

Meeting No. 1,198

THE MINUTES OF THE BOARD OF REGENTS
OF
THE UNIVERSITY OF TEXAS SYSTEM

Pages 1 - 12

September 27, 2019

Austin, Texas

MEETING NO. 1,198

FRIDAY, SEPTEMBER 27, 2019.--The members of the Board of Regents of The University of Texas System convened a special called meeting at 3:15 p.m. via telephone conference call on Friday, September 27, 2019, in the Board Room, Second Floor, The University of Texas System Building, 210 West Seventh Street, Austin, Texas, with the following participation:

ATTENDANCE.--

Present

Chairman Eltife
Vice Chairman Longoria
Vice Chairman Weaver
Regent Beck
Regent Crain
Regent Hicks
Regent Jiles
Regent Perez
Regent Warren
Regent Dominguez, Student Regent, nonvoting

In accordance with a notice being duly posted with the Secretary of State and there being a quorum present on the telephone, Chairman Eltife called the meeting to order in Open Session. He called for a moment of silence and recognition for the lives lost and the victims recovering from the recent tragedy in Odessa and Midland. Chairman Eltife and Chancellor Milliken, on behalf of the Regents and U. T. System, have provided funding of \$10,000 to the student government of The University of Texas Permian Basin to allocate as they deem best, as a symbol of gratitude and respect for the community.

AGENDA ITEMS

1. U. T. System Board of Regents: Approval of Consent Agenda and consideration of any item referred to the full Board

Chairman Eltife stated that the Consent Agenda Item requests approval to realign previously approved Library, Equipment, Repair and Rehabilitation funds for U. T. Austin and U. T. El Paso.

The Board then approved the Consent Agenda, which is set forth on Pages 11 - 12.

2. U. T. Southwestern Medical Center: Discussion and appropriate action regarding
a) authorization to form and operate a nonprofit corporate entity with Children's
Health System of Texas for the development of a Joint Pediatric Enterprise;
b) delegation of authority to the President to execute related documents, including
related Master Affiliation Agreement and related Master Services Agreement,
and to take other action necessary; and c) finding of public purpose

Following a brief presentation by Dr. Podolsky, and comments by Regent Jiles in support of the proposed Joint Pediatric Enterprise, a question from Regent Dominguez regarding funding, Vice Chairman Longoria made the following motion:

I move that the Board authorize U. T. Southwestern Medical Center to form and operate a nonprofit corporate entity with Children's Health System of Texas, a Texas nonprofit corporation, for the development of a Joint Pediatric Enterprise.

I further move that the Board delegate authority to the President of U. T. Southwestern to

1. execute all documents, instruments, and other agreements, including a related Master Affiliation Agreement and a related Master Services Agreement, following review and approval by the Chancellor, Executive Vice Chancellor for Health Affairs, and the Vice Chancellor and General Counsel; and
2. take all further actions deemed necessary to carry out the purpose and intent of the foregoing actions, including appointment of U. T. employees to the corporate board of directors of the to-be-named nonprofit corporation.

Finally, I move that the Board make a finding that the formation of a nonprofit for the development of a Joint Pediatric Enterprise

- a. supports the public mission of and serves public purposes appropriate to the functions of U. T. Southwestern;
- b. is structured with adequate safeguards in place to ensure the public purpose will continue to be met on an ongoing basis; and
- c. will result in adequate consideration and benefits to U. T. Southwestern and the State of Texas.

The motion was seconded by Regent Crain and passed unanimously.

RECOMMENDATION

President Podolsky will make a recommendation regarding the authorization for formation and development of a Joint Pediatric Enterprise with Children's Health System of Texas and a related Master Affiliation Agreement and a related Master Services Agreement.

The Board will also be asked to make a finding that the formation and development of the Joint Pediatric Enterprise supports the public mission of and serves public purposes appropriate to the functions of U. T. Southwestern Medical Center.

BACKGROUND INFORMATION

Children's Health System of Texas (Children's) and U. T. Southwestern have for over 55 years maintained a successful affiliation that has benefitted both institutions, the communities they serve, and the State of Texas. During this long-standing relationship, Children's has served as the principal teaching hospital for members of the U. T. Southwestern faculty who specialize in pediatric medicine and who perform pediatric services.

