah Transit Authority (UTA) model, which has a small, full-time board supported by a larger advisory board.

This recommendation comes as an option for analysis since reviews of system governance demonstrate the board has struggled to execute duties as effectively as it could. This recommendation should ensure the consideration of the diverse set of institutions, colleges, and students that need to be represented by a systemwide board. This systemwide board could be a coordinating board instead of a consolidating board.

The Legislature Could Consider a Coordinating Board

Although the theme of this audit supports a strong, centralized board, another option from the NCHEMS report was for USHE to be governed by a coordinating board, if the Legislature so desires. The structure of a coordinating board and its assignment of duties could take various forms, but the key would be to revise subsection 1(c) of *Utah Code* 53B-1-402, to provide for more institutional control, and also to review the duties assigned to the state board and local boards of trustees. Under NCHEMS' model, the coordinating board would have limited governing functions and would primarily set a broad system agenda and let institutions implement it under their own authority. Each institution would retain its board of trustees, who would have all governing authorities not explicitly reserved for the statewide governing board.

If the Legislature desires this kind of institutional control, it may necessitate a review of the specific duties given to the board in 2020's S.B. 111 and how those duties are delegated to boards of trustees. For example, the board's duties could be reduced and explicitly outlined as (1) setting a statewide plan/agenda, (2) collecting and analyzing data, (3) monitoring institutional achievement of performance measures, and (4) appointing presidents. Other duties may be expressly granted to local boards of trustees. We recommend that after the Legislature consider its desired governance model for the Utah System of Higher Education that it also review the balance of power between the Utah Board of Higher Education and the local boards of trustees.

Innovation in Higher Education May Require an Adjusted Governance Model at the Institutional Level

Regardless of whether governance decisions result in a consolidating board or coordinating board, to more rapidly foster innovation and efficiency in higher education, presidential authority over administrative decisions needs to be supported by the board.

Some institutions across the country have begun empowering presidents to make decisions to adjust obsolete or inefficient programs. For example, one association of university professors has stated:

The 2019 NCHEMS report stated that a coordinating board would have limited governing functions, would set a broad system agenda, and would allow institutions to implement the agenda under their own authority.

We recommend that after the Legislature considers its desired governance model for the system of higher education, that it also reviews the balance of power between the board and the local boards of trustees.

The board needs to support presidential authority over administrative decisions.

The president must at times, with or without support, infuse new life into a department; relatedly, the president may at times be required, working within the concept of tenure, to solve problems of obsolescence.²⁶

This statement shows that faculty may need to accept certain administrative decisions of presidents, including program consolidation, that do not have the full support of faculty. We believe the board should consider whether moving in this direction would be beneficial to the efficiency and innovation of the higher education system in Utah.

Higher education is experiencing an era of disruption. This is evident at institutions such as Arizona State University and Purdue University, where online programs were established quickly. The president of Arizona State University has authority in university policy as follows:

The president shall be responsible for the execution of measures enacted by the Board of Regents regarding the administration of the university, and for the execution of all measures adopted by the faculty or councils of the university, provided such measures by the faculty or councils are approved by the president.²⁷

This policy shows that the president is the institutional executive. Elsewhere, Purdue University purchased a large, already-established private online university and has quickly started disrupting traditional models of higher education delivery.

Successful innovation may require that institutional presidents be granted stronger decision-making authority.

If such innovations are to be successful in Utah, it may require strong decision-making from institutional presidents and administration. *Utah Code*²⁸ gives institutional presidents authority, with trustee approval, over certain decisions, such as furloughs, workforce reduction, and program reduction or discontinuance. They are also statutorily charged to effectively and efficiently manage their institutions consistent with the statewide strategic plan. However, there are additional options for the board to consider if it deems that institutional presidents need more flexibility to innovate and manage

²⁶ American Association of University Professors, <https://www.aaup.org/report/statement-government-colleges-and-universities>

²⁷ Arizona State University, Academic Affairs Manuals (ACD) 102

²⁸ *Utah Code* 53B-2-106(2)(b)

their institutions. For example, in 2019, Massachusetts passed a bill that gave more flexibility to its board to make financial decisions, requiring the board to establish a process to annually assess the financial strength of each institution of higher education.

We recommend that the board considers whether the current governance model allows institutional presidents the flexibility to adequately manage and innovate.

