



# TABLE OF CONTENTS FOR MEETING OF THE BOARD

November 10, 2011  
Austin, Texas

## Thursday, November 10, 2011

### A. COMMITTEE MEETINGS

Facilities Planning and Construction Committee.....	8:00 a.m.
Technology Transfer and Research Committee.....	9:00 a.m.
Academic Affairs Committee.....	10:00 a.m.
Health Affairs Committee.....	11:00 a.m.

### B. CONVENE THE BOARD IN OPEN SESSION

12:00 p.m.

1. **U. T. System Board of Regents: Report, discussion, and appropriate action on Deloitte & Touche LLP report on comprehensive information security compliance effectiveness review of the U. T. System and allocation of \$34,872,000 of Available University Funds**

12:00 p.m.

**Action**  
*Mr. Burgdorf*  
*Mr. Raj Mehta,*  
*Deloitte &*  
*Touche LLP*

1

### C. RECESS TO EXECUTIVE SESSION PURSUANT TO TEXAS GOVERNMENT CODE, CHAPTER 551 (working lunch)

12:20 p.m.

1. Consultation with Attorney Regarding Legal Matters or Pending and/or Contemplated Litigation or Settlement Offers - Section 551.071
  - a. **U. T. System Board of Regents: Discussion with Counsel on pending legal issues**
  - b. **U. T. System Board of Regents: Discussion and appropriate action regarding legal issues related to information technology security audit**
  - c. **U. T. Health Science Center - San Antonio: Discussion of legal issues related to accreditation**
  - d. **U. T. Medical Branch - Galveston: Discussion and appropriate action concerning legal issues related to correctional managed care**

2. Deliberations Regarding the Purchase, Exchange, Lease, Sale, or Value of Real Property - Section 551.072

a. **U. T. Austin: Discussion and appropriate action regarding authorization to lease approximately 18,800 useable square feet of space in the proposed 2400 Nueces, a commercial and multifamily property to be built at 2400 Nueces Street, Austin, Travis County, Texas, from EDR Austin LLC, a Delaware limited liability company, for a lease rate not to exceed fair market value as determined by an independent appraisal for a 10-year term with renewal options for use by the institution related to its mission**

*President Powers  
Ms. Mayne*

b. **U. T. El Paso: Discussion and appropriate action regarding authorization to ground lease approximately 6.4 to 7.6 acres of unimproved real property located at 3003 North Mesa Drive, El Paso, El Paso County, Texas, to North Campus Investors, LLC, a Texas limited liability company, for the construction and operation of a mixed-use development**

*President Natalicio  
Ms. Mayne*

c. **U. T. San Antonio: Discussion and appropriate action regarding the granting of a conservation easement to establish a karst invertebrate habitat preserve on a portion of the institution's main campus**

*President Romo  
Ms. Mayne*

d. **U. T. San Antonio: Discussion and appropriate action regarding the marketing and sale of the surface estate only of: (1) approximately 640 acres (Ranch 1) in Atascosa County, Texas, Survey No. 73, Certificate No. 15/3101, originally granted to H&GN RR Co. and patented to Joseph A. Bent by Letter Patent No. 567, Vol 23, Abstract 419; (2) approximately 2,275.13 acres (Ranch 2) in Frio County, Texas, being all of the George Troutz Survey 992, Abstract 839, the J.M. Armstrong Survey 23/1, Abstract 932, and the A. Vancleve Survey 1159, Abstract 850, parts of the Larkin Nalls Survey 1, Abstract 964, Larkin Nalls Survey 2, Abstract 1364, and the Jno. W. Thompson Survey 50/5, Abstract 1494, all of the Peter Weber Survey 971, Abstract 659, the Henry Castro Survey 61, Abstract 257, and the S.R. Simmon Survey 61 1/2, Abstract 910, and part of the F.C. McKinney Survey S.F. 14982, Abstract 1511; and (3) approximately 2,310.67 acres (Ranch 3) in Frio County, Texas, consisting of approximately 290.67 acres described in deed recorded in Volume 112, Page 324, approximately 1,280 acres described in deed recorded in Volume 111, Page 599, approximately 600 acres described in deed recorded in Volume 111, Page 613, and approximately 140 acres described in deed recorded in Volume 111, Page 612, all in the Deed Records of Frio County, Texas; with the net sale proceeds to be used for the Felix and Elizabeth McKinney Memorial Scholarship Fund**

*President Romo  
Ms. Mayne*

3. Personnel Matters Relating to Appointment, Employment, Evaluation, Assignment, Duties, Discipline, or Dismissal of Officers or Employees - Section 551.074

a. **U. T. System: Discussion and appropriate action regarding individual personnel matters relating to appointment, employment, evaluation, compensation, assignment, and duties of presidents (academic and health institutions), U. T. System Administration officers (Executive Vice Chancellors and Vice Chancellors), other officers reporting directly to the Board (Chancellor, General Counsel to the Board, and Chief Audit Executive), and U. T. System and institutional employees**

b. **U. T. System Board of Regents: Discussion and appropriate action regarding individual personnel issues related to compliance with information technology security audit**

c. **U. T. Medical Branch - Galveston: Discussion and appropriate action regarding individual personnel matters related to provision of correctional managed care**

4. Negotiated Contracts for Prospective Gifts or Donations - Section 551.073

a. **U. T. Austin: Discussion and appropriate action regarding proposed negotiated gifts with potential naming features**