If approved by the Board, Children's and U. T. Southwestern will form and operate a separate, yet-to- be-named nonprofit corporate entity (the Nonprofit) for the purpose of developing a Joint Pediatric Enterprise. Membership interests and board voting rights in the Nonprofit will be 50% and 50% for Children's and U. T. Southwestern, respectively. The joint effort will (i) enable efficient and timely joint decision making; (ii) create a financially sustainable model that ensures the long-term viability of both organizations and works towards a more integrated pediatric enterprise; (iii) continue to support the academic missions that are core to the identities of both organizations; and (iv) foster an environment that supports and promotes trust, cooperation, and recognition of the individual strengths and contributions of each party.

The formation of a Joint Pediatric Enterprise with Children's will further support the public mission and serve the public purposes appropriate to the functions of U. T. Southwestern Medical Center by

1. allowing U. T. Southwestern to align with an organization to deliver comprehensive, multidisciplinary, coordinated pediatric primary and specialty care to the children of North Texas;
2. making it possible for U. T. Southwestern to maintain financial sustainability and continue to focus on investments for those U. T. Southwestern missions that cannot be supported by State funds or cannot be adequately supported by State funds; and

3. enhancing U. T. Southwestern's ability to provide U. T. Southwestern students, residents and other trainees with expanded opportunities for exposure to all dimensions of care delivery necessary in the aggregate to care for an entire community.

The Nonprofit will be subject to all proper and necessary safeguards and controls by U. T. Southwestern to ensure its public purposes will continue to be met on an ongoing basis. The consideration received by U. T. Southwestern and the public through the public purposes and other benefits are adequate in exchange for U. T. Southwestern's participation in the Nonprofit for the development of the Joint Pediatric Enterprise.

The Board of Children's met on September 19, 2019, and approved its participation in the Joint Pediatric Enterprise.

[Secretary's Note: The affiliation period between Children's Health System of Texas and U. T. Southwestern was incorrectly reported in the Agenda materials as over 75 years, this has been corrected to reflect the actual affiliation period of more than 55 years.]

3. U. T. System: Discussion and appropriate action concerning a) proposed interagency contract with the Texas Higher Education Coordinating Board to administer and oversee funding to support the Texas Child Mental Health Care Consortium; b) related finding of public purpose; and (c) appointment of U. T. employees to the Consortium Executive Committee

Vice Chairman Weaver made the following motion:

I move that the Board

1. authorize Chancellor Milliken on behalf of U. T. System Administration to enter into an interagency contract with the Texas Higher Education Coordinating Board to administer and oversee funding to support the efforts and mission of the Texas Child Mental Health Care Consortium;
2. make a finding that the proposed interagency contract
 - a. supports the public mission of and serves public purposes appropriate to the function of U. T. System;
 - b. is structured with adequate safeguards and controls in place to ensure the public purpose will continue to be met on an ongoing basis; and

- c. will result in adequate consideration and benefits to the U. T. System and to the State of Texas; and
3. authorize the service of individual U. T. employees appointed to the Consortium Executive Committee and find that holding such positions is of benefit to the State of Texas and the U. T. System and that there is no conflict between the positions and U. T. employment.

The motion was seconded by Vice Chairman Longoria and passed unanimously.

RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Health Affairs ad interim, the Executive Vice Chancellor for Academic Affairs, the Executive Vice Chancellor for Business Affairs, and the Vice Chancellor and General Counsel that the Board of Regents

- a. authorize Chancellor Milliken on behalf of U. T. System Administration to enter into an interagency contract with the Texas Higher Education Coordinating Board (Coordinating Board) to administer and oversee funding to support the efforts and mission of the Texas Child Mental Health Care Consortium (Consortium);
- b. make a finding that the proposed interagency contract (i) supports the public mission of and serves public purposes appropriate to the function of U. T. System, (ii) is structured with adequate safeguards and controls in place to ensure the public purpose will continue to be met on an ongoing basis, and (iii) will result in adequate consideration and benefits to the U. T. System and to the State of Texas; and
- c. approve initial and any subsequent appointments of U. T. employees to the Consortium Executive Committee as described in *Texas Health and Safety Code*, Section 113.0101, and find that holding such position is of benefit to the State of Texas and the U. T. System and that there is no conflict between the position and U. T. employment, in accordance with Regents' *Rules and Regulations*, Rule 30103, Section 4.2.

