

# Arizona Board of Regents

ABOR has established processes related to several of its statutory responsibilities we reviewed but can improve its effectiveness in other areas, including discussing the universities' significant risk areas and plans for addressing these risks

Sunset Review

June 2021  
Report 21-105

A Report to the Arizona Legislature

Lindsey A. Perry  
Auditor General





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June 25, 2021

Members of the Arizona Legislature

The Honorable Doug Ducey, Governor

Mr. John Arnold, Executive Director  
Arizona Board of Regents

Transmitted herewith is the Auditor General's report, *A Sunset Review of the Arizona Board of Regents*. This report is in response to a September 19, 2018, resolution of the Joint Legislative Audit Committee. The sunset review was conducted as part of the sunset review process prescribed in Arizona Revised Statutes §41-2951 et seq. I am also transmitting within this report a copy of the Report Highlights to provide a quick summary for your convenience.

As outlined in its response, the Arizona Board of Regents agrees with all the findings and plans to implement all the recommendations.

My staff and I will be pleased to discuss or clarify items in the report.

Sincerely,

Lindsey A. Perry, CPA, CFE  
Auditor General

cc: Arizona Board of Regents members

## Arizona Board of Regents

ABOR has established processes related to several of its statutory responsibilities we reviewed but can improve its effectiveness in other areas, including discussing the universities' significant risk areas and plans for addressing these risks

### Audit purpose

To provide responses to the statutory sunset factors.

### Key findings

- ABOR was established by the Arizona Constitution and is the governing body for the State's 3 universities—Arizona State University, Northern Arizona University, and the University of Arizona. ABOR has established processes related to several of its statutory responsibilities, including:
  - Setting tuition and fees and adopting rules governing the tuition and fee-setting process.
  - Appointing, employing, and determining compensation for university presidents.
  - Establishing curricula by approving new programs.
- ABOR has established a strategic plan for the university system to improve educational attainment and the economy for the State.
- ABOR has not regularly discussed the universities' significant risk areas, universities' plans for mitigating or minimizing these risks, and the effectiveness of those plans.
- ABOR can better align its conflict-of-interest processes with best practices to help ensure that ABOR staff and Board members disclose conflicts of interests as required by law, including annually disclosing conflicts of interest and requiring staff to disclose outside employment that conflicts with their official duties.

### Key recommendations

ABOR should:

- Develop a process for regularly reviewing the significant risks identified by the universities, including receiving and reviewing information on the universities' plans for mitigating or minimizing these risks and the effectiveness of those plans, and evaluating the universities' preparedness to respond to significant risks.
- Follow its revised conflict-of-interest process that requires its staff to annually file a disclosure statement.
- Revise its conflict-of-interest form to require staff to disclose outside employment that conflicts with their official duties.



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The Arizona Auditor General has released the third in a series of 3 audit reports of the Arizona Board of Regents (ABOR) as part of ABOR’s sunset review. The first performance audit (Report 19-115) assessed ABOR’s oversight of commercial real estate developments on its property. The second performance audit (Report 21-103) determined whether ABOR’s guidelines governing university-affiliated organizations, such as university foundations and alumni associations, were consistent with recommended practices; the extent to which universities complied with these guidelines; and whether ABOR’s oversight helped ensure university compliance with its guidelines. This sunset review report provides responses to the statutory sunset factors and includes 5 recommendations for ABOR in Sunset Factors 2 and 3 (see pages 7 through 15).

## History and mission

ABOR was established by the Arizona Constitution and is the governing body of the State’s 3 universities—Arizona State University (ASU), Northern Arizona University (NAU), and the University of Arizona (UArizona) (see textbox for more information on the universities’ locations, enrollment, and staffing).<sup>1</sup> Prior to 1945, a governing body existed for each of the State’s 3 public colleges/universities: the Board of Regents of the University of Arizona, the Board of Education of the Arizona State Teachers’ College at Tempe (now ASU), and the Board of Education of the Arizona State Teachers’ College at Flagstaff (now NAU). Laws 1945, Ch. 80, transferred jurisdiction of the governance of the State’s 3 public colleges/universities to ABOR, referred to at the time as the Board of Regents of the University and State Colleges of Arizona.

ABOR’s mission is ensuring access for qualified residents of Arizona to undergraduate and graduate institutions; promoting the discovery, application, and dissemination of new knowledge; extending the benefits of university activities to Arizona’s citizens outside the university; and maximizing the benefits derived from the State’s investment in education. ABOR has established 4 strategic goals for the Arizona university system

### Arizona university system

University	Locations <sup>1</sup>	Fiscal year 2020 enrollment <sup>2</sup>	Fiscal year 2020 faculty and staff <sup>3</sup>
ASU	11 locations, including 4 campuses in the Phoenix metropolitan area and other locations across Arizona	108,783	16,729
NAU	20 locations, including City of Flagstaff campus and other locations across Arizona	27,895	4,566
UArizona	10 locations, including City of Tucson campus and other locations across Arizona	44,426	16,523
<b>Total</b>		<b>181,104</b>	<b>37,818</b>

<sup>1</sup> Number of locations listed comprise each university’s total number of degree-awarding locations in Arizona. Some locations are integrated into community college campuses across the State. All 3 universities also award degrees through online instruction programs. Location totals do not include any locations outside of Arizona, including those in other states or countries.

<sup>2</sup> Enrollment refers to full-time equivalent student enrollment, a statutorily mandated measure of student enrollment. See Arizona Revised Statutes (A.R.S.) §§15-1626(A)(5) and 15-1661.

<sup>3</sup> Faculty and staff employed in the fall of fiscal year 2020.

Source: Auditor General staff analysis of information from Arizona Auditor General’s *Arizona University System—Full-Time Equivalent Student Enrollment Report—Year Ended June 30, 2020*, ABOR’s *Academic Year 2020 List of Degrees* report, the universities’ fiscal year 2019 Comprehensive Annual Financial Reports, and the universities’ websites.

<sup>1</sup> Art. XI, Sec. 5, of the Arizona Constitution states that “The regents of the university, and the governing boards of other state educational institutions, shall be appointed by the governor with the consent of the senate in the manner prescribed by law, except that the governor shall be, ex-officio, a member of the board of regents of the university.”

that align with its mission (see textbox). ABOR also established metrics to monitor the universities' progress toward achieving these goals, such as freshman retention and graduation rates, number of degrees awarded, research expenditures, and graduate wages, and works with the universities to set targets for them to meet for each of these metrics.<sup>2,3</sup>

ABOR has established a policy requiring the universities to report to ABOR on their progress toward meeting their goals through an annual process known as the operational and financial review (OFR). The OFR allows ABOR to obtain information from the universities related to its fiduciary responsibility to oversee the State's university system, such as information on performance metrics, strategies the universities have implemented to achieve their goals, and the universities' financial models.

## Arizona university system strategic goals

**Educate**—Drive student educational success and learning; Deliver a high-quality university education.

**Achieve**—Advance educational achievement within Arizona; Lead the effort to increase the number of Arizonans with a college degree or certificate.

**Discover**—Discover new knowledge; Create new knowledge, collaboration, inventions, and technology to solve critical problems and enhance lives.

**Impact**—Impact Arizona; Engage and serve our communities through initiatives and partnerships focused on supporting, improving, and enhancing Arizona's economy and competitiveness.

Source: Auditor General staff analysis of ABOR's strategic plan.

## Responsibilities

A.R.S. §15-1626 authorizes ABOR to exercise the powers necessary for the effective governance and administration of the universities, including authorizing each university to adopt regulations, policies, rules, or other measures deemed necessary. In addition to this general authority, some of ABOR's specific statutory responsibilities include:

- Appointing university presidents and other university staff, determining their compensation, and removing employees if necessary.
- Establishing tuition and fees and adopting rules to govern its tuition and fee-setting process.
- Submitting a budget request for each university and adopting an annual operating budget for each university.
- Establishing curricula that will best serve the interests of the State and awarding degrees.
- Prescribing qualifications for admission of all students to the universities and establishing policies for guaranteed admission to ensure fair and equitable access to students in Arizona.
- Establishing and administering a financial aid trust fund to provide aid to students with verifiable financial need, including those who are underrepresented in the university population.
- Administering the Technology and Research Initiative Fund (TRIF), including determining the amount and duration of awards distributed to the universities for purposes such as furthering study in an academic or research field or increasing access to higher education.<sup>4</sup>

A.R.S. §15-1626 also authorizes ABOR to delegate in writing to its committees, to the university presidents or their designees, or to other entities under its control, any part of its authority for the administration and governance of such institutions (see next section for more information on ABOR committees). ABOR often uses its authority to

<sup>2</sup> As of November 2020, ABOR was in the process of approving 3-year targets for the universities to meet for each of its metrics.