Utah's Recent Online Initiative Demonstrates the Current State of Governance Difficulties in Higher Education

The board's recent initiative to provide a systemwide online education option is an example of the difficulties found in Utah's current state of governance in higher education. More specifically, the board is statutorily empowered to lead such initiatives but has struggled to gain the support needed to implement such systemwide initiatives. A true consolidating board, as envisioned in statute, would have the ability to direct and lead such an initiative. However, a coordinating board, which largely defines the board in practice, would not attempt to direct but to guide and support. The recent online initiative is an example of how the board struggles at times with its governance identity.

Statute directs the board to create a seamless articulated education system for Utah students that responds to changing demographics and workforce needs. This includes coordinating distance delivery of programs. However, progress in this area has been challenging, and the needed degree of collaboration has yet to be seen as of the writing of this report.

In this example, the board has been unsuccessful in convincing institutions that it could create a viable distance delivery program. Institutions claimed that they were not as involved as they wanted to be in early discussions about the creation of online degrees, despite having experience designing and administering online programs for some years. They also believe that they already have online solutions at their respective institutions. The board and institutions now appear to have some level of collaboration, but an agreed-upon solution has yet to be reached.

Recent failure to provide a systemwide online education option underscores the board's current governance issues.

Statute directs the board to create an online option; however, the board has not yet demonstrated success in working with institutions to fulfill this mandate.

If the Legislature deems that control and governance should reside with the board, then the board needs to exercise its authority more effectively, and individual institutions will need to better prioritize system needs.

Given the constraints inherent to a volunteer board, support staff, such as the Office of the Commissioner of Higher Education, would be paramount to facilitating the success of the board, regardless of which governance model the board operates under. Institutions also must play a supporting role within the system. Under current policy, institutional presidents “owe a responsibility first to the system”²⁹ and are expected to support the board’s decisions. While institutions have their own mission and roles to fulfill, statewide priorities should take priority over institutional success.

The Legislature has an opportunity to determine the future of Utah’s system of higher education. If the Legislature again affirms that centralized control and governance should reside with the board, then the board needs to exercise its authority more effectively, and individual institutions will need to better prioritize system needs. However, if the Legislature believes that board governance requires adjustment, we believe the board still serves a very important role in the system of higher education. Whether the board is to govern as code currently designates or becomes more of a coordinating entity within the system, we recommend the Legislature consider making this distinction very clear.

Recommendations

1. We recommend that the Legislature consider the findings in this report and again affirm its desired governance model for the Utah System of Higher Education.
2. We recommend that the Legislature consider additional accountability measures to ensure that its desired governance model is fully implemented and operational. This could include additional Legislative audits or on-going legislative committee oversight.
3. We recommend that after the Legislature considers its desired governance model for the Utah System of Higher Education, that it also reviews the balance of power between the Utah Board of Higher Education and local boards of trustees.

²⁹ Utah System of Higher Education Policy, R201-3.1

4. We recommend that the Legislature consider reviewing the structure and size of the Utah Board of Higher Education.
5. We recommend that the Utah Board of Higher Education considers whether the current governance model allows institutional presidents the flexibility to adequately manage and innovate.

Appendices

Appendix A

Appendix:

Complete List of Audit Recommendations

This report made the following 12 recommendations. The numbering convention assigned to each recommendation consists of its chapter followed by a period and recommendation number within that chapter.

Recommendation 2.1

We recommend that the Utah Board of Higher Education review its duties and utilize statutory authority to manage the system of higher education more effectively to ensure the value of higher education is being maximized.

Recommendation 2.2

We recommend that the Utah Board of Higher Education provide stronger oversight by ensuring that rigorous analyses are conducted for tuition proposals.

Recommendation 2.3

We recommend that the Utah Board of Higher Education strengthen the documentation of the annual presidential evaluation process to show greater accountability between institutional presidents and the board.

Recommendation 2.4

We recommend that the Utah Board of Higher Education adopt metrics that demonstrate and monitor the performance of operational efficiency at the institutions.

Recommendation 3.1

We recommend that the Office of the Commissioner of Higher Education, in consultation with the board, review its duties and identify ways to enhance the analysis and support the office provides to the board.

Recommendation 3.2

We recommend that the Office of the Commissioner of Higher Education monitor and study the success of new performance metrics for the Utah System of Higher Education.

Recommendation 3.3

We recommend that the Office of the Commissioner of Higher Education work with the board and institutions to keep strategic plan goals and metrics consistent and aligned with performance funding metrics.

Recommendation 4.1

We recommend that the Legislature consider the findings in this report and again affirm its desired governance model for the Utah System of Higher Education.

Recommendation 4.2

We recommend that the Legislature consider additional accountability measures to ensure its desired governance model is fully implemented and operational. This could include additional Legislative audits or on-going legislative committee oversight.