*President Powers  
Dr. Safady*

b. **U. T. Medical Branch - Galveston: Discussion and appropriate action regarding proposed negotiated gifts with potential naming features**

*President Callender  
Dr. Safady*

c. **U. T. M. D. Anderson Cancer Center: Discussion and appropriate action regarding proposed negotiated gifts with potential naming features**

*President DePinho  
Dr. Safady*

d. **U. T. Health Science Center - Tyler: Discussion and appropriate action regarding proposed negotiated gifts with potential naming features**

*President Calhoun  
Dr. Safady*

5. Deliberation Regarding Security Devices or Security Audits - Section 551.076

**U. T. System Board of Regents: Discussion and appropriate action regarding information technology security audit**

D. RECONVENE IN OPEN SESSION TO CONSIDER ACTION, IF ANY, ON EXECUTIVE SESSION ITEMS

*2:20 p.m.*

E. RECESS FOR COMMITTEE MEETINGS

*2:30 p.m.*

Audit, Compliance, and Management Review Committee.....

*2:30 p.m.*

Finance and Planning Committee.....

*3:15 p.m.*

		<b>Page</b>	
F.	RECONVENE THE BOARD IN OPEN SESSION	3:45 p.m.	
G.	APPROVAL OF MINUTES		
H.	AGENDA ITEMS		
2.	<b>U. T. System Board of Regents: Annual Meeting with Officers of U. T. System Employee Advisory Council</b>	3:50 p.m. <b>Presentation/ Discussion</b> <i>Mr. Helmke</i>	<b>4</b>
3.	<b>U. T. System Board of Regents: Amendments to the Regents' <i>Rules and Regulations</i>, Rule 31001 (Faculty Appointments and Titles), Rule 31006 (Academic Workload Requirements), and Rule 31007 (Tenure), all regarding U. T. Brownsville technical faculty titles</b>	4:30 p.m. <b>Action</b>	<b>8</b>
4.	<b>U. T. System Board of Regents: Amendment to Regents' <i>Rules and Regulations</i>, Rule 40401 (Assessment, Collection, and Waiver of Tuition and Fees), regarding delegation of vehicle registration fees and other charges associated with parking</b>	4:35 p.m. <b>Action</b>	<b>13</b>
5.	<b>U. T. System Board of Regents: Discussion and appropriate action regarding approval of Procedures for Seeking Relief from Rate and Damage Schedule applicable to easements and other interests on University Lands</b>	4:40 p.m. <b>Action</b>	<b>16</b>
6.	<b>U. T. System: Authorization for the Chancellor to submit Report Concerning Designated Tuition</b>	4:45 p.m. <b>Action</b>	<b>19</b>
7.	<b>U. T. System Board of Regents: Ratification of designation of Bruce A. Beutler, M.D., as Regental Professor [<i>Regents' Rules and Regulations</i>, Rule 31001, Section 2.3(a)] and allocation of funds</b>	4:50 p.m. <b>Action</b>	<b>21</b>
I.	RECESS FOR COMMITTEE REPORTS TO THE BOARD	5:00 p.m.	
J.	ADJOURN	5:30 p.m.	

1. **U. T. System Board of Regents: Report, discussion, and appropriate action on Deloitte & Touche LLP report on comprehensive information security compliance effectiveness review of the U. T. System and allocation of \$34,872,000 of Available University Funds**

RECOMMENDATION

Vice Chancellor and General Counsel Burgdorf will introduce Mr. Raj Mehta, Security Services Engagement Partner, Deloitte & Touche, LLP, who will report on the information security compliance effectiveness review.

After review and acceptance of the Deloitte & Touche LLP information security compliance effectiveness review, the Chancellor, the Executive Vice Chancellor for Business Affairs, and the Vice Chancellor and General Counsel recommend that \$34,872,000 of Available University Funds (AUF) be approved for funding of the following to bolster information security compliance across the U. T. System and to secure the U. T. System Research Cyber-infrastructure (UTRC):

- a. Hardware, software, maintenance, and services, in the amount of \$29,255,000, to implement consultant recommendations for improving the state of information security compliance within the U. T. System and U. T. System institutions;
- b. Salary and benefits, in the amount of approximately \$820,000 per year, for addition of eight full-time information security positions at U. T. System Administration to assist with coordination of consultant recommendation implementations, to provide assistance to U. T. institutions in the areas of risk assessment, security technology deployment, monitoring, and targeted training, and to provide ongoing assurance activities related to securing of shared infrastructures and resources;
- c. UTRC perimeter protection hardware funding, in the amount of \$4,046,000, for purchase, installation, and maintenance of border routers and firewalls;
- d. UTRC network intrusion detection system funding, in the amount of \$717,000, for purchase of three intrusion detection appliances to be deployed along the UTRC backbone network to detect cyber attacks and potential data exposures; and
- e. UTRC data center security servers, in the amount of \$34,000, for hosting of configuration management, log management, and related security software.

The Chancellor, the Executive Vice Chancellor for Business Affairs, and the Vice Chancellor and General Counsel further recommend that funding be structured for administration of the initiative by the Vice Chancellor and General Counsel to which

U. T. System compliance and information security report. The Vice Chancellor and General Counsel will administer projects by granting money to the institutions and receiving reports on progress, completion, and impact of each project.

