ARIZONA BOARD OF REGENTS

ALL MEETINGS OF THE ARIZONA BOARD OF REGENTS
WILL BE VIRTUAL MEETINGS

January 28, 2021

AMENDED – 01/27/2021

Members of the public may attend the public portion of the virtual meeting by viewing the livestream of the meeting.

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Schedule of Meetings

9:00 a.m. – 10:30 a.m.    Finance, Capital and Resources Committee Meeting
                          (9:05 – 9:35 a.m. - Executive Session)
                          (Members: Taylor Robson, King, Shoopman, Ridenour, DuVal, Mata and Rusk, ex-officio Penley)

10:45 a.m. – 12:00 p.m.  Academic Affairs and Educational Attainment Committee Meeting
                          (Members: Manson, DuVal, Taylor Robson, Shoopman, Rusk and Superintendent Hoffman, ex-officio Penley)

12:00 p.m. – 1:00 p.m.   Break for Lunch

1:00 p.m. – 5:00 p.m.    Special Board Meeting
                          (1:20 – 4:45 p.m. – Executive Session)
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1:00 p.m. CALL TO ORDER, GREETINGS, AND ANNOUNCEMENTS FROM THE BOARD CHAIR

1:05 p.m. PUBLIC SESSION

1. Discussion and Consideration of Legislation Affecting the University Enterprise

The board office asks the board to discuss and consider legislation affecting the university system and possibly approve positions regarding the legislation.
1:20 p.m.  EXECUTIVE SESSION

The board will convene in executive session for the following items:

1:20 p.m.  A. Pursuant to A.R.S. §38-431.03 (A) (3) for legal advice and discussion regarding legislation affecting the University Enterprise.

2:00 p.m.  B. Pursuant to A.R.S. § 38-431.03 (A) (3) and (4) for legal advice and discussion concerning the State of Arizona, ex rel. Mark Brnovich, Attorney General, v. Arizona Board of Regents; John P. Creer, Assistant Vice President for University Real Estate Development at ASU, Defendants, Paul D. Petersen, in his official capacity as Maricopa County Assessor, and Royce T. Flora, in his official capacity as Maricopa County Treasurer, Relief-Defendants. (Case Nos. TX 2019-000011, 1 CA-TX 20-0003 and related filings and matters)

C. Pursuant to A.R.S. § 38-431.03 (A) (3) and (4) for legal advice and discussion concerning the State of Arizona, ex rel. Mark Brnovich, Attorney General, v. Arizona Board of Regents (Case Nos. CV 2017-012115; 1 CA-CV 18-0420; T-19-0002-CV; CV-19-0027-SA, CV-19-0247 and related filings and matters)

2:40 p.m.  D. Pursuant to A.R.S. §38-431.03 (A) (1), (2) and (3) for legal advice, discussion and update regarding the Northern Arizona University Presidential Search.

4:45 p.m.  RECONVENE PUBLIC SESSION

2. Possible Discussion and Consideration of Legislation Affecting the University Enterprise

The board office asks the board to discuss and consider legislation affecting the university system and possibly approve positions regarding the legislation.


5:00 p.m. ADJOURN

PLEASE NOTE: This agenda may be amended at any time prior to 24 hours before the board meeting. Estimated starting times for the agenda items are indicated; however, discussions may commence, or action may be taken, before or after the suggested times. Any item on the agenda may be considered at any time out of order at the discretion of the board chair. The board may discuss, consider, or take action regarding any item on the agenda. During the meeting, the board may convene in executive session pursuant to A.R.S. § 38-431.03(A)(3) for legal advice regarding any item on the agenda.
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EXECUTIVE SUMMARY

Item Name: Discussion and Consideration of Legislation Affecting the University Enterprise

☑ Action Item

Requested Action: The board office asks the board to discuss and consider legislation affecting the university system and possibly approve positions regarding the legislation.

Discussion

There are no written materials provided at this time for this item.
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Item Name: Possible Discussion and Consideration of Legislation Affecting the University Enterprise

☑️ Action Item

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Discussion

There are no written materials provided at this time for this item.

☑ Action Item


Background/History of Previous Board Action

- The Attorney General filed a lawsuit against the Board of Regents (board) on September 8, 2017 alleging six counts related to the board’s tuition setting processes.

- Counts I-V alleged that the board’s policies violated Article 11, Section 6 of the Arizona Constitution requiring that instruction provided by Arizona postsecondary institutions “shall be as nearly free as possible.”

- Count VI alleged that the board violated Arizona law by offering DACA students in-state tuition. Eligible DACA students were offered in-state tuition between May 7, 2015, after a superior court ruled that they qualified for in-state tuition, and April 9, 2018, when the Arizona Supreme Court held they did not.

- The Superior Court granted the board’s motions to dismiss Counts I-VI, and the Arizona Court of Appeals affirmed the Superior Court’s dismissal of these counts.

- On November 25, 2020, the Arizona Supreme Court upheld the trial court’s dismissal of Counts I-V and reversed the trial court’s decision and remanded Count VI to Superior Court.

Discussion

- The stipulation for dismissal with prejudice will result in an order of the Superior
Court that ends this litigation and disposes of all the claims that had been filed against the board in the lawsuit. The stipulation also provides that each party will bear its own attorneys’ fees and costs in this matter.

- By approving this item, the board is authorizing its legal counsel to stipulate on the board's behalf to this dismissal and to take any other action as necessary to resolve this matter.