

4.2.f External influence

The governing board protects the institution from undue influence by external persons or bodies.

Compliance Judgment: In Compliance

Rationale

Using a system of checks and balances, the Board of Trustees protects the University of South Carolina Aiken from undue influence by external persons or bodies. While there is little to prevent external entities from trying to influence the functioning of the institution, success in such an endeavor would require the unlikely collective abdication of the responsibilities of a majority of Board members and the failure of numerous processes in place to prevent such influence. Protection is afforded via several means:

- through authority granted by law,
- through Board member appointments made across judicial districts,
- through staggered Board member appointments over time periods,
- through policies that govern removal of Board members,
- through established processes required to ratify actions that impact the institution,
- through protocols that address conflicts of interest, and
- through orientation of new Board members.

Authority granted by law. South Carolina Code of Law, [Section 59-117-10](#) ^[1] establishes the Board of Trustees of the University of South Carolina System with broad authority to engage in activities outlined in [Section 59-117-40](#).^[2] Powers of the Board include, among other things, perpetual succession and authority to adopt measures and regulations necessary for the proper operation of the university. Specific duties and functions within these broad powers are delineated in [Article IV of the Board of Trustees](#)

[Bylaws](#).^[3] The legal allocation of such broad powers to the Board protects the institution from the dictates of what might otherwise be more powerful external persons or bodies. The authority vested in the Board to appoint principal officers and faculty to the university also protects the institution from the removal and appointment of university personnel based on the dynamics of personal relationships to powerful external entities or political forces.

Appointments made across judicial districts. As a state-funded comprehensive institution of higher education, the University has an obligation to serve in the interests of the general public of the State of South Carolina, and not solely one region or entity within the state. Membership on the Board is governed by [Section 59-117-10](#) ^[1] of the South Carolina Code of Laws which stipulates representation across the sixteen judicial circuits of the state and election by vote of the General Assembly. This process safeguards the institution from powerful entities within a specific region of the state who may otherwise usurp control of the Board and unduly influence the operations of the institution.

Staggered Board member appointments. [Section 59-117-20](#) ^[4] of the South Carolina Code of Laws specifies the term and timing of appointments to the Board of Trustees. The regular term of office is four years. A two year period exists between the election of trustees from odd and even numbered judicial circuits. This effectively ensures continuity of the Board over time and safeguards against the complete replacement of the Board by a single external entity who may otherwise seize control of the Board and unduly influence the operations of the institution.

Policies that govern removal of Board members. As specified in the narrative addressing Standard 4.2.e, members of the Board of Trustees can only be removed in accordance with articles of impeachment as stipulated in [Article XV of the South Carolina Constitution](#).^[5] Removal from office would either require an affirmative vote of two-thirds of all members of the House of representatives followed by a trial in the Senate or a hearing in both houses of the General Assembly. As with staggered Board

member appointments, this protects the institution in that it safeguards against the complete replacement of the Board by an external entity.

Processes required to ratify actions. As specified in the narrative addressing Standard 4.1, the Board has several procedures to ensure it is not controlled by a minority of board members or outside organizations. The process for the Board meetings, as delineated in [Article X of the Board of Trustees Bylaws](#),^[6] includes a roll call to ensure the presence of a quorum before actions are taken. As specified in Section 2 of Article X of the Board of Trustee Bylaws, “eleven members of the Board shall constitute a quorum for the transaction of business.” Further, as stipulated in [Sections 10 and 11 of Article X of the Board of Trustee Bylaws](#)^[7], proxies are not permitted. Issues that come before the Board are ratified by a majority vote of the members present. These processes protect the institution from undue influence of external persons or bodies in the unlikely event that said entities exert force upon one or more members of Board. As stated in [Article III of the Board of Trustees Bylaws](#)^[8], “the legal authority of the Board to govern and direct the University System rests with the collective Board and not individual Board members.”