<sup>3</sup> See Arizona Auditor General Report 18-102 *Arizona's Universities—Student Success—Universities have established goals and designed strategies to improve student retention and graduation rates, and can enhance these efforts by consistently evaluating strategies and improving strategic plans* for more information on how ABOR and the universities track and measure their progress toward meeting their student success targets.

<sup>4</sup> Proposition 301, a voter-approved initiative passed in 2000 that increased the State's transaction privilege tax by 0.6 percent to support the State's K-12 schools, community colleges, and the universities, established the TRIF. The State's university system annually receives monies from the TRIF to support research and workforce development projects and initiatives.

delegate. For example, ABOR has delegated responsibility for oversight of information technology (IT) security and some real estate transactions to the university presidents and has delegated responsibility for oversight of the universities' affiliated organizations, such as foundations and alumni associations, to the universities (see Sunset Factor 2, pages 11 through 12, for more information).<sup>5</sup>

## Organization and staffing

ABOR consists of 12 members, including the Governor, the Superintendent of Public Instruction, and 10 members the Governor appoints, and as of November 2020, all member positions have been appointed.<sup>6</sup> A.R.S. §15-1621(D) requires the Governor to appoint at least 2 Board members who reside outside Maricopa and Pima Counties—one from a northern county and one from a southern county. Two of the 10 ABOR members are student members.<sup>7</sup> Nonstudent regents serve 8-year terms whereas student regents serve 2-year terms, the first year as a nonvoting member and the second year as a voting member.

ABOR has established committees for specific areas that are composed of Board members appointed by ABOR's Chair. These committees assist ABOR in fulfilling its responsibilities in areas including strategic planning, Board policy evaluation, and university system oversight (see textbox for information about ABOR's committees).

### ABOR's committees

ABOR has established committees for specific topic areas to assist the full Board in meeting its responsibilities.<sup>1</sup> The committees generally meet prior to a meeting of the full Board to review agenda items and hold in-depth discussions related to their specific assigned areas.

**Academic Affairs and Educational Attainment**—Reviews and discusses academic priorities in ABOR's strategic plan related to academic quality, student learning outcomes, and productivity and for other topics related to academics or students, such as the universities' relations with community colleges or student athletic programs.

**Audit**—Reviews and discusses policies, practices, and issues related to financial reporting, internal controls and compliance, risk assessments, and internal and external audits.

**Finance, Capital, and Resources**—Reviews and discusses oversight, monitoring, reporting, and planning responsibilities related to budgets and finances, tuition and fees, capital planning, real estate transactions, and IT planning and projects.

**Research and Health Sciences**—Reviews and discusses items related to health affairs and sciences, technology transfer, research, and innovation.

<sup>1</sup> According to ABOR's bylaws, the ABOR Chair may establish other ad hoc or special committees. For example, ABOR established a University Property Oversight Subcommittee in 2017 to review ABOR's governance of university real estate transactions.

Source: Auditor General staff analysis of ABOR's bylaws and committee charters.

<sup>5</sup> For more information on ABOR's delegation of responsibilities for information technology (IT) security and real estate transaction oversight to the university presidents, see Auditor General Reports 18-104 *Arizona's Universities—Information Technology Security—Universities have implemented several information technology (IT) security practices and can further improve IT security, policies, procedures, and practices* and 19-115 *Arizona Board of Regents—Commercial Real Estate—ABOR lacks comprehensive property information and guidance to implement its real estate policies, and operation of some ABOR property lacked oversight and accountability*. For more information on ABOR's delegation of responsibility for oversight of university-affiliated organizations, see Auditor General Report 21-103 *Arizona Board of Regents—University-Affiliated Organizations—Universities have not consistently followed ABOR's guidelines governing university relationships with affiliated organizations, which limited transparency and accountability of public resources provided to affiliated organizations, such as university monies, staff support, and office space, and the value of the benefits and services provided by affiliated organizations in exchange for these resources*.

<sup>6</sup> The Governor and Superintendent of Public Instruction are ex-officio, voting members.

<sup>7</sup> Each year, the Governor designates a university on a rotating basis to submit a list of nominees for student members. The designated university's associated student organization selects 3 nominees through a majority vote of its governing body. The Governor considers the 3 nominees when appointing the student members.



For fiscal year 2020, ABOR had 25.9 appropriated full-time equivalent (FTE) positions. In addition to State General Fund appropriations, ABOR uses some nonacademic university revenues to support a portion of its operating budget and pay for additional staff (see next section for more information). According to ABOR staff, as of June 2020, ABOR has a total of 34.75 FTE positions, including both appropriated and nonappropriated positions, of which 33.75 were filled. ABOR's staff positions include an executive director; vice presidents in areas such as academic affairs, finance, and communications; legal counsel; and other staff.

## Revenues and expenditures

As shown in Table 1 on page 5, ABOR receives funding from the State universities, State General Fund appropriations, a portion of the State's transaction privilege tax revenue through TRIF, and federal grants. The funding that ABOR receives from the State universities consists of university-collected revenues that ABOR uses to help pay for its operations, which it refers to as the university assessment. Specifically, according to ABOR, it annually budgets and transfers revenues collected by the 3 universities to an ABOR fund and uses these monies to help pay for a portion of the expenditures included in its annual operating budget.<sup>8</sup> ABOR reported that it has transferred a fixed, annual amount of nearly \$3.4 million in university revenues to help pay for its operating expenditures since at least fiscal year 2015 (see textbox on page 6 for how much of the nearly \$3.4 million each university provided to ABOR in fiscal year 2020) and has transferred additional amounts to reimburse ABOR for legal fees related to lawsuits in some fiscal years, as needed. According to ABOR, the monies transferred consist of university revenues collected from nonacademic charges for auxiliary services, such as residence life and parking, which some students may pay, and do not consist of tuition or academic fee revenue. ABOR transfers the university assessment monies to an ABOR fund that also includes monies from other sources of revenue, such as the operations and grant funding that ABOR receives through TRIF.<sup>9</sup>

ABOR's expenditures from its various revenue sources include payroll and related benefits, professional and outside services, travel, aid to organizations, other operating costs, and equipment.

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<sup>8</sup> A.R.S. §15-1626 authorizes ABOR to adopt annual operating budgets for the universities. ABOR reported that as part of adopting the universities' annual operating budgets it includes the annual university assessment in each university's budget to help pay for a portion of its operating expenditures.

<sup>9</sup> The Joint Legislative Budget Committee (JLBC) reports this fund as the Regents Local Fund. Only a portion of the reported monies expended from the Regents Local Fund, as reported in JLBC's Baseline Report, are monies that ABOR received from the university assessment. The remaining monies are expended from ABOR's other revenue sources, including grant funding and revenue to pay for administrative fees for its retirement program for university employees authorized by A.R.S. §15-1628. For example, the JLBC's fiscal year 2021 Baseline Report states that ABOR expended over \$5.1 million from the Regents Local Fund in fiscal year 2019, but ABOR reported that only \$3.8 million of this amount was from monies ABOR collected from its university assessment during fiscal year 2019 and prior years.

**Table 1**  
**Schedule of revenues, expenditures, and changes in fund balance<sup>1</sup>**  
**Fiscal years 2018 through 2020**  
(Unaudited)

	2018	2019	2020
<b>Revenues</b>			
Funding from State universities <sup>2</sup>	\$3,117,772	\$3,572,000	\$4,796,590
State General Fund appropriations <sup>3</sup>	2,523,600	2,516,400	3,008,933
Share of State transaction privilege tax—TRIF	2,000,000	1,999,999	1,833,339
Federal grants <sup>4</sup>	24,062		250,000
<b>Total revenues</b>	<b>7,665,434</b>	<b>8,088,399</b>	<b>9,888,862</b>
<b>Expenditures and transfers</b>			
Payroll and related benefits	4,669,562	4,591,398	4,907,667
Professional and outside services <sup>5</sup>	501,837	1,108,568	2,075,872
Travel	87,214	89,262	63,858
Aid to organizations <sup>6</sup>	794,503	570,616	626,300
Other operating <sup>7</sup>	712,462	704,447	802,120
Equipment	29,752	34,342	29,517
<b>Total expenditures</b>	<b>6,795,330</b>	<b>7,098,633</b>	<b>8,505,334</b>
Transfers to State universities <sup>8</sup>	1,000,000	1,200,000	1,012,000
<b>Total expenditures and transfers</b>	<b>7,795,330</b>	<b>8,298,633</b>	<b>9,517,334</b>
Excess of revenues over (under) expenditures	(129,896)	(210,234)	371,528
Fund balance, beginning of year	3,888,833	3,758,937	3,548,703
<b>Fund balance, end of year<sup>9</sup></b>	<b>\$3,758,937</b>	<b>\$3,548,703</b>	<b>\$3,920,231</b>

<sup>1</sup> The table includes all financial activity related to ABOR's governance activities. It does not include financial activity of the universities' land-related trust accounts. In addition, the table excludes other monies ABOR receives and distributes to the universities and the Western Interstate Commission for Higher Education in accordance with laws and regulations. For example, ABOR is responsible for overseeing and distributing TRIF monies (see footnote 4, page 2, for more information on TRIF monies). Only the TRIF monies spent by ABOR, including monies ABOR awarded to the universities to support research and workforce development projects and initiatives, were included in this table and the monies distributed directly to and spent by the universities were not included.