## BACKGROUND INFORMATION

**Information Security Technology:** The University of Texas System Board of Regents directed that a highly qualified consulting firm be engaged to perform a comprehensive information security compliance effectiveness review of the U. T. System central information security program and program implementations at each of the U. T. System institutions. The U. T. System Office of General Counsel completed a comprehensive request for proposals (RFP) process and evaluation that resulted in the selection of Deloitte & Touche LLP.

Over a six-month period, three teams of Deloitte & Touche consultants performed employee interviews, policy and process reviews, surveys, walk-throughs, and other assessment activities at U. T. System and all U. T. System institutions. Findings were compiled and individual, as well as summary, reports were created for Board consideration. Compliance and effectiveness gaps of varying degree and scope were identified across the U. T. System. High-risk gaps were identified at different institutions in the following security domains: Identity and Access Management, Data Loss Protection, Mobile Device Security and Encryption, Risk Assessment & Management, Network Segmentation, Network Monitoring, Network Security, Network Access Control, Disaster Recovery and Business Continuity, Physical Security, Encryption, Security Incident & Event Manager (SIEM), and Training. Closing these high-risk gaps will improve the state of information security compliance across the U. T. System and will reduce the likelihood of occurrence of serious information security incidents. Some gaps are most appropriately addressed at the individual institution level; others lend themselves to a more centralized Systemwide approach, which can result in cost savings.

In addition to hardware, software, and services, there are information security staffing needs. Strategically, U. T. System is moving towards increased use of shared data centers and systems. Shared environments result in cost savings; however, they increase information security complexity. Dedicated staff are needed to oversee security of these complex environments to ensure all security tasks are appropriately assigned and performed continuously without fail. Centralization of other security-related tasks such as training strategy and curriculum development also require appropriately qualified staff. U. T. System needs eight full-time employees at a cost of approximately \$820,000 per year to address the initiatives and functions identified in the consultant's information security compliance assessment report and to provide ongoing assistance to U. T. institutions in deployment and monitoring of security controls.

**Research Cyber-infrastructure Network Perimeter Protection Hardware:** UTRC will greatly expand research capabilities for every U. T. System institution through delivery of a 10 gigabit per second research backbone to each institution. These new capabilities will tax current campus network infrastructures in two ways. First, the UTRC

must demark the new UTRC services at the border of each institution to ensure that the complex set of interinstitutional services for researchers is available regardless of the institution's internal networking infrastructure. A border router is used to provide this connectivity. Institutional border routers capable of handling 10 gigabits production plus 10 gigabits for research will cost approximately \$53,000 each. Second, each campus will encounter firewall congestion when both production and research traffic are being monitored by the institutional border firewall. Firewalls are traffic filtering devices essential for thwarting certain cyber attacks and nonsanctioned network traffic. Purchase of firewalls able to accommodate 10 gigabits of throughput is required. Firewalls of this class cost \$185,000 each. Each data center will require connectivity to hosting facilities as well as storage facilities. The storage and high performance computing capability will also reach outside the U. T. System research network for file sharing and collaboration. This exposure to the Internet requires campus-like perimeter protection for the UTRC data centers. Therefore total cost for institutional perimeter devices is  $(\$53,000 + \$185,000) = \$238,000 \times 17 = \$4,046,000$ .

#### **U. T. System Research Cyber-infrastructure Network Intrusion Detection**

**System (IDS):** U. T. System has an established IDS that monitors network traffic between U. T. System institutions. The system consists of three network appliances strategically placed along the network connecting the U. T. System institutions. The IDS has proven very effective at identifying malware attacks and sensitive data mistakenly sent in unencrypted formats. It provides the information necessary for business process owners and information security staff to correct errant processes that pose risk of data exposure to the U. T. System institutions. These same capabilities are essential for securing data transmissions between researchers at U. T. System institutions and the designated UTRC data centers. The three IDS appliances must be replaced with devices that can handle the increased data loads and speed of the UTRC network. The total cost for doing so is \$717,000. These devices will allow for continued monitoring of existing network traffic while expanding capabilities to monitor UTRC research traffic.

**Research Cyber-infrastructure Data Center Security Servers:** The U. T. System has existing Systemwide licenses for configuration management software used to ensure that computing devices are configured to meet regulatory compliance and maintain device security. These existing software licenses will be leveraged to support the UTRC. A server at each of the two UTRC data centers is needed to host the software. Servers with the necessary capacity will cost \$17,000 each, for a total cost of \$34,000.

2. **U. T. System Board of Regents: Annual Meeting with Officers of U. T. System Employee Advisory Council**

REPORT

Representatives of the U. T. System Employee Advisory Council will meet with the Board to discuss the Council's past year activities and plans for the future according to the agenda below. Council members scheduled to attend are:

**Chair 2011:** Mr. Joel Helmke, Division Administrator, Cancer Prevention and Population Sciences, U. T. M. D. Anderson Cancer Center

**Chair 2012:** Mr. Dexter Jones, Public Affairs Representative, Public Affairs and Marketing, U. T. Health Science Center - Tyler

**Vice Chair:** Mr. Benjamin Bond, Training Specialist, Red McCombs School of Business, U. T. Austin

**Secretary:** Ms. Shirley Rowe, Career Counselor, Career Services, U. T. San Antonio

**Historian:** Ms. Brenda Martinez, Assistant Director, Human Resources, U. T. Brownsville

AGENDA

1. Introductions
2. The Chairperson's report on the accomplishments of the past year and plans for the new fiscal year (see the recommendations on Pages 5 - 7).