BACKGROUND INFORMATION

The 86th Texas Legislature amended the *Texas Health and Safety Code* to add Section 113.0051 establishing the Texas Child Mental Health Care Consortium, to be administered by an entity named by the Consortium's Executive Committee. The

Consortium is authorized (1) to leverage the expertise and capacity of the health-related institutions listed in *Texas Health and Safety Code*, Section 113.0052 (1) to address urgent mental health challenges and improve the mental health care system in Texas in relation to children and adolescents and (2) to enhance the state's ability to address mental health care needs of children and adolescents through collaboration of those health-related institutions.

House Bill 1, *The General Appropriations Act* of the 86th Texas Legislature, Regular Session, appropriated \$1,000,000 for FY 2020 and \$500,000 for FY 2021 to the Coordinating Board for transfer to an institution of higher education selected by the Consortium's Executive Committee for administration and oversight of the Consortium. On August 23, 2019, the Consortium's Executive Committee approved the selection of U. T. System Administration as the administrator of the Consortium. The Consortium is administratively attached to the Texas Higher Education Coordinating Board, and the Executive Committee will develop the strategic plan for the distribution of funds to the health-related institutions of higher education.

The Executive Committee is operating under the requirements of the Texas Open Meetings Act and the Texas Public Information Act.

If approved, the activities proposed above are ensured to serve a public purpose based on the following:

1. The proposed interagency contract has a predominantly public purpose as the administrative and oversight services to be provided are in support of the legislature's stated purposes for the Consortium: to address urgent mental health challenges and improve the mental health care system in Texas in relation to children and adolescents, and to enhance the state's ability to address mental health care needs of children and adolescents.
2. Under the terms of the interagency contract, U. T. System Administration will retain sufficient control over its contributions to the Consortium to ensure the public purpose is accomplished. Each of the U.T. health institutions, as well as the Dell Medical School at U. T. Austin and the U. T. Rio Grande Valley School of Medicine, will have two representative members on the Consortium Executive Committee, the Consortium's governing body. In addition, the Consortium Executive Committee has selected U. T. System Vice Chancellor for Health Affairs and Chief Medical Officer David Lakey to serve as its Presiding Officer.
3. U. T. System Administration will receive adequate consideration and benefits through its support of the Consortium as the Consortium includes the six U. T. health institutions, as well as the Dell Medical

School at U. T. Austin and the U. T. Rio Grande Valley School of Medicine.

With regard to the potential appointment of U. T. employees to the Consortium Executive Committee, it has been determined that membership on the Executive Committee is of benefit to the State of Texas and the U. T. System and that there is no conflict between such membership and holding a position with a U. T. institution. Service on the Consortium Executive Committee is uncompensated.

4. U. T. System Board of Regents: Discussion and appropriate action regarding proposed amendments to Regents' Rules and Regulations, Rule 10201 (General Counsel to the Board of Regents), Rule 10501 (Delegation to Act on Behalf of the Board), and Rule 20101 (Chancellor)

A motion to approve the following recommendation was made by Vice Chairman Longoria and seconded by Regent Hicks. The motion carried unanimously.