<sup>2</sup> Funding from State universities consists of the nearly \$3.4 million university assessment provided annually by the universities to help pay for ABOR's operating expenditures and reimbursements for legal fees. In fiscal year 2018, funding from State universities was less than \$3.4 million because ABOR refunded \$420,000 of the fiscal year 2017 university assessment to the universities. Additionally, according to ABOR, the increases in fiscal years 2019 and 2020 are related to increased reimbursements for legal fees.

<sup>3</sup> State General Fund appropriations increased in fiscal year 2020 primarily because ABOR received \$450,000 for the administration and marketing of the Arizona Teachers Academy.

<sup>4</sup> Federal grant monies consist of monies ABOR received to administer the Improving Teacher Quality and Match Savings Scholarship programs.

<sup>5</sup> Professional and outside services expenditures increased in fiscal years 2019 and 2020 primarily because of increased legal fees. ABOR reported legal fees of approximately \$615,000 in fiscal year 2019 and \$1.4 million in fiscal year 2020. Additionally, in fiscal year 2020, ABOR used \$450,000 of State General Fund appropriations it received to administer and market the Arizona Teachers Academy.

<sup>6</sup> Aid to organizations expenditures consist of grants to the universities and organizations for the TRIF to support research and workforce development projects and initiatives and Improving Teacher Quality programs.

<sup>7</sup> Other operating expenditures comprise various expenditures including building rent, insurance, dues to the Western Interstate Commission for Higher Education, and IT-related costs.

<sup>8</sup> Transfers to State universities comprise TRIF monies ABOR awarded to the universities for Regents Innovation Fund grants.

<sup>9</sup> According to ABOR, a majority of ending fund balances each year, approximately two-thirds, comprise monies that are restricted to specific uses such as awarding TRIF monies.

Source: Auditor General staff analysis of the Arizona Financial Information System *Accounting Event Transaction File* for fiscal years 2018 through 2020; the State of Arizona *Annual Financial Report* for fiscal years 2018 and 2019; and ABOR-provided information related to funding from the universities for fiscal years 2018 through 2020.

## Assessment transferred from each university in fiscal year 2020

ABOR calculates the amount of the nearly \$3.4 million university assessment to transfer from each university to help pay for its operating expenditures according to each university's proportion of the 3 universities' total combined budgeted revenue. For example, in fiscal year 2020, the total combined budgeted revenue for all 3 universities was approximately \$5.8 billion, and ABOR calculated an amount to transfer from each university proportional to each university's share of the total combined budgeted revenue.

	ASU	NAU	UArizona	Total
<b>University revenue (budgeted):</b>	\$2,911,800,000	\$632,600,000	\$2,221,600,000	\$5,766,000,000
<b>University proportion of total combined revenue:</b>	50.5%	11%	38.5%	
<b>University assessment amount transferred:<sup>1</sup></b>	\$1,702,860	\$370,920	\$1,298,220	\$3,372,000

<sup>1</sup> Amounts listed do not include reimbursement amounts for legal fees.

Source: Auditor General staff analysis of ABOR documentation.



Pursuant to A.R.S. §41-2954(D), the legislative committees of reference shall consider but not be limited to the following factors in determining the need for continuation or termination of ABOR.<sup>10</sup> The sunset factor analysis includes additional findings and recommendations not discussed earlier in the report.

**Sunset factor 1: The objective and purpose in establishing ABOR and the extent to which the objective and purpose are met by private enterprises in other states.**

ABOR is charged with the responsibility of governing the State's university system comprising ASU, NAU, and UArizona. A.R.S. §15-1626 establishes ABOR's authority to adopt necessary regulations, policies, and measures for the effective governance and administration of the universities. It also allows ABOR to delegate in writing to its committees, university presidents or their designees, or other entities under its control any part of its authority for the administration and governance of the universities. Additionally, A.R.S. §15-1626 establishes ABOR's other key responsibilities, which include overseeing the universities' operating budgets, setting tuition, prescribing university admission qualifications, and establishing curricula and designating courses that will best serve the interests of the State.

Governance models used in higher education to meet these or similar objectives are not performed by private enterprises but vary in structure from state to state. According to a 2019 report that reviewed post-secondary governance models, most states have either a single state-wide governing or coordinating board, which can be responsible for both public and independent institutions, or one or more system-wide governing or coordinating boards for public higher education institutions, such as Minnesota, which has separate governing boards for the University of Minnesota and the Minnesota State Colleges and Universities systems.<sup>11</sup> Additionally, some states have multiple boards within a single system or separate institution-specific boards. For example, the State University System of Florida and the Utah System of Higher Education have both system-wide governing boards and institution-specific governing boards. Conversely, Michigan's public universities are not governed by a single system-wide board and instead each has an institution-specific governing board.

**Sunset factor 2: The extent to which ABOR has met its statutory objective and purpose and the efficiency with which it has operated.**

ABOR uses various processes to meet its statutory responsibilities. Examples of these processes for some of the statutory responsibilities we reviewed include establishing a strategic plan for the university system and monitoring the universities' progress toward achieving strategic goals, and publishing public reports on the activities and outcomes of the university system that benefit the State. Specifically:

- **ABOR has established processes related to specific statutory responsibilities**—ABOR has established processes related to several of its statutory responsibilities:
  - **Setting tuition and fees and adopting rules governing these processes**—ABOR has adopted rules governing its tuition and fee-setting process, as required by A.R.S. §15-1626(A). As part of its tuition and fee-setting process, each spring, ABOR holds a public hearing during which students and members of

<sup>10</sup> A majority vote of the people would be required to amend the Arizona Constitution to terminate ABOR because it was established by the Constitution. See Sunset Factor 10, page 17, for more information.

<sup>11</sup> Fulton, M. (2019). *An analysis of state postsecondary governance structures*. Denver, CO: Education Commission of the States. Retrieved 7/19/20 from <https://www.ecs.org/an-analysis-of-state-postsecondary-governance-structures/>.

the public may comment on tuition and fee proposals and a tuition workshop, open to the public, during which ABOR's Finance, Capital, and Resources (FCR) committee reviews the universities' tuition and fee proposals (see Sunset Factor 5, page 15, for more information on the opportunities for public input ABOR provides during its tuition and fee-setting process).<sup>12</sup> After the tuition hearing and workshops, ABOR votes to set the tuition and fees at each university. For example, in May 2020, ABOR voted to set the tuition rate for the new College of Veterinary Medicine at UArizona. ABOR also approved tuition and fee changes for existing programs at the universities, including aligning ASU's online student college fees with its in-person undergraduate student college fees, authorizing NAU to charge undergraduate resident tuition for nonresident students at its branch campuses in the State, and increasing tuition at UArizona's College of Medicine by 3 percent for first year resident students while maintaining the existing tuition rate for continuing resident students.<sup>13</sup>

Additionally, in November 2018, ABOR revised its fee-setting rules in response to our recommendations to improve its fee-setting process (see Auditor General Report 18-101). For example, ABOR revised its fee-setting policies and guidance to require each university to provide ABOR a description of the proposed uses of class fee revenues, including any administrative costs, and to submit evidence of student consultation for mandatory fees and program fees (see textbox for types of university academic fees). As of May 2021, ABOR had implemented our recommendations to improve its fee-setting process (see Auditor General Report 18-101, 36-Month Follow-up Report).

## Types of university fees

**Class fees**—Fees charged to students who enroll in specific classes or courses that have a need for or use special equipment, supplies, technology, personnel, or field trips.

**College fees**—Additional amounts charged to students in all graduate or undergraduate academic programs in a college, school, or division. These fees are intended to benefit students in these colleges/schools/divisions and may be used to pay for faculty, facilities, technology, or other services the college, school or division deems necessary.

**Mandatory fees**—Fees charged to all students at 1 of the universities for a specific purpose, activity, or service. The universities have established several mandatory fees, including fees to support their IT infrastructures, health and recreation facilities, and athletic programs.

**Program fees**—Additional amounts charged to students based on their degree program, such as a business or honors program. These fees are intended to benefit students in these programs and may be used to pay for faculty, facilities, technology, or other services the program deems necessary.

Source: Auditor General Report 18-101 *Arizona's Universities Fee-Setting Processes* and Auditor General staff review of ABOR policy.

