

PERFORMANCE AUDIT

BOARD OF REGENTS

Report to the Arizona Legislature
By the Auditor General
September 1991
91-9

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STATE OF ARIZONA
OFFICE OF THE
AUDITOR GENERAL

September 24, 1991

Members of the Arizona Legislature

The Honorable Fife Symington, Governor

Mr. Donald Pitt, Board Chairman
Arizona Board of Regents

Ms. Molly Corbett-Broad, Executive Director
Arizona Board of Regents

Transmitted herewith is a report of the Auditor General, A Performance Audit of the Arizona Board of Regents. This report is in response to the June 14, 1989, resolution of the Joint Legislative Oversight Committee.

The report addresses the Board's emerging oversight role and its new systemwide approach on governing the State's three universities. We found the Board needs to reduce the number of items on its monthly agenda and focus its attention on strategic and policy setting issues. In order to help assist in the necessary oversight efforts, the Board also needs to define and support a meaningful role for its central office staff. The report also cites the need for the Board to strengthen oversight in the areas of budget review and analysis, auditing, academic program review, and compliance with the State's Open Meeting Law.

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

This report will be released to the public on September 25, 1991.

Sincerely,



Douglas R. Norton
Auditor General

DRN:lmn

SUMMARY

The Office of the Auditor General has conducted a performance audit of the Arizona Board of Regents pursuant to a June 14, 1989, resolution of the Joint Legislative Oversight Committee. This performance audit was conducted as part of the Sunset Review set forth in Arizona Revised Statutes (A.R.S.) §§41-2351 through 41-2379.

The Arizona Board of Regents was created by the State Constitution and is responsible for governing the State's university system. The Board consists of nine members appointed by the Governor, and two ex-officio members - the Governor and the Superintendent of Public Instruction.

The Emerging Oversight Role

Although Article XI, Sections 2 and 5 of the State Constitution and Title 15 give the Board significant authority to supervise and control the State universities, the Board has only begun to develop a stronger systemwide approach to its oversight responsibilities during the past decade. In 1985, a desire by the Regents to strengthen oversight of the university system resulted in the hiring of a new Executive Director. The new Executive Director was given the general responsibility of developing a stronger and more effective central office.

The early efforts of the new Executive Director and the Board focused on capital development and strategic planning. A capital development process was established to provide for meaningful review and oversight of university construction projects. Most believe the process has been beneficial and has saved millions of dollars in capital development expenditures. In addition, a systemwide strategic plan was developed, the first document of its kind ever developed by the Board. Most believe this effort too was a significant and noteworthy achievement. The Board is also focusing on other policy issues such as minority recruitment and retention and the status of women on campus. In other areas such as budget and finance, and academic affairs, changes have been made in policies and procedures to provide for more uniform reporting and greater accountability to the Board. In these areas, changes generally appear to be consistent with the Board and central office role envisioned by the Regents in 1985. However, not everyone, especially some university

officials, agreed that such a role by the central office was desirable or needed. Complicating matters, the Regents failed to clearly define the central office role. We found this failure has impacted the entire system. Important responsibilities of governance have not been assumed or have remained unchecked. Key areas of responsibility such as budget oversight, auditing, and procedures for complying with the Open Meeting Law are currently weak or inadequate. In addition, the lack of a clearly defined and articulated role for the central office has caused the Board to spend a considerable amount of time on operational details of little significance systemwide.

**The Board Needs To Focus
More Attention On Its Role As A
Policy-Setting Body (see pages 5 through 15)**

The Board needs to reduce the number of items on its agenda and focus its attention on strategic and policy-setting issues. For example, we analyzed Board agendas for a six-month period (July through December 1990) and found the agendas contained 375 separate items. Sixty percent of the 375 agenda items involved operational decisions and addressed issues such as university legal settlements, contract approvals, personnel appointments, and salary increases. Twenty-four percent were informational items, resulting in only 16 percent of the items on the agenda focusing on either policy or strategic planning. As a result, little time is left for meaningful discussion of policy issues.

Regents, university officials, and central office staff expressed frustration over the Board's focus on operational details, and many recognize the need to focus more Board attention on important policy matters. Strategic and policy issues such as enrollment management, changes in the State university funding process, and the implementation of branch campuses have all been identified as areas requiring more Board focus and attention. However, to help free its agenda of operational details, the Board needs the statutory authority to delegate decision making as it deems appropriate to the universities and its central office.

Board Can Improve Oversight In Several Areas

The Board can strengthen oversight of the universities by performing more meaningful budget review and analysis, developing a viable audit function and improving the academic program review process.

- The Board of Regents needs to take a stronger, more active role in overseeing the \$1.4 billion university system budget. Currently, the budget process is fragmented with the Board approving both the General Fund budget and Local Fund budget separately. The Board does not see a total budget. As a result, the Regents and university managers are precluded from making informed decisions, and the process limits the Regents' ability to analyze the universities' total financial picture. (See pages 17 - 28.)
- A review of the Board's internal audit function indicates that Board auditors often focus on limited areas of university operations, while operations involving large sums of money go unaudited. In addition, even when auditors review significant areas, the audits often lack thoroughness. The audit function in other higher education systems is more effective in providing oversight of university operations. (See pages 29 - 34.)
- Although the Board has considered and, in some cases, implemented several measures to promote educational quality, more can be done to provide educational oversight. For example, the academic program review process needs improving. Board staff do not ensure that the universities review their academic programs every seven years, and neither Board nor university staff provide thorough follow up on review recommendations. In addition, the Board should consider offering incentive grants for academic and faculty programs and continue to track student-related indicators as a measurement of the university system's performance in order to strengthen educational oversight. (See pages 35 - 41.)

The Board Needs To Define And Support A Meaningful Oversight Role For The Central Office (see pages 43 through 48)

The central office has had difficulty at times asserting an effective role in several important areas such as budget review, auditing, and program review. Although the central office staff was strengthened and upgraded, the Board never formally articulated and communicated the staff's new role and authority. As a result, significant conflict exists within the system and the central office has not been able to assert a meaningful and effective role supporting the Board's oversight responsibilities.

Other states comparable to Arizona have established an independent role for their central office staff by empowering their central offices or executive directors in a number of different areas. For example, Iowa, Utah, and Idaho have established the authority and responsibility of the central office to provide some degree of oversight and an independent perspective needed by the boards in each state to make informed decisions.

**The Board Needs To Ensure Full Compliance
With The Open Meeting Law (see pages 49 through 55)**

The Board of Regents has not complied with several aspects of the State's Open Meeting Law. The Council of Presidents, which plays a major role in debating and deliberating on policy issues and formulating recommendations for Board action, has been meeting in closed sessions in violation of the State's Open Meeting Law. Council meetings are still not open to the public, even though Board counsel twice advised that meetings were subject to the Open Meeting Law. However, newly adopted governance procedures may no longer subject the Council to the State's Open Meeting Law.

During the course of the audit, we identified two other violations of the Open Meeting Law. The Board was not maintaining minutes for the meetings of its three standing committees, and the minutes of meetings of the entire Board were not properly recorded and retained. The Board hired a secretary to transcribe all Board minutes that failed to meet statutory compliance. Also, the Board has begun to maintain minutes for all of its committees.

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INTRODUCTION AND BACKGROUND

The Office of the Auditor General has conducted a performance audit of the Arizona Board of Regents pursuant to a June 14, 1989, resolution of the Joint Legislative Oversight Committee. This performance audit was conducted as part of the Sunset Review set forth in Arizona Revised Statutes (A.R.S.) §§41-2351 through 41-2379.

The Arizona Board of Regents is charged with the responsibility of governing the State's university system. The Board consists of nine members appointed by the Governor, (including a student representative), and two ex-officio members -- the Governor and the Superintendent of Public Instruction. With the exception of the student representative, each appointed member of the Board serves an eight-year term. The student representative serves a term of one year, and student representation is rotated annually among the three universities.

The Oversight Role

The Board has broad power and authority over Arizona's university system. Its responsibilities of governance include systemwide oversight of and accountability for the State university system. However, we found that the Board's oversight and accountability roles are still being defined and need further changes.

Created by the Arizona Constitution, Article XI, Sections 2 and 5 vest general authority in the Board of Regents to supervise and control the State's universities. The constitutional basis for the Board's authority allows the Board considerable autonomy in fulfilling its responsibilities. The Board's constitutional status ranks it among the stronger entities of its type in the United States. In addition, Arizona courts have interpreted the constitutional provisions as giving the Board a broad range of powers. The specific powers and duties of the Board are established by Arizona Revised Statutes (A.R.S.) §15-1621 et seq.

Although the State Constitution and Statutes give the Board significant authority to supervise and control the State universities, the Board has only begun to develop a stronger systemwide approach to its oversight responsibilities during the past decade. In 1985, a desire to strengthen oversight of the university system resulted in the hiring of a new Executive Director. The new Executive Director was given the general responsibility of developing a stronger and more effective central office.

The early efforts of the new Executive Director and the Board focused on capital development and strategic planning. A capital development process was established to provide for meaningful review and oversight of university construction projects. Most believe the process has been beneficial and has saved millions of dollars in capital development expenditures. In addition, a systemwide strategic plan was developed, the first document of its kind ever developed by the Board. Most believe this effort too was a significant and noteworthy achievement. The Board is also focusing on other policy issues such as minority recruitment and retention and the status of women on campus. In other areas such as budget and finance, and academic affairs, changes have been made in policies and procedures to provide for more uniform reporting and greater accountability to the Board. In these areas, changes generally appear to be consistent with the Board and central office role envisioned by the Regents in 1985. However, not everyone, especially some university officials, agreed that such a role by the central office was desirable or needed. Complicating matters, the Regents failed to clearly define the central office role. We found this failure has impacted the entire system. Important responsibilities of governance have not been assumed or have remained unchecked. Key areas of responsibility such as budget oversight, auditing, and procedures for complying with the Open Meeting Law are currently weak or inadequate. In addition, the lack of a clearly defined and articulated role for the central office has caused the Board to spend a considerable amount of time on operational details of little significance systemwide.

Audit Scope

Our audit focused on the role of the Board and the responsibilities and operations of the central office, and our report includes findings

addressing the following areas:

- the Board's role and the need to increase the time the Board spends on significant policy and systemwide issues;
- the effectiveness and efficiency of the Board's current efforts to provide systemwide fiscal and academic oversight and accountability;
- the need to clarify and formally articulate the governance role of the central office, the Council of Presidents, and the universities; and
- the need for the Board to ensure full compliance with Arizona's Open Meeting Law.

In addition, our audit report presents other pertinent information related to University survey responses, central office Local Fund expenditures, and the administration of the State Student Incentive Grant Program (see page 57). We also present an area for further audit work regarding staff salaries and tuition. Finally, we present a response to the 12 statutory Sunset Factors (see pages 75 through 80).

Our audit was conducted in accordance with government auditing standards.

The Auditor General and staff express appreciation to the members of the Board of Regents, the Board's Executive Director and staff, and the Presidents of the State universities for their cooperation and assistance throughout the audit.

FINDING I

THE BOARD NEEDS TO FOCUS MORE ATTENTION ON ITS ROLE AS A POLICY-SETTING BODY

The Board of Regents needs to devote more time to planning and policy-setting issues at the State level. The Board's present agenda is dominated by operational details of insignificant value systemwide, and little time is left for important policy discussion. Focusing on operational details wastes officials' time at Board meetings and places too much responsibility for policy debate on the Council of Presidents. In order to eliminate insignificant items from its agenda, the Board needs clear statutory authority to delegate and a carefully considered delegation strategy.

The Board Spends Too Much Time On Operational Details

Although the Board should be focusing on matters of a strategic and policy-setting nature, its agenda consists of issues related to the operations of individual universities. Although the number of items of systemwide significance is disproportionately low, significant policy issues, such as enrollment management and funding, need the Board's time and attention.

Agenda not focused on policy - Although the Board's role is to make policy decisions, analysis of Board agendas indicates its attention is being focused on low priority operational issues rather than systemwide policy and strategic issues. We analyzed agendas for regular meetings of the entire Board during the six-month period of July through December 1990. Each of the 375 items on the Board's agenda was categorized by topic and by the type of decision (if any) required by the Board. As shown in Table 1, page 7, the majority of the items on the Board's agenda are grouped into four categories: contracts, capital development, human resources, and general information. Items involving business and finance, academic affairs, student affairs, and strategic planning represent a minor portion of the Board's agenda.

As shown in Table 1, page 7, 60 percent of the items on the Board's agenda involved operational decisions.⁽¹⁾ Only 8 percent involved policy decisions and 8 percent involved strategic decisions. The remaining 24 percent of the items on the Board's agenda involved providing information to the Board and did not require a Board decision. Approval of university contracts, personnel appointments and salary increases, approval of capital items, and university legal settlements are among the types of operational decisions that dominate the Board's agenda.

Examples of low-level operational items appearing on the Board's agenda during the period of our analysis include the following:

- Agreement between International Centre of Insect Physiology and Ecology in Nairobi, Kenya, and the University of Arizona that simply commits signatories to cooperate on research in insect sciences, including insect-host interactions and insect cladistics
- Agreement between Northern Arizona University and the Federation of German-American Clubs that provides a student exchange program for the academic year
- Approval of Amended Lease between Arizona State University and MTS Inc. to increase space by 3,600 square feet for Tower Records at Tempe Center

(1) For purposes of this analysis, an operational decision is defined as a decision requiring the Board's action only on a specific case and is a decision that could not be applied to similar cases throughout the system or to similar cases in the future. A policy decision is defined as a decision involving a general policy or rule that could be applied to similar cases throughout the system or in the future. A strategic decision is defined as the Board's decision on an issue that could potentially shape the condition of the system for years into the future.

TABLE 1

ANALYSIS OF AGENDA ITEMS OF THE
ARIZONA BOARD OF REGENTS' BY THE TYPE OF
DECISION REQUIRED WITHIN EACH BUSINESS TOPIC
JULY 1 - DECEMBER 31, 1990

<u>Business Topic</u>	<u>Number of Items</u>	<u>Operational Decisions</u>	<u>Informational Items</u>	<u>Policy Decisions</u>	<u>Strategic Decisions</u>
Contracts	83	70	13	0	0
Capital Development	77	47	12	2	16
Human Resources	42	34	2	6	0
General Information(a)	40	0	40	0	0
Business & Finance	31	14	11	6	0
Legal Affairs	29	27	0	2	0
Academic Affairs	23	5	4	3	11
Student Affairs	14	3	1	9	1
Board Administration	9	9	0	0	0
Public Affairs	8	8	0	0	0
Strategic Planning	7	1	4	0	2
Other(b)	<u>12</u>	<u>7</u>	<u>4</u>	<u>1</u>	<u>0</u>
Total	<u>375</u>	<u>225</u>	<u>91</u>	<u>29</u>	<u>30</u>
Percent of Total	<u>100%</u>	<u>60%</u>	<u>24%</u>	<u>8%</u>	<u>8%</u>

(a) This category includes items that were identified on the agenda as a report from a person, e.g., university president and no further categorization was possible.

(b) This category combines five audit report items, three items we were unable to categorize, and four miscellaneous items.

Source: Auditor General staff analysis of Board of Regents agendas

The sheer number of items on the Board's agenda leaves little time for meaningful discussion of policy issues. On average, during the period of our review, the Board attempted to consider 75 items during a three-to-four hour meeting. Assuming a four-hour meeting, this would allow only about three minutes for each item. While the Board uses a consent agenda format to expedite numerous items of little controversy, some consent items are removed from the consent agenda and discussed. Consent items can consume as much discussion time as nonconsent items. For example, we observed the Board discussing at great length a consent item involving the purchase of a small piece of property in Tucson.

The Board's disproportionate attention to operational details is not new. In 1988 as part of the Board's Task Force on Excellence, Efficiency and Competitiveness, a study conducted by Coopers & Lybrand found that the Board was involved excessively in management-level decisions and "administrivia." A few Board members commented that the Board meeting binders have actually decreased in volume in recent years, indicating that over attention to details may have been an even more serious problem in the past.

Greater policy focus needed - Board members, university officials, and central office staff recognize the need for the Board to focus more attention on important policy issues. One Board member stated that the Board seldom gets around to talking about education and doesn't spend enough time on important matters. Another member commented that the Board is constantly involved in minutiae that take away from the Board actually getting work done. A third member described the following as examples of insignificant operational decisions the Board had to make.

We had to decide whether to raise the rent at a campus residential facility by \$50. We had mothers bringing children in saying they wouldn't have a place to sleep. Another time not too long ago the Board spent three hours on a campus skateboard policy.

Numerous university officials also expressed frustration over the Board's focus on operational details. One official stated that the Board spends too much time on trivia and too little time on large-scale policy and

planning issues. Another said it was "ludicrous" that the Board should be spending time dealing with \$2,000 leases and \$5,000 research contracts.

Board members, university officials, and central office staff identified several important policy and strategic issues that they believe require more of the Board's time and attention. Some of these issues include the following:

- Enrollment Management - Arizona's universities face resource constraints at a time when demand for higher education is increasing. The Board needs to decide how projected increases in enrollment can be accommodated when the universities report they are at or near their enrollment capacity.
- Funding - The Board needs to work to replace the current growth-driven State funding formula with a formula that incorporates the universities' missions and the Board's enrollment management strategy. In addition, alternative sources of funding should be identified and pursued due to the limited availability of State monies.
- Branch Campuses - Again, due to limited financial resources, the Board needs to decide how new branch campuses can be integrated into a systemwide enrollment management plan, how new branch campuses can be funded, and the locations and dates of construction of these new campuses.