RECOMMENDATION

The Board is asked to consider amendments to the Regents' *Rules and Regulations* to add the following language concerning delegations related to personnel actions, as set forth below in congressional style:

a. Amend Regents' Rule 10201 (General Counsel to the Board of Regents):

Sec. 4 The Executive Director for Board Services, Associate General Counsels to the Board, and the Secretary to the Board shall be appointed by the General Counsel to the Board after consultation with the Chairman of the Board, and shall have such duties and responsibilities as shall be delegated by the General Counsel to the Board.

b. Amend Regents' Rule 10501 (Delegation to Act on Behalf of the Board):

Sec. 3 Matters Not Delegated. The following contracts or agreements, including purchase orders or vouchers and binding letters of intent or memorandums of understanding, must be submitted to the Board for approval or authorization:

3.4 ...
Contracts with Certain Officers. Agreements, regardless of dollar amount, with the Chancellor, a president, a former Chancellor or president, an Executive Vice Chancellor, a Vice

Chancellor, the General Counsel to the Board, ~~or~~ the Chief Audit Executive, or the Chief Compliance and Risk Officer, which are subject to the applicable provisions of Texas Education Code Section 51.948 and Regents' Rules and Regulations, Rule 20101.

c. Amend Regents' Rule 20101 (Duties and Responsibilities of the Chancellor):

Sec. 4 Primary Duties and Responsibilities.

...

The major duties of the Chancellor include:

...

4.9 Appointment of Officers. Appointing the Executive Vice Chancellors, ~~and~~ Vice Chancellors, and the Chief Compliance and Risk Officer. ~~taking administrative action, and terminating employment regarding these positions. In making such appointments, the Chancellor shall adhere to~~ Appointments shall be made after consultation with the Chairman of the Board and shall comply with the Board's policy on the compensation of key executives as ~~outlined~~ set forth in Rule 20203 of these Rules and Regulations. The Chancellor may also approve the payment of reasonable supplemental salary for an individual assuming additional duties including those of an interim appointment, following consultation with the Chairman.

...

~~4.11 Appointing Compliance Officer. Appointing the Chief Compliance and Risk Officer, as outlined in Rule 20401 of these Rules and Regulations.~~

BACKGROUND INFORMATION

The proposed changes to Regents' Rules 10201, 10501, and 20101 formalize the consultation expectations associated with personnel actions involving certain U. T. System Administration positions.

These revisions do not impact the full-time equivalent (FTE) employee count Systemwide and are budget neutral. The proposed amendments were provided to the institutional presidents and representatives of the Student Advisory Council, the Faculty Advisory Council, and the Employee Advisory Council.

5. U. T. System Board of Regents: Discussion and appropriate action regarding proposed amendments to Regents' *Rules and Regulations*, Rule 20204 (Determining and Documenting the Reasonableness of Compensation)

A motion to approve the following recommendation was made by Regent Hicks and seconded by Regent Beck. The motion carried unanimously.

RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs, the Executive Vice Chancellor for Health Affairs, and the Vice Chancellor and General Counsel that Regents' *Rules and Regulations*, Rule 20204 (Determining and Documenting the Reasonableness of Compensation), be amended.

a. Amend the following sections as set forth in congressional style:

Sec. 3 Board Approval. Total Annual Compensation for all Highly Compensated Personnel ~~Compensation for employees whose total annual compensation is \$1 million or more and who are not covered in Regents' *Rules and Regulations*, Rule 20203~~ must be approved by the Board of Regents, except as otherwise allowed by Rule 10501 for athletic directors or coaches when special circumstances exist. Changes in Total Annual Compensation for an institutional employee classified as Highly Compensated Personnel of up to five percent per year may be approved by the Chancellor if the initial compensation was previously approved by the Board. In all cases, the employing institution is responsible for providing documentation that the compensation was established or changed in accordance with ~~the applicable~~ Systemwide policy ~~for establishing the compensation for Highly Compensated Personnel.~~

3. Definitions

...

Highly Compensated Personnel – ~~employees personnel~~ whose ~~total annual compensation~~ Total Annual Compensation is, or may exceed, \$1 million in any year \$500,000 or more and who are not covered in Regents' *Rules and Regulations*, Rule 20203 (Compensation for Key Executives).

Total Annual Compensation – includes an employee's salary salaries or wages, practice plan supplements, incentive plan payments, and unpaid deferred compensation and excludes employer-provided insurance, expense

allowances, employer contributions to Teachers Retirement System of Texas and Optional Retirement Program, and other fringe benefits.

- b. Delete Section 4, requiring Executive Vice Chancellor approval for Total Annual Compensation of \$500,000 or more, but less than \$1,000,000.