- **Appointing, employing, and determining compensation for university presidents**—ABOR has established a process for appointing, employing, and determining compensation for university presidents, which includes approving the appointment, negotiating terms of employment, and entering into an employment contract with the president.<sup>14</sup> ABOR last completed this process in March 2021, when it appointed Dr. José Luis Cruz as NAU's president effective June 14, 2021, and approved an employment contract with him that included terms for his compensation. Similarly, ABOR has also developed and implemented a policy for reviewing and approving contract extensions with the university presidents, including determining their compensation. For example, in November 2019, ABOR approved contract extensions for ASU President Michael Crow, NAU President Rita Cheng, and UArizona President Robert Robbins and in May 2018, it approved base salaries for each president with annual increases scheduled

<sup>12</sup> The FCR Committee holds the tuition workshop, which is a public meeting. Although the tuition workshop does not include an opportunity for public comment, ABOR holds a separate hearing to take public comments on the universities' tuition proposals, as required by statute (see Sunset Factor 5, page 15, for more information).

<sup>13</sup> In 2020, due to the COVID-19 pandemic, ABOR did not hold the 2020 FCR Committee tuition workshop. Instead, it held the public hearing and took public comments and then sent the tuition proposals directly to the full Board for final review and approval.

<sup>14</sup> According to ABOR policy 6-1101, all terms and conditions for employment of university presidents must be in a written contract, not to exceed a term of 3 years. Following the initial appointment term, ABOR may authorize an exception to provide an appointment of no more than 5 years.

through 2021.<sup>15</sup> At most Board meetings, ABOR meets with each university president to assess his or her performance during executive sessions.

- **Establishing curricula by approving new programs**—ABOR has established a process to review and approve new academic programs at the universities which requires the universities to submit new program requests to ABOR's Academic Affairs and Educational Attainment Committee for review prior to ABOR's review and approval. For example, in November 2019, ABOR's Academic Affairs and Educational Attainment Committee reviewed ASU's request for new programs in genetic counseling and manufacturing engineering and NAU's request for new programs in nursing and software engineering, and ABOR approved these programs after the Committee's review and recommendation.
- **ABOR has established a strategic plan for the university system to improve educational attainment and the economy for the State**—ABOR has established a strategic plan for the Arizona university system that identifies specific goals and desired outcomes for the university system, including enrolling a diverse student body that reflects the overall demographics of the State, providing access to numerous affordable and flexible degree options, and supporting research and technology transfer and entrepreneurial programs to have the greatest impact on the State economy. ABOR also established metrics to monitor the universities' progress toward achieving these goals, such as freshman retention and graduation rates, number of degrees awarded, research expenditures, and graduate wages.<sup>16,17</sup>
- **ABOR has published reports on activities and outcomes of the university system**—ABOR has published publicly available reports that provide information on specific activities and outcomes of the universities and the State university system. For example, as required by statute, ABOR has published reports on student enrollment, financial aid disbursement, the average cost to educate students at each university by program, and efforts by the universities to contain costs.<sup>18,19</sup> Additionally, ABOR hired consultants to prepare a report that analyzed the economic and fiscal impacts of the annual operations of the universities on the State's economy, including assessing the impacts of the universities' and their employees', students' and vendors' spending, jobs and wages, and economic output.<sup>20</sup>

However, we identified areas where ABOR can improve its effectiveness. Specifically:

- **ABOR has not regularly discussed significant risks affecting the universities and their plans to address those risks**—Higher education institutions face an array of risks that could negatively impact their reputations and strategic missions and the higher education risk environment is constantly changing.<sup>21</sup> To help manage these risks, higher education sector professionals recommend that higher education

<sup>15</sup> In June 2020, ABOR took action to suspend previously scheduled compensation increases for presidents.

<sup>16</sup> As of November 2020, ABOR was in the process of approving 3-year targets for the universities to meet for each of its metrics.

<sup>17</sup> See Arizona Auditor General Report 18-102 *Arizona's Universities—Student Success—Universities have established goals and designed strategies to improve student retention and graduation rates, and can enhance these efforts by consistently evaluating strategies and improving strategic plans* for more information on how ABOR and the universities track and measure their progress toward meeting their student success targets.

<sup>18</sup> A.R.S. §§15-1661, 15-1650, and 15-1650.03. See Arizona Board of Regents. (2021). *Fiscal Year 2021 Fall enrollment report*. Retrieved 3/22/2021 from [https://www.azregents.edu/sites/default/files/reports/enrollment-report\\_2021.pdf](https://www.azregents.edu/sites/default/files/reports/enrollment-report_2021.pdf); Arizona Board of Regents. (2020). *Fiscal Year 2020 financial aid report*. Retrieved 3/22/2021 from [https://www.azregents.edu/sites/default/files/reports/financial-aid-report\\_fy-2020.pdf](https://www.azregents.edu/sites/default/files/reports/financial-aid-report_fy-2020.pdf); Arizona Board of Regents. (2017). *Arizona Board of Regents' cost study, December 2017*. Retrieved 3/22/2021 from <https://www.azregents.edu/sites/default/files/public/ABOR%202017%20Cost%20Study%20Report.pdf>; Arizona Board of Regents. (2020). *Fiscal Year 2020 annual cost containment report*. Retrieved 3/22/2021 from [https://www.azregents.edu/sites/default/files/reports/cost\\_containment\\_report\\_2020.pdf](https://www.azregents.edu/sites/default/files/reports/cost_containment_report_2020.pdf).

<sup>19</sup> A.R.S. §15-1650.03 requires ABOR to include the average cost for online programs, but ABOR reported in its 2017 cost report that online education is integrated into the universities' educational delivery systems and separate cost data for online programs is not available.

<sup>20</sup> Elliot D. Pollack & Company & the Maguire Company. (2019). *Economic and fiscal impact of the Arizona public university enterprise*. Retrieved 7/21/20 from <https://www.azregents.edu/sites/default/files/reports/Economic-Impact-Report-FY17.pdf>.

<sup>21</sup> Abraham, J.M., Braugher, S., Kabanova, L., & Kollinger, J. (2020). *Risk management: An accountability guide for university and college boards* (2<sup>nd</sup> ed.). Washington, DC: Association of Governing Boards of Universities and Colleges and United Educators; Deloitte. (2018). *Significant risks facing higher education: Taking an enterprise approach to risk management*. Retrieved 7/19/20 from <https://www2.deloitte.com/content/dam/Deloitte/us/Documents/public-sector/us-top-risks-higher-education.pdf>.

institutions adopt an enterprise risk management (ERM) approach.<sup>22</sup> ERM provides a holistic approach to risk management that includes identifying strategic risks and opportunities across an entire organization, developing plans to mitigate and minimize identified risks while capitalizing on identified opportunities, monitoring the effectiveness of these plans, and scanning the environment for emerging risks and opportunities.<sup>23</sup> ASU, NAU, and UArizona have each implemented an ERM approach, including identifying significant risks that could impact their ability to meet their strategic goals and periodically reassessing their risk environments (see textbox on page 11 for more information on significant risk areas the universities identified in fiscal year 2020).

AGB and United Educators (UE) also recommend that higher education governing boards establish regular schedules for discussing significant risks identified by the institutions they govern, including receiving information on the institutions' plans for mitigating or minimizing significant risks and the effectiveness of those plans (see textbox on page 11 for recommended components of risk reporting).<sup>24</sup> Although ABOR receives information related to the universities' significant risk areas through various governance processes and activities, and has discussed some risks related to this information, it has not established a regular schedule for discussing the universities' significant risk areas, including discussing the universities' plans for mitigating or minimizing risks and the effectiveness of those plans.<sup>25</sup> For example, ABOR policy requires the universities' annual presentations on their progress toward meeting ABOR's strategic goals to describe risks to the institution's sustainability. However, during the universities' fiscal year 2021 presentations, although the universities provided information on some of their strategies for addressing significant risks, including information on the effectiveness of some of their strategies, they did not provide this information for all their strategies. Additionally, none of these presentations included information on IT security, which all 3 universities identified as a significant risk area. Further, during fiscal year 2020, when discussing university budgets, enrollment reports, and financial status updates, ABOR's FCR Committee discussed risks related to the universities' funding levels and sources, such as declining enrollment and reliance on tuition and fees, but did not discuss strategies for addressing these risks. Finally, ABOR does not regularly receive information on the universities' IT security risk management plans or the effectiveness of those plans, despite the potential impacts that IT security threats pose to critical university functions and operations.