One Board member asserted that the Board could spend as much as 80 percent of its time on just two of these major policy issues: enrollment management and funding.

Other policy and strategic issues may also need more Board attention. According to Board members, university officials, and outside experts, these include building the Board's working relationship with the State Legislature and attention to differentiation rather than homogenization of university missions and roles.

With Board Addressing Operational Detail,
Council Of Presidents Plays Significant Policy Role

The Board's current focus on university operational details creates two concerns. First, it may place significant responsibility for policy debate and decision making within the Council of Presidents. Second, Board members and university officials spend time that could be better utilized if the Board concentrated more on policy and strategic issues.

Council of Presidents responsible for policy - In lieu of the Board spending sufficient time on major policy and strategic issues, much policy deliberation and resolution is assumed by the Council of Presidents. However, not all policy debate and resolution may be appropriate for the Council to manage.

The Council of Presidents, consisting of the three university presidents and the Board's Executive Director, has taken on a major role in formulating policy. A March 1990 memo summarizing the role of the Council states: "...the COP [Council of Presidents] will identify and concentrate on critical system policy issues such as enrollment management, tuition, and capitalization."

The Council assumes the role of gatekeeper on policy matters. The Board's handbook about governance indicates that systemwide policy issues go to the Council of Presidents prior to Board consideration and that the Council should attempt to reach consensus on all issues. Although the Board ultimately approves policy recommendations brought forth by the Council, discussion and deliberation of these issues and the rationale for Council recommendations take place in the meetings of the Council of Presidents. These meetings have been closed to the public (see Finding VI, page 49).

In some cases, the Council of Presidents initiates and proceeds with policy-setting and strategic planning activities without Board direction. For example, a major public relations effort to address midyear budget cuts for fiscal year 1990-91 and anticipated cuts for fiscal year 1991-92 was planned by the Council of Presidents in December 1990. A consultant was hired and governmental relations staff for all three universities were involved in the development of a coordinated strategy. From our attendance at all Board meetings from the time the budget cuts were first discussed, we found no evidence that the Board directed the Council of Presidents to devise a public relations strategy or that the Board was aware of the effort.

While the Board of Regents' system of governance should provide for university input in the policy-setting process, the university presidents should not replace the Board as the entity responsible for systemwide

policymaking. A system executive in another state cautioned that a board of governance must be cognizant of the fact that the best interests of the research universities are not always the best interests of the state. Another higher education executive commented that generally university presidents will always come to the table representing the interests of their university. He said they don't really want to run the system, but engage in system business to ensure equity for their campus.⁽¹⁾ Consequently in times of diminishing financial resources, it is unlikely that university presidents meeting as colleagues and striving for consensus, will be able to make difficult or unpopular decisions. In the meetings we attended, we observed the presidents struggling to come to consensus on important but difficult issues on which there was no clear agreement.

University time not well utilized - In addition, overemphasis on operational detail wastes University officials' time. University officials report spending considerable time on system governance. We surveyed the 78 university executives, faculty, and staff in attendance at either the January or February 1991 Board meetings.⁽²⁾ Fifty-three (68 percent) responded to our survey.⁽³⁾ According to respondents, in

(1) To investigate the characteristics of governance in higher education in other states, we spoke extensively with higher education executives in ten comparison states: California, Florida, Georgia, Iowa, Idaho, Kansas, North Carolina, Oregon, Tennessee, and Utah. States were chosen either because they had a large multicampus system or they were specifically recommended by Arizona higher education officials. The state-level structures represented consist of three coordinating boards, three governing boards with a chancellor, and four governing boards without a chancellor. In addition, we contacted two experts in the field of governance in higher education: Aims McGuinness of the Education Commission of the States and Marion Gade, coauthor of a recent book about governing boards in higher education.

(2) In addition to those that attend Board meetings, many more university staff are involved in system governance. The universities report that 450 employees on their campuses spend 4 hours per month or more on Board-related work that includes attending task force meetings, generating reports required by the Board, and clerical activities.

(3) Two additional surveys were submitted too late to be included in the statistical analysis.

1990 the time spent on activities involving system governance averaged 37 hours per person monthly. One of five respondents reported spending at least six entire business days (48 hours) or more per month on system governance. Moreover, officials involved in governance for several years report that the time spent on matters involving governance has increased dramatically in recent years. One university president reports spending 25 to 50 percent of his time on Board business. An executive from another university estimates the percentage of his time spent on matters involving system governance has increased from five to 10 percent of his time in the early 1980s to 33 percent of his time today.

Much of this time is spent in meetings involving governance.⁽¹⁾ Of the university staff responding to our survey, 50 percent report spending at least 12 hours monthly attending meetings, and 20 percent report spending three days per month (24 hours) attending meetings.

Board meetings dominated by operational matters may waste Regent, central office staff, and university executive time. Although Board staff and university officials are some of the most highly paid in the system, they spend hours listening to the operational business of other campuses. Many survey respondents expressed considerable frustration and concern arising from the nature of items on the Board's agenda and the lack of focus on important policy issues. (For a summary of survey responses, see page 57 and A-3.)

To Free Its Agenda For Systemwide Policy And Planning, The Board Must Delegate Responsibility

In order to focus on the issues facing higher education in Arizona at the State level, the Board needs to eliminate operational details from its agenda. The Board needs clear statutory authority to delegate such responsibility and a carefully considered delegation strategy. To allow the Board to examine its operations and to devise a plan to delegate, the formation of a Governance Committee should be considered.

(1) In addition to the monthly meetings of the entire Board, staff may attend meetings of the three committees of the Board, the Council of Presidents and senior associates, and ad hoc task forces.

Board needs ability to delegate - Prior studies and experience in other states suggest that in order to free its agenda for policy and planning issues, the Board needs to delegate responsibility. However, at the present time there is no statutory provision that allows the Board to delegate to the university presidents or to Board staff. Some Regents and Board staff attribute the number of small legal cases, contracts, and personnel appointments on its agendas to this lack of clear authority to delegate.

According to Aims McGuinness of the Education Commission of the States:

Most governing boards need to delegate and decentralize, enacting major delegation to the universities who in turn need to delegate down into the colleges and departments, making them responsible and accountable for the success of their areas. When the responsibility is forced downward, the board must now focus on setting objectives, performance standards, and incentives. A consolidated governing board that deals with campus-specific issues is undermining the authority and accountability of the presidents to manage and to make decisions and tends not to focus on system policy leadership.

The Coopers & Lybrand study stated:

Delegation of authority from the board to the university president is a critical issue with respect to university efficiency and effectiveness. To the extent the board fails to delegate authority the board itself must exercise such authority collectively. If insufficient latitude for action is delegated, the Board will find itself involved in management level decisions which are inappropriate for a governing body.

Other states have statutory ability to delegate. Of five governing boards from which we received copies of statutes and board bylaws/policies, four have delegated considerable responsibility to the universities and the central office. One of these four states delegates without the clear ability in statute to do so. The other three states have this ability specified in statute.

These states have approached the statutory authority to delegate in two ways: either by giving broad and general authority to delegate or by specifying the functions that are delegable. In Utah, statute specifies

the functions that may be delegated. However, the broader powers of the Arizona Board are more similar to those of the boards in Iowa and North Carolina. A general statute, such as the one in Iowa, could give the Arizona Board the flexibility to delegate incrementally in the areas that it deems appropriate. The Iowa statute gives the board the authority to delegate any of its functions to such committees, offices, and agencies of its members or others as may be desired. Iowa's statute also specifies that such policies and procedures must be recorded in the minutes of the board's meetings. North Carolina's delegatory authority is also broad; however, it does not appear that the board can delegate to committees.

To free its agenda for policy issues and discussions of strategic importance, the Board will have to carefully consider and document which tasks will be delegated and to whom. Examples from other states include the delegation of appointments below the presidents or senior administrative staff to the universities, the delegation of legal affairs to the chancellor or executive director, and the delegation of certain responsibilities in capital construction to the universities.

Board should consider a committee on governance - The Board should consider forming a committee on governance as a vehicle through which to discuss its own operations and to develop a strategy for delegation. The Board would require significant time and discussion to develop a delegation strategy. Since the Board's agenda is already overburdened and does not lend itself to items requiring a working session approach, a committee would be a more viable alternative. In a recent book sponsored by The Association of Governing Boards of colleges and universities⁽¹⁾, the authors recommend that boards have rules that draw the line between what the campus does and a governance committee that settles controversies over what is handled where. The Board could assign the committee the task of developing policies that clearly delineate the authorities of the various parties and deciding all new cases that do not fit committee policies, as well as settling controversies.

(1) Kerr, Clark and Gade, Marian L. The Guardians: Boards of Trustees of American Colleges and Universities. What They Do and How Well They Do It. Washington, D.C.: Association of Governing Boards of Colleges and Universities, 1989.

RECOMMENDATIONS

1. The Legislature should consider amending A.R.S. §15-1626 to give the Board clear and broad statutory ability to delegate.
2. The Board should eliminate many university management details from its agenda and devote more of its attention to systemwide policy and planning issues.
3. The Board should consider creating a committee on governance to examine its operations and to decide on the appropriate delegation of tasks.

FINDING II

THE BOARD SHOULD STRENGTHEN ITS OVERSIGHT OF THE UNIVERSITIES' BUDGETS

The Board of Regents needs to take a stronger, more active role in overseeing the universities' budgets. The present budget development, review, and monitoring processes need to be improved. For example, the Board currently approves two separate budgets for each university and does not see a total budget for any university.

The mission statement of the Board includes the responsibility to "account to the legislative and executive branches of government for the resources appropriated to the universities." This responsibility is crucial given the resources appropriated to and expended by the universities. In fiscal year 1990-91, the universities received \$531.6 million from the General Fund. However, taking into account all fund sources, the universities' funding for fiscal year 1990-91 totaled almost \$1.4 billion.⁽¹⁾

Budget Development Should Be Improved

Current budget development procedures hinder the Board's ability to oversee the universities' budgets. The budget process is fragmented, precluding the Board and university managers from making informed decisions. Other states' boards have implemented stronger budget development processes.

Budget processes are fragmented - Current budgeting procedures are disjointed and unnecessarily complex. The Board approves two separate budgets for each university, and gift and grant funds are not included in either budget.

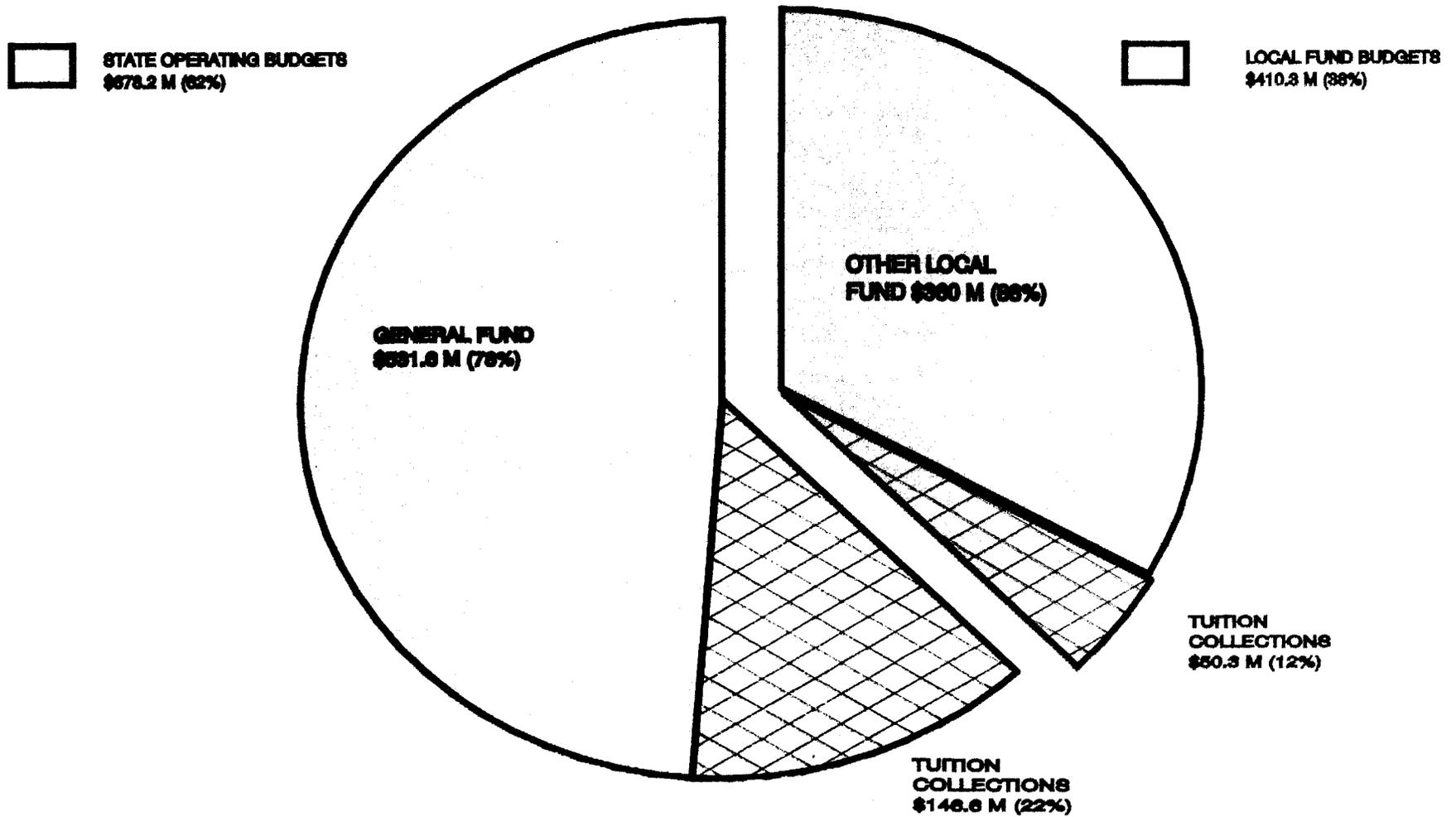
(1) In addition to General Fund revenue, the universities receive monies from the Federal government, private gifts and grants, tuition collections, and fees for other activities.

There are two budgets for each university that the Board must approve. First, the Board approves the universities' State Operating budget requests before they are submitted to the Governor in October. These requests are similar to those prepared by all State agencies to request General Fund support for the year. The culmination of the State Operating budget process is a legislative appropriation that specifies an expenditure authority for each institution. The expenditure authority for the universities is funded by a General Fund appropriation and a portion of tuition collections.⁽¹⁾ The universities requested a total expenditure authority of almost \$816 million for fiscal year 1991-92. The State Operating budgets comprise 62 percent of the monies for which the Board provides direct oversight.

Second, the Board approves the universities' Local Fund budget requests in the spring. Revenue sources for the Local Fund budgets include the remaining portion of tuition collections, investment income, income from auxiliary enterprises (such as bookstores), and indirect cost recovery from Federal grants. Expenditure purposes include debt service, student financial aid, student services and, activities such as athletics, and building renewal. The Board's approval signifies final Local Fund expenditure authorization; no other parties in the State oversee these budgets. The universities had Local Fund budgets totaling approximately \$410.3 million for fiscal year 1990-91. This constitutes 38 percent of the public monies the Board directly oversees. Chart 1, page 19, summarizes the two budgets for fiscal year 1990-91.

(1) For fiscal year 1990-91 the Legislature appropriated only a General Fund amount. Almost 75 percent of tuition collections were allocated to the State Operating budgets.

CHART
OVERVIEW OF UNIVERSITIES¹
FY 1991 BUDGETS^(a)



(a) The two budgets approved by the Board; gift and grant revenue not included.

Source: University FY 1991 budget figures approved in the October 1990 Board Meeting, and interviews with Board staff.

The two budgets (i.e., Operating and Local Fund) are independent of each other. Although the Local Fund budget requests contain listings of accounts that are supported by both budgets, these listings do not fully account for the amount of State funding received. Some university managers do not believe there is a need for the Board to receive integrated budget documents, because the university managers feel that they are in the best position to judge how the total university financial picture fits together.

The separation of the two budgets is not well justified. According to Board staff, the theoretical advantage of completing the Local Fund budget process in the spring is that better revenue and expenditure projections are available because it is closer to the time when the revenues and expenditures will be incurred. However, since enrollment and expenditure estimates are made for the State Operating budgets in the fall, and since tuition is set in the fall, the universities should also be able to submit Local Fund budgets in the fall.

Finally, control of the budget process is further weakened because gift and grant funds from private donations and the Federal government (totaling more than \$273 million in fiscal year 1990) are excluded. Consequently, the Board does not receive a consolidated budget document summarizing all sources and uses of funds.⁽¹⁾ Although gift and grant funds are not approved by the Board, the uses for these funds may impact how the universities use their State Operating and Local Fund budget monies.

The lack of consolidated budgets hinders the Board's and university managers' ability to make informed decisions - Fragmented budgets impair the abilities of the Board and university managers to make financially sound decisions. Some university programs receive funding from a

(1) The Board receives quarterly gift and grant reports. However, these reports do not help the Regents to gain an understanding of the total university budgets for a given year as the duration of the awards is not included. (Awards can cover a multiyear period.) Further, although the reports show the application of funds across the budget program areas, they do not include more specific expenditure information, such as the number of Full-Time Equivalent (FTE) staff.

variety of sources, including the State Operating and Local Fund budgets as well as gifts and grants. Fragmented budgets preclude the Board from overseeing the total budgets for these programs, as the following examples illustrate.