Recommendation 4.3

We recommend that after the Legislature considers its desired governance model for the Utah System of Higher Education, that it also review the balance of power between the Utah Board of Higher Education and local boards of trustees.

Recommendation 4.4

We recommend that the Legislature consider reviewing the structure and size of the Utah Board of Higher Education.

Recommendation 4.5

We recommend that the Utah Board of Higher Education considers whether the current governance model allows institutional presidents the flexibility to adequately manage and innovate.

Agency Response



October 7, 2022

Kade Minchey, CIA, CFE
Legislative Auditor General
W315 State Capitol Complex
Salt Lake City, Utah 84114

Mr. Minchey,

Thank you for the opportunity to review Audit 2022-011, A Performance Audit of Utah's System of Higher Education Governance. We appreciate Darin Underwood, Jesse Martinson, Andrew Poulter, and McKenzie Cantlon for their diligent, professional work. Utah's ongoing prosperity in no small part relies on the success of its system of higher education, underlying the importance of this effort. Because the Board is relatively new, with new leadership, it is critically important that we receive this feedback to chart an effective governance course.

The Board of Higher Education and the Commissioner's Office agree with the auditors' 12 recommendations, and we will continue to work with our legislative leaders, the Governor, the boards of trustees, and the presidents to build and maintain a thriving innovative system of higher education.

Sincerely,

A handwritten signature in black ink, reading "Lisa-Michele Church". The signature is fluid and cursive, with the first name "Lisa" and last name "Church" clearly distinguishable.

Lisa-Michele Church
Chair, Utah Board of Higher Education

A handwritten signature in black ink, reading "Dave Woolstenhulme". The signature is more stylized and cursive than the one above, with a prominent "D" and "W".

Dave Woolstenhulme
Commissioner of Higher Education

Recommendation 2.1

We recommend that the Utah Board of Higher Education review its duties and utilize statutory authority to manage the system of higher education more effectively to ensure the value of higher education is being maximized.

Response: We agree. The Utah Board of Higher Education is still relatively new, having been created in 2020 amid a worldwide pandemic, and tasked with combining two separate systems into a cohesive, unified alliance of 16 colleges and universities. These circumstances created challenges such as limited opportunities to meet in person as a new Board and the immediate need to craft and adopt a statewide Strategic Plan. Although the Board took meaningful steps to meet its statutory responsibilities as the governing body, we recognize there have been and will continue to be opportunities for the Board to exercise improved oversight, stronger governance, and to better leverage our statutorily-granted authority to increase the return on investment for all Utahns.

Recommendation 2.2

We recommend that the Utah Board of Higher Education provide stronger oversight by ensuring that rigorous analyses conducted for tuition proposals.

Response: We agree. The Board recognized this issue in 2020 and—through the Commissioner’s Office—made immediate changes to address the concerns of the previous 2018 audit. We developed a set of questions, criteria, and policies as tools for presidents and trustees to conduct the level of due diligence the Board was seeking. In order for a part-time volunteer state board to meaningfully scrutinize 16 separate institutional budgets, we rely on the boards of trustees for some of the ground-level analysis. They are uniquely situated to focus solely on their respective institutions’ current budgets, growth projections, program approvals, and regional industry needs. We rely on the Commissioner’s office and institutional finance experts for detailed financial analysis. The Board also hears from students, trustees, and presidents in our Board meetings prior to a vote. There have been vigorous discussions prior to Board voting, but we see room for improvement in our Board analysis and deliberations.

While the Board is still committed to this model, we agree with the auditors that the current process has shortcomings. We will review the existing level of analysis and scrutiny, strengthen the training and tools we provide to the Board, trustees, and institutional staff, and expand the Commissioner’s office level of review prior to the Board making final decisions on tuition and fees.

Recommendation 2.3

We recommend the Utah Board of Higher Education strengthen the documentation of the annual presidential evaluation process to show greater accountability between institutional presidents and the board.

Response: We agree. The Board and the Commissioner's office are currently developing an alternative process by which the Board can assess the performance of its presidents for spring 2023.

Recommendation 2.4

We recommend that the Utah Board of Higher Education adopt metrics that demonstrate and monitor the performance of operational efficiency at the institutions.

Response: We agree. The Board has started the Shared Services Initiative based on the results of the May 2022 Huron study and, in September, issued Guiding Principles for implementing shared services across systems, including the areas of human resources, IT, purchasing, and other opportunities. The Board has challenged the institutions to present proposals for shared services which will be evaluated during the next year. The Board will also initiate some of its own shared services statewide proposals. In addition to continuing its work on shared administrative services, the Board will evaluate and adopt additional methods to assess and monitor institutional operational efficiency.