BACKGROUND INFORMATION

The U. T. System Employee Advisory Council was established in August 2000 to provide a vehicle for communication and to facilitate the flow of ideas and information between and among the Board of Regents, U. T. System Administration, and the institutions. The U. T. System Employee Advisory Council functions to define, analyze, and make recommendations on employee issues to appropriate groups and individuals.

**THE UNIVERSITY OF TEXAS SYSTEM  
EMPLOYEE ADVISORY COUNCIL  
REPORT  
TO THE BOARD OF REGENTS  
THE UNIVERSITY OF TEXAS SYSTEM**

The University of Texas System Employee Advisory Council (EAC) is composed of employees from all 15 institutions and U. T. System Administration, representing a diverse workforce and supporting a diverse collection of institutions. Recognizing the great strengths that exist across our group, five committees were formed this year to review programs that are important to the U. T. System workforce. The five committees explored programs related to reducing costs, promoting employee wellness, improving worklife balance, creating effective human resource (HR) policy, and recruiting and retaining talent. These committees continued work that began last year, which emanated from the development of a 70-point profile for each institution, with a focus on refining specific recommendations for presentation to the Board of Regents and System leaders.

**Recommendations**

*Wellness Committee*

The EAC Wellness Committee remains focused on improving the health status of U. T. employees and their dependents. The EAC recognizes and applauds the efforts taken by the U. T. System Office of Employee Benefits over the past several years to promote healthy lifestyles and more specifically, encouraging access to preventive services by removing financial barriers that inhibit utilization. Recognizing that the U. T. System is self-insured and is at financial risk for the overall health condition of its employee base, this committee recommends that proactive efforts continue to be supported to reduce the financial risk to the U. T. System posed by various disease states.

Specific recommendations include:

- Designating health and wellness improvement as a strategic initiative for the U. T. System
- Increase awareness of Living Well wellness program resources available to employees and dependents at no cost such as the 24 Hour Nurse Hot Line, early detection programs, health screenings, behavioral modification programs, interactive symptom checker, and the Health Risk Assessment
- Improve sharing of health education resources across the U. T. System
- Encourage institution presidents to emphatically endorse and direct resources as may be available to local wellness programs and those facilitated by U. T. System.

*Worklife Committee*

The EAC Worklife Committee continued to focus its efforts on identifying best practices that support individuals as they attempt to balance the needs of career and family. A lack of worklife balance and the inherent personal conflicts that result from that imbalance are often cited in research as contributing to low morale, poor individual productivity, absenteeism and poor mental and physical health. Social scientists have calculated that the average number of hours Americans presently work is the highest in 75 years. When this is considered with reports that 70% of American households are now dual income and that the average commute to work increases in length every year, it would suggest that, for the average American, the ability to juggle work and family obligations is becoming more challenging than ever.

As suggested last year, the committee recommends that each U. T. institution be encouraged to develop guidelines to offer employees flexible work programs to help them meet their many obligations at home and in the workplace. Programs such as alternative work schedules, flextime and telecommuting, have

been successfully implemented at a number of U. T. institutions, while others struggle with the acceptance and adoption of such programs. After a Systemwide review, this committee felt that the U. T. Arlington campus provided the best practice example of how to administer these programs. U. T. Arlington provides clear definitions for each working arrangement, expectations and responsibilities for the employee and manager, as well as written agreements to codify the alterations to the work schedule and the rules governing the arrangement. A link to the U. T. Arlington resource webpage is below:

<http://www.uta.edu/hr/employee-relations/flex-work-arrangement/index.php>

#### *Policy and Procedure Committee*

The EAC Policy and Procedure Committee followed up efforts last year with a focused review of the performance evaluation processes within the U. T. System. This group confirmed that there is a rule, as outlined in Regents' Rule 30501, Sec.1, that performance evaluations for all staff be conducted on an annual basis.

- Rule 30501, Sec.1
  - Annual Evaluations. An annual evaluation program for all employees (administrative, faculty and classified) within The University of Texas System or any of the institutions is to be used for improvement of performance, promotion consideration, and merit salary review.

To ensure that there is widespread compliance with this Rule, this committee recommends that an audit of the various performance appraisal tracking systems in place at each institution be conducted. The focus of this review would be to ensure that each institution can quantify their annual compliance rate with this Rule and take appropriate steps to tighten their processes and protect the integrity of the performance management process. In addition, it is suggested that there be some level of management accountability to ensure that this very important process be conducted on schedule to ensure that it is a meaningful tool to manage employee performance.

#### *Recruitment and Retention Committee*

The EAC Recruitment and Retention Committee once again focused on identifying programs that promote the recognition of U. T. System employees and support their professional development. This committee found a wide variety of programs, independent of each other, aimed at recognizing top performers and retaining talented employees. Additionally, this committee found an assortment of tuition reimbursement and certification programs scattered across the U. T. System institutions, with varying levels of financial support for the ongoing workforce development.

This committee recommends that the U. T. System look at centralizing programs that grow and develop talent, such as tuition reimbursement, creating an equitable floor of support that can be accessed by all U. T. System employees. This basic level of support can then be augmented at the local level to encourage retention of certain employee families, such as nursing, IT or other in-demand technical staff. This committee believes that other disseminated programs, such as employee discount programs, would also benefit from centralization and the resulting increase in buying power.

