

February 12, 2011

Ms. Elizabeth Murphy  
Secretary  
United States Securities and Exchange Commission  
100 F Street, NE  
Washington, DC 20549-1090

Re: SEC Release No. 34-63576, 76 FR 824 (January 6, 2011)

Dear Ms. Murphy:

We appreciate this opportunity to share comments regarding how the Securities and Exchange Commission's (Commission) proposed interpretation of the registration requirements applicable to "municipal advisors" would impact the members of the Utah State Board of Regents (Board).

Utah statutes provide the Board members' qualifications for membership, authority, duties, and responsibilities. The Board is comprised of 19 Regents, 15 of whom are appointed to serve a six-year term by the Utah Governor with the consent of the Utah State Senate. The Governor also appoints a student Regent, who serves a one-year term. In addition, the Board has three non-voting *ex officio* Regents—two elected members of the State Board of Education and one member of the Utah College of Applied Technology Board of Trustees, all of whom are appointed by their respective chairs to serve without a set term.

The Board is vested with the control, management, and supervision of the state's public colleges and universities. Governing such institutions of higher education occupies most of the Board's meetings and the Regents' time in public service.

Under Utah law, the Board is also established as the governing board for the Utah Educational Savings Plan (UESP), the state's 529 plan, and the Utah Higher Education Assistance Authority (UHEAA), a student loan and financial assistance program that issues revenue bonds to generate capital. Under state law, Regents are also authorized to approve revenue bonds on behalf of institutions under their supervision. In performing all of these duties they rely on advice from independent and competent professionals who are selected through a competitive bidding process.

While UESP and UHEAA are municipal entities, under the language of the Securities Exchange Act of 1934, as amended, they and their employees have generally been exempt from registration with and regulation by the Commission. However, the Commission's recent interpretation of the act would require Board members for the first time to register with both the Commission and the Municipal Securities Rulemaking Board (MSRB).

For over forty years, governors have been able to attract leading business and community leaders to donate their time to assist in the management of higher education institutions. They are only nominally compensated (less than \$1,000 per year) for their public service and serve for a limited period of time. Requiring Regents to register and become subject to federal securities regulations will have a very real chilling effect on the state's ability to attract future Board members.

It is important to note that the proposed registration requirements do not add new protections for citizens that the state doesn't already provide in many respects. The Board as a whole and the Regents individually are subject to numerous state oversight statutes, including the Public Officers Code, Procurement Code, Administrative Rulemaking Act, Administrative Procedures Act, Government Records Access and Management Act, and Open and Public Meetings Act. Specific statutes govern qualification for office, the Senate consent process, the filing of an oath of office, a prohibition on the employment of relatives, and numerous acts which could be prosecuted as state crimes. The Board has also enacted bylaws, policies, procedures, and rules that govern the Regents' conduct and duties. One such policy states that "No State Board of Regents member shall be pecuniarily interested directly, or indirectly, in any contracts made in behalf of any institutions of higher education in the state of Utah."

It is difficult for us to see how the public interest is served by such a requirement, given the safeguards already in place at the state level. At the same time, it is very likely the requirements will harm our ability to attract business and community leaders to volunteer their time to benefit public colleges and universities. Thank you for your consideration of our comments

Sincerely,



William A. Sederburg  
Commissioner of Higher Education



David J. Jordan  
Chair, State Board of Regents