According to AGB and UE, regularly scheduled discussions of the significant risks identified by an institution's ERM process allow a governing board to evaluate an institution's preparedness to respond to issues and events that could derail its mission or strategic plan, help ensure that the institution continues to proactively assess and provide regular updates about critical risks, and enable the board and senior institutional leaders to continue to monitor the environment for emerging risks and opportunities.<sup>26</sup> For example, the COVID-19 pandemic caused changes in the universities' risk environments, including increased IT security risks as a result of rapidly moving university staff and operations to remote locations. These risks include but are not limited to staff potentially exposing university IT operations and sensitive or confidential information to attackers by using unsecured networks and/or devices while working from home or other remote locations. ABOR did not regularly review and discuss the universities' IT security risk management plans prior to the COVID-19 pandemic, and therefore, was not able to proactively evaluate the universities' preparedness to respond to significant IT security risks. Doing so would have better positioned ABOR to proactively help ensure that the universities adapted their IT security risk management plans to address changes in the IT security risk environment, such as those posed by the COVID-19 pandemic.

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<sup>22</sup> Abraham, Braughler, Kabanova, & Kollinger, 2020; Association of Governing Boards of Universities and Colleges & United Educators (AGB & UE). (2014). *A wake-up call: Enterprise risk management at colleges and universities today*. Washington, DC; Deloitte, 2018; Grant Thornton, LLP. (2016). *Higher education audit committee guidebook*. Retrieved 3/4/2020 from <https://www.grantthornton.com/~media/content-page-files/nfp/pdfs/2016/Higher-ed-Audit-committee-guide.ashx>.

<sup>23</sup> Abraham, Braughler, Kabanova, & Kollinger, 2020.

<sup>24</sup> Abraham, Braughler, Kabanova, & Kollinger, 2020.

<sup>25</sup> Examples of ABOR's governance processes and activities include the universities' annual presentations on their progress toward meeting ABOR's strategic goals, regular reporting of university financial data to ABOR, periodic performance evaluations ABOR conducts with the university presidents in executive session, and discussions during ABOR's public Board and committee meetings.

<sup>26</sup> Abraham, Braughler, Kabanova, & Kollinger, 2020; AGB & UE, 2014.

## Significant risk areas identified by the universities

The universities identified multiple risk areas that could affect their ability to meet university and system strategic goals in fiscal year 2020, including the 4 following significant risk areas:

**Faculty/staff recruitment and retention**—An inability to recruit and retain high-quality faculty/staff can affect a university's ability to provide high-quality services and maintain a positive reputation.<sup>1</sup> According to ABOR's annual compensation market study for fiscal year 2019, average faculty salaries for all 3 universities ranked below most or all of their peer institutions, which could affect their ability to attract and retain faculty.

**Funding levels and sources**—Public universities receive funding from various sources, including state appropriations, tuition and fees, and donations, and they face increased pressures related to reduced funding, increasing costs, and enrollment uncertainty.<sup>1,2</sup> If the universities cannot fund their operations, they may face challenges meeting their core missions.

**International students/international activities**—Universities have become more reliant upon revenue from international student enrollment to make up for budget shortfalls. However, relying on international students to sustain and/or increase enrollment and revenue has many risks, including international conflicts and changes to immigration and other federal policies, such as travel restrictions related to COVID-19 that would affect these students' ability to study at the universities.<sup>1,2</sup> Additionally, potential conflicts and crises and differences in international regulations can pose risks to the safety of students and faculty traveling abroad and to universities' international operations, including study abroad programs, research, or global campuses.<sup>2</sup>

**Information Technology (IT) Security**—To perform critical functions, such as payroll, admissions, and instruction, the universities use IT systems to store and process various types of sensitive data, including social security numbers, financial and health information, and educational records.<sup>3</sup> The volume of sensitive data the universities obtain and maintain makes them a potential target for attacks by malicious individuals or organizations.

<sup>1</sup> Deloitte, 2018.

<sup>2</sup> Abraham, Braughler, Kabanova, & Kollinger, 2020.

<sup>3</sup> Auditor General Report 18-104 *Arizona's Universities—Information Technology Security—Universities have implemented several information technology (IT) security practices and can further improve IT security, policies, procedures, and practices.*

Source: Interviews with university staff and Auditor General staff review of university documents, higher education resources, and prior Auditor General reports.

- **During previous audits, we found that ABOR has not provided sufficient guidance to the universities or effectively monitored delegated responsibilities**—As discussed in Sunset Factor 1 (see page 7), statute allows ABOR to delegate in writing to its committees, university presidents or their designees, or other entities under its control any part of its authority for the administration and governance of the universities. However, during previous audits, we found that ABOR has not consistently provided appropriate guidance to the universities or effectively monitored responsibilities it has delegated to the universities. For example:

- **Our June 2018 audit of the universities' IT security found that although ABOR delegated IT security oversight to the universities, it did not require them to regularly report on IT security effectiveness**—We found that ABOR had delegated IT security responsibilities and oversight to the universities, but ABOR's IT security guidance did not require the universities to regularly report to ABOR in several IT security areas that would allow it to provide effective IT security governance, such as information demonstrating compliance with key ABOR IT security policies and priorities.<sup>27</sup> As of February 2020, ABOR was in the process of revising its IT security policies to include annual IT security reporting requirements for the universities (see Auditor General Report 18-104, 24-Month Follow-up Report).

### Recommended components of risk reporting

- Summary of significant risks.
- Plans to minimize or mitigate each significant risk.
- Effectiveness of the plans.

Source: Auditor General staff review of risk management resources published by AGB and UE.

<sup>27</sup> See Auditor General Report 18-104 *Arizona's Universities—Information Technology Security—Universities have implemented several information technology (IT) security practices and can further improve IT security, policies, procedures, and practices.*



- **Our October 2019 audit of ABOR’s oversight of commercial real estate developments on its property found that ABOR had not provided comprehensive written guidance to the universities or effectively monitored delegated responsibilities related to commercial real estate transactions**—ABOR contracted with a consultant to review its real estate policies and revised its real estate policy for commercial leases to include new requirements for commercial lease agreements. However, we found that ABOR lacked written guidance for the universities to effectively implement ABOR’s real estate policies, and ABOR did not effectively monitor the responsibilities for overseeing one of its lease agreements that it had delegated to the UArizona president.<sup>28</sup> As of January 2021, ABOR had made progress implementing several, but not all, recommendations for improving its real estate policies, processes, and oversight to help ensure that university staff who are responsible for real estate oversight responsibilities delegated by ABOR fulfill those responsibilities (see Auditor General Report 19-115, Initial Follow-up Report).
- **Our June 2021 audit of ABOR’s oversight of university-affiliated organizations (affiliated organizations) found that ABOR has established some guidelines governing the universities’ relationships with affiliated organizations but these guidelines lack some requirements to ensure full transparency and accountability and ABOR has not explicitly overseen the universities’ compliance with these guidelines**—ABOR has established guidelines governing the universities’ relationships with their affiliated organizations (guidelines) that delegate responsibility for establishing affiliated organization policies and procedures to the universities.<sup>29</sup> The guidelines include some requirements for provisions the universities must include in their affiliated organization policies. However, the guidelines lacked some recommended practices for independently conducting transactions with affiliated organizations. For example, the guidelines did not require the universities to periodically review and update affiliated organization agreements or to specify all resource exchanges between affiliated organizations and the universities in written agreements, as recommended by AGB.<sup>30</sup> Additionally, ABOR had not explicitly overseen the universities’ compliance with its guidelines governing university relationships with affiliated organizations, such as by requiring periodic internal audits or reviews of the universities’ agreements with affiliated organizations. We recommended that ABOR revise its guidelines and/or policies to include recommended practices, such as requiring the universities to periodically review and update written agreements with all affiliated organizations, and develop and implement a process to help ensure the universities comply with its guidelines and/or policies.<sup>31</sup>
- **ABOR lacked a formal process to periodically review its policies but has taken steps to develop a policy review process**—ABOR’s statutory responsibilities include adopting regulations and policies necessary for governing the State’s university system. Best practices developed by the United States Government Accountability Office (GAO) recommend that policies be periodically reviewed for continued relevance and effectiveness in achieving an entity’s objectives or addressing related risks.<sup>32</sup> According to ABOR, any reviews or changes to its policies are completed on an ad hoc basis. For example, ABOR reported that it may initiate a policy review in response to changes in laws or known discrepancies in policies or to better align policies with best practices.

<sup>28</sup> See Auditor General Report 19-115 *Arizona Board of Regents—Commercial Real Estate—ABOR lacks comprehensive property information and guidance to implement its real estate policies, and operation of some ABOR property lacked oversight and accountability.*

<sup>29</sup> See Auditor General Report 21-103 *Arizona Board of Regents—University-Affiliated Organizations—Universities have not consistently followed ABOR’s guidelines governing university relationships with affiliated organizations, which limited transparency and accountability of public resources provided to affiliated organizations, such as university monies, staff support, and office space, and the value of the benefits and services provided by affiliated organizations in exchange for these resources.*

<sup>30</sup> AGB. (2014). *Association of Governing Boards illustrative memorandum of understanding between a public institution or system and an affiliated foundation.* Washington, DC. Retrieved 3/5/2020 from <https://agb.org/reports-2/illustrative-memorandum-of-understanding-between-a-public-institution-or-system-and-an-affiliated-foundation>.