### *Cost Reduction Committee*

The EAC Cost Reduction Committee is a newly formed group, developed to identify and share cost-saving opportunities and efficiency models across The University of Texas System. The formation of this committee indicates the importance that our employees place on the thoughtful management of resources and the willingness of staff to engage in the development of solutions that improve our effectiveness as an organization.

This committee catalogued a variety of efforts from each U. T. System institution, ranging from high level strategies to evaluate the value of specific programs, to everyday actions that can be taken by every employee to reduce energy or material costs. This committee challenged peers to become a part of the solution, to be innovative and to think outside of the box. The committee produced a 90 page compilation of ideas and approaches that can be found at the link below:

<http://www.utsystem.edu/eac/2011CostReductionResponse.pdf>

We appreciate the continued support of the Board of Regents, using the EAC as a resource to help improve the quality of life for the approximately 86,000 staff that support the mission of the U. T. System.

On behalf of the EAC members, the Chair extends our sincere appreciation for being provided with an opportunity to serve the U. T. System through our roles on the Council. We are encouraged by the progress that we made in FY 2011 and look forward to continuing efforts to serve the U. T. System in FY 2012.

3. **U. T. System Board of Regents: Amendments to the Regents' Rules and Regulations, Rule 31001 (Faculty Appointments and Titles), Rule 31006 (Academic Workload Requirements), and Rule 31007 (Tenure), all regarding U. T. Brownsville technical faculty titles**

**RECOMMENDATION**

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs, the Vice Chancellor and General Counsel, and President García that Regents' *Rules and Regulations*, Rules 31001, 31006, and 31007, be amended as set forth in congressional style on Pages 9 - 12 to address transition issues incidental to the dissolution of the U. T. Brownsville/Texas Southmost College educational partnership.

**BACKGROUND INFORMATION**

The U. T. Brownsville and Texas Southmost College partnership, which began in 1991, will end no later than August 31, 2015. U. T. Brownsville will no longer use "technical" faculty titles except for a few tenured faculty members. The following changes to the Regents' *Rules* are recommended:

- Rule 31001, Sec. 2.1: technical titles no longer used for tenured positions, except for a few retained faculty members who obtained tenure from U. T. Brownsville
- Rule 31001, Sec. 2.2: "technical instructor" no longer used for nontenure-track appointments
- Rule 31001, Sec. 2.2(b): While individuals appointed to technical titles will no longer be considered in tenure-track positions or be awarded tenure, the titles of Master Technical Instructor, Associate Master Technical Instructor, and Assistant Master Technical Instructor may continue to be used by U. T. Brownsville until the transition period is over, at which time Section 2.2(b) will be deleted.
- Rule 31006, Sec. 6.14: "clock-hour" concept for workload equivalencies, which only applied to technical faculty, no longer relevant
- Rule 31007, Sec. 3: Faculty with technical titles will no longer be able to obtain tenure and time spent with a technical faculty title will no longer be counted toward fulfillment of a required probationary period.

1. Title

Faculty Appointments and Titles

2. Rule and Regulation

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Sec. 2 Academic Titles. To achieve consistency in the use of academic titles among the institutions of the System, the following subsections describe the use of titles to apply in all institutions.

2.1 ~~Tenure and Tenure-Track~~ Titles. Except for the titles Regental Professor, and Regents' Research Scholar, and for individuals who received tenure on or before September 1, 2010, with the additional technical titles of Master Technical Instructor, Associate Master Technical Instructor, ~~and or~~ Assistant Master Technical Instructor as authorized in the U. T. Brownsville *Handbook of Operating Procedures*, the only titles to be used henceforth in which faculty members may hold tenure are as follows:

(a) Professor

(b) Associate Professor

(c) Assistant Professor (Tenure-Track)

2.2 ~~Other Nontenure-Track~~ Titles. The following academic titles may also be used by the institutions of the U. T. System. Tenure may not be awarded to a person appointed to these titles. With the exception of the titles of Instructor ~~and Technical Instructor~~, academic service with these titles may not be counted toward the satisfaction of any maximum probationary period. Appointments to these titles shall be for a period of time not to exceed one academic year except in the case of Lecturer, Senior Lecturer, or a clinical or research position with a title authorized by Section 2.2(j) below when an appointment may be for periods of time not to exceed three academic years. With the exception of the titles of Instructor ~~and Technical Instructor~~, such appointments shall terminate at the expiration of the stated period of appointment without notification of nonrenewal. If an institution determines that it is to the benefit of the institution, it may offer reappointments to these titles in accordance with *Texas Education Code* Section 51.943.

(a) Instructor. This title denotes a probationary appointment.

(b) ~~Technical Instructor~~ Titles: Master Technical Instructor, Associate Master Technical Instructor, Assistant Master Technical Instructor, and Technical Instructor, as authorized in the U. T. Brownsville *Handbook of Operating Procedures*. These ~~This titles denotes a probationary appointment and is are~~ only used at U. T. Brownsville.

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1. Title

Academic Workload Requirements

2. Rule and Regulation

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Sec. 6 Equivalencies. The following equivalencies are available to meet workload requirements:

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~~6.14 Clock-hour Basis. Instructional workload equivalents for faculty members holding technical rank may be determined on a clock-hour basis where full-time employment is equivalent to not less than 30 hours of instructionally related activities each week for contact hour courses taught on a quarterly basis.~~

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1. Title

Tenure

2. Rule and Regulation

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Sec. 3 Full-time Service Requirement. Only full-time service in the academic ranks of Professor, Associate Professor, Assistant Professor, and Instructor, or any combination thereof, ~~or in the academic ranks of Master Technical Instructor, Associate Master Technical Instructor, Assistant Master Technical or Technical Instructor, or any combination thereof,~~ shall be counted toward fulfillment of a required probationary period related to the award of tenure or a seven-year term appointment. Periods during which a faculty member is on leave of absence shall not be counted toward fulfillment of a required probationary period.