Protocols that address conflicts of interest. Details regarding how the Board addresses potential conflict of interest for its members are provided in the narrative to Standard 4.2.d. Board members must take care when external relationships intersect with the University’s interests. The Board has delineated conflict of interest disclosure procedures for members of the board in [Article XVI of the Board of Trustees Bylaws](#).^[9] If a conflict of interest exists, the affected member(s) must disclose the matter using a [conflict of interest report form](#)^[10] and “abstain from any discussion with any Board member, formal or informal, and any vote regarding the transaction or arrangement that results in the conflict of interest.”

Orientation of new Board members. When Board of Trustees members are newly elected or appointed, the Secretary of the University Board of Trustees provides a full-day long orientation prior to the start of their terms during which they are provided a copy of the following items:

- [Board of Trustees Bylaws](#) ^[11]
- [University of South Carolina Ethics Policy](#) ^[12]
- [Board of Trustees Conflict of Interest Policy](#) ^[13]
- The Board of Trustees meeting schedule
- The Board of Trustees Committee list
- Board of Trustees contact information

The Secretary of the Board of Trustees covers the following topics in the New Board of Trustees Orientation:

- The role and responsibility of a Board of Trustees member
 - [BTRU Policy 1.04 Authority to Sign Contracts](#) ^[14]
 - [BTRU Policy 1.06 Audit & Advisory Services](#) ^[15]
 - [BTRU Policy 1.09 Employment of Outside Legal Counsel](#) ^[16]
 - [BTRU Policy 1.12 Use of the University of South Carolina Name](#) ^[17]
 - [BTRU Policy 1.14 University Designated Funds](#) ^[18]
 - [BTRU Policy 1.15 University Personnel Expenditure Policy](#) ^[19]
 - [BTRU Policy 1.16 Board Member Expense Policy and Procedures](#) ^[20]
 - [BTRU Policy 1.18 Conflicts of Interest and Commitment](#) ^[21]
 - [BTRU Policy 1.20 Dishonest Acts and Fraud](#) ^[22]
 - [BTRU Policy 1.22 Reporting Violations of State and Federal Laws or Regs](#) ^[23]
 - [BTRU Policy 1.24 Internal Control Policy](#) ^[24]
 - [BTRU Policy 2.01 Honorary Degree Recipients](#) ^[25]
 - [BTRU Policy 2.03 Removal of a Board of Trustees Member](#) ^[26]
- Review of the [State Ethics Rules of Conduct](#) ^[27]
- Summary of on-going initiatives and major projects

Upon completion of the orientation, each Board members signs a completion form.

As shown in [Secretary follow-up emails](#) ^[28] and the [signed completion forms](#), ^[29] two new Trustees joined the Board in January of 2019 and completed the orientation.

Recent allegation of undue influence. In the 2018-19 academic year, the Board of Trustees formed a search committee to find a new USC system President following the announced retirement of President Harris Pastides in October of 2018. By April of 2019, the Search Committee had narrowed the field to four finalists who were put forward to the full Board of Trustees for consideration; among the finalists, was Retired General Robert L Caslen. On July 8th, 2019, the Governor, who is a statutory member of the Board of Trustees, exercised his rights as a member of the Board to express his favorable opinion of Robert Caslen to members of the Board. The following day, July 9th, 2019, local media expressed concern regarding undue influence and political interference by the Governor in the selection process of the USC President. In response to the media attention, SACSCOC contacted the University of South Carolina on [July 15th requesting a response to the allegations of undue influence.](#)^[30] The University's reply was provided in two letters, one dated [July 26, 2019](#) ^[31] and the other dated [September 23, 2019](#), ^[32] following a [request by SACSCOC for additional information.](#)^[33]

At a Board meeting on July 19, 2019, Board members on both sides – those for and against General Caslen shared their views regarding the candidacy of General Caslen; the Board was sharply divided. A motion to postpone indefinitely the vote for the President failed. Board members then passed a motion to hire Robert L. Caslen as the University's 29th President by a vote of 11 in favor, 8 opposed, and 1 member abstaining.