- In fiscal year 1989-90 NAU had 33 activities, such as admissions and campus security, that received funding and staff from both budgets. Approximately 93 Full-Time Equivalent (FTE) staff and \$19 million came from the Local Fund budget, and 315 FTEs and \$32 million came from the State Operating budget. The separation of the two budgets undermines the Board's understanding and oversight of the total university budgets for these 33 activities.
- In fiscal year 1989-90 ASU spent \$2.1 million of its gift and grant revenue in the institutional support program.⁽¹⁾ At the same time, institutional support in the State Operating budget increased by 41.8 FTEs and \$3.3 million. The lack of consolidated budgets limits the Board's awareness of the gift and grant-funded institutional support when approving the State Operating budget institutional support request.
- State, local, and gift and grant monies fund student financial aid programs. However, the lack of consolidated budgets prohibits the Board from assessing the total financial aid picture when making financial aid funding decisions. One Regent noted that the Board has never been aware of the impact of not having information about financial aid monies available when making financial aid decisions.

The lack of consolidated financial information may have contributed to the \$23 million budget shortfall at the University of Arizona during fiscal year 1990-91. A consultant hired at the direction of the Board to analyze the U of A budget process, C. William Fischer, found that senior officers of the University of Arizona "uniformly maintained that they felt no individual responsibility as stewards of the whole fiscal situation of the University and therefore no responsibility to ask for such analysis" as comprehensive listings of the sources and uses of funds. Had the Board required the universities to submit consolidated budgets for all sources and uses of funds, the University of Arizona would have had access to consolidated budgets for its internal use.

(1) Budgets are divided into six program areas: instruction, academic support, public service, organized research, student services and administration, and institutional support.

One Regent, noting that university managers may try to minimize Board influence over their budgets, admitted that it is difficult to decipher how the universities spend their monies. He told us that if the Board wants the universities to initiate certain programs, university managers can provide "100 reasons" why they cannot fund the programs. However, he said university managers seem to have no problem reallocating their funds as they see fit. Another Regent concurred, stating that the university budgets are "kept complicated."

Other states' boards have a single budget - Other states' boards oversee unified university budgets. We contacted budget directors of university system boards in four states (California, Colorado, Florida, and Virginia) that were identified as 'models' by Board staff and the JLBC analyst. All four states have a single budget document that incorporates all fund sources; budgets are not fragmented. The University of Arizona budget consultant also recommended the development of all-funds budgets to support both university and Board decision making.

Budget Review Efforts
Should Be Strengthened

In addition to developing a single budget for all funds, the Board should strengthen its budget review activities in order to provide effective oversight. Current budget review efforts are ineffective because they do not allow the Regents to ensure that the universities address Board priorities. Other states' boards have implemented more substantial budget review procedures.

Current budget review efforts are not effective - Limited review of the universities' budgets hinders the Board's ability to understand the budgets and provide oversight. Board staff do not complete meaningful budget analyses, and the Board's review appears superficial. The Board also lacks a coherent means of reviewing gift and grant-funded resources. Inadequate time frames and an insufficient number of staff contribute to these deficiencies.

Budget analyses performed by Board staff are very limited. A review of written interchanges between Board and university staff revealed the

following major areas of Board staff review of both the State Operating and Local Fund budgets:

- whether items should be included in the continuation base or as program changes,
- requests for justification or clarification of budget transfers, and
- requests for basic clarifications about programs.

The staff's budget review generally did not question the number of positions proposed nor the need to fund individual budget items. One university budget official noted that Board staff basically serve as agents for passing budgets from the universities to the State; analysis is almost nonexistent. Another university official suggested that the analysis is not meaningful because process has replaced substance.

Moreover, Board staff do not fully analyze some possible issues when they are identified. For example, the ASU Local Fund budget request for fiscal year 1990-91 showed an ending balance of \$892,000 in the ASU President's Special Projects Fund. Board staff inquired whether there were specific plans for the fund. The university responded only that "President Coor currently is considering a number of initiatives which will require funding. Some of these initiatives could utilize this available fund source." Board staff obtained no meaningful information about the specific programs to be funded.

Board members also seem to perform a superficial review of the universities' budgets. Inadequate time frames contribute to the limited review. For example, the Board and its Resources Committee had only a few days to review the universities' fiscal year 1991-92 State Operating budget requests. Two Regents agreed that this schedule did not allow them sufficient time to review the budgets or request changes or additional information. The negligible Board influence on the State Operating budgets provides evidence of the Board's limited review. The

Board decreased the universities' fiscal year 1991-92 State Operating budget requests on average 3.4 percent; however, the approved requests were still almost 19 percent higher than the previous year.⁽¹⁾

In addition to its limited review of the State Operating and Local Fund budgets, the Board lacks a coherent means of reviewing gift and grant-funded resources. Gifts and grants can have a significant impact on university budgets. For example, between September 1990 and February 1991, the Board approved \$1.3 million in new appointments and salary increases for 42 gift and grant-funded staff. The number of staff funded by gift and grant revenue should be more readily available, as it is anticipated that the national economic condition could result in decreased Federally sponsored research. The Board should be aware of the potential implications if grant activity declines so that it can prepare to identify other revenue sources or reduce staff.

Finally, the Board lacks sufficient budget staff to complete meaningful analyses. In addition to the Deputy Executive Director for Finance and Planning, there is currently only one mid-level budget analyst to provide oversight of the universities' \$1.4 billion budgets.

Ineffective budget review precludes the Board from ensuring that priorities are addressed - The Board's limited review of the universities' budgets does not allow it to ensure that priorities are addressed. For example, two directives in the Board Strategic Plan call for improving undergraduate and graduate education. During Appropriations Subcommittee hearings and in the press, ASU officials noted that the JLBC fiscal year 1991-92 General Fund recommendation would harm the instruction program, partly by jeopardizing the fall 1991 addition of 300 course sections. The Regents' limited knowledge of the

(1) The 19 percent figure excludes the ASU West campus; its 52 percent increase request brings the average increase request to almost 26 percent.

programs funded by ASU monies, such as the \$892,000 President's Special Projects Fund, precludes them from knowing whether ASU is making a good faith effort to comply with the Strategic Plan.

Other states' boards have implemented more substantial budget review procedures - University budgets are reviewed more extensively in the four model states we contacted. The boards impose "economic reality" on the universities in addition to conducting more meaningful review activities. All four states allow more time for board review of budgets and have dedicated more staff to budget analysis.

All four boards impose "economic reality" on the universities up front by identifying the amount of state funding increases the universities can request. The California system abandoned the practice of allowing the universities to submit unlimited requests because it was felt the practice led to bloated requests and extensive analysis. In Florida, as the initial step in the budget process, board staff identify the amount of funding the universities can reasonably expect from the state.

The four states' boards perform more meaningful budget analysis. For example, the staff of Florida's board conducts a technical analysis of the detailed operating budgets for all fund sources as well as substantive reviews of new programs. Validating the link between the budget requests and strategic plans is central to the review process. In Virginia, board staff make independent recommendations for full, partial, or no funding of campus requests. The board also actively oversees how the institutions manage budget cuts. The Virginia board's budget strategy directs the institutions as follows:

...institutions should make the necessary reductions in ways that will leave them as strong as possible later in this decade...They should place the highest priority on protecting their academic programs and their physical plants. To the greatest extent possible, institutions should avoid reducing 1990-91 expenditures for library materials, instructional equipment, and maintenance of buildings and grounds below present levels...This would require immediate steps to begin to reduce staffing....

The Virginia board advises staffing reductions as they will cause less long-term damage to the institutions than other measures. Finally, while acknowledging that some programs will be hurt, the Virginia board recognizes that the budget cuts have positive effects, such as forcing the institutions to concentrate their resources on the highest priority programs and streamlining curriculums and administrative operations. The Virginia example is particularly relevant since Virginia, like Arizona, places strong emphasis on institutional autonomy.

Further, all four states have more generous time frames for board review and feedback on budgets. In Florida, preliminary budgets are presented to the board in July, with final approval occurring in the fall. The Colorado review process extends from January through June. In June, official budgets based on actual state appropriations for the fiscal year starting in July are approved. In California three to four budget presentations are made for the board in a "normal" budget year; in a "bad" budget year, monthly budget presentations may be made.

Finally, these states' boards have dedicated more resources to budget analysis than Arizona. The Virginia board, which oversees a budget comparable to the Arizona Board's, has seven professional budget staff. The Colorado board, which oversees only \$850 million, has four professional budget staff.

Budget Monitoring Efforts
Should Be Improved

The Board should strengthen its budget monitoring capabilities in conjunction with improving budget development and review processes. Current budget monitoring activities are not effective. This contributed to the "surprise" nature of the University of Arizona budget shortfall. The U of A budget consultant offered several suggestions for improving monitoring.

Budget monitoring activities are not effective - Current budget monitoring activities are limited. Board policy allows the universities to transfer State Operating budget funds and report such transfers to the

Board quarterly. Approval of Local Fund budget changes is required for net increases or decreases in budgeted levels of revenue or expense; this is also accomplished through quarterly reports.

The quarterly State Operating and Local Fund budget transfer reports do not allow the Board to adequately oversee the universities' budgets. These reports are vague and do not include the effects of specific changes on the overall university budgets. For example, one State Operating budget transfer report containing a transfer of almost \$1.3 million from personal services and employee-related expenses to other operating expenses was justified "for high priority capital and other operational needs."⁽¹⁾ The implications of this transfer cannot be readily determined because the Board cannot ascertain which university activities will be adversely affected by the loss of \$1.3 million in personnel costs and which university activities will be positively affected by the injection of \$1.3 million.

The ineffectiveness of the Board's budget monitoring was shown during the University of Arizona's recent budget shortfall. After the University of Arizona budget shortfall was announced, Regents and Board staff noted that they had not been aware that the University of Arizona was experiencing financial problems of such magnitude.

Suggested budget monitoring improvements - The University of Arizona budget consultant suggested the Regents adopt new budget monitoring mechanisms. He recommended the development of all-funds budgets and that the universities adjust these budgets in approximately November and April to show updated tuition revenue and enrollments. According to the Deputy Executive Director for Finance and Planning, the November revision could also capture the prior year's carryforward of funds. The semiannual budget revisions could replace the current quarterly reports.

(1) Most other State agencies must receive JLBC and Department of Administration approval before transferring funds into or out of personal services and employee-related expense; the universities are exempt from this requirement as the Board approves such transfers.

The Colorado board has implemented this budget monitoring structure and approves budget revisions in the fall and spring. The consultant also recommended establishing cumulative thresholds for other budget monitoring reports.

The measures recommended by the consultant should allow the Board to strengthen its oversight of the universities' budgets, without "tying the hands" of the universities. Given the substantial resources expended by the universities, oversight is needed. However, oversight can undermine efficiency if campus initiatives are unduly constrained by, for example, excessive reporting or approval requirements.

RECOMMENDATIONS

1. The Board should require each university to develop a single budget that includes all funds.
2. The Board should increase its participation and effectiveness in the budget development process by identifying the amount of State funding the universities can request up front, actively overseeing how the universities manage funding decreases, allowing longer time frames for Board analysis and feedback, and promoting more substantial Board staff review of university budgets, partly by augmenting the number of budget staff.

FINDING III

THE BOARD SHOULD IMPROVE ITS AUDIT FUNCTION

The Board of Regents should strengthen its audit function to support its oversight of university operations. Audits conducted by the Board's internal audit staff generally focus on small, limited areas. When important areas are audited, the audits lack thoroughness. The Board's internal audit function is weakened by university influence over audit operations, the amount of time dedicated to special projects, and staff turnover. Other states' higher education systems have implemented more effective audit operations.

The Board employs seven professional audit staff who work out of the Board's central office in Phoenix. Audits are completed on an annual basis and include such areas as student enrollment (where ABOR auditors verify the number of FTE students attending each university) and capital review. The board auditors complete reviews of the same units on each campus simultaneously. While Auditor General staff and other outside auditors perform external audits to determine the financial status of each of the three universities, internal audits focusing on specific activities and functions are the responsibility of the Board's audit staff.

Audits often lack significance - A review of audits conducted and scheduled indicates that Board auditors often focus on minor areas of the university operations, while major (multi-million dollar) areas of operations go unaudited, as evidenced by audits of the following ASU units.

- Chemistry Stores with a fiscal year 1987-88 inventory value of \$115,516
- Surplus Property with fiscal year 1988-89 sales of \$170,332
- Intercollegiate Athletics Equipment Room with fiscal year 1987-88 equipment expenditures of \$203,002

Audits for fiscal years 1989-90 and 1990-91 included accounts receivable for library fines and revenue from office machine rental and repair.

One Regent who serves on the Resources Committee stated that he never reads the audit reports because the audit topics are not of great concern.

While audits focus on minor areas such as surplus property, major operations involving large sums of money and high risk are not being audited. For example, our experience conducting financial audits of the universities shows procurement and cash receipts for auxiliary enterprises (such as bookstores and conference centers) are areas warranting additional audit work. These units have a high degree of risk, i.e., are prone to fraud, because they have an abundance of liquid assets. Procurement practices warrant audits as the universities set their own guidelines for contracts under \$10,000. Cash receipts for auxiliary enterprises warrant internal audits because of the sizeable revenues. (NAU had anticipated bookstore revenues of \$4.6 million for fiscal year 1990-91; Arizona State University has annual bookstore revenues of approximately \$10 million.) One high-level ASU official told us auxiliary enterprises need audits because, in addition to the sizable revenue, these enterprise units may have limited accounting staff whose efforts are not coordinated with the university's central accounting function. Thus, the internal controls present at central accounting may not be present at the enterprise level.

Moreover, the recent disclosure that ASU's Public Events department, which has a \$7 million budget, incurred a significant debt illustrates the need for audits of significant university areas. The executive director of the department authorized cash advances to a theater company so that the company could stage several shows at ASU auditoriums. The advances exceeded ticket sales, and the private theater company was unable to reimburse ASU \$630,000. In late June, ASU hired the accounting firm of KPMG Peat Marwick to conduct an audit of the Public Events department. The audit will include a study of the internal controls in the department.

The focus on small, limited areas appears to result from the manner in which the audit work schedules are developed. Professional standards for

internal auditors⁽¹⁾ state that audit priorities should be based on several factors including financial exposure and potential loss and risk. However, the Board staff's approach to scheduling audits has been heavily based on polling the university financial vice presidents, Regents, and Board auditors to identify potential audit topics. The audit manager assimilates this information and compiles a one-year audit plan, which also incorporates the annual audits.⁽²⁾ Formal assessments of the risks associated with different university units are not made.

When important units are reviewed, the audits lack thoroughness - Even when auditors review significant areas, the audits often lack thoroughness. For example, in auditing a \$2 million capital improvement project, the auditors reviewed only whether the university was in compliance with Board and university policies and whether one university's capital development process was consistent with the processes at the other two universities. The auditors did not test construction expenditures or financial records and did not analyze the construction costs for the project. They did not compare expenditures with actual services to verify that services were provided or ensure that the services conformed to contractual agreements. The six-page report does not contain any findings or recommendations to be reported to the Board. However, a finding presented to university administrators noted that the auditors had found several mathematical and clerical errors in capital project summary budgets relating to construction cost calculations. Although Regent policy states that Board auditors should review the universities' completed capital projects for compliance with Board policy, it also states that the audits "...shall focus on those areas most important to assess system integrity...." The lack of review of financial records indicates that the audit did not have such a focus. As the universities' 1992-96 capital improvement plans amount to \$506 million, the completion of thorough capital audits is essential to effective oversight.

(1) Standards for the Professional Practice of Internal Auditing, Institute of Internal Auditors.

(2) Several audits are completed on an annual basis, including enrollment audits (in which Board auditors verify the number of full-time equivalent students attending each university) and capital review audits.

Several factors weaken the audit function - Several factors contribute to the weakness of the Board's audit function. First, university managers exercise extensive influence over the Board's audit function as staff have viewed the audit function as a service they can provide to the universities rather than as an oversight function. As a result, University officials have been given a significant voice in deciding which areas will be audited.

Second, the Board's auditors spend significant amounts of time completing special projects for other Board staff. In fiscal year 1989-90, over 500 hours were devoted to assembling a procedures manual for Board staff and almost 400 hours to a University of Arizona land acquisition project. In August and November 1990, over 30 percent of the auditors' productive time was dedicated to special projects. Board staff justify the use of auditors to complete special projects by stating that the purpose of the special projects is related to that of auditing: to provide accountability and oversight. However, these projects are not the same as an independent audit and have resulted in fewer audits being performed.⁽¹⁾

Finally, personnel problems have hindered the Board's ability to conduct meaningful audits. Between August 1990 and April 1991 four different staff directed the audit function. Turnover has also been high; as of August 1990 only three of the seven audit positions were filled. Thus, the audit function has lacked clear direction and manpower.

Other states' audit operations are more effective - Audit operations of other states' higher education systems are more effective in providing oversight of university operations. We contacted the audit managers at

(1) Although 28 audit reports were published in fiscal years 1988-89 and 1989-90 (13 of Arizona State University, 9 of Northern Arizona University, and 6 of the University of Arizona), only 4 reports were published during the first half of 1990-91 (1 each of Arizona State University and University of Arizona and 2 of Northern Arizona University).

the City University of New York (CUNY) and the California State University System (Cal State).⁽¹⁾ Both audit functions have implemented features that could be used by the Board to improve its audit operations.

Both audit groups review significant university operations and complete detailed reviews. CUNY completes annual operational audits of tuition and fee revenue and financial aid programs. An audit of major auxiliary enterprises was conducted "to determine that prudent fiscal management procedures were being followed." The methodology of the review included examining accounting records, contracts, receipts, invoices, procedures, and bank reconciliations.

