

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

March 20, 2013

Austin, Texas

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**/s/ Carol A. Felkel
Secretary to the Board of Regents
April 11, 2013**

MINUTES
U. T. System Board of Regents
Special Called Meeting of the
Audit, Compliance, and Management Review Committee
March 20, 2013

The members of the Audit, Compliance, and Management Review Committee of the Board of Regents of The University of Texas System convened at 9:07 a.m. on Wednesday, March 20, 2013, in the Board Meeting Room on the 9th Floor of Ashbel Smith Hall, The University of Texas System, 201 West Seventh Street, Austin, Texas, with the following participation:

Attendance

Regent Pejovich, presiding
Vice Chairman Foster
Regent Cranberg
Regent Hall

Also present were Vice Chairman Hicks, Vice Chairman Dannenbaum, and Regent Stillwell.

In accordance with a notice being duly posted with the Secretary of State and there being a quorum present, Audit, Compliance, and Management Review Committee Chairman Pejovich called the meeting to order.

RECESS TO EXECUTIVE SESSION

At 9:13 a.m., the Committee recessed to Executive Session pursuant to *Texas Government Code* Sections 551.071 and 551.074 to consider the matters listed on the Executive Session agenda as follows. The Executive Session was held in the Conference Room on the 9th Floor of Ashbel Smith Hall.

1. Personnel Matters Relating to Appointment, Employment, Evaluation, Assignment, Duties, Discipline, or Dismissal of Officers or Employees - *Texas Government Code* Section 551.074

U. T. System: Discussion regarding assignment and duties of individual personnel involved in issues concerning the relationship between the U. T. Austin School of Law and the Law School Foundation and the financial management and use by U. T. Austin of funds to support the School of Law

No action was taken on this item.

2. Consultation with Attorney Regarding Legal Matters or Pending and/or Contemplated Litigation or Settlement Offers - Section 551.071
- a. **U. T. System: Discussion and appropriate action related to legal issues concerning the relationship between the U. T. Austin School of Law and the Law School Foundation and the financial management and use by U. T. Austin of funds to support the School of Law**

No action was taken on this item.

- b. **U. T. System Board of Regents: Discussion and appropriate action concerning legal issues related to Board duties concerning review of issues related to transparency of employees' compensation and benefits**

No action was taken on this item.

RECONVENE IN OPEN SESSION

The Executive Session ended at 11:55 a.m., and the Committee reconvened in Open Session in the Board Meeting Room on the 9th Floor of Ashbel Smith Hall. No action was taken on the items discussed in Executive Session.

U. T. System: Action regarding possible additional review concerning the relationship between the U. T. Austin School of Law and the Law School Foundation and the financial management and use by U. T. Austin of funds to support the School of Law*

Committee Meeting Information

Presenter(s): Committee Chairman Pejovich

Status: Approved

Motion: Made by Vice Chairman Foster, seconded by Regent Cranberg, and carried unanimously

Discussion at meeting:

Committee Chairman Pejovich opened the item for discussion, noting the Committee/Board members had an opportunity to discuss items posted in Executive Session and to talk with President Powers and Provost Leslie today (March 20) and with Vice Chancellor Burgdorf earlier.

Regent Hall thanked the donors of the U. T. Austin Law School Foundation for their generosity, care, concern, and support over many decades, and he delivered the following remarks.

Remarks by Regent Hall

Chairman Pejovich, based upon information we have been provided and the opportunity to gain additional information in today's Executive Session, I would like to see a complete external review of matters related to the U. T. Austin School of Law including an inquiry into the way decisions on compensation, benefits, and disbursements have been made and implemented. In particular, we have gained additional information about facts that highlight institutional and faculty concerns about this issue. For example:

- 1. In 2009, the U. T. Austin Budget Director notified the President and Executive Vice President for Business Affairs that she had reported Dean Sager's \$500,000 "deferred compensation" to the U. T. System, which contradicts statements from U. T. Austin Administration.*
- 2. Between 2007 and 2010, concerns about lack of transparency and reporting of compensation led to a request that the Provost's Office undertake a review and make recommendations on changes in procedures. This project was never seriously undertaken.*

There has been much speculation about why we have been looking at the previous two years of Public Information Act responses and documents withheld. We initiated a Systemwide effort in 2011 to assure ourselves that our practices meet the highest standards of compliance and to learn more about the U. T. System's approach to the Texas Public Information Act. We are also aware that often a Board can learn about significant issues of concern to the public, the press, or our faculty from the open records requests sent to our 15 institutions.