<sup>31</sup> In May 2021, ABOR reported it planned to eliminate the guidelines subsection of its policy manual and incorporate its guidelines governing the universities’ relationships with affiliated organizations into its policies.

<sup>32</sup> U.S. Government Accountability Office. (2014). *Standards for internal control in the federal government.* Washington, DC. Retrieved 11/24/2020 from <https://www.gao.gov/assets/670/665712.pdf>.

However, ABOR has not established a formal process for periodically reviewing its policies. In addition, we have identified issues with ABOR's policy development and implementation in previous audits. For example, our January 2018 performance audit on the universities' student fees found that ABOR's fee-setting policies and guidance for mandatory fees and program fees did not require the universities to provide specific information to ABOR to guide its review and approval of these fees and lacked clear expectations for the universities on obtaining and reporting student input on fees.<sup>33</sup> As a result, the universities spent fee revenues on items that may not have been consistent with the approved use, and students may not have had the opportunity to provide input on all fees. As of May 2021, ABOR had implemented the recommendations directed to it from our January 2018 report to revise its fee-setting policies and guidance (see Auditor General Report 18-101, 36-Month Follow-up Report).

ABOR has taken steps to develop a formalized policy review process. To help develop a policy review process, ABOR hired a legal/policy analyst in February 2020, who ABOR reported implemented new policy tracking software and developed a tracking system to systematically review policy updates. As of August 2020, ABOR reported it had begun reviewing its policies in chronological order based on the amended date.

## Recommendations

ABOR should:

1. Develop a process for regularly reviewing the significant risks identified by the universities, including receiving and reviewing information on the universities' plans for mitigating or minimizing significant risks and the effectiveness of those plans, and evaluating the universities' preparedness to respond to significant risks.
2. Complete development of and implement its policy review process to assess its policies for continued relevance and effectiveness.

**ABOR response:** As outlined in its [response](#), ABOR agrees with the finding and will implement the recommendations.

### Sunset factor 3: The extent to which ABOR serves the entire State rather than specific interests.

ABOR serves the entire State by overseeing Arizona's 3 public universities, which provide access to higher education for students and communities across the State and impact the State's economy. Specifically, ABOR has:

- **Taken steps to increase access to higher education for Arizona residents**—ABOR has taken steps to increase access to higher education for Arizona residents through its financial aid programs that give priority to enrolled Arizona resident undergraduate students and by setting strategic goals for the universities to enroll more diverse students that reflect the demographics of the State. For example, ABOR established the Arizona Financial Aid Trust Fund Program (AFATF) to provide immediate need-based financial aid to students, and ABOR policy requires the universities to set aside a portion of tuition revenue to distribute to students who have demonstrated financial need. In fiscal year 2020, AFATF funded \$29.2 million in aid for students, and the universities distributed more than \$274 million of set-aside tuition revenue for financial aid to their students.<sup>34</sup>
- **Supported initiatives to benefit the State's economy and provided information on the university system's impact on the State**—ABOR also serves the entire State by encouraging university initiatives to support the State's economy, such as by establishing a goal for the universities to increase the number of graduates in critical industries—including teaching, nursing, science, technology, engineering, and math fields—by 40 percent by 2030. Additionally, as discussed on page 9, ABOR hired consultants to prepare

<sup>33</sup> See Auditor General Report 18-101 *Arizona's Universities—Fee-Setting Processes—ABOR and the universities have established some fee-setting processes consistent with best practices but should further enhance their processes.*

<sup>34</sup> Although ABOR policy requires the universities to prioritize financial aid distributions from both AFATF and the set-aside tuition for Arizona resident undergraduate students, ABOR does not report the amount of financial aid distributed to Arizona residents for each financial aid program. According to ABOR's financial aid report, in fiscal year 2019, the universities awarded a total of \$453.4 million in need-based financial aid to Arizona residents through these programs and other sources.

a report in January 2019 that analyzed the economic and fiscal impacts of the annual operations of the universities on the State's economy, including assessing the impacts of the universities' and their employees', students' and vendors' spending, jobs and wages, and economic output.<sup>35</sup> For example, according to the report, in fiscal year 2017, the universities collectively paid \$1.9 billion in wages and salaries to 36,725 employees and taxable spending by university faculty, staff, and students generated an estimated \$109 million in State and local sales taxes.

A.R.S. §38-503 requires public officers and employees of public agencies to make known in the agency's official records any substantial interest and to refrain from voting on decisions in which they have a conflict of interest. Our review of ABOR's conflict-of-interest process found that it complied with conflict-of-interest statutory requirements we reviewed but identified 3 areas in which ABOR can better align its conflict-of-interest processes with best practices to help ensure that ABOR staff and Board members disclose conflicts of interests as required by law. Specifically:

- **ABOR has not required its staff to annually disclose conflicts of interest**—ABOR policy requires Board members to annually file conflict-of-interest disclosure statements (disclosure statements). However, although ABOR policy also requires its staff to file disclosure statements, ABOR has not required them to do so annually. According to ABOR, it last required all staff to update disclosure statements in 2016, when it conducted a conflict-of-interest training for staff. Additionally, in early February 2020, we requested all ABOR staffs' disclosure statements, and we received initial disclosure statements that were signed later in February 2020 for 6 employees with employment start dates in calendar years 2017 and 2018. Although not required by statute, best practices indicate that disclosure statements should be completed and signed annually. Doing so reminds employees/public officers of the importance of complying with conflict-of-interest laws and helps ensure that potential conflicts of interest are disclosed if an employee's or public officer's circumstances change. In fiscal year 2021, ABOR revised its process to require staff to annually complete disclosure statements.
- **ABOR does not require disclosure of outside employment for most staff**—ABOR policy requires the university presidents and ABOR's Executive Director to disclose all outside compensation, and states that ABOR employees may obtain outside employment if the employment does not conflict with their official duties. However, ABOR's conflict-of-interest disclosure statement form does not specifically require employees to indicate whether they have another source of employment that conflicts with their official duties. Because conflicts related to outside employment can be difficult to identify, requiring employees to disclose outside employment is important for mitigating these types of conflicts.
- **ABOR has not provided regular conflict of interest training for staff or Board members**—Board members receive an ethics document during orientation that reviews conflict-of-interest requirements and ABOR's conflict-of-interest disclosure statement form includes guidance on what constitutes a substantial interest. Additionally, ABOR staff reported they provide guidance to Board members and staff on conflict-of-interest disclosures and other requirements on an ongoing basis in response to requests or questions that arise; however, ABOR has not provided Board members with formal conflict-of-interest training. ABOR also reported that it last provided conflict-of-interest training to its staff in June 2016. During the audit, ABOR developed a new conflict-of-interest training and provided the training to staff in July 2020 and to Board members in September 2020. ABOR reported that it plans to provide this training annually to staff and Board members.

## Recommendations

ABOR should:

3. Follow its revised conflict-of-interest process that requires its staff to annually file a disclosure statement.
4. Revise its conflict-of-interest disclosure statement form to require staff to disclose outside employment that conflicts with their official duties.

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<sup>35</sup> Elliot D. Pollack & Company & the Maguire Company, 2019.

5. Provide its conflict-of-interest training annually to all staff and Board members.

**ABOR response:** As outlined in its [response](#), ABOR agrees with the finding and will implement the recommendations.

**Sunset factor 4: The extent to which rules adopted by ABOR are consistent with the legislative mandate.**

ABOR's enabling statutes provide it with general authority to adopt rules, and various statutes require ABOR to adopt specific rules. Our review of these statutes and ABOR's rules found that ABOR has adopted rules when required to do so. However, for 2 of these statutes, ABOR has adopted rules that do not include language for specific statutory requirements related to university admission of students under the age of 18 and for awarding of academic credit for current or former military members based on service.<sup>36</sup> In October 2020, ABOR approved revisions to both rules to align them with the statutory requirements.

**Sunset factor 5: The extent to which ABOR has encouraged input from the public before adopting its rules and the extent to which it has informed the public as to its actions and their expected impact on the public.**

Our evaluation of the extent to which ABOR has encouraged input from the public and informed the public of its actions and their expected impact on the public found the following:

- **ABOR notified the public of and provided opportunity for input in its rulemaking and tuition-setting processes**—Although ABOR is exempt from the State's rulemaking requirements, A.R.S. §41-1005(D) requires ABOR to adopt rules that provide for the notice of and opportunity for comment on the policies or rules proposed for adoption. For a judgmentally selected sample of 3 of the 8 rulemakings ABOR initiated between August 2019 and November 2019, we found that ABOR provided notice of and opportunities for public input by including proposed rule changes on its Board meeting agendas when the rule was first reviewed by ABOR and allowing members of the public to provide written comments prior to ABOR voting on the proposed rule changes.