BACKGROUND INFORMATION

Regents' Rule 20204 concerns approval of compensation for certain employees. The proposed revisions refine procedures to allow additional institutional flexibility, particularly for the health-related institutions, for compensation decisions by eliminating the need for U. T. System Administration approval for certain institutional compensation of less than \$1,000,000.

The proposed revisions clarify that Board approval is required if an employment agreement provides the opportunity for an employee to be paid \$1 million or more in any year through, for example, a long-term incentive agreement or a retention compensation agreement, even if base annual salary alone would not require approval. The revisions also allow changes in compensation of up to five percent per year for highly compensated institutional personnel to be approved by the Chancellor.

If the proposed Rule revisions are approved, conforming editorial revisions will be made to *Regents' Rule 10501* (Delegation to Act on Behalf of the Board) to reconcile delegation authority within the *Regents' Rules and Regulations*.

These revisions do not impact the full-time equivalent (FTE) employee count Systemwide and have the potential for a slightly favorable budget impact through process simplification. The proposed amendments were reviewed by the U. T. institutional presidents and representatives of the Student Advisory Council, the Faculty Advisory Council, and the Employee Advisory Council.

No Executive Session was held.

ADJOURNMENT.--There being no further business, the meeting was adjourned at 3:42 p.m.

/s/ Tina E. Montemayor
Secretary to the Board of Regents
September 30, 2019



**THE UNIVERSITY OF TEXAS SYSTEM
BOARD OF REGENTS
CONSENT AGENDA**

Special Called Board Meeting:
September 27, 2019
Austin, Texas

Other Fiscal Matters - U. T. System: Approval of Fiscal Year 2020 Library, Equipment, Repair and Rehabilitation (LERR) for U. T. Austin and U. T. El Paso

The Chancellor concurs with the recommendation from the Executive Vice Chancellor for Academic Affairs, the Executive Vice Chancellor for Business Affairs, and the institutional presidents of U. T. Austin and U. T. El Paso to realign Library, Equipment, Repair and Rehabilitation (LERR) funds approved by the Board of Regents on August 15, 2019, to higher institutional priorities. No additional funds are being requested.

U. T. Austin	FROM	TO
Information Security Office - Vulnerability Management Program	\$ 150,000	\$ 150,000
Proprietary Supervising Station Alarm System Upgrade Phase 1 (reduction)*	\$ 1,500,000	\$ 50,000
Flammable and Toxic Gas Monitoring System	\$ 250,000	-
Bureau of Economic Geology Fire Sprinkler Upgrade	\$ 1,750,000	-
U. T. Austin Libraries Digital Infrastructure	-	\$ 700,000
Accessible Path of Travel Projects	-	\$ 1,000,000
Replace Facilities Services Capital Equipment Beyond Useful Life	-	\$ 1,500,000
Enterprise Data Warehouse Modernization	-	\$ 250,000
TOTAL	\$ 3,650,000	\$ 3,650,000

* Full funding for the Proprietary Supervising Station Alarm System Upgrade Phase 1 project is not requested to allow full funding of other higher priority projects.

[Secretary's Note: The reduction amount for the Proprietary Supervising Station Alarm System Upgrade Phase 1 was inadvertently reported as \$50,0000 rather than \$50,000 in the Agenda materials and has been corrected above. The total amount was not changed.]

U. T. El Paso	FROM	TO
Bioscience Building Mechanical and HVAC	\$ 250,000	-
Campus Fire Alarm Network Upgrades	\$ 200,000	-
Magoffin Auditorium	\$ 225,000	-
Engineering Core BioMedical and BioInformatics Annex	\$ 75,000	-
High Performance Computing Enhancement (reduction)*	\$ 200,000	\$ 150,000
Cotton Facility Remodeling Phase 2	-	\$ 400,000
College of Science Lab Buildout	-	\$ 400,000
Research and Technology Infrastructure for New Faculty	\$ 1,000,000	\$ 1,000,000
TOTAL	\$ 1,950,000	\$ 1,950,000

* The funding for the High Performance Computing Enhancement project reflects a reduction to fully fund the two