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4. **U. T. System Board of Regents: Amendment to Regents' Rules and Regulations, Rule 40401 (Assessment, Collection, and Waiver of Tuition and Fees), regarding delegation of vehicle registration fees and other charges associated with parking**

#### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs, the Executive Vice Chancellor for Health Affairs, the Executive Vice Chancellor for Business Affairs, and the Vice Chancellor and General Counsel that Regents' *Rules and Regulations*, Rule 40401 (Assessment, Collection, and Waiver of Tuition and Fees), regarding delegation of vehicle registration fees and other charges associated with parking, be amended as set forth in congressional style on Pages 14 - 15.

#### BACKGROUND INFORMATION

This Regents' Rule amendment is proposed to delegate to the presidents, with approval from the appropriate Executive Vice Chancellor, the authority to set rates for parking fees and parking fines as authorized by statute.

Reference to *Texas Education Code* Section 54.405 will be added to Regents' Rule 80109 (Parking and Traffic Regulations). The amendment is consistent with the delegation of authority regarding parking and traffic regulations found in Regents' *Rules and Regulations*, Rule 80109, and other fee delegations in Rule 40401.

1. Title

Assessment, Collection, Delegation, and Waiver of Tuition and Fees

2. Rule and Regulation

- Sec. 1 Published Fees. Tuition, fees, and other charges will be fixed as prescribed or authorized by statute and the relative debt covenants of the Board and will be published in the institutional catalog with a description of the criteria for any authorized exemptions and waivers.
- Sec. 2 Exemptions and Waivers. The authority of the Board of Regents to grant exemptions and waivers from tuition, fees, and other charges in accordance with statute, is delegated to the presidents of the institutions.
- Sec. 3 Delegation of Approval of Certain Fees and Charges. Subject to the obligation of the Board to set fees and charges at levels sufficient to comply with the covenants made in the Master Resolution Establishing the Revenue Financing System and in related agreements and debt instruments entered into or issued thereunder, the Board of Regents delegates to the presidents the authority to assess and collect the following fees and other charges, upon a finding by the president that such fees and other charges and changes to such fees and other charges are required for the fee or other charge to reasonably reflect the actual cost to the institution of the materials or services to be provided. Except for the approval of continuing education course fees, which is delegated directly to the president by Rule 40403, the approval authority granted herein is conditioned on prior review and approval by the Executive Vice Chancellor for Academic Affairs or the Executive Vice Chancellor for Health Affairs.
1. Fees for Vehicle Registration and Fees and Other Charges associated with parking, as authorized by Texas Education Code Sections 51.202(a) and 54.505
  2. Matriculation Fee, as authorized by Texas Education Code Section 54.006(a-1)
  32. Fees Associated with the Option to Pay Tuition by Installment, as authorized by Texas Education Code Section 54.007(c)
  43. Supplemental Fees for coaching or individual instruction, as authorized by Texas Education Code Section 54.051(l)
  54. Laboratory Fees, as authorized by Texas Education Code Section 54.501(a)
  65. Incidental Fees, as authorized by Texas Education Code Section 54.504 including, but not limited to, course fees

- 76. Charges and Fees for Certain Payments, related to electronic funds transfer or credit card payment, as authorized by *Texas Education Code* Section 54.5011
- 87. Fees and Other Charges for rentals, rates, and charges for certain occupancy, services, use and availability of facilities or services including, but not limited to, student housing room and board rates as authorized by *Texas Education Code* Section 55.16
- 98. Continuing Education Course Fees, as authorized by *Texas Education Code* Section 54.545 and further detailed in Rule 40403.

Sec. 4 Approval of Method of Payment. The Board of Regents delegates to the presidents of the institutions the authority to collect the payment of tuition, fees, and other charges in accordance with those methods prescribed or authorized by statute.

5. **U. T. System Board of Regents: Discussion and appropriate action regarding approval of Procedures for Seeking Relief from Rate and Damage Schedule applicable to easements and other interests on University Lands**

**RECOMMENDATION**

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Business Affairs and the Vice Chancellor and General Counsel that the U. T. System Board of Regents approve the Procedures for Seeking Relief from Rate and Damage Schedule applicable to easements and other interests on University Lands on Pages 17 - 18.

**BACKGROUND INFORMATION**

SB 873, passed during the 82nd Regular Session of the Texas Legislature and codified as Section 66.46(m) of the *Texas Education Code*, requires that the U. T. System Board of Regents establish procedures by which a person seeking an easement or other interest on Permanent University Fund Lands (University Lands) may seek relief from a rate and damage schedule the person believes does not represent the fair market value of the interest being sought.

As authorized by Regents' *Rules and Regulations*, Rule 70301, the Executive Vice Chancellor for Business Affairs has delegated the management of University Lands to the Executive Director of University Lands. The Executive Director establishes the rate and damage schedule for University Lands and has full authority to negotiate rates and damages, including rates that exceed those listed on the schedule.

Upon approval of these procedures, the document will be referenced in and linked to Regents' *Rules and Regulations*, Rule 70301.