Cal State does not conduct any annual audits, but does review some areas, such as procurement, every five years. Cal State ensures that important functions are audited by formulating its audit plan based on a detailed risk assessment methodology. This methodology starts with the identification of over 160 audit areas. This list is reduced to a more manageable number of areas for which concerns and risk factors are identified. Questionnaires allow for analyzing the concerns and factors and ultimately evaluating the audit areas. Audits of the 10 most critical areas are completed every five years, and audits of the next 30 high-risk topics are completed every twelve years.

Both audit groups have attained independence from university managers. For example, Cal State auditors report to an audit committee of the board. This committee meets whenever there is an audit report to be discussed, generally every six to twelve weeks. This independence allows the audit manager to avoid special projects.

Finally, both CUNY and Cal State have implemented effective audit functions without the use of substantial resources. CUNY has ten auditors responsible for auditing 18 campuses. Cal State has nine auditors responsible for auditing 20 campuses. Given that the Board has

(1) The Board's Executive Director identified these systems as having model audit functions.

seven authorized auditor positions to oversee three institutions, the resources needed to support a strong Board audit function are currently available.

RECOMMENDATIONS

1. The Board should improve its methodology for scheduling audits, possibly by incorporating formal risk assessment, in order to ensure that audits of significant university units are conducted.
2. The Board should conduct more thorough audits in order to provide effective oversight of university operations.
3. The Board should consider creating an audit committee to ensure the objectivity of the audit function.

FINDING IV

THE BOARD COULD TAKE ADDITIONAL STEPS TO PROMOTE EDUCATIONAL QUALITY

Although the Board has considered and, in some cases, implemented several measures to promote the quality of higher education in the State, more could be done to provide educational oversight. Specifically, the Board could strengthen the academic program review process and should consider establishing an incentive grant program.

The Board Has Considered Several Measures To Promote Educational Quality

The Board has considered and, in some cases, implemented several measures to promote educational quality at the three universities. Completing academic program reviews, establishing incentive grant programs, and tracking student assessment indicators are consistent with the efforts of other states' higher education governing boards.

- Academic Program Reviews - Since 1975 the Board has required programs in all academic disciplines (such as a department of history or a college of architecture) to periodically undergo a substantial review.⁽¹⁾ These reviews help to ensure that State resources are expended effectively and provide information that can be used by the universities to strengthen academic programs. Board policy dictates that the reviews include studies by program faculty and studies by external consultants familiar with the discipline. The reviews might recommend changes in curriculum, class size, faculty and student recruitment efforts, and resources such as office space, library materials, and computers. The universities report the results of the reviews to the Board annually. Thirty-six programs were reviewed during 1989-90.

(1) Originally all departments were to be reviewed at least once every ten years. This has recently been reduced to seven years in order to address declining and emerging programs more effectively.

- **Incentive Grants** - Although considered, but not yet implemented in Arizona, incentive grants for academic programs and faculty have become increasingly popular nationally as a result of restricted state fiscal resources and increased expectations for accountability in higher education. The theory behind incentive grants is to leverage improvements in target areas, such as the improvement of undergraduate education, from a small amount of supplemental funding. Grants can be awarded on a competitive basis to university initiatives having the greatest potential for success in the target area. Competitive State grants for educational improvement and/or research are among the most successful incentive grant programs. As of 1989, 32 states had incentive grant programs.
- **Student Assessment** - The Board also tracks student-related indicators in order to remain apprised of, for example, what students learn, how students view their educational experience, and how alumni perform in the workplace. The Board's approach to student assessment is similar to most other states' programs. As of 1987, two-thirds of the states were performing some type of assessment activity. Most statewide efforts allow the institutions flexibility to design their own assessment programs with the expectation that their ownership of the programs will cause them to address the results. The Strategic Plan approved by the Board in September 1990 calls for the universities to report one common measure of each of the following five indicators: undergraduate persistence, graduation rates, undergraduate achievement, student satisfaction, and postgraduate placement. This common measure will allow the Board to identify the university system's performance in each of these areas while ensuring universities the flexibility of and ownership over other measures.

**The Board Could Strengthen
The Academic Program Review Process**

The Board could improve the academic program review process to promote educational quality at the three State universities. Board staff do not ensure that the universities review their academic programs every seven years, and neither Board nor university staff provide thorough follow up on review recommendations. The Board could take additional steps, such as providing for concurrent reviews of similar programs, ensuring that program reviews are related to planning and budgeting processes, and periodically auditing a sample of reviews, to ensure the effective use of State resources and the strength of academic programs.

Board staff do not ensure that programs are reviewed on a timely basis

Board staff have not ensured that the universities review all programs at least once every seven years. Although copies of the universities'

review schedules are maintained at the Board office, Regents staff acknowledge that these schedules are not current. Further, a review of these schedules illustrates that the universities are not complying with the seven-year requirement. For example, seven University of Arizona programs, including the College of Education, and four Northern Arizona University programs, including the Department of English, were not reviewed and are not scheduled for review in 1989-90 through 1995-96. Thus, the resource usage and academic performance of these programs affecting numerous students will not be checked in a timely manner.

Board and university staff do not provide thorough follow up on review recommendations - Neither Board nor university staff regularly and thoroughly follow up on recommendations contained in the academic program review reports. Board staff have not historically evaluated recommendations or the universities' responses to them in the context of the university system, and university staff have not ensured that accepted recommendations are implemented by integrating program reviews into the planning and budgeting processes.

Board staff have not historically evaluated program review recommendations or the universities' responses to them in the context of the larger, State system. The universities decide whether to accept or reject recommendations. Board staff ensure only that the universities notify the Board of the steps to be taken to implement the accepted recommendations. For example, an ASU Sociology Department review called for increasing the number of graduate students. In this case, Board staff might expect the university to respond by expanding recruitment activities. However, historically, Board staff have not reviewed such responses to determine how expanding the graduate program at one institution would impact the other two universities' programs and whether program expansion might create unnecessary duplication.

Also, university staff have not ensured that accepted recommendations are implemented by integrating program reviews with planning and budgeting

processes. Chairmen of some of the programs reviewed during 1989-90 were not certain whether some of the review recommendations would be implemented.⁽¹⁾ For example:

- The review of a program with substantial workload increases resulted in a recommendation to increase the size of the faculty and the number of graduate student teaching assistantships. The chairman indicated that a formal method by which university administrators would "pay attention to the reviews" does not exist, and the department has not received resources to address the workload increase.
- Another department's review resulted in a recommendation to improve advising. The chairman used residual funding to hire an advisor, but was uncertain whether the position would be funded in future years. The chairman noted that the failure to implement relatively inexpensive resource requirements (only \$20,000 is needed to hire an advisor) signals a weak link between program reviews and planning and budgeting.

The Board could take additional steps to improve academic program reviews -

The deputy director of the Iowa State Board of Regents, cited by the Arizona Board of Regents' staff as a national authority on academic program review, recommended several steps the Board could pursue in order to address these shortcomings and further strengthen the program review process. The Board could allow for concurrent reviews, require the universities to integrate program reviews with planning and budgeting processes, and periodically audit a sample of reviews.

The Iowa deputy director recommends that the Board receive reviews of the same programs at all universities during the same years in order to provide maximum accountability to the State. He believes that providing for

(1) We contacted three chairmen at each university. The methodology for choosing the nine programs included selecting the program with the highest number of graduates, selecting the program with the highest number of student credit hours, and selecting another program whose review indicated significant deficiencies and/or recommendations.

concurrent reviews is consistent with the Board's responsibility of governance:

The board has an overall responsibility for state planning and coordination among the institutions. It is exceedingly helpful in carrying out these responsibilities if the board has comparable information from each of the institutions. Most states that are involved with reviewing existing academic programs have some procedures for lateral reviews across disciplines. In this way the board is able to look at the strengths and weaknesses of the programs across its institutions in the same academic area and take into consideration the needs of the state as a whole.

The Iowa deputy director also noted that integrating program reviews with planning and budgeting processes is the "primary way" the Board can ensure that university staff implement recommendations. Such integration ensures that program reviews are useful by causing the universities "to take careful analysis of programs and recommendations stemming from the reviews."

Finally, the Iowa deputy director recommends that Board staff periodically audit a sample of reviews. These audits would ensure that the universities actually implement the recommendations they pledge to implement and that administrators use the reviews in making planning and budgeting decisions.

The Board Should Consider Establishing An Incentive Grant Program

The Board should consider establishing an incentive grant program in order to promote educational quality. Board staff attempted to initiate an incentive grant program for fiscal year 1991-92, but the universities thwarted this effort. However, the Board should pursue this approach to promoting educational quality as it has proven effective in other states.

Board staff attempted to initiate an incentive grant program for fiscal year 1991-92 - In the fall of 1990, Board staff tried to implement an incentive grant program aimed at improving undergraduate education (the Board's top priority). Components of the program included awarding funds based on competitive proposals, universities providing matching funds, and grant ceilings of \$50,000. The Board's Programs Committee was to appoint a panel to evaluate the proposals. Each proposal would include

specific goals, a plan to measure the project's effectiveness in achieving the goals, and a schedule for submission of progress reports to the Programs committee. In addition, the Executive Director noted that ideally faculty members would compete for the grants, as faculty involvement is essential to the sustainment of any gains in the improvement of undergraduate education. These components meet the guidelines for incentive grant programs published by the Forum for College and University Governance.⁽¹⁾

The universities thwarted this effort - One high-level university official, noting that incentive grants are not needed in Arizona, said that if his university wants to fund a particular program, it will go to the Legislature and request funding. This response is consistent with a national trend whereby university leaders have been resistant to incentive grants because they reduce their control over the budget process. One study on incentive grants states that incentive grants oppose the three primary objectives of institutional leaders: "...to get as large a base budget as possible, make it as predictable as possible, and have as few external controls on spending as possible."⁽²⁾

Incentive grants have proven effective in other states - Incentive grants for academic programs and faculty have effectively promoted educational quality in other states. For example, Ohio has dedicated \$3 million to "Program Excellence" each biennium since 1983. Program Excellence encourages state institutions to enter their best undergraduate programs in a statewide competition for receipt of one-time enrichment grants of up to \$200,000. Grants have been used to improve teaching techniques and provide opportunities for faculty and student development. Faculty reviews indicate that the grants have positively affected programs. In addition, Program Excellence has provided information on shared characteristics of excellent programs.

(1) These guidelines are (a) the goals of the program should be specific; (b) there should be agreement on indicators measuring progress towards achieving goals; (c) incentives should be aimed at the organizational level of the persons responsible for achieving change; and (d) the program should be part of a complete plan or strategy.

(2) Folger, John, "Designing State Incentive Programs That Work in Higher Education," October 1989.

RECOMMENDATIONS

1. The Board could strengthen the academic program review process by ensuring that all programs are reviewed every seven years, by emphasizing concurrent reviews, and by requiring the universities to integrate the reviews with their planning and budgeting processes.
2. The Board should consider establishing an incentive grant program.

FINDING V

THE BOARD NEEDS TO DEFINE AND SUPPORT A MEANINGFUL OVERSIGHT ROLE FOR THE CENTRAL OFFICE

As suggested in the previous three findings, the Board's central office staff has had difficulty at times asserting an effective and meaningful role supporting the Board in several key areas including budget analysis, auditing, and academic program review. Although the Board intended to create a more effective central office, and established a staffing and salary structure consistent with its vision of a more meaningful staff role, the Board failed to clearly articulate the new role and responsibilities of the central office and to provide it sufficient support and authority to be effective. As a result, the central office has often encountered university resistance and conflict when it has stepped beyond the weaker staff role of the past. By contrast, some other states more clearly define the role and authority of their central office staff in either statutes, policies, or bylaws.

In the mid-1980s, the Board began to exert a stronger role of governance and took steps to create a more effective central office. According to members of the Board at the time, changes were needed both within the universities and within the Board's operations. The Board at that time felt that the information being presented was not adequate and accountability was lacking. In addition, there were no long-term strategic plans for either the university system or the individual universities. To improve its system of governance, the Board took steps to strengthen the capabilities of the central office. To strengthen the Board's analytic and oversight capabilities, a new executive director was hired in 1985 along with other top executive talent.

The Board Has Failed To Articulate And Communicate The Role Of The Central Office

Although the central office staff has been strengthened and upgraded, the Board has never formally articulated and communicated the central office's new role. The lack of a clearly defined role for the central office has resulted in significant dysfunctional conflict within the

system and impaired the ability of central office staff to assert a meaningful oversight role.

Lack of role definition - The role of the central office has never been formally defined and articulated. The Board's policy, bylaws, mission statements, and Governance Handbook do not contain a description of the role and responsibilities of the central office. The responsibilities and authority of central office executives and the line of communication between the central office and the Board and the central office and the universities are also not clearly delineated.

In a study commissioned by the Board and published in 1988, Coopers & Lybrand cited the lack of role definitions in general as a significant deficiency of the current system. The firm noted that "roles, responsibilities, and relationships of the entities in the system are vague and ill defined." They concluded that the organization and planning weaknesses of the Board's system of governance are the most critical problems facing the system, and a lack of role definition is a key component of the problem.

The role of the central office has not been well defined even on an informal basis within the system. During our interviews of university employees, some were unable to comment on the role of the central office because it had never been communicated to them. One senior university administrator said he was "unsure what the central office was being asked to do by the Regents." Many university staff and officials surveyed during our review cited problems with the definition and implementation of the central office functions.

The lack of a clearly defined role has even contributed to uncertainty and disagreement among Board members over the role of the central office. Among the current Board members, there appears to be at least two perspectives regarding the role of the central office. One perspective favors a strong, independent role as conceived in the mid-1980s, and the other perspective is unsure whether the central office should assume responsibilities beyond compliance testing, auditing, and coordinating functions.

Central office structure suggests strong role - The staffing and salary structure of the central office suggests it is meant to assume a stronger role in overseeing universities. The Board cannot justify maintaining a 35-person office with a highly paid executive staff if the central office does not have a meaningful role. Appropriations for central office staff salaries and employee-related expenditures totaled \$1.7 million in fiscal year 1990-91. The salaries of the top five executive staff⁽¹⁾ range from \$80,667 to \$108,964, excluding the Executive Director's allowance for housing or other expenses. The salaries of the central office executive staff are some of the highest in the State and compare favorably to other states with major multicampus responsibilities of governance. Because of the relatively small size of the central office staff in comparison to other State agencies and because spans of control within the office are limited, the present salaries of the executive staff can be justified only if the office is performing a necessary and effective role in overseeing the State's university system.

As in similar governance structures, central office executives have limited spans of control and no direct supervisory responsibility for university employees but rather their value derives from their role and responsibility. For example, the Board's Deputy Executive Director for Finance and Planning has an annual salary of \$93,110 and supervises a staff of only eight. The Board's former Legal Counsel had an annual salary of \$92,832 and supervised only one other attorney. Neither of these executives assumes any direct supervisory responsibility for university employees. However, the importance and significance of the central office, and the value of its staffing resources, depends on its ability to provide (under the Board's direction) meaningful, independent oversight. As a higher education executive from another state told us regarding the executive director's position, "the position has to have some teeth, or you might as well have a secretary taking the minutes."

(1) The Executive staff includes the Executive Director; Deputy Executive Director for Finance and Planning, Deputy Executive Director for Capital Development, Human Resources, and Internal Audit; Associate Director for Academic Programs; and Counsel to the Board.

However, efforts to assert a stronger oversight role have met university resistance and created significant conflict and tension between the central office and the universities. Central office executives believe part of their role is to provide independent perspectives to the Board.

The descriptions of the responsibilities of both the Executive Director and Deputy Executive Director for Finance and Planning suggest functions that appear to involve more than merely coordinating university business. The Executive Director is responsible for providing "independent recommendations on policy formation" while the Deputy Director is responsible for developing "financial policies and procedures for the Arizona University System."

However, the efforts of central office staff are often questioned by the universities when the central office steps outside the weaker role it exerted in prior years. For example, two of the universities resisted efforts to give approval authority for capital project change orders to the capital development officer at the central office. In addition, university resistance to central office efforts has also been experienced in the areas of legislative relations, budget and finance, capital development system implementation, and in the establishment of common formats and data definitions for Board reports. In the absence of a clear, independent role supported by the Board and an authoritative basis upon which to act, the central office has often been unable to overcome university resistance and operate effectively when its actions have been questioned.

Other States Have Established An Independent Central Office Role

Some states comparable to Arizona have established the authority of their central office staff in a more clear-cut manner and define an independent role for their central office staff in a variety of functional areas.

Independent oversight role in other states - Of the ten states we contacted, three states most comparable to Arizona establish an

independent role for their central office staff by empowering their central offices or executive directors in a number of different areas.⁽¹⁾ Since it is the responsibility and prerogative of the Regents to define the role of the central office, the following information on the roles and functions of the board's central office or system director in three states is provided as examples rather than specific suggestions for the Arizona system.

- Iowa As documented in Iowa's statutes or in the Board's procedural guide, the board's central office provides administrative support to the Regents by reviewing, analyzing, and making policy recommendations on all matters brought before the board. The central office maintains oversight responsibility for academic affairs, business and finance, affirmative action, and personnel and employment relations. Because only the board can make legislative policy for the institutions, legislative liaisons on the campuses in Iowa must work through the executive director in the interpretation and communication of board policy. In addition to other duties, the executive director, in consultation with the universities, develops and recommends an annual capital improvement plan to the board. A Regent Information Committee consisting of institution and board staff provide information requested by the board or the executive director.
- Utah In Utah, state statute and the bylaws of the Utah Board of Regents identifies the commissioner's responsibilities and duties. All communications between the Board and member institutions must be made through the Commissioner (executive director). The commissioner is responsible for ensuring that policies and programs are properly implemented, and advises the board on recommendations from the institutions governed by the board. The commissioner is also charged with providing leadership at the state level in all activities affecting the institutions in the system. The commissioner interprets board policy to the presidents of the institutions, although the presidents may appeal the commissioner's interpretation to the board. The institutions can also be required to provide reports and information if needed by the commissioner to ensure the implementation of board actions.