Additionally, A.R.S. §15-1626(A)(6) requires ABOR to adopt rules governing its tuition and fee-setting process that provide notice of and opportunity for public input in its tuition and fee-setting process. We reviewed ABOR's tuition and fee-setting process for fiscal year 2021 and determined that, in accordance with statute and its rules, ABOR provided notice of and opportunity for public input in its tuition and fee-setting process. For example, ABOR held a hearing in April 2020 at which students and members of the public provided comment on proposed tuition and fees, and it publicly disclosed each university's tuition and fee proposals 10 days prior to this hearing.

- **ABOR complied with the State's open meeting law, but in 1 case, provided inaccurate information**—ABOR complied with the provisions of the State's open meeting law we reviewed for 3 committee meetings and 1 Board meeting held between November 2019 and February 2020 that we attended. For example, ABOR posted meeting notices and agendas on its website at least 24 hours in advance and meeting notices at the physical location where ABOR's website stated they would be posted. The meeting notices and written minutes for public sessions we reviewed also complied with the open meeting law. Further, ABOR complied with open meeting law by retaining written minutes and video and audio recordings of its meetings that were available for public inspection.<sup>37</sup>

However, after its meetings, ABOR typically posts an annotated agenda on its website that generally includes statutorily required elements for meeting minutes, such as time and location of the meeting and how Board members voted. The annotated agenda for 1 of the 3 committee meetings we attended included inaccurate information, such as reporting that a Board member who was absent from the Board meeting voted on agenda items. We made ABOR aware of the inaccurate information and it replaced the inaccurate annotated

<sup>36</sup> A.R.S. §§15-1821 and 15-1898.

<sup>37</sup> In addition to maintaining audio and video recordings of its meetings for public inspection, for the 4 meetings we reviewed, ABOR made available video recordings of the meetings on its website within 3 business days.

agenda on its website with meeting minutes that corrected the inaccuracies after it approved the minutes at the following meeting.

**Sunset factor 6: The extent to which ABOR has been able to investigate and resolve complaints that are within its jurisdiction.**

ABOR is not a regulatory board, and it does not have statutory responsibility for investigating and resolving complaints. However, ABOR receives complaints and other inquiries by electronic submission, phone, and mail, as well as through comments made during the call to the audience portion of its public meetings. For example, ABOR receives complaints about an individual's specific situation—such as disputed tuition charges, as well as general complaints about its policies or actions that it has taken—such as tuition or fee increases or its decision to continue employing key staff after an incident.

ABOR has established a process to address the complaints it receives. Specifically, ABOR has assigned a staff member to log the complaints, inquiries, and other correspondence it receives in an electronic database. This staff member is also responsible for responding to the complaints it receives and tracking the progress of complaint handling until the complaints are resolved (see textbox for a description of ABOR's complaint handling process). Between January and June 2019, ABOR received 166 complaints, inquiries, and other correspondence. We reviewed a judgmentally selected sample of 4 of the approximately 60 complaints that were included in the 166 complaints, inquiries, and other correspondence that ABOR received between January and June 2019 and found that ABOR followed its complaint handling process and responded to the individuals who submitted the complaints within 3 calendar days for the complaints we reviewed.

**ABOR's complaint handling process**

- ABOR staff member completes initial review of complaint.
- In consultation with ABOR's general counsel, communications staff, and secretary, ABOR staff member determines who should handle the complaint.
- ABOR staff member forwards complaint to ABOR staff, university staff, or Board members, as appropriate.
- ABOR staff member responds to individual who submitted complaint to inform them to whom the complaint will be forwarded.
- ABOR staff member tracks progress of complaint handling until complaint is resolved.

Source: Auditor General staff review of ABOR's procedures and complaint database.

**Sunset factor 7: The extent to which the Attorney General or any other applicable agency of State government has the authority to prosecute actions under the enabling legislation.**

A.R.S. §§41-192(D)(4) and 15-1626(A)(12) authorize ABOR to hire its own counsel to provide legal services, and as of November 2020, ABOR employed 3 attorneys on staff to provide general legal services. Additionally, ABOR uses private contractors for legal services (see Sunset Factor 12, page 17, for more information). Further, pursuant to A.R.S. §41-621(M), the Attorney General shall defend the university system against liability claims.

**Sunset factor 8: The extent to which ABOR has addressed deficiencies in its enabling statutes that prevent it from fulfilling its statutory mandate.**

Although ABOR has broad authority to fulfill its statutory mandate to oversee the State's university system, it reported that it has supported legislation to improve its ability to meet its goals and objectives. For example, in 2017, ABOR supported the Legislature in enacting Laws 2017, Ch. 328, which established a Capital Infrastructure Fund for each university to provide State funding for capital projects. This law also appropriated at least \$27 million in State General Fund monies between the 3 universities annually from fiscal years 2019 through 2043 for capital projects.<sup>38</sup>

<sup>38</sup> Beginning in fiscal year 2020 and continuing through fiscal year 2043, the annual appropriation amount equals the amount appropriated in the previous fiscal year adjusted by a growth rate of either 2 percent or the change in the GDP deflator, whichever is less.

**Sunset factor 9: The extent to which changes are necessary in the laws of ABOR to adequately comply with the factors listed in this sunset law.**

We did not identify any needed changes to ABOR's statutes.

**Sunset factor 10: The extent to which the termination of ABOR would significantly affect the public health, safety, or welfare.**

Terminating ABOR would likely not have a significant effect on the public health and safety because its statutory responsibilities do not include provisions for protecting public health and safety. However, because the Arizona Constitution established ABOR, a majority vote of the people would be required to amend the Constitution to terminate ABOR.<sup>39</sup> Additionally, if ABOR were terminated, there would be no governing body to perform its key mission-critical functions that could impact the welfare of the students it serves at all 3 universities, such as setting tuition and fees and providing opportunity for public comment, prescribing university admission qualifications, and adopting policies and other measures for the effective governance and administration of the universities. For example, ABOR's tuition and fee-setting process requires the 3 universities to develop and present tuition and fee proposals to ABOR for its review and approval, includes opportunities for public input, and requires each university to consult with students before requesting tuition and fee increases.

**Sunset factor 11: The extent to which the level of regulation exercised by ABOR compares to other states and is appropriate and whether less or more stringent levels of regulation would be appropriate.**

This sunset factor is not applicable because ABOR is not a regulatory agency.

**Sunset factor 12: The extent to which ABOR has used private contractors in the performance of its duties as compared to other states and how more effective use of private contractors could be accomplished.**

ABOR uses private contractors for specialized services and expertise, such as legal services and consultants. For example, ABOR has contracted with consultants to review its real estate policies and practices, to conduct economic studies, and to provide workforce analysis services. We contacted higher education systems in 4 states—Florida, Iowa, North Carolina, and Utah—to obtain information regarding their use of contractors for mission-critical activities.<sup>40</sup> Three of the 4 state systems reported that the system or the system's universities contract for specialized services, such as expert legal services, but none of these state systems reported using private contractors for expert real estate or economic consulting services.<sup>41</sup>

We did not identify any additional areas where ABOR should consider using private contractors.

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<sup>39</sup> Article XI, Section 5, of the Arizona Constitution states that "The regents of the university, and the governing boards of other state educational institutions, shall be appointed by the governor with the consent of the senate in the manner prescribed by law, except that the governor shall be, ex-officio, a member of the board of regents of the university."

<sup>40</sup> To select these higher education systems, we identified 19 public higher education systems in other states with governance structures similar to ABOR's using a publication from the Education Commission of the States (see page 7, footnote 11) and selected 4 systems that ABOR considers peer systems—the Board of Regents for the State of Iowa, the State University System of Florida, the University of North Carolina System, and the Utah System of Higher Education.

<sup>41</sup> We interviewed representatives at the State System of Florida, Board of Regents for the State of Iowa, University of North Carolina System, and Utah System of Higher Education. The State System of Florida reported they do not use contractors; rather, they rely on the Florida Department of Management Services for retirement and health plans and on their own general counsel or state attorney general.



# SUMMARY OF RECOMMENDATIONS

## Auditor General makes 5 recommendations to ABOR

ABOR should:

1. Develop a process for regularly reviewing the significant risks identified by the universities, including receiving and reviewing information on the universities' plans for mitigating or minimizing significant risks and the effectiveness of those plans, and evaluating the universities' preparedness to respond to significant risks (see Sunset Factor 2, pages 7 through 13, for more information).
2. Complete development of and implement its policy review process to assess its policies for continued relevance and effectiveness (see Sunset Factor 2, pages 7 through 13, for more information).
3. Follow its revised conflict-of-interest process that requires its staff to annually file a disclosure statement (see Sunset Factor 3, pages 13 through 15, for more information).
4. Revise its conflict-of-interest disclosure statement form to require staff to disclose outside employment that conflicts with their official duties (see Sunset Factor 3, pages 13 through 15, for more information).
5. Provide its conflict-of-interest training annually to all staff and Board members (see Sunset Factor 3, pages 13 through 15, for more information).