It is difficult to ascertain if the safeguards in place to protect the institution from undue influence by external persons or bodies were effective. While the Governor, as a statutory member of the Board, had a right to express an opinion, it created a perception of political interference. Further, it is impossible to prevent interested parties from trying to influence the institution; rather, it is the response to such attempts that is of critical importance. In the end, all board members had an opportunity to speak either in favor of or against hiring General Caslen, and it was the action of the Board, as a whole, that resulted in his selection as the 29th President. Further, in response to concerns of undue influence, the University contacted each board member who voted to

elect General Caslen. Each board member declared a belief that General Caslen was the most qualified candidate for the position, independent of Governor McMaster's expressed support.

As indicated in a letter to SACSCOC dated [November 1, 2019](#),^[34] the Board of Trustees acknowledges that the perception of undue influence can be damaging to the University's reputation. As a result, the board has reexamined its existing governance practices and has recommitted to establishing guidelines and procedures that would instill public confidence and ensure board members fulfill fiduciary responsibility to protect the institutions under their charge from attempts by interested parties to unduly influence independent decision making. As presented in the [narrative to Standard 4.2.g Board self-evaluation](#),^[35] the board has contracted with the Association of Governing Boards of Universities and Colleges (AGB) to assist and guide an examination of governance practices. Working in consultation with AGB, the University is committed to establishing best practices and appropriate policies that will clarify roles and responsibilities of the board and individual board members, improve institutional and system governance, build stronger board governance practices and board leadership, and develop comprehensive orientation and annual education programs for board members. Among recent actions taken that are of relevance to the current standard, the Board of Trustees has created [BTRU Policy 1.19 Protecting the Institution from External Influences](#); ^[36] and an [oath of office, code of conduct and statement of commitment](#).^[37]

Supporting Documentation

1. [South Carolina Code of Laws: Section 59-117-10](#)
2. [South Carolina Code of Laws: Section 59-117-40](#)
3. [USC Board of Trustees Bylaws, Article IV](#)
4. [South Carolina Code of Laws: Section 59-117-20](#)
5. [Article XV of the South Carolina Constitution](#)
6. [USC Board of Trustees Bylaws, Article X](#)
7. [USC Board of Trustees Bylaws, Article X, Sections 10 & 11](#)

8. [USC Board of Trustees Bylaws, Article III](#)
 9. [Board of Trustees Bylaws, Article XVI](#)
 10. [Conflict of Interest Report Form](#)
 11. [Board of Trustees Bylaws](#)
 12. [University of South Carolina Ethics Policy](#)
 13. [Board of Trustees Conflict of Interest Policy](#)
 14. [BTRU Policy 1.04 Authority to Sign Contracts](#)
 15. [BTRU Policy 1.06 Audit & Advisory Services](#)
 16. [BTRU Policy 1.09 Employment of Outside Legal Counsel](#)
 17. [BTRU Policy 1.12 Use of the University of South Carolina Name](#)
 18. [BTRU Policy 1.14 University Designated Funds](#)
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 23. [BTRU Policy 1.22 Reporting Violations of State and Federal Laws or Regs](#)
 24. [BTRU Policy 1.24 Internal Control Policy](#)
 25. [BTRU Policy 2.01 Honorary Degree Recipients](#)
 26. [BTRU Policy 2.03 Removal of a Board of Trustees Member](#)
 27. [Review of the State Ethics Rules of Conduct](#)
 28. [Orientation follow-up emails from the Secretary](#)
 29. [Signed orientation completion forms](#)
 30. [SACSCOC Letter of July 15, 2019](#)
 31. [University's Response dated July 26, 2019](#)
 32. [University's Response dated September 23, 2019](#)
 33. [SACSCOC Letter of August 19, 2019](#)
 34. [University's Letter to SACSCOC dated November 1, 2019](#)
 35. [Narrative to Standard 4.2.g Board self-evaluation](#)
 36. [BTRU Policy 1.19 Protecting the Institution from External Influences](#)
 37. [Oath of Office, Code of Conduct, and Statement of Commitment](#)
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