(1) Of the ten state level governance structures we investigated, four were most similar to Arizona in that they had a state-level governing board with an executive director in charge of board staff. One of the four did not document a strong role for the central office.

- Idaho In Idaho, the executive director's job description specifies the duties and authorities of the position. The executive director of the Idaho State Board of Education must furnish the board with the information needed to make policy decisions. The executive director has the authority to make independent recommendations to the board on all agenda items and to manage in accordance with Board policy inter-institutional matters including budgets, curriculum, research, public service, and extension activities. The executive director is also empowered to coordinate all legislative efforts of the board and the institutions and all major planning efforts. In addition, the executive director supervises the gathering, compilation, and reporting of all data and findings related to research and planning for board institutions and may also require routine or special reports from all institutions. A new program request cannot be presented to the board without the executive director's preliminary approval. Finally, the executive director may recommend shifting programs from one institution to another or eliminating programs.

Although the specifics of the central office's role differ in these three states, each state has established the authority and responsibility of the central office to provide some degree of oversight and an independent perspective needed by the boards to make informed decisions. If the Regents are informed only of the university perspective, as can happen under the Council of Presidents' structure in Arizona, the Board may lack an impartial perspective and is in a weaker position to effectively evaluate and oversee the performance of the individual institutions.

RECOMMENDATIONS

1. The Board should clarify the specific role, authority, and responsibilities of the central office.
2. After clarifying the central office's role, the Board needs to articulate the central office role in a formal pronouncement and support the central office staff, so that it can be effective.
3. The Board should communicate the central office's role clearly to the universities and other participants in the governance system.

FINDING VI

THE BOARD NEEDS TO ENSURE FULL COMPLIANCE WITH THE OPEN MEETING LAW

The Board of Regents and its committees have not fully complied with the Open Meeting Law. Although subject to the law, Council of President meetings (in which important policy issues are debated) have not been opened to the public. The Board has further limited public access and violated the Open Meeting Law by not maintaining adequate minutes for either its Board or committee meetings. Finally, the amount of time the Board spends in executive session may be excessive and unnecessary.

Arizona's Open Meeting Law

The Arizona Legislature enacted the Open Meeting Law to provide public access to the governmental process. A.R.S. §38-431.09 states:

It is the public policy of this State....that meetings of public bodies be conducted openly and that notices and agendas be provided for such meetings which contain such information which as is reasonably necessary to inform the public of the matters to be discussed or decided.

The Open Meeting Law requires that all public bodies post notices and agendas of all meetings and maintain minutes of such meetings that are available to the public.

Council Of Presidents' Meetings Have Not Been Open To The Public

The Council of Presidents (Council) has been meeting in closed sessions in violation of the State's Open Meeting Law. After reviewing the Council's operations, deliberations, and authority, we concluded the meetings are subject to the Open Meeting Law. Further, we found the Board's former Legal Counsel had reached a similar conclusion three years earlier.

Council meetings are subject to Open Meeting Law - Because of the nature and role of the Council, its meetings are subject to the Open Meeting Law. As noted in Finding 1, page 10, the Council plays a major role in the debating and deliberating of policy issues and formulating recommendations that ultimately are acted upon by the Board. The Council meets regularly, usually twice a month, and conducts its meetings pursuant to a formal agenda. The group keeps a form of minutes, but meetings are not open to the public and are not noticed. Because of the Council's make-up and the fact that the group deliberates items on which the Board later acts in open session, our legal review concluded that Council meetings are subject to the State's Open Meeting Law.

Our conclusion is supported by the Attorney General's Open Meeting Law Enforcement Team and Chief Counsel. Because the Board's Legal Counsel strenuously argued that the Council was not subject to the Open Meeting Law, we asked the Attorney General's Office to review the issue. The Enforcement Team and an Attorney General Chief Counsel concluded that because of the group's make-up, authority, historical operations, and activities, that the Council and its meetings are subject to the State's Open Meeting Law.

Legal counsel raised concern in 1988 - The Council of Presidents' meetings were not open to the public even after the Board's Legal Counsel twice raised the issue in 1988.

In a memo dated February 10, 1988, the Board's Counsel concluded that any multimember group established by the Board for the purpose of making recommendations to the Board is subject to the Open Meeting Law.

In July of the same year in another memo, counsel reiterated "any recommendations from the Council of Presidents may subject the committee to the open meeting laws." Although the two memos raised serious questions about the possibility of Open Meeting Law violations, Council meetings were not opened to the public. According to a former President of the Board and the Executive Director, opening Council meetings to the public makes the process "dysfunctional." Both the President and the Executive Director of the Board believe the Council will become less effective if the meetings are subject to public scrutiny and review.

At the conclusion of our audit, the Regents changed the operating procedures of its Council as described in their Governance Handbook. Based on these changes to the handbook, the Board's Legal Counsel asked the Attorney General's Office to determine whether the Council is still subject to the State's Open Meeting Law. The Attorney General's Office concluded:

....the new operating procedure, as amended by the minor pen and ink changes indicated, sets forth a vastly different organization. There is no emphasis on group decision making and no mission to make group recommendations to the Board or group decisions for the Board.

The Attorney General's Office concluded that, if the new procedures are followed, Council matters will no longer be subject to the Open Meeting Law.

Board Has Not Maintained Adequate Minutes

The Board of Regents has also been in violation of the State's Open Meeting Law minute requirements. The Board is bringing the Board minutes into compliance, and is now taking minutes for committee meetings.

Tape recordings of Board meetings fail to meet statutory compliance

Arizona's Open Meeting Law requires all public bodies to keep and maintain the minutes of their meetings. A.R.S. §38-431.01 mandates "all

meetings of any public body shall provide for the taking of written minutes or a recording of all their meetings...." In addition, the statutes state that minutes whether typed or tape recorded must contain the following information:

1. The date, time, and place of the meeting
2. The names of the members of the public body as recorded either present or absent
3. A general description of the matters considered
4. An accurate description of all legal actions proposed, the action proposed, discussed, or taken, and the names of the members that propose each motion. The minutes shall also include the names of the persons, as given, making statements and presenting material to the public body and a reference to the legal action about which they made statements or presented material

A review of Board meetings for the fifteen-month period between December 1989 and March 1991 found that written minutes for only a six-month period (December 1989 - May 1990) were available. The text of the written minutes was very concise and specific, and our review suggested that the minutes for the aforementioned time frame met all statutory requirements. However, the remaining nine months of meetings, which are available on cassette tapes, do not meet all statutory requirements.

A review of approximately six hours of Board tapes disclosed that the tapes do not include all the statutorily required information.⁽¹⁾ For example, the date, time, and place of the meetings are never stated. A listener cannot determine which Board members are present, and it is generally not possible to determine which Board members make motions or discuss issues, or to identify the interested parties that address the Board.

Continued noncompliance with the minute recording requirements of the Open Meeting Law leaves the Board vulnerable to legal challenge.

In order to comply with the law, the Board hired a secretary to transcribe all meetings that failed to meet statutory compliance. All outstanding minutes were transcribed and approved by the Board. In

addition, the Board is also reviewing its operations to determine whether meeting protocol needs changing so that the unedited tapes of meetings can comply with the Open Meeting Law.

Minutes not taken for Board committee meetings - Minutes were not taken or maintained for the Board's standing committees. According to the Board secretary, the Board's Legal Counsel informed her that such meetings were not subject to the Open Meeting Law requirements. Also, no staff resources were available to record the minutes.

The Open Meeting Law (A.R.S. §38-431[5]) defines a public body to include "...all standing, special or advisory committees, or subcommittees of, or appointed by, such body." In addition, A.R.S. §38-431.01.B requires all committees of the Board to adhere to the Open Meeting Law. The only exceptions are subcommittees and advisory committees.

Because the Board committees are standing committees of the Board, these committees are responsible for recording and maintaining the minutes of their meetings. The law does not provide exceptions when resources are not available. To comply with the law, the Board began maintaining minutes for all committee meetings, as of June 28, 1991.

Considerable Time Spent
In Executive Session

The amount of time spent in executive session may be excessive and unnecessary, and the items being discussed may be more appropriate for public session.

(1) Because the Board secretary confirms that all nine months of tapes are rough unedited copies, the review was concluded after listening to six hours of tapes. Meeting tapes are presented to the public exactly as recorded until a transcription is completed. Discussion with the Board's Legal Counsel and the Auditor General's Legal Counsel concludes that the tapes presented in this format are not adequate to comply with the law.

Board can conduct only closed meetings to discuss specific topics

A.R.S. §38-431.03 allows a public body and its committees to enter into executive session only to discuss seven specific topics.⁽¹⁾ These sessions may be closed to the public, and the discussions are confidential. As required by law, the Board notifies the public of its intention to enter into executive sessions.

Discussion items may stray from statutory criteria - During the period of September 1990 through February 1991, six Board meetings were held, along with eight scheduled separate executive sessions. In fact, multiple executive sessions were often held during the regular Board meetings. The meetings lasted more than 90 minutes and were often reconvened at a later date.

We observed eight executive sessions and found that many discussions were general in nature, and conversations often strayed from the seven specific topics that may be considered in executive session. Items being discussed often appeared related more to policy, the Board's role, or the Board's public image. Such discussions are more appropriate for public sessions.

The Board's Legal Counsel concedes that a considerable amount of time is being spent in executive session and suggests such activities are cyclical. In addition, she points out that it is often difficult to keep discussions strictly on statutory criteria.

(1) The Board of Regents may enter into executive session for the discussion or consideration of the following topics: employment issues; to review records exempt by law from public inspection; legal advice; to consider a position or instruct attorneys on the body's position in pending or contemplated litigation; staff salary compensation and benefit issues; consultation for and consideration for international and interstate negotiations; and the purchase or lease of real property.

RECOMMENDATIONS

1. The Board should comply fully with the Open Meeting Law in the following areas:
 - a. Ensure that meetings of the Council of Presidents comply with the Open Meeting Law
 - b. Complete minutes for all Board meetings in a timely fashion as required by law
 - c. Maintain minutes for all standing committee meetings

2. The Board should increase efforts to ensure all topics discussed in executive sessions comply with the limitations prescribed by A.R.S. §38-431.01.

OTHER PERTINENT INFORMATION

During our audit, we surveyed university officials on time spent on governance activities. We also compiled information on the Board of Regents' use of Local Funds monies. In addition, work was completed on the Board's oversight of the State Student Incentive Grant program.

Results Of Survey Of University Officials

During preliminary audit work, university officials expressed concern regarding the time and effort spent on activities related to system governance. A self-administered survey was developed and was reviewed by central office staff and university officials. The survey was designed to quantify the number of hours spent by university employees in Board-related business, to evaluate the perceived efficiency of the various activities of governance, and to elicit suggestions for improvements. The opinions presented represent comments from university officials only and may not reflect the perspectives of the Board or central office. Presentation of the comments is not intended to be a blanket endorsement or criticism of certain Board activities by our Office. Rather, the comments are a reflection of attitudes and concerns expressed by those university officials most directly involved in governance related activities and are presented to be used by the Board to assist it in addressing its overall effectiveness.

Methodology - The survey sample consisted of all university employees who attended either the January or February 1991 meeting of the entire Board. One meeting was held at the University of Arizona and the other at Arizona State University. An official from each of the three universities compiled attendance lists during each meeting, which resulted in a total of 78 unduplicated attendees. Most of those in attendance were university executives; however, attendance of faculty and student leaders as well as a small number of support staff is represented in our sample.

Seventy-eight surveys were sent out in March 1991. Fifty-three (68 percent) of the surveys were completed and returned by mail to the Auditor General's office. On average, those responding have participated in the activities of system governance for over six years and represented all the major university business areas, including academic affairs, budget and finance, capital development, legal affairs, and public affairs.

Results - The survey was divided into four sections that addressed the following areas: 1) the amount of time devoted to Board-related business, 2) answering requests for Board information, 3) the efficiency and effectiveness of "governance meetings," and 4) the activities of governance perceived to be the most and least valuable. Means, frequencies, and response percentages for the quantitative questions are provided on a copy of the survey beginning on page A-3.

Time Devoted To System Governance

Respondents were asked how much time they devoted to Board-related activities during a typical month in 1990. Each of the 52 people responding to this question spent an average of 37 hours each month, almost an entire business week on Board-related activities. Over one-third of this time was spent in meetings of the Board, its committees, the Council of Presidents, or task forces formed to address systemwide issues. One of every five respondents spend over six days a month on Board-related business. Three full days of the six days per month were spent traveling to or attending the various meetings.

Board Information Requests

Fulfilling requests for Board information consumes a significant amount of university resources and includes responding to requests for information and requests for special project work, as well as generating the standing reports required by the Board. Beyond the standing requirements, each respondent, on average, reports fielding three additional information requests weekly. Almost one-half (46.5 percent) of such requests are attributed to the central office, over 20 percent to

the Council of Presidents, and a small portion (4.9 percent) are reported to be direct requests from individual Regents. The remainder of the requests are from other university staff that attribute the need for information to the Board or Board staff.

Standing Reporting Requirements - Respondents' suggestions primarily involved ensuring that the reports required by the Board are being read and serve an important purpose and the need to eliminate those reports that are not useful. Respondents were asked the following question:

Now considering the standing reports required by the Board, what suggestions, if any, do you have for improving efficiency in this area?

Twenty-three (43.4 percent) of the respondents provided suggestions and comments, some of the comments provided included the following:

"Start with an arbitrary [report] reduction of 50 percent. This would force the Board, working with the Council of Presidents, to select reports which are important to the governance role."

"Drop 50 percent of them [standing reports]. Regents don't read them anyway."

"The reporting system needs a thorough review to reduce the reports to a minimum."

Suggestions for ad hoc information requests - Respondents were then asked to consider the impromptu and special information requests (which were reported to average three weekly per person):

"Do you have suggestions for improving the procedures or protocols used by the Board, central office staff, or the Council of Presidents for obtaining information?"

Generally, respondents called for a reduction in the volume of information required, ensuring that the benefit of the information is worth the cost to generate it, and channeling all requests through a single contact at each university. Thirty-five (66 percent) of the respondents provided suggestions. Comments indicate that the Board and Board staff use no protocol to ensure the information is considered

important by a majority of the Board. Individual Regent or central staff "pet" issues can consume a tremendous amount of university staff time, perhaps without the Board's knowledge. Responses pertaining to these issues include the following:

"Before asking for information, more thought should be given to what will be done with this information once we have it."

"Board staff expects top priority be given to their information requests, whether the request is important or not."

"All single [individual] Regent issues should be presented to the Board or a Board committee before the universities are requested to prepare a lengthy report."

Board demands for information impact campus responsibilities - University officials report that the information requirements of governance have increased substantially and are negatively affecting performance of campus responsibilities. Those who have served in their current position longer than two years were asked whether the frequency of information requests has changed. Over 75 percent report that information demands have increased, and 32 respondents commented regarding how this has affected their campus responsibilities. Comments include the following:

"I feel I am losing touch with faculty and staff and critical campus issues since I no longer have time or am on campus enough to conduct regular meetings as I did in the past."

"I have had to set up a bureaucratic team to handle these [information] requests."

"Support staff has been reduced due to budget cuts, so it becomes more and more difficult to carry out internal requirements and still complete central office projects."

Efficiency Of Meetings

Respondents were asked to evaluate the efficiency and effectiveness of a variety of meeting characteristics of system governance. Overall, the meetings of the Board and the other meetings of system governance are not considered to be very efficient; over one-half of the respondents expressed dissatisfaction with the efficiency and effectiveness of all but two of the seven characteristics evaluated. Table 2, page 61,

presents the percentage of respondents that indicated meeting characteristics were "less efficient/ effective than should be expected." For a complete listing of the responses, see pages A-3 through A-7.

TABLE 2
PERCENTAGE OF RESPONDENTS
**EVALUATING MEETINGS "AS LESS EFFICIENT/
 EFFECTIVE THAN SHOULD BE EXPECTED"**

<u>Meeting Characteristics</u>	<u>Percentage of Respondents Evaluating "As Less Efficient/ Effective Than Should Be Expected"</u>
Number of meetings	47.8%
Length of meetings	55.3
Number of agenda items	56.5
Type of agenda items	59.1
Time devoted to the most important items	65.2
Process for making decisions and resolving issues	54.3
Chairperson's management of the agenda and meeting time	10.4

Overview of comments on meeting efficiency - After evaluating meeting characteristics on a scale, respondents were asked to comment on the characteristics of the meeting and the particular type of meeting (e.g., the entire Board vs. Board committee) they had evaluated negatively. The primary complaint was with the types of issues the Board is addressing. There were also concerns with the decision-making process. However, some meetings were perceived as functioning better than others. For example, respondents were more satisfied with the meetings of the Board committees and task forces than with the open session of the entire Board.

Board focuses on the less important issues - Respondents cited the Board's attention to trivial university management details at the expense

of important planning and policy issues as their biggest complaint with the operations of the Board. Surveys contained the following comments.

"Regents spend too much time on agenda items of little importance to the missions of the universities."

"Drop from the Regents' agenda such items as contracts with foreign involvement, personnel increases over \$4,000, etc., which I have yet to see any Board comments on in six years."

"The Board must focus on the essentials...funding receives scant practical attention...as yet the Board has no idea how to handle the massive enrollment increases to be expected in 1995."