PROCEDURES FOR SEEKING RELIEF FROM RATE AND DAMAGE SCHEDULE APPLICABLE TO  
EASEMENTS AND OTHER INTERESTS ON UNIVERSITY LANDS

In accordance with Section 66.46(m), *Texas Education Code*,<sup>1</sup> a person may seek relief from a rate and damage schedule established in accordance with Regents' *Rules and Regulations*, Rule 70301, as provided by this policy.

Sec. 1. Fair Market Value Presumed. The rate and damage schedule is presumed to reflect fair market value for each interest for which a rate or damage amount is listed. To overcome that presumption, a person must show by clear and convincing evidence that the rate or damage amount exceeds fair market value of the interest being sought.

Sec. 2. Determination of Fair Market Value. (a) "Fair market value" means the going rate or damage amount as of the appraisal date that persons pay for a similar interest on substantially similar property in West Texas.

(b) Any market study offered as evidence of fair market value must be prepared in accordance with the Uniform Standards of Appraisal Practice and signed by a person licensed in Texas as a certified general appraiser.

(c) Easements on University Lands are limited by law to term easements not to exceed 10 years.<sup>2</sup> Evidence of market value must include comparisons to the going rate on similar term easements on substantially similar property in West Texas.

Sec. 3. Negotiation with Executive Director Required. (a) The management of University Lands has been delegated to the Executive Director of University Lands with offices at 704 W. Dengar Avenue, Midland, Texas 79705-5319. The Executive Director has full authority to negotiate rates and damages, including rates that exceed those listed on a rate and damage schedule. The Executive Director does not have the authority to approve a rate that is less than fair market value.

(b) A person seeking to obtain an interest or to renew an existing interest who objects to the rate and damage schedule as not reflective of fair market value must first negotiate in good faith with the Executive Director in regard to the fair market value of a specific interest sought to be obtained or renewed.

(c) Good faith negotiation requires presentation by the person seeking to obtain the interest of evidence of the fair market value of the interest being sought.

(d) A person may not seek relief from a rate and damage schedule under these procedures, including any appeal to the Executive Vice Chancellor for Business Affairs or the Board of Regents, in the absence of a proposal to obtain or renew a specific interest.

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<sup>1</sup> "(m) The board of regents shall establish procedures by which a person seeking an easement or other interest under this section may seek relief from a rate or damage schedule that the person believes does not represent the fair market value of the interest being sought."

<sup>2</sup> Sec. 66.46, *Texas Education Code*

Sec. 4. Appeal to Executive Vice Chancellor for Business Affairs. (a) If, after good faith negotiation with the Executive Director, a person seeking to obtain an interest or renew an existing interest believes that the rate and damage schedule does not reflect fair market value of the interest being sought, the person may appeal in writing to the Executive Vice Chancellor for Business Affairs, The University of Texas System, 201 West 7<sup>th</sup> Street, Austin, Texas 78701-2982.

(b) The only issue in an appeal under these procedures is whether a rate or damage amount listed in the applicable schedule reflects the fair market value of the interest sought. The appeal must be accompanied by evidence that the rate and damage schedule does not reflect fair market value.

(c) After considering the written appeal, the Executive Vice Chancellor for Business Affairs may require the person making the appeal to meet with the Executive Vice Chancellor for Business Affairs concerning the matter. That meeting may include representatives of University Lands or other persons, at the discretion of the Executive Vice Chancellor for Business Affairs. The person making the appeal, in his discretion, may be represented by another person at the meeting, including legal counsel.

(d) A meeting with the Executive Vice Chancellor for Business Affairs is not intended as a formal evidentiary hearing, and the Executive Vice Chancellor for Business Affairs may consider any information the Executive Vice Chancellor for Business Affairs deems appropriate in regard to the fair market value of the interest sought and the rates and damages listed in the applicable schedule. However, the Executive Vice Chancellor for Business Affairs may not consider evidence of fair market value that was not previously presented to the Executive Director of University Lands.

(e) The Executive Vice Chancellor for Business Affairs shall communicate his decision in writing to the person making the appeal and to the Executive Director of University Lands.

Sec. 5. Appeal to the Board of Regents. (a) A person who is dissatisfied with the decision of the Executive Vice Chancellor for Business Affairs may appeal that decision in writing to the Board of Regents. The appeal shall be addressed to the Secretary of the Board of Regents, 201 West 7th Street, Suite 820, Austin, Texas 78701.

(b) The only issue in an appeal to the Board of Regents is whether a rate or damage amount listed in the applicable schedule reflects the fair market value of the interest being sought. The appeal must be accompanied by the evidence presented to the Executive Director of University Lands that the rate and damage schedule does not reflect fair market value of the interest being sought. The Board will not consider evidence of fair market value not previously presented to the Executive Director.

(c) The decision of the Board is final.

Sec. 6. Procedure. (a) This procedure is not subject to the Administrative Procedure Act, *Texas Government Code* §§ 2001.001 *et seq.*, but the Executive Vice Chancellor for Business Affairs or the Board of Regents may refer to that Act for guidance in the matters of admission of evidence or testimony of witnesses.

(b) At any stage of the appeal, the evidence of fair market value is limited to that presented to the Executive Director of University Lands. If new evidence is developed after the beginning of the appeal process, it must be submitted to the Executive Director and the process must restart.