Recommendation 3.1

We recommend that the Office of the Commissioner of Higher Education, in consultation with the Board, review its duties and identify ways to enhance the analysis and support the office provides to the Board.

Response: We agree. It is critical that the Commissioner's office provides the analysis, guidance, and support necessary for the Board to effectively govern a statewide system. We rely on the Commissioner's office for subject matter expertise, data, and guidance. Based on this recommendation and feedback from Board members, the Commissioner has identified additional practices—such as enhanced data dashboards—that will provide the Board with more relevant, high-quality data, better leverage expertise at the Commissioner's office as well as other experts and include expanded context and rationale to the Commissioner's recommendations. These practices will better position the Board to make critical, impactful decisions.

Recommendation 3.2

We recommend the Office of the Commissioner of Higher Education monitor and study the success of new performance metrics for the Utah System of Higher Education.

Response: *We agree. We are grateful for the Legislature’s forethought in establishing the current statewide attainment goals and performance funding program. We acknowledge that ours is a system of limited resources. The Board believes the Legislature selected the most important areas for measurement—access, completion, and workforce alignment. As we deliberately match our Strategic Plan goals with statewide attainment goals and institutional performance metrics, meaningful change will occur to benefit students.*

We are committed to maintaining consistent measures for the next decade under 10-year Statewide Attainment Goals and our Strategic Plan, but in addition, the Board and the Commissioner’s office will carefully monitor the underlying data and the institutions’ impact on those data. We intend to provide metrics that foster real institutional improvement and even stretch the system.

Recommendation 3.3

We recommend that the Office of the Commissioner of Higher Education work with the Board and institutions to keep Strategic Plan goals and metrics consistent and aligned with performance funding metrics.

Response: *We agree. As stated above, the Board is committed to its goals and measures for the long term. Our Strategic Plan—matching statutory mandates and adopted in May 2021—is essential to the Board’s effective governing of a complex higher education system serving hundreds of thousands of students. The Board will use this plan as a long-term touchstone for any analysis of performance funding and expects to see context-driven data from the Commissioner’s Office to inform Board decisions.*

Recommendation 4.1

We recommend the Legislature consider the findings in this report and affirm its desired governance model for the Utah System of Higher Education.

Response: *We agree. We are confident, however, that the Legislature selected an effective governance model two years ago, including a statewide governing board, local boards of trustees, the Commissioner’s office, and presidents. This Board is newly-energized to implement the recommendations of this audit and, by doing so, the Utah System of Higher Education as constituted will achieve the Legislature’s desired outcomes.*

Recommendation 4.2

We recommend the Legislature consider additional accountability measures to ensure its desired governance model is fully implemented and operational. This could include additional Legislative audits or ongoing legislative committee oversight.

Response: We agree. The Board and the Commissioner are committed to working within whatever model of accountability the Legislature deems appropriate.

Recommendation 4.3

We recommend after the Legislature consider its desired governance model for the System of Higher Education, that it also reviews the balance of power between the Utah Board of Higher Education and local boards of trustees.

Response: We agree. The Board believes the most effective governance model includes boards of trustees, presidents, and the Commissioner, which all play a role in a complicated, multi-dimensional system. We believe the boards of trustees play an indispensable role in maintaining a strong, thriving system of higher education due to their local oversight and informed administrative expertise. With the help of the audit recommendations, the Board is proactively bringing together trustees, Board members, the Commissioner, and key legislators to review the current distribution of responsibilities and will make recommendations to the Legislature for improvements and clarity.

Recommendation 4.4

We recommend the Legislature consider reviewing the structure and size of the Utah Board of Higher Education.

Response: We agree. The Board will remain committed to leading the system in the form and size the Legislature determines.

Recommendation 4.5

We recommend the Utah Board of Higher Education consider whether the current governance model allows institutional presidents the flexibility to adequately manage and innovate.

Response: We agree. The Board knows that higher education is in the midst of an inevitable disruption, which raises questions concerning its return on investment and economic sustainability. Traditionally-held views of how higher education is structured and delivered are now under scrutiny and we are convinced that institutional presidents understand this challenge. The Legislature's directive is clear: this is a system where each institution has a critical role and mission, and collaboration—not competition—is required. The Board will govern to those roles and

missions and to the objectives of our Strategic Plan. We are confident that the Board and system leaders will innovate where needed to accomplish the core pillars of access, affordability, completion, and workforce alignment.

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