"The Regents are not debating education issues such as how much research the State should be funding vs. how much teaching."

Problems with the decision-making process - Decision-making characteristics cited as ineffective/inefficient include creating too many task forces to perform functions campuses can do; the lack of opportunity afforded faculty and other groups to participate; the formal, "stuffy" protocols used in Board and committee meetings that preclude a give-and-take discussion of issues; and the use of consensus decisions from the Council of Presidents. Survey comments include the following:

- Lack of opportunity to participate

"...the committee meetings are valuable when there is give-and-take discussion between the presenter of a report and the Board members."

[regarding the Board's open session] "I [faculty] have no way of interjecting any comment until the Programs Committee at the next Board meeting."

"Currently, faculty have little or no input except for [the] Programs Committee. This is not only ineffective, but a gross omission in governance."

- Board protocols inhibit information flow

"In depth studies such as the ratio analysis reported at the February Board meeting...do not receive the attention warranted due to the distractions of presenting in [the setting of the monthly Board meeting]...if questions are asked by Board members at all, they seem shallow and miss the point. In this example, the staff preparation hours were substantial and, in my opinion, totally wasted."

"More often than not, they [activities of governance] waste time with intellectual puffery and academic pontifications...they don't deal directly with problems, but tiptoe around problems to develop consensus, which exacerbates the problems."

- Need to review Council of Presidents' operations

"You should review the COP [Council of Presidents] concept. Each institution has its own interests and rationale for choosing what is best for the institution. The Council strives for consensus on every issue. This is extremely difficult when the consequences of a decision are unpleasant for one of the institutions. This may cause the COP [Council of Presidents] to avoid making the decision."

"[The] Council of Presidents has too much power without being accountable to others for their decisions. The Regents and central staff need to provide greater supervision of [the] Presidents to ensure accountability...Regents should not be "rubber stamps" for presidential action...they should provide leadership."

"Consensus decision making is ineffective and produces dysfunctional activities."

General Comments,

Most Valuable/Least Valuable Activities

Finally, respondents were asked to identify the activities of system governance they thought were of the most and least value. The final question provided for any additional comments or suggestions.

Most valuable activities - The following three activities were cited more often as the most valuable activities concerned with governance.

- The other less formal meetings (other than Board, Board committees, or task forces) where problem resolution occurs more quickly
- Board committee meetings
- Activities that concentrate on high level policy issues

Least valuable activities - The following activities were cited most often as the least valuable activities concerned with governance.

- Board's focus on university management details
- Reports required by Board - too many; many are not useful or important, those that are important receive too little attention
- Meetings of the entire Board

Additional comments from respondents - The final survey question provided for any additional comments on system governance operations. Two issues mentioned that had not previously been addressed involved criticism of the Board's drive to force a system mentality rather than acknowledging

three distinct institutions and the need to clarify the role and authority of central office. Survey comments on these issues include the following:

- "The fundamental problem has been the drive over the past five years to force all three universities into a common mold...even though they are of radically different character. Why must they have the same admission requirements, tuition level, salary levels, etc?"
- "Each time a new, talented aggressive person joins the central office staff, the impacts on already stretched university staff multiply. It is important to recognize that these changes have occurred at a time of unprecedented growth of the universities which directly affected the workload and responsibilities of the University officers."
- "The role and relationships as well as the authority and parameters of Board staff should be clarified."

Central Office Use Of Local Fund Revenues

The Board of Regents uses Local Fund Revenues (tuition, investment income, income from auxiliary enterprises and indirect cost recoveries from federal grants) to finance other non-State supported operations. During our audit, we examined the amount of monies used to support central office and systemwide activities. We found there is no formal Board policy regarding the expenditure of these funds, and appropriated amounts have steadily increased.

Lack of specific appropriation language - A review of the Board's policy manual revealed a lack of specific language regarding the purposes for which Local Fund monies will be appropriated from each university to the central office. According to the Board's Deputy Executive Director for Finance and Planning, he feels specific policies regarding the actual appropriation process are unnecessary. He points out that the central office does not specify to the universities the sources from which the monies must come. He further states most Local Fund monies come from university interest income accounts and indirect cost payments. In addition, the universities provide budget allocations to the central office for specific systemwide needs or studies. However, these allocations are presented to and approved by the Board.

The central office Local Fund budget for fiscal years 1986-87 through 1990-91 shown in Table 3, indicates the expenditures that flow through the central office Local Fund accounts to accommodate systemwide projects.

TABLE 3

OPERATING BUDGET CONTRIBUTIONS TO THE
CENTRAL OFFICE LOCAL FUND BUDGET
BY UNIVERSITY FOR
FISCAL YEARS 1986-87 THROUGH 1990-91

Operating Budget Contribution(a)	<u>1986-87</u>	<u>1987-88</u>	<u>1988-89</u>	<u>1989-90</u>	<u>1990-91</u>	<u>Total</u>
U of A			\$131,700	180,100	184,000	495,800
ASU			108,400	150,800	153,900	413,100
NAU			<u>35,100</u>	<u>49,000</u>	<u>51,300</u>	<u>135,400</u>
Total	<u>\$175,000</u>	<u>\$220,000</u>	<u>\$275,200</u>	<u>\$379,900</u>	<u>\$389,200</u>	<u>\$1,439,300</u>

(a) According to the Deputy Executive Director for Finance and Planning, the contribution figures for individual university operating budgets are not available for fiscal years 1986-87 and 1987-88.

Contributions have continued to increase - The amount of contributions for the central office operating budget amount has increased since fiscal year 1986-87. As shown in Table 3, contributions by the universities to the central office have increased from \$175,000 in fiscal year 1986-87 to approximately \$400,000 in fiscal year 1990-91.

Contributions from the universities for systemwide projects also have increased since fiscal year 1986-87. As shown in Table 4, page 67, contributions were approximately \$132,000 in fiscal year 1986-87, and more than \$1 million in fiscal year 1987-88. Fiscal year 1990-91 contributions were \$211,881⁽¹⁾ as of March 19, 1991.

As previously noted, central office monies are used to fund activities not supported by the State General Fund. According to the Board's Deputy Executive Director for Finance and Planning, these funds pay the costs

incurred by central office staff that meet a "public purpose" as defined in a 1985 Attorney General Opinion. Housing and car allowances for the Executive Director, employee salaries, business meals, payment for out-of-state staff recruitment, and employee moving expenses, have been funded with Local Fund revenues.

(1) Systemwide projects will continue to incur costs for the remaining three months of fiscal year 1991-92.

TABLE 4

EXPENDITURES THAT FLOW THROUGH
CENTRAL OFFICE LOCAL FUND ACCOUNTS
ON BEHALF OF THE SYSTEM
FOR FISCAL YEARS 1986-87 THROUGH 1990-91

<u>System Project</u>	<u>1986-87</u>	<u>1987-88</u>	<u>1988-89</u>	<u>1989-90</u>	<u>1990-91</u>	<u>Total</u>
Capital Construction Process	\$104,640	\$70,000				\$174,640
Excellence, Efficiency and Competitiveness Task Force		760,653	\$73,547			834,200
Update of the Construction Cost Control Program		21,679	63,813	\$6,750		92,242
Compensation and Classification Study		145,586	119,644	20,802	\$19,074	305,106
Telecommunication Study			4,000	10,000	27,825*	41,825
Minority Student Achievement Task Force				42,031	19,986	62,017
Commission on the Status of Women				24,643	23,474	48,117
Development of an Enrollment Growth Model					69,300*	69,300
University System Tax Attorney	27,378	13,773	22,483	9,635	9,922	83,191
Employee Benefits Plan Consultant			24,950	20,026	9,800	54,776
Forestry Program Consultant			3,869			3,869
Governance and Strategic Planning Consultant		25,902	5,200		31,102	31,102
Systemwide Peer Institutions Study			5,533	10,157		15,690
Strategic Plan Printing Cost				431	20,000*	20,431
Implementation of Systemwide Flexible Spending Account					12,500*	12,500
TOTAL	<u>\$132,018</u>	<u>\$1,011,691</u>	<u>\$343,741</u>	<u>\$149,676</u>	<u>\$211,881</u>	<u>\$1,849,007</u>

* Estimated expenditures as of March 19, 1991

Capital Construction Process - cost of designing the Capitol Construction System by which Board currently abides

Excellence, Efficiency and Competitiveness (EEC) Task Force - citizen-based Strategic Planning task force

Update of the Construction Cost Control Program - updates to the Capital Construction Program

Compensation and Classification Study - Arthur Young Compensation and Classification Study

Telecommunication Study (ATEC) - operating Funds for the Arizona Telecommunication Educational Cooperative for promoting a telecommunication network for the State

Minority Student Achievement Task Force - voluntary association of educational system officials working cooperatively to improve minority student achievement

Commission on the Status of Women - study of the status of women in the university system

Development of an Enrollment Growth Model - development of an Enrollment Demand Projection Model for the State

University System Tax Attorney - payment for services provided by tax attorney

Employee Benefits Plan Consultant - payments for services provided for employee benefit plans

Forestry Program Consultant - study to create a new Ph.D program in forestry at NAU

Governance and Strategic Planning Consultant - costs incurred by Direction 88 study and work on governance and strategic planning issues

Systemwide Peer Institutions Study - development of the methodology used to determine peer institutions for the universities

Strategic Plan Printing Cost - cost for printing the Strategic Plan

Systemwide Flexible Spending Account - implementation of the university system's employee benefits account

As shown in Table 4, page 67, systemwide expenditures have been used to support 15 separate projects since fiscal year 1986-87. Most of the projects are considered important milestones for the university system. For example, the Capital Construction Study helped the Board to streamline a cumbersome and time-consuming process. The Compensation and Classification study provided for needed salary increases throughout the system. The other 13 projects are considered equally important to the university system, and without funding support from the universities the projects may not have been completed.

**Board Central Office Staff Responsible
For Oversight Of Financial Aid Grant Program**

The Board's central office staff is responsible for ensuring overall compliance of Arizona's State Student Incentive Grant (SSIG) program. State participation in the program requires meeting specific Federal and State criteria. Board staff conduct very limited SSIG program compliance reviews.

Arizona participates in the Federal financial aid grant program - In 1988, the duties of the Arizona Commission of Post Secondary Education were transferred to the Arizona Board of Regents and its central staff. The staff that were transferred are responsible for duties similar to those performed while at the Commission. These duties include financial aid administration, publication of the post secondary directory and course equivalency guide. In addition, staff are responsible for oversight of the SSIG programs at community colleges, private non-profit schools, and universities.

The SSIG program is one of five financial aid programs for which central office staff have oversight responsibility. Federal funds are made available to the states for undergraduate and graduate students who demonstrate a financial need. Participating states must match the

Federal funds, dollar-for-dollar, from direct state appropriations. In addition, the Arizona Legislature requires each participating educational institution to provide a match equal to the amount appropriated by the State. Over \$3.6 million was received for fiscal year 1989-90 from all three sources. This provided awards for 4,469 students at 53 schools.

Compliance reviews appear somewhat limited - Our discussion with program compliance staff revealed that oversight is limited. The Federal government requires participating states to oversee program compliance. Lack of compliance could lead to program forfeiture. Both the Federal government and the State of Arizona mandate specific requirements for participating institutions and students. For example, students must meet certain need, enrollment, and course of study criteria.

According to the program compliance officer, very limited test work is performed to ensure compliance. For example, he estimates he completes about five student record reviews at each school. In fiscal year 1989-90, he visited 39 of the 53 schools that participated in the program and found minimal problems. Most were easily correctable. After some discussion with Auditor General staff regarding the lack of reviews for 18 schools in fiscal year 1988-89 and 14 schools in fiscal year 1989-90, as well as the limited number of students' records actually audited when reviews are completed, the compliance officer agreed that more intensive work may be warranted. According to Board staff, this is especially important since historically proprietary institutions have had significant abuses.

Currently, the compliance officer, his supervisors, and central office staff auditors are developing more detailed criteria to help ascertain overall program compliance. The specifics had not been completed at the time of our audit.

Administrative costs continue to increase - Central office administrative costs for the SSIG program oversight continue to increase, while institutional reversions are being placed in a reserve fund to ensure staffing stability.

Matching SSIG institutional funds are used for program administration. During fiscal years 1987-88 through 1989-90 administrative fees averaged 16.9 percent. In fiscal year 1989-90 administrative fees are about 21 percent of the total program amount. In 1990, \$50,000 was budgeted for programming new computer software that will be used to assist in program administration. However, the project has been completed at a cost far less than anticipated. These monies, along with other cost savings in 1990 have resulted in a \$57,000 surplus for the SSIG program.

The Board of Regents' central office staff has decided to place all surplus monies allocated for administrative costs in a special reserve fund instead of using monies for additional grants. The goal is to develop a reserve of \$150,000 to \$200,000 that will be used to ensure continued employment for persons whose salaries are supported by these funds. There are no specific Federal or State requirements regarding unused, designated administrative funds.

Further, unaudited figures provided to Auditor General staff indicate that aside from the administrative surplus funds, approximately \$23,000 of the available grant money has not been awarded. Presently, the compliance office is developing a method for returning these funds to all participating entities. According to the compliance officer, approximately \$6,200 of the remaining State-appropriated amount of \$23,000 will stay in the central office. None of the \$23,000 has been awarded for grants since fiscal year 1987-88. These monies have remained on account at the central office. Considering most SSIG awards average \$600, failure to find needy students and distribute the awards has potentially affected 38 students who could have benefited from the grant monies.

AREAS FOR FURTHER AUDIT WORK

Are Central Office Executive Salaries Appropriate?

In response to legislative and public interest, we attempted to determine if salaries paid to executive staff in the central office were appropriate. However, due to time constraints, we were unable to perform sufficient work to fully address this issue.

We reviewed the salaries of the top five executive staff in the central office. As noted in Finding V, page 45, the salaries for these positions range from \$80,667 to \$108,964. These salaries, which in the executive director's case do not include additional allowances for housing and other expenses, are among the highest in State government.

The Board's Assistant Director for Human Resources explained that salaries are based on salary survey information compiled annually by the College and University Personnel Association and by comparing central office positions to counterpart positions at the universities. However, the Assistant Director noted that salary survey information can be difficult to use, and comparisons are complicated because administrative positions are often unique and specific duties among comparable positions may vary.

In fact, due to differences among positions and the unique characteristics of positions in other states, we were unable to conclusively determine if central office salaries are appropriate. We collected salary data from seven other states used elsewhere in our audit for comparisons due to their multicampus responsibilities of governance. However, we found that states vary in their staff organization and position duties are not always comparable. For example, legal counsel and capital development positions in some states we reviewed are not always considered top executive positions as they are in Arizona.

At least one other state we contacted also compares central salaries to the salaries of counterpart positions at its universities. However, because Arizona's university personnel practices are weak, it is difficult to determine if the benchmark university salaries are appropriate.

A Board consultant found the Regents' system for managing administrative personnel at the universities, including its system for setting compensation, inadequate and poorly developed. In a 1988 report completed as part of the Board's Task Force on Excellence, Efficiency and Competitiveness, Coopers & Lybrand noted that the Board lacked a classification and compensation philosophy and strategy for nonclassified employees (including university administrators). The consultants asserted that nonclassified employees should have a fair and equitable compensation system similar to the system that was being developed for classified staff. Although no action has been taken, they recommended that the Board develop a compensation strategy for administrative and other nonclassified staff that would include the following:

- a specific "competitive posture" for base salaries relative to other organizations in the same labor market;
- a definition of the labor markets to be used as a basis for comparison for compensation purposes; (Separate labor markets could be specified for each university or for different employee groups, depending upon the recruiting pool.); and
- a definition of the relative emphasis that should be placed on salary versus employee benefits.

Once a compensation strategy is formally established, salary ranges and guidelines for salary increases should be developed.

Because current Board personnel policy lacks an overall philosophy and strategy, and because administrative salary ranges have not been established by the Board, management of administrative personnel is uncoordinated and poses inherent risks. For example, university presidents may change the duties of administrators at any time, and set salary levels following any method or approach they desire. As the

consultants noted, this uncoordinated approach to personnel administration can result in inconsistencies, inequities, and excessive salaries.

Further audit work is needed to determine if central office and university administrative salaries are set at appropriate levels. More extensive and comprehensive salary data and more detailed information on comparable positions needs to be collected and analyzed.

Should The Board Of Regents Differentiate Graduate And Undergraduate Tuition?

With the exception of College of Medicine students, the Board has not set different tuition levels for graduate and undergraduate students. Starting in the fall of 1991, resident students, both graduate and undergraduate will be charged \$1,528 for the 1991-92 academic year.⁽¹⁾ The resident fee applies to all three universities.⁽²⁾

University systems in most other western states have established differentiated tuition structures for graduate and undergraduate students. We contacted the other fifteen states⁽³⁾ affiliated with the Western Interstate Commission for Higher Education (WICHE) to determine if they differentiate graduate and undergraduate tuition, and if so, by how much. The WICHE states were chosen for comparison because western states place a high value on access to public higher education. The survey revealed the following:⁽⁴⁾

- Only three states of the other fifteen WICHE states (California, Montana, and Wyoming) do not charge graduate students higher tuition than undergraduates. However, California universities have a 50 percent tuition surcharge for law school students, and Wyoming is planning to implement a differentiated tuition structure in the fall of 1991.

(1) Students in the College of Medicine will pay \$6,580 for the 1991-92 academic year.
(2) Nonresident students, both graduate and undergraduate, will be charged tuition rates of \$6,934 at U of A and \$6,180 at NAU during the 1991-92 academic year.
(3) Alaska, California, Colorado, Hawaii, Idaho, Minnesota, Montana, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming.
(4) Most percentages reported are based on equivalent course loads.