6. **U. T. System: Authorization for the Chancellor to submit Report Concerning Designated Tuition**

**RECOMMENDATION**

It is requested that the Board of Regents grant authority to the Chancellor to submit on its behalf, the "Report Concerning Designated Tuition" as required by the current General Appropriations Act, House Bill 1, Article III, Section 50 (set out on Page 20) to the Lieutenant Governor, Speaker of the House, Chair of the Senate Finance Committee, Chair of the House Appropriations Committee, and members of the Legislative Oversight Committee on Higher Education.

**BACKGROUND INFORMATION**

A Report Concerning Designated Tuition is to be filed not later than January 1, 2012, by the governing board of each public institution of higher education that charges students designated tuition under Section 54.0513, *Texas Education Code*. The Report consists of two principal sections. For selected years, the first section identifies the amount of designated tuition collected, the purposes for which it was spent, the amount spent for each purpose, the amounts set aside for resident undergraduate and graduate student assistance as required by Sections 56.011 and 56.012, *Texas Education Code*, and how those amounts are allocated among various types of student assistance. For specific semesters, the second section of the Report includes the total academic cost for resident undergraduates enrolled for 15 semester credit hours as derived from actual fee bills.

Completion of the Report requires certain financial information contained in the pending annual financial report, which will not be completed until December 1, 2011. Upon completion of the Report, a copy will be provided to members of the Board.

**SPECIAL PROVISIONS RELATING ONLY TO  
STATE AGENCIES OF HIGHER EDUCATION**  
(Continued)

**Sec. 50. Report Concerning Designated Tuition.**

- (a) Not later than January 1, 2012, the governing board of each public institution of higher education that charges students designated tuition under § 54.0513, Education Code, shall use the appropriations in the Act to report to the legislature, for the 2010-2011 and 2011-2012 academic years:
  - (1) the amount the institution has collected in designated tuition;
  - (2) the purposes for which the institution spent the money derived from designated tuition and the amount of that money spent for each of those purposes; and
  - (3) the amount set aside from designated tuition for resident undergraduate and graduate student assistance under §§ 56.011 and 56.012, Education Code and how these amounts are allocated under the following categories.
    - (a) grants
    - (b) scholarships,
    - (c) work-study programs,
    - (d) students loans,
    - (e) and student loan repayment assistance.
- (b) In addition to the information reported under Subsection (a), not later than January 1, 2012, the governing board of each institution of higher education shall report to the legislature the total academic cost for resident undergraduates enrolled for 15 semester credit hours. The information reported shall be derived from actual fee bills for the 2010 fall semester and the 2009 spring and fall semesters and must reflect the actual charges, before any adjustments or discounts are applied for waivers, exemptions, or other discounts, in the following categories:
  - (1) statutory tuition;
  - (2) designated tuition;
  - (3) mandatory fees; and
  - (4) average college and course fees, which must include all academic related fees and charges not reported under (1), (2), or (3), such as fees for laboratories, field trips, multimedia, equipment replacement, and instructional technology, but should not include charges for voluntary services ("optional fees").
- (c) Reports required by this section shall be delivered to the Lieutenant Governor, the Speaker of the House, the chair of the Senate Finance Committee, the chair of the House Appropriations Committee, and the members of the Legislative Oversight Committee on Higher Education.

7. **U. T. System Board of Regents: Ratification of designation of Bruce A. Beutler, M.D., as Regental Professor [Regents' Rules and Regulations, Rule 31001, Section 2.3(a)] and allocation of funds**

**RECOMMENDATION**

On October 3, 2011, a member of the faculty of U. T. Southwestern Medical Center was awarded the Nobel Prize in Physiology or Medicine. In recognition of this prestigious achievement, it is recommended that the U. T. System Board of Regents ratify award to Bruce A. Beutler, M.D., Raymond and Ellen Willie Distinguished Chair in Cancer Research in Honor of Laverne & Raymond Willie, Sr., of the title of Regental Professor.

It is further recommended that Nobel laureate Beutler be granted \$500,000 in Permanent University Funds (PUF) for equipment purchases, to be paid \$100,000 annually for five years.

**BACKGROUND INFORMATION**

The designation of Regental Professor is in accordance with the Regents' *Rules and Regulations*, Rule 31001, Section 2.3(a), which states that a faculty member who is awarded the Nobel Prize may be given the title of Regental Professor upon recommendation of the President, the appropriate Executive Vice Chancellor, and the Chancellor.

Dr. Beutler is Professor and Director of the Center for the Genetics of Host Defense at U. T. Southwestern Medical Center. He shares the prize with Dr. Jules A. Hoffmann of Strasbourg University's Institut de Biologie Moléculaire et Cellulaire in France for their discovery of receptor proteins that recognize disease-causing agents and activate innate immunity, the first step in the body's immune response. The other half of the prize was awarded to the late Dr. Ralph M. Steinman of Rockefeller University in New York for his discovery of the dendritic cell and its role in adaptive immunity.

Dr. Beutler graduated from the University of California, San Diego, and was a faculty member and Howard Hughes Medical Institute Investigator at U. T. Southwestern from 1986 to 2000. He currently holds a dual appointment at Scripps Research Institute in La Jolla, California, where he is Chairman of the Genetics Department. Dr. Beutler returned to U. T. Southwestern on September 1, 2011, and began full-time work there on November 1, 2011.

Dr. Beutler received the Shaw Prize on September 28, 2011, in Hong Kong, sharing that honor with two other scientists. In 2008, he was elected to the National Academy of Sciences and was also named to the Institute of Medicine.