## Scope and methodology

The Arizona Auditor General has conducted this sunset review of ABOR pursuant to a September 19, 2018, resolution of the Joint Legislative Audit Committee. The audit was conducted as part of the sunset review process prescribed in A.R.S. §41-2951 et seq.

We used various methods to study the issues in this sunset review of ABOR. These methods included reviewing the Arizona Constitution, applicable statutes, session laws, and rules; reviewing information on ABOR's and the universities' websites, including policies and guidelines, meeting agendas and minutes, and reports; and interviewing Board members, ABOR staff, and university staff. In addition, we used the following specific methods to meet the audit objectives:

- To evaluate ABOR's oversight of the universities' risk management practices, we compared reporting requirements for risk information in ABOR's policies and guidance with best practices recommended by AGB and UE.<sup>42</sup> We also interviewed staff at each university and reviewed university documentation to determine the 4 top significant risks identified by the universities for fiscal year 2020 and reviewed meeting materials, minutes, and audio recordings for ABOR's committee and full Board meetings during fiscal year 2020 to determine what information ABOR received from the universities on the 4 top significant risks they identified. Additionally, we interviewed Board members to understand the information they received relative to the 4 top significant risks.
- To assess ABOR's compliance with the State's conflict-of-interest laws and alignment with best practices, we reviewed statutes, best practices, ABOR's conflict-of-interest policies, and ABOR's disclosure form.<sup>43</sup> We also reviewed ABOR's special disclosure file and Board members' completed disclosure forms for fiscal years 2019 and 2020 and staffs' completed disclosure forms for fiscal years 2017 through 2020.
- To assess ABOR's compliance with the State's open meeting law requirements, we attended 1 full Board meeting and 3 committee meetings between November 2019 and February 2020 for which we also reviewed the meeting notice, agenda, and minutes and/or audio recordings, including for executive sessions when applicable.
- To assess how ABOR has encouraged input from the public and informed the public of its actions, we judgmentally selected 3 of the 8 policy changes ABOR initiated between August 2019 and November 2019 and reviewed ABOR's agenda and minutes from the meetings at which ABOR reviewed and approved the policy changes to determine if ABOR provided opportunities for public input during its rulemaking process. We also reviewed public notices for the tuition hearing and tuition proposals and observed ABOR's tuition

<sup>42</sup> Association of Governing Boards of Universities and Colleges & United Educators (AGB & UE). (2014). *A wake-up call: Enterprise risk management at colleges and universities today*. Washington, DC; Abraham, J.M., Braughler, S., Kabanova, L., & Kollinger, J. (2020). *Risk management: An accountability guide for university and college boards* (2<sup>nd</sup> ed.). Washington, DC: Association of Governing Boards of Universities and Colleges and United Educators.

<sup>43</sup> Organization for Economic Cooperation and Development (OECD). (2003). *Recommendation of the council on OCED guidelines for managing conflicts of interest in the public service*. Paris, France. Retrieved 8/4/2020 from <http://www.oecd.org/gov/ethics/2957360.pdf>; Ethics & Compliance Initiative. (2016). *Conflicts of interest: An ECI benchmarking group resource*. Arlington, VA. Retrieved 8/4/2020 from <https://www.ethics.org/knowledge-center/conflicts-of-interest-report/>; Office of the Auditor-General New Zealand. (2007). *Managing conflicts of interest: Guidance for public entities*. Wellington, New Zealand. Retrieved 8/6/2019 from <https://www.oag.govt.nz/2007/conflicts-public-entities/docs/oag-conflicts-public-entities.pdf>.



setting hearing in April 2020 to determine if ABOR provided opportunities for public input in its tuition-setting process for fiscal year 2021.

- To assess ABOR's complaint response process, we interviewed ABOR staff and reviewed all 166 complaints and other inquiries that ABOR received between January and June 2019 to determine if the correspondence item was a general inquiry, request for information, call for action, policy or process suggestion, or complaint. We then judgmentally selected and reviewed a sample of 4 of the approximately 60 complaints included in the 166 complaints and inquiries.
- To compare ABOR's use of private contractors with other public higher education systems, we identified 19 public higher education systems in other states with governance structures similar to ABOR's using a publication from the Education Commission of the States and selected 4 systems that ABOR considers peer systems—the Board of Regents for the State of Iowa, the State University System of Florida, the University of North Carolina System, and the Utah System of Higher Education—interviewed staff from these 4 systems about their use of contracted services, and compared these systems' use of contractors to ABOR's use of contractors.<sup>44</sup>
- To obtain additional information for the Introduction, we obtained staffing and vacancy information from ABOR staff. We also compiled and analyzed unaudited information from the Arizona Financial Information System *Accounting Event Transaction File* for fiscal years 2018 through 2020; the State of Arizona *Annual Financial Report* for fiscal years 2018 and 2019; and ABOR-provided information related to funding from the universities for fiscal years 2018 through 2020.
- Our work on internal controls included reviewing ABOR's and the universities' policies and procedures and, where applicable, testing ABOR's and the universities' compliance with these policies and procedures, testing compliance with statutory requirements, and interviewing Board members and ABOR and university staff. Our work included reviewing the following components and associated principles of internal controls:
  - Control environment, including ABOR's oversight of the universities' internal control systems and enforcement of accountability for university management performing their internal control responsibilities.
  - Risk assessment, including identifying, analyzing, and responding to risks related to achieving the objectives of the State university system.
  - Control activities, including the design of control activities to fulfill defined responsibilities and address identified risk responses.
  - Information and communication related to the use of quality information.

We reported our conclusions on applicable internal controls in Sunset Factors 2 and 3 (see pages 7 through 15).

We selected our audit samples to provide sufficient evidence to support our findings, conclusions, and recommendations. Unless otherwise noted, the results of our testing using these samples were not intended to be projected to the entire population.

We conducted this sunset review of ABOR in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We express our appreciation to ABOR, ABOR's Executive Director and staff, and university staff for their cooperation and assistance throughout the audit.

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<sup>44</sup> Fulton, M. (2019). *An analysis of state postsecondary governance structures*. Denver, CO: Education Commission of the States. Retrieved 7/19/20 from <https://www.ecs.org/an-analysis-of-state-postsecondary-governance-structures/>.

# ABOR RESPONSE

June 1, 2021

Lindsey Perry  
Auditor General  
2910 N. 44th Street  
Phoenix, AZ 85018

Re: Arizona Board of Regents – Sunset Factors

Dear General Perry:

On behalf of the Arizona Board of Regents, I am pleased to respond to the audit report, Arizona Board of Regents – Sunset Factors. We appreciate your audit team for their utmost professionalism and integrity in reviewing our practices. The findings are thoughtful and represent years of collaborative work.

The findings are agreed to, and the audit recommendations will be implemented.

As the regents work to implement the findings, we look forward to upcoming review process. We are constantly looking for ways to improve and appreciate your help in that endeavor.

Sincerely,

John Arnold

**REGENTS**

Chair Larry E. Penley

Nikhil Dave ♦ Fred DuVal ♦ Kathryn Hackett King ♦ Lyndel Manson ♦ Cecilia Mata

Bill Ridenour ♦ Karrin Taylor Robson ♦ Anthony Rusk ♦ Ron Shoopman

Governor Doug Ducey ♦ Superintendent of Public Instruction Kathy Hoffman

Executive Director John Arnold

**Sunset Factor 2:** The extent to which ABOR has met its statutory objective and purpose and the efficiency with which it has operated.

**Recommendation 1:** ABOR should develop a process for regularly reviewing the significant risks identified by the universities, including receiving and reviewing information on the universities' plans for mitigating or minimizing significant risks and the effectiveness of those plans, and evaluating the universities' preparedness to respond to significant risks.

ABOR response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

**Recommendation 2:** ABOR should complete development of and implement its policy review process to assess its policies for continued relevance and effectiveness.

ABOR response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

**Sunset Factor 3:** The extent to which ABOR serves the entire State rather than specific interests.

**Recommendation 3:** ABOR should follow its revised conflict-of-interest process that requires its staff to annually file a disclosure statement.

ABOR response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

**Recommendation 4:** ABOR should revise its conflict-of-interest disclosure statement form to require staff to disclose outside employment that conflicts with their official duties.

ABOR response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

**Recommendation 5:** ABOR should provide its conflict-of-interest training annually to all staff and Board members.

ABOR response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