- Of the twelve WICHE states that do differentiate graduate and undergraduate tuition, resident graduate students pay on average 37 percent more than resident undergraduates, and nonresident graduate students pay on average 17 percent more than nonresident undergraduates.
- The resident differential ranges from 10 percent (Utah) to 100 percent (Alaska), with a median of approximately 31 percent. The nonresident differential has a median of approximately 14.5 percent.

A case for differentiating tuition can be made based on the fact that the costs of graduate education exceed those of undergraduate education. According to Board staff and a report issued by the Carnegie Council on Policy Studies in Higher Education, a graduate education is more expensive for several reasons: class sizes tend to be smaller; advisory services are very labor intensive, especially at the doctoral level where faculty work one-on-one with students completing dissertations; and additional library support is necessary. In scientific fields, additional research equipment may also be needed adding further costs.

However, further audit work is needed to determine how differentiation of tuition in Arizona would impact minority access to graduate programs and retention of graduate students. In addition, current Board policy on tuition states that resident student fees should not exceed the amount required to maintain a position within the lower one-third of the resident rates set by other states. Therefore, further work is needed to determine how differentiation would affect Arizona's ranking relative to other states.

SUNSET FACTORS

In accordance with A.R.S. §41-2354, the Legislature should consider the following 12 factors in determining whether the Arizona Board of Regents should be continued or terminated.

1. Objective and purpose in establishing the agency

The Arizona Board of Regents serves as the governing board for the State's three universities. The State constitution created the Board of Regents and directs the Legislature to enact laws to provide for the establishment and maintenance of the university system.

Article XI, Section 2 of the State constitution provides:

The general conduct and supervision of the public school system shall be vested in a state board of education, a state superintendent of public instruction, county school superintendents, and such governing boards for the state institutions as may be provided by law.

In addition, Article XI, Section 5 states, "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."

Historically, Arizona courts have decided that Article XI, Sections 2 and 5 place governance of the State universities and colleges under the supervision and control of the Board of Regents. In addition, the Arizona Courts ruled in Arizona Board of Regents v. Harper, "...the Board of Regents possesses such powers as may be reasonably implied for the purpose of effectuating its purposes."

Further, court decisions have continued to support the Board of Regents' sole governance authority in other areas. For example, in

Arizona Board of Regents v. State Department of Administration, the Arizona Court of Appeals ruled the Regents had responsibility for its personnel practices and not the Department of Administration. Further, in Arizona Board of Regents v. City of Tempe, the court concluded that the City of Tempe could not impose its ordinances and building codes upon construction projects at Arizona State University.

Title 15 of the Arizona Revised Statutes establishes the statutory framework for the governing powers and the responsibilities of the Board. The statutes provide for the Board to maintain the State universities; contract, sue, and be sued; receive and sell real and personal property and hold leases on such properties; and conduct other business as may be consistent with its role as the governing body of the university system. In addition, statutes give the Board general administrative authority for university system accountability and oversight.

2. The effectiveness with which the agency has met its objective and purpose and the efficiency with which it has operated

The Board's effectiveness in meeting its objective and purpose has been hampered because its activities have primarily focused on operational detail and not systemwide issues. (See Finding I, page 5.) In addition, the Board's failure to clarify the role of the central office has led to ambiguity and conflict regarding responsibility and authority. (See Finding V, page 43.)

3. The extent to which the agency has operated in the public interest

Aside from the problems that have negatively impacted the Board's effectiveness in meeting its objective, the Board may not have acted in the public interest in providing financial oversight of the university budgets. (See Finding II, page 17.) Also, the Board has failed to comply with Arizona's Open Meeting Law regarding the following activities: holding Council of Presidents' meetings, and maintaining proper minutes of Board and Committee meetings. (See Finding VI, page 49.)

4. The extent to which rules and regulations promulgated by the agency are consistent with the legislative mandate

The Board has been given broad legislative authority to enact ordinances for the government of the institutions under its jurisdiction. According to the Board's Legal Counsel, all required and necessary rules have been successfully promulgated under the authority granted in A.R.S. §15-1626.A.

5. The extent to which the agency has encouraged input from the public before promulgating its rules and regulations and the extent to which it has informed the public as to its actions and their expected impact on the public

The Board's own rule making process requires a two-step "review and action" procedure when considering new rules or modifying old rules. According to the Board staff, the public is notified by posting the official meeting agenda and may comment on the proposed rule between the time the proposed rule is submitted for Board review and the time the Board is requested to adopt the rule.

Since 1988 the Board has not published an annual report that summarizes its major accomplishments and activities as required by statute. Although the Board has not published an annual report, it does publish (since 1990) "Regents Recap" following every Board meeting. This document is available to the public and details specific actions taken during each Board meeting. In addition, releases concerning Board actions and activities are regularly circulated to the press.

6. The extent to which the agency has been able to investigate and resolve complaints that are within its jurisdiction

The Board's enabling statutes do not establish a formal policy for resolving complaints. However, the Board's policy manual does mention a "call-to-audience" procedure by which the public can present specific complaints to the Board.

Board policy 1-114 allows the Board to set aside time for addressing comments and making presentations. The request must be made in writing prior to the meeting. Speakers are limited to three minutes. Requests are allowed on a first-come basis until the time

has expired. In addition, Board policy states, the Board will not respond to comments or presentations made at the "call-to-the-audience" but may refer matters to staff or university personnel.

During the six-month period in which the Auditor General staff attended Board meetings, "call-to-audience" sessions were a designated part of the Board's agenda. The majority of the issues raised were complaints concerning items such as faculty salaries and tenure, student tuition, the use of animals for research, and problems with a university academic program. The Board did not publicly respond to the problems or complaints. However, on one occasion, we did witness a university president instruct a staff member to get the name of the complainant so that the school could respond to the student's concerns.

The Board does not have a formal procedure for following up on complaints raised by the public at Board meetings. A discussion with the Board's Executive Director and Legal Counsel revealed that often responses are made informally. However, in the public sessions we attended no directions or suggestions for any such action were mentioned. As a result, it was difficult to determine what, if any, actions were taken.

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

According to the Board's legal counsel, because the Board is given the capacity to enter into contracts, as well as to sue and be sued, its authority to enter into and prosecute judicial actions is inherent under Title 15 of the Arizona Revised Statutes.

The Board retains its own legal counsel, university lawyers, the Department of Administration's Risk Management Office, the Attorney General's Office, and private legal counsel to respond to or adjudicate any and all legal matters in which it becomes involved while exercising jurisdiction and control over the university system.

8. The extent to which the agency has addressed deficiencies in its enabling statutes which prevent it from fulfilling its statutory mandate

In recent years, several bills proposed by the Board have been introduced and passed in the Legislature. For example, in 1987 the Board received authorization to sell \$200 million in revenue bonds to finance the construction of capital improvements at the universities. Also, the Board obtained legislation establishing a Student Financial Aid Trust Fund, appropriating monies for developing a Statewide telecommunications network for all educational sectors, and creating a simplified construction procurement program.

9. The extent to which changes are necessary in the laws of the agency to adequately comply with factors listed in the Sunset law

To allow the Board to devote more time to significant policy and systemwide issues, we recommend that the Legislature amend A.R.S. §15-1626 to give the Board the authority to delegate specific duties and responsibilities. (See Finding I, pages 5 through 15.)

10. The extent to which the termination of the agency would significantly harm the public health, safety, and welfare

Education governing boards are necessary to provide systematic accountability and oversight. All 50 states provide some type of governing oversight for higher education, although the types of system regulation vary greatly from state to state. Terminating the Board of Regents could impact public welfare and would probably require that other State or university entities assume responsibility for oversight. Termination of the Board could not be done statutorily through the Sunset process but would require a vote of the people.

11. The extent to which the level of regulation exercised by the agency is appropriate and whether less or more stringent levels of regulation would be appropriate

Because the Board of Regents is not a regulatory agency, this factor does not apply.

12. The extent to which the agency has used private contractors in the performance of its duties and how effective use of private contractors could be accomplished

The Board of Regents uses private contractors when specialized services or expertise are required. Estimated expenditures for such services for fiscal year 1990-91 were approximately \$212,000.

In the past, consultant services have been used to conduct searches for a new university president, to develop a new personnel classification system, and to develop a university pay plan. Presently, the Board is using consultants to help develop enrollment strategies for the university system.

APPENDIX

Survey Letter

March 13, 1991

Dear University Officials, Faculty and Staff:

As you know, our office is conducting a performance audit of the Arizona Board of Regents. This is a routine review which State agencies periodically undergo to evaluate performance and note any areas needing improvement.

As part of our review, we are surveying University officials, faculty and staff who attend Board meetings and participate in system governance activities. You were selected as part of our sample due to your attendance at either the January or February 1991 meeting of the Board of Regents. We are very interested in obtaining information and comments from you regarding the time you devote to governance, information requests you receive, and the efficiency of meetings you regularly attend. Your response to the enclosed survey will help us to assess overall system performance, as well as to identify any potential changes that may be needed.

Please take the time to fill out the survey and return it to us in the enclosed self-addressed stamped envelope. A response by March 21, 1991 would be greatly appreciated.

If you have any questions about the survey, or would like to talk to us directly about matters of interest to you, please feel free to contact Jerome Miller or Mary Edmonds of my staff at 255-4385. As with the survey, your questions and comments will be treated with confidentiality.

Sincerely,

William Thomson, Director
Performance Audit Division

WT:lmn
Enclosure

OFFICE OF THE AUDITOR GENERAL

Survey of University Officials, Faculty and Staff

Please use the following definition of system governance activities when responding to the questions below.

System Governance Activities - Activities generating information which will ultimately be used by the Arizona Board of Regents to take action, to form policy, or to review and evaluate conditions within the universities.

This includes fulfilling information requests from the Council of Presidents, the Board central office staff, and from task forces or working groups created to provide input or recommendations for Board action. The definition includes the production of ongoing reports required by the Board, attendance at any meetings held by any of the groups previously mentioned, and work done in preparation for such meetings. The definition excludes time spent implementing Board policy or decisions.

For example, if a work group was formed to recommend the following year's tuition level to the Board, all time spent preparing for and attending meetings would be counted as hours spent in system governance activities. However, the work done after the Board decided to change the tuition amount, i.e., changes to billing/accounting systems, printing of new fee schedules, etc., would not be included as hours spent in governance activities.

SECTION I. TIME DEVOTED TO GOVERNANCE

1. How many years have you participated in system governance activities here in Arizona?

Mean=6.22 Years

Number Responding = 53 (100%)

2. In which of the areas listed below are you currently involved in system governance activities?.

22 (41.5%)

Academic Affairs

Number Responding = 53 (100%)

35 (66.0%)

Business/Finance/Budget

21 (39.6%)

Strategic Planning

22 (41.5%)

Capital Development

15 (28.3%)

Student Affairs

13 (24.5%)

Human Resources

8 (15.1%)

Legal Affairs

12 (22.6%)

Public and Governmental Relations

5 (9.4%)

Other (please specify) _____

3. About how many hours during an average month in 1990 did you spend traveling to or attending meetings of the Arizona Board of Regents, its standing committees, meetings of the Council of Presidents, senior associates, or any task forces/work groups commissioned by the Board or the Council of Presidents?

Mean = 14.38 Hours per month **Number Responding = 52 (98.1%)**

4. Considering preparation for meetings, information requests, production of reports, telephone calls, etc., how many total hours during an average month in calendar year 1990 would you say you spent in system governance activities? (Also, include the hours spent in meetings in Questions 3, above to arrive at total.)

Mean = 37.05 Total hours per month **Number Responding = 52 (98.1%)**

SECTION II. INFORMATION REQUESTS

Questions 1 - 4 below address information requests you receive directly from individuals. When responding to Questions 1 - 4 do not include inquiries which you can answer immediately without additional work or consultation. For example: 1) A call asking whether you will present first at a Board meeting would not be counted; 2) A call asking for the percentage increase in graduation rates of a particular minority, where you had to find a report in order to reply, would be counted.

Do not address standing reporting requirements in Questions 1 - 4. These are addressed in Question 5.

1. Overall, how many governance related information requests do you receive weekly?

Mean = 2.81 Approximate number **Number Responding = 49 (92.5%)**
per week

2. Who originated the system governance information requests you received in 1990? (Please estimate the percentage of the requests initiated by the following sources. Note: the total should add to 100%)

<u>Mean = 4.9%</u>	Direct requests from individual Regents
<u>Mean = 46.5%</u>	Direct requests from Board central staff
<u>Mean = 21.2%</u>	Requests from the Council of Presidents or others on their behalf
<u>Mean = 25.7%</u>	Requests from another university employee who attributed the request to the Board or Board central staff
<u>100%</u>	Number Responding = 48 (90.6%)

NOTE: Means are of percentages. Figures do not take into account the respondents' answer in Question #1.

3. If you have been in your current position longer than 2 years, how has the time you spend annually on information requests changed during the years you have been involved in governance activities?

<u>3 (5.7%)</u>	Decreased	Number Responding = 53 (100%)
<u>33 (62.3%)</u>	Increased	
<u>6 (11.3%)</u>	Has not changed	
<u>11 (20.8%)</u>	Not applicable	

3a. If increased, how has the time spent on information requests impacted your job?

Number Responding = 32 (60.4%)

4. Do you have suggestions for improving the procedures or protocols followed by the Board, central office staff, or the Council of Presidents for obtaining information? If so, please explain. (Use back of page if you need additional space.)

Number Responding = 35 (66%)

5. Now considering the standing reports required by the Board, what suggestions do you have, if any, for improving efficiency in this area? (Use back of page for additional space.)

Number Responding = 23 (43.4%)

SECTION III. EFFICIENCY OF MEETINGS

1. Which of the following meetings do you regularly attend?

<u>41 (77.4%)</u>	Board Meetings
<u>39 (73.6%)</u>	Board Committee Meetings
<u>3 (5.7%)</u>	Meetings of the Council of Presidents
<u>6 (11.3%)</u>	Meetings of the Senior Associates held in conjunction with Council of Presidents meetings
<u>30 (56.6%)</u>	Meetings of task forces or work groups commissioned by the Board or the Council of Presidents
<u>18 (34.0%)</u>	Other less formal meetings held to conduct governance business: _____

2. Do you attend meetings of the full Board or its standing committees even when your attendance is not required?

<u>23 (44.2%)</u>	Yes	Number Responding = 52 (98.1%)
<u>29 (55.8%)</u>	No	

Please explain:

Number Responding = 31 (58.5%)

SECTION IV. GENERAL COMMENTS

1. Of the system governance activities in which you are involved, which do you feel are the most valuable and why?

Number Responding = 38 (71.7%)

2. Which do you feel are the least valuable and why?

Number Responding = 31 (58.5%)

3. Comments - Please use the space below to provide additional comments or suggestions regarding the operations of the Arizona Board of Regents. (Use back of page for additional space if necessary.)

Number Responding = 13 (24.5%)

BOARD OF REGENTS' RESPONSE TO PERFORMANCE AUDIT
CONDUCTED BY AUDITOR GENERAL
(SEPTEMBER 23, 1991)

GENERAL COMMENTS

The Performance Audit appropriately focuses on several key issues faced by the Board of Regents. We agree with almost all of the findings and recommendations. In fact, several of the recommendations were drawn directly from reports commissioned by the Regents themselves. We have already implemented some of the recommendations, and, as described below, have undertaken steps to address most of the others.

We disagree with a few of the Auditor General's conclusions, particularly with respect to the Board's compliance with the Open Meeting Law. We respond below to the six specific findings and associated recommendations. In order to place the audit in context, we then conclude with a brief overview of the context in which our universities and the Board operate and with comments on the portion of the Audit entitled "Areas for Further Work."

FINDING I

THE BOARD NEEDS TO FOCUS MORE ATTENTION ON ITS ROLE AS A POLICY-SETTING BODY

RECOMMENDATION 1:

The Legislature should consider amending A.R.S. §15-1626 to give the Board clear and broad statutory ability to delegate.

Response 1: We agree, for the reasons described below. We will work with the Legislature to pursue appropriate legislation.

RECOMMENDATION 2:

The Board should eliminate many university management details from its agenda and devote more of its attention to systemwide policy and planning issues.

Response 2: We agree. In addition to pursuing statutory change, the Board is working to achieve further delegation and streamlining by overhauling its policy manual, reforming the agenda processes and reducing the burden of paperwork. A Process Review Committee has been formed to address these issues and to recommend further areas for change.

RECOMMENDATION 3:

The Board should consider creating a committee on governance to examine its operations and to decide on the appropriate delegation of tasks.

Response 3: We agree that a committee should be formed to consider streamlining of operations and appropriate delegation. We, in fact, have already formed a Process Review Committee to perform precisely that task. We believe that in a Board as small as ours, however, final decisions on delegation and operations can be most easily made by the entire Board.

DISCUSSION: We agree with the finding. As the Audit recognizes, we are required by existing statutes to make decisions on matters which are sometimes operational in nature. In the absence of statutory authority to delegate, we several years ago instituted devices such as the Consent agenda to attempt to deal with minor operational items without undue

expenditure of time. Statutory change is needed to permit delegation of these tasks to the universities, and we will work with the Legislature to accomplish that goal.

While we agree with the finding, we disagree with the Audit's suggestion that the Council of Presidents has inappropriately usurped the Board's policy-making role. We recognize that the Board remains the final authority on policy. But any responsible university board of trustees must be informed in its policy decisions by the CEO's of the System. While the operation of the Council of Presidents will continue to need fine tuning, we believe strongly that our presidents and Executive Director can and must assist the Board in identifying agenda issues.