In this case, were it not for the efforts and the courage of some of our U. T. law faculty, the Board, the Legislature, and the public would never have been made fully aware or fully apprised of this ongoing, and in the words of the Attorney General, I believe, "inappropriate means of supplementing Law School faculty members' income." The documents are so informative and, frankly, so surprising that we are convinced the Board must direct a further look into these issues.

Remarks by Vice Chairman Foster (essentially as delivered)

First, Regent Hall, I endorse your work on the records issue overall and thank you for realizing that the documents you found had not been disclosed or considered by the Board earlier and should be brought to the

attention of this Committee. I also believe that a further review is warranted, and I am prepared to make a motion to that regard.

I believe that we, as Regents, have an obligation to ensure that funds donated by donors, and in this case particularly by the Law School's incredibly generous donors, are adequately and transparently accounted for and disbursed. We are under a great deal of pressure right now from the Legislature to increase and to ensure transparency, and I believe this is an important step in that direction.

Remarks by Regent Cranberg (essentially as delivered)

I share the sentiment of Vice Chairman Foster. The fact matters that were the basis of the "Burgdorf report" were relied upon by the Attorney General for his opinion. I think we have a special obligation to assure that the Attorney General has the benefit of all of the facts on which he can rest his opinion.

We also have an obligation to the faculty whose concerns triggered the subsequent termination of the Dean and referred to a variety of possible compensation governance concerns.

Finally, I think we owe it to the generous donors of the Law School Foundation, that when an individual, whether it be the Law School Foundation or any of the foundations that have been created to support The University of Texas -- that those donors can have the confidence in our brand, The University of Texas -- whether it be through a Foundation or directly to The University of Texas, that there is a standard of governance that is unassailable.

It is not our job to get into the details of how specifically individual grants of compensation by other boards are made, but it is our job to assure that the approval processes, that the governance supervision, is to the highest standard and provides the degree of trust that the taxpayers and donors should expect from us. It is specifically that for that high level of confidence by not only being able to trust The University of Texas, but its affiliated, either independent or closely affiliated, foundations that there is every confidence that the money that is given to us is managed wisely.

On December 9, 2011, Chancellor Cigarroa instructed Vice Chancellor and General Counsel Burgdorf to review the relationship between the U. T. Austin School of Law and the Law School Foundation. On October 15, 2012, Mr. Burgdorf's report titled *Report and Recommendations on the Relationship between The University of Texas at Austin School of Law and The University of Texas Law School Foundation* (the "Burgdorf report") and a letter from the Office of the Attorney General of Texas dated November 2, 2012, were delivered to members of the Board.

Motion by Vice Chairman Foster

I move that the Committee recommend that the Board set aside the previous report on the issues of the relationship between The University of Texas and the Law School Foundation, and of governance issues within the University. Among the issues that concern the Board are:

- *Fact matters which may affect legal opinions regarding the independent status of the Law School Foundation, including that of the Attorney General.*
- *Fact discrepancies regarding transparency and disclosure of or consent to material compensation matters that have affected the confidence of the Law School faculty, the Board, and the public at various times.*

I further move that we recommend that the Board and Chancellor Cigarroa work with the Office of General Counsel and the Office of the Board of Regents to take all necessary steps to secure the services of appropriate and experienced experts to conduct a thorough external investigation of the use and management by U. T. Austin of funds provided for the support of the Law School, including issues related to compliance with approval and reporting of employee compensation, and with the understanding that the external investigation will also supplement and assist in the ongoing audit work of the U. T. System Audit Office.

Finally, I move that we recommend the Board at the same time express its great gratitude to the many generous benefactors of the Law School. It is with this sense of gratitude and duty that the Board will fully discharge its lawful responsibilities to safeguard the use of these funds intended for maximum benefit of the University.

Regent Cranberg seconded the motion, which carried unanimously.

Secretary's Note: See Minutes of the U. T. System Board of Regents' meetings held on March 20, 2013, approving this recommendation and Minutes of the April 11, 2013, modifying this recommendation.

ADJOURNMENT

Audit Committee Chairman Pejovich adjourned the meeting at 12:04 p.m.