FINDING II

THE BOARD SHOULD STRENGTHEN ITS OVERSIGHT OF THE UNIVERSITIES' BUDGETS

RECOMMENDATION 1:

The Board should require each university to develop a single budget that includes all funds.

Response 1: We agree, for the reasons below. We note, however, that a single budget in and of itself is only a tool for analysis and will not by itself strengthen oversight unless Recommendation 2 is also implemented. The Board is a group of lay volunteers. It cannot engage in sophisticated analysis of complex budgets absent sufficient professional staff. The U of A 1990-91 operating shortfall pointed out the need for better accounting information systems and reports, not merely the need for a formal consolidated budget.

RECOMMENDATION 2:

The Board should increase its participation and effectiveness in the budget development process by identifying the amount of State funding the universities can request up front, actively overseeing how the universities manage funding decreases, allowing longer time frames for Board analysis and feedback, and promoting more substantial Board staff review of university budgets, partly by augmenting the number of budget staff in the Central Office.

Response 2: We agree, and we emphasize the Audit report's recommendation that additional Central Office staffing is a prerequisite to an increase in Board effectiveness. The Board has placed high priority on this item; we have directed the universities to undertake a comprehensive analysis of alternative budget approaches and financial accountability mechanisms. This analysis is intended to go beyond the Audit's recommendations, which focus primarily on the budget requests, rather than on actual expenditure of funds. The Board has scheduled a special meeting on October 4, 1991, to hear the proposals and to provide policy directions for completing the work.

DISCUSSION: We agree that stronger and more active participation by the Board in the budget process is desirable. We particularly agree with the Audit's report that this can only be accomplished by augmenting the number of budget staff in the Central Office.

We note that the issues identified by the Audit are ones that are not unique to the university system. The Legislature has long addressed the issue of whether the executive branch of state government should be required to develop a budgetary system combining all sources of funding. That effort has been made more difficult by differing state and federal fiscal years, and the difficulty of bringing comprehensive change to multiple accounting systems.

Many of the same problems will be present in developing a single, all-funds budget for each university. Universities are funded not only through the general fund, but also through "local" funds, federal gifts and grants, corporate donations, and individual gifts. Notwithstanding these difficulties, we believe that a single, all-funds budget is a good suggestion and we intend to work toward that goal.

FINDING III

THE BOARD SHOULD IMPROVE ITS AUDIT FUNCTION

RECOMMENDATION 1:

The Board should improve its methodology for scheduling audits, possibly by incorporating formal risk assessment, in order to ensure that audits of significant university units are conducted.

Response 1: We agree. As noted below, the 1991-92 Audit plan represents a significant improvement over prior plans.

RECOMMENDATION 2:

The Board should conduct more thorough audits in order to provide effective oversight of university operations.

Response 2: We agree.

RECOMMENDATION 3:

The Board should consider creating an audit committee to ensure the objectivity of the audit function.

Response 3: We agree with the recommendation. We think that the membership of the Resources Committee should also act as an audit committee.

DISCUSSION: We agree that the Board should strengthen its audit function. We recognized last year that this area needed strengthening. For this reason, the Board actively recruited an individual with an extensive audit background to join our central office staff. Prior to the preparation of the Audit, the Board prepared and approved a comprehensive 1991-92 audit plan. The Board has also brought its audit staff to full strength and placed increasing emphasis on staff training.

While we agree with the finding, we disagree with two statements made in the Audit. First, the implication that the impropriety at the ASU Public Affairs office was somehow attributable to poor auditing is incorrect. While ASU Public Events was not within the Board internal audit schedule last year, there was a university-wide audit by the Auditor General. That audit did not disclose the problem in Public Affairs. We also note that as

soon as the problem was identified, ASU took immediate corrective action, and has established appropriate policies to prevent a reoccurrence.

Second, while we agree that internal audit staff must be independent, we disagree with the suggestion that university officials have too much voice in the setting of audit priorities. University officials are in a good position to recommend areas needing audit focus, and should play a central role in the scheduling process; the Board should and does reserve for itself the final decisions.

FINDING IV

THE BOARD COULD TAKE ADDITIONAL STEPS TO PROMOTE EDUCATIONAL QUALITY

RECOMMENDATION 1:

The Board could strengthen the academic program review process by ensuring that all programs are reviewed every seven years, by emphasizing concurrent reviews, and by requiring the universities to integrate the reviews with their planning and budgeting processes.

Response 1: We agree. This recommendation is drawn from a report we commissioned; implementation is very far along.

RECOMMENDATION 2:

The Board should consider establishing an incentive grant program.

Response 2: We agree. We have proposed such a program in the past and have done so again as part of this year's budget request.

DISCUSSION: We agree that promotion of educational quality should be the Board's highest priority. As the Audit notes, our Academic Program Review has been successful, but would benefit from greater integration with the universities' planning and budgeting process. Similarly, we agree that concurrent reviews of programs at more than one university would be beneficial.

Another suggestion in the audit report has already been incorporated in our internal audit plan for Fiscal 1991-92. We intend to audit a sample of the program reviews to ensure accountability in the process.

FINDING V

THE BOARD NEEDS TO DEFINE AND SUPPORT A MEANINGFUL OVERSIGHT ROLE FOR THE CENTRAL OFFICE

RECOMMENDATION 1:

The Board should clarify the specific role, authority, and responsibilities of the central office.

RECOMMENDATION 2:

After clarifying the central office's role, the Board needs to articulate the central office role in a formal pronouncement and support the central office staff, so that it can be effective.

RECOMMENDATION 3:

The Board should communicate the central office's role clearly to the universities and other participants in the governance system.

Response 1-3: We agree and believe that our governance handbook addresses these recommendations.

DISCUSSION: We agree with the recommendations in the audit report. The Auditor General has accurately characterized the Board's decision in the mid 1980's to strengthen the capabilities of the central office in order to improve the Board's capacity to carry out its planning, policy making and oversight responsibilities. The Board will complete this fall a governance handbook which carefully delineates the role of the central office in the university system.

The general role of the central office was described in a memorandum adopted by the Board in July, 1988. The central office's role was addressed by the Board in Directions '88, but we agree with the Audit that the central office's oversight role must be clearly defined and supported.

FINDING VI

THE BOARD NEEDS TO ENSURE FULL COMPLIANCE WITH THE OPEN MEETING LAW

RECOMMENDATION 1:

The Board should comply fully with the Open Meeting Law in the following areas:

- a. Ensure that meetings of the Council of Presidents comply with the Open Meeting Law
- b. Complete minutes for all Board meetings in a timely fashion as required by law
- c. Maintain minutes for all standing committee meetings

RECOMMENDATION 2:

The Board should increase efforts to ensure all topics discussed in executive sessions comply with the limitations prescribed by A.R.S. §38-431.01.

Response 1-2: We agree and have already implemented these recommendations.

DISCUSSION: We, of course, agree with recommendations that stress the importance of complying with the Open Meeting Law. We disagree strongly that the Board has violated the law.

The finding focuses on the applicability of the State's Open Meeting Law to the meetings of the Council of Presidents, composed of the University Presidents and the Board's Executive Director. While lawyers may disagree about the issue, our Counsel's opinion was that the Open Meeting Law did not apply to meetings of the Council of Presidents, a staff advisory group. Contrary to the implication in the Audit, while Counsel for the Board initially expressed concern over the applicability of the Open Meeting Law to Council of Presidents' meetings, her eventual conclusion in 1988 was that, since the Council was chaired by the Board's Executive Director, it was a "staff advisory group" not subject to the law.

After chairmanship of the Council began rotating in 1990-91, the Auditor General suggested that the Open Meeting Law applied to Council meetings. After the issue was raised, we worked closely with the Attorney General on this matter and his office has now assured us

that the Council of Presidents is in full compliance with the Open Meeting Law. A copy of the letter from the Attorney General about this topic is attached.

The audit report implies that certain, unspecified executive session meetings somehow contravened the Open Meeting Law; this allegation has been reported in the media. Counsel reviews each executive session agenda and is present at every Board executive session in order to ensure compliance with the Open Meeting Law. Our Counsel is aware of no executive sessions conducted in contravention of this law. No details to the contrary are contained in the report.

While we acknowledge that the Board may sometimes spend too much time in executive session and that individual members occasionally stray from prescribed topics, we believe that there is no evidence of intentional Open Meeting Law violations. The presence of Legal Counsel at all of our executive sessions is intended to ensure that we stay within the scope of the executive session privilege.

The Audit also points to two supposed technical oversights. The first allegation is that we fell behind in preparing written minutes of Board meetings. This is true. As noted in the audit report, we are now current with respect to all Board meeting minutes. Moreover, we maintain complete recordings.

The Audit also suggests that the statute required us to maintain minutes of meetings of the Resources Committee and Programs Committee. Our legal counsel believes these committees to be "advisory" to the Board and that the requirement of keeping minutes does not apply. We have nonetheless changed our practice to begin keeping minutes.

ADDITIONAL COMMENTS

A. Historical Perspective

Each of Arizona's universities developed rapidly after World War II. During the past 25 years, our universities generally have enjoyed the freedom and flexibility to respond to changing needs. The tradition of substantial campus autonomy and administrative flexibility has served us well. We now have three of the finest public universities in the nation, each recognized for their differing areas of strength. By most traditional measures of success, including increased enrollments, research activities, library holdings, and the quality of new academic and public service programs, our universities are poised for even greater success. The Board has placed a special priority commitment to improvements in the quality of the educational experience for all undergraduates students.

The Arizona University System is different from many other university systems. Each of our three universities is an academically autonomous institution, but subject to a common set of Board governance policies. As the System has matured, the connections among the three institutions and the need for cooperation among them has grown.

With the growth and increasing demands placed on the universities the Board of Regents determined in the mid 1980's that the governance structure then in place could not continue to provide adequate accountability, nor could it maximize the use of our limited human and financial resources. In order to achieve success as a system, especially in times of limited financial resources, our governance structure must allow the Board and the universities to make choices from among competing alternatives.

The Board's decision in the mid-1980's to strengthen the role and responsibilities of our central office staff was motivated by the need for strategic planning, improved coordination and accountability from a systemwide perspective. The central office plays a key role in enabling us to carry out our systemwide policy-making responsibilities.

The challenge faced by the Regents is to construct and maintain a governance system which continues to honor our tradition of local autonomy and at the same time manages our resources efficiently.

B. Recent Policy Initiatives

Capital Development:

When the Board of Regents determined in the mid 1980's that changes in the System were necessary, priority attention was focused on the capital development process since the universities had embarked on a program of capital construction that would ultimately spend over \$1 billion in a 10-year period. This initiative required a significant allocation of

monetary and human resources and required a very real process of give-and-take between and among the Regents, central office staff, and university managers.

The end product is a system which provides us with the essential information we need to prioritize the allocation of resources and to provide proper oversight over our capital construction program. As acknowledged in the audit report, implementation of this system has already saved millions of dollars for the taxpayers of this State, and will continue to serve our needs well into the 21st Century.

In the past several years the Board has undertaken several other significant policy initiatives:

- o Strategic Plan: The Board has adopted a Systemwide Strategic Plan which redefines the particular missions of each university, establishes goals and objectives for the System and for each university, and develops mechanisms for measuring progress and accountability.
- o Classified Personnel Compensation Structure: A comprehensive reform of the classification and compensation structure for our classified staff (over 10,000 FTE) was substantially completed in 1990. Funding from the Legislature has allowed us to implement the first stage of salary adjustments.
- o Task Force on Excellence, Efficiency and Competitiveness: This report, produced with a combination of external consultants and internal staffing (using the model now being used by Project SLIM), provided a management audit for the university system and a thorough analysis of the areas that the Board should identify for priority attention and resource development.
- o Minority Student Achievement: "Our Common Commitment" is the report which sets forward a comprehensive blueprint for achieving major improvements in the recruitment and achievement of minority students. The universities have made substantial headway in increasing the numbers of historically underserved students who are achieving university success. The seed money provided by the Legislature for this purpose has already produced tangible progress.
- o Commission on the Status of Women: The work of our Commission on the Status of Women will form the basis for bringing about long-needed changes in our campus environments to assure greater opportunities for women. The Board will be adopting a final report in October along with a series of implementation strategies that include accountability measures at the university and Board levels.

C. Oversight Role

We recognize the need to concentrate our efforts at the policy level. However, our experience suggests that we may sometimes be required to become knowledgeable about operational details in order to know what policy guidance is necessary. By way of illustration, had the Auditor General's staff conducted this audit in 1988 instead of 1990 they would have observed our capital development process in a state of transition. The staff might well have concluded that Regents were inappropriately involved in administrative detail that was consuming too much of their time and that needed to be delegated to the professional managers. From our perspective, it was necessary for Regents to become sufficiently involved in the details of the capital development process to ensure that our policy directives were being carried out.

We are mindful of the fine line between "appropriate management oversight" and "meddling," and we encourage our senior officers to assist us in determining where these lines should be drawn. We also know that changes and reforms can occur most readily when they are initiated by the leadership and professional managers at the universities, and we endeavor to create an environment in which that can occur.

D. Areas for Further Work

The report suggests the need for further audit work to determine the appropriateness of central office senior staff salaries. We welcome any such review and have already shared with the Auditors significant comparable salary data available from other states, which data indicates that our salary levels are consistent with salaries of comparable senior positions at other state governing boards. Most importantly, it is the conviction of the Board of Regents that the current salary levels are appropriate given the high expectations we have for staff performance and the level of responsibility placed on them. It is highly preferable to appoint individuals in the Board's central office who have prior experience in high level university positions. In order to attract individuals with these qualities and experience, it is necessary to meet the salary requirements of the marketplace.

Submitted on behalf of the
Arizona Board of Regents

BY: Donald Pitt
Donald Pitt, President



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August 28, 1991

Mr. Douglas R. Norton
Auditor General
2700 North Central Avenue, Suite 700
Phoenix, AZ 85004

Re: Board of Regents' Council of Presidents;
Applicability of the Open Meeting Law

Dear Mr. Norton:

You have asked us whether the Council of Presidents (COP) of the Arizona Board of Regents (Board) is subject to the Open Meeting Law. We understand that you relied upon Draft #6 of the Arizona Board of Regents Handbook 1990 in reaching your tentative conclusion that the Open Meeting Law applies to this group. We concur that if Draft #6 reflected the operations of the COP, the Open Meeting Law would apply to its meetings. However, we have subsequently been informed by the Board of Regents legal counsel that Draft #6 does not reflect their current organization. We have been provided instead with the four pages which are attached. We will refer to these untitled pages as the "new operating procedures." If the COP operates as set out in the new operating procedures and not as set out in Draft #6, then it would be our opinion that the Open Meeting Law does not apply.

The distinction we make between the organization set out in Draft #6 and that set out in the new operating procedure is simple. Draft #6 establishes a COP which as a group "recommends solutions" and "resolves problems" regarding system-wide concerns on behalf of the Board. This authority is much broader than the authority which each university president has individually as a result of his position. For that reason, we believe this is not just a group of individual officers carrying out policy, but instead a "standing committee" of the Board. Such committees are

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bound by the Open Meeting Law. A.R.S. § 38-431(5). See also Arizona Agency Handbook §7.3.6.

Draft #6 sets forth in great detail the Roles and Responsibilities of the COP. These include developing and reviewing the agendas for the Board and its committees; presenting to the Board options for the resolution of issues and indicating preferred options; developing programs and preparing information to educate the Board members about important issues and activities within each university and the system; providing guidance and assistance to the Board in carrying out its role as the advocate for the universities and their students, faculty and staff; providing joint accountability to the Board for the leadership and the responsibility for carrying out the missions of the universities and system. The draft Handbook also sets forth specific information concerning membership, meetings, agendas, and follow-up for the COP. It permits the COP to form work groups to undertake special assignments and advisory groups to advise the COP.

Draft #6 describes how decision-making and dispute resolution is to be handled by the COP. Of particular interest is the statement that "[a]ll systemwide issues, including those initiated by the Board, THROUGH ITS PRESIDENT (caps in original), will be reviewed by the Council of Presidents." It also describes how the COP refers, reviews and makes recommendations regarding specific issues, and directs that the COP "shall attempt to reach consensus on all items." It also requires that, in the event an action specific to one university may affect another university, the issue shall be referred to the COP or to a Board committee in the event the two parties cannot reach consensus on the issue.

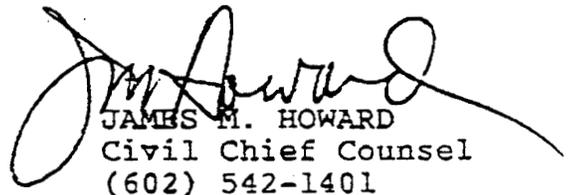
The new operating procedure, as amended by the minor pen and ink changes indicated, sets forth a vastly different organization. There is no emphasis on group decision making and no mission to make group recommendations to the Board or group decisions for the Board. Under this procedure each President and the Executive Director are expected individually to identify issues and potential courses of action and to implement Board policy.

The bottom line answer is that it depends. It depends on whether the COP operates as set out in Draft #6 as we were originally informed. If it does, then there are serious Open Meeting Law implications. In fact, that body would have to

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comply with the Open Meeting Law as a standing committee. However, if the COP operates pursuant to what we have called the new operating procedure, we do not believe they are subject to the Open Meeting Law. In that case the University Presidents and the Board's Executive Officer are making decisions and recommendations as individual officers. The COP becomes merely a mechanism by which they consult and confer with one another on matters of mutual concern.

Sincerely,



JAMES M. HOWARD
Civil Chief Counsel
(602) 542-1401

JMH/b
7006A(44)
cc: Joel Sideman
Staff, Board of Regents