

## EXCERPT FROM THE MINUTES

- AUG 10 2000 3. U. T. Board of Regents - Regents' Rules and Regulations: Approval to Amend Part Two, Chapter VII, Section 4 (Insurance for U. T. System), Section 8 (Disposal of Property of the System), and Addition of a New Section 11 (Sale of Artwork or Duplicate Volumes)

The Board amended the Regents' Rules and Regulations, Part Two, Chapter VII as set forth below:

- a. Section 4, relating to insurance for The University of Texas System, was amended to read as follows:

Sec. 4. Insurance for U. T. System.

- 4.1 Insurance is one of the methods used to finance the U. T. System's property, fidelity and liability risks. The U. T. System will purchase and maintain insurance coverage when deemed necessary to protect its interests.
- 4.2 The terms of any policies shall be negotiated by the Director of Business and Administrative Services. The purchase or renewal of policies with premiums in excess of \$100,000 shall be approved by the Executive Vice Chancellor for Business Affairs.
- 4.3 At the time a loss occurs applicable to either System-wide or individual insurance policies, the Director of Business and Administrative Services shall be notified by the chief business officer of the component institution. For all claims in which the University is a claimant or when University approval is required or solicited from the insurance carrier, the Director of Business and Administrative Services shall approve all loss claims and settlements under \$50,000. Any settlement over \$50,000 and under \$500,000 shall be approved by the Executive Vice Chancellor for Business Affairs. Notification of the settlement will be given to the Board at the discretion of the Executive Vice Chancellor for Business Affairs. Settlements over \$500,000 and less than \$1,000,000 shall be approved by the Executive Vice Chancellor for

Business Affairs and shall be reported to the Board for ratification. Settlements in excess of \$1,000,000 must have the approval of the Board.

4.4 The Director of Business and Administrative Services will provide a summary report of insurance purchases and claim settlements to the Executive Vice Chancellor for Business Affairs on a semiannual basis.

b. Section 8, relating to disposal of property of the System, was amended to read as follows:

Sec. 8. Disposal of Property of the System.--The process outlined in this Section governs the sale and disposal of property, with the exception of sale of artwork or duplicate volumes which is covered by Section 11 of this Chapter.

8.1 Whenever any item of equipment becomes obsolete or useless for the needs and purposes of the department concerned, a written report of such fact shall be made to the chief business officer to determine whether or not such item of equipment is needed by any other department and, if so, to transfer and assign the equipment to such department.

8.2 If the chief business officer shall determine that the equipment is not needed for any department and that it is not practicable to store the equipment for possible future use, he or she shall proceed to sell the item concerned. If the equipment can be used for instructional purposes, it shall be made available to a public school or school district before disposing of the property in another manner.

8.3 For items of little value or limited use where sale on competitive bids is not practicable, the chief business officer shall have the authority to dispose of the property on the basis of negotiated bids or surplus auction in amounts under \$50,000.

8.4 Sale of property estimated to bring \$50,000 or more shall be made on a basis of competitive bids.

- 8.5 A sale in the amount of \$100,000 or more shall be approved in advance by the Chancellor and ratified by the Board through the institutional docket.
  - 8.6 Sales to employees are governed by the provisions of Part Two, Chapter IV, Section 5 of these Rules.
- c. A new Section 11, relating to the sale of artwork or duplicate volumes, was added as follows:

Sec. 11. Sale of Artwork or Duplicate Volumes.--When the president or his or her delegate determines that a work of art or a duplicate of a valuable, rare, or significant volume is no longer of significant use for the purposes of teaching or research, the item is subject to sale following the procedure outlined in this Section. The disposability and current fair market value of the item shall be certified by a three-member panel (including either an art historian or a bibliographer) and the director of the collection disposing of the property. U. T. System institutions shall be given first choice in acquiring the item before it is offered for sale. Proceeds from the sale shall be used for purchases to improve the collection from which the item was drawn or to select items more appropriate to the institution's collection areas.

Sale is subject to the approval of the president or his or her delegate and must be for the fair market value of the item. A permanent record shall be made of the disposition and future location of the item.

The amendments to the Regents' Rules and Regulations, Part Two, Chapter VII, Section 4 will provide sufficient oversight of insurance purchases and claim settlements by the Executive Vice Chancellor for Business Affairs and by the U. T. Board of Regents in cases of significant financial impact. The changes will also result in more efficient University of Texas System business and administrative procedures by:

- a. Delegating authority for certain insurance purchases and claim settlements to the Director of Business and Administrative Services

- b. Increasing the dollar thresholds for Board ratification and/or approval of claim settlements
- c. Requiring the Director of Business and Administrative Services to provide a semiannual report of insurance purchases and claim settlements made within his or her authority.

The revisions to Part Two, Chapter VII, Section 8 related to disposal of property of the U. T. System will:

- a. Streamline language in Subsection 8.1
- b. Encourage the transfer of certain surplus property to public schools and school districts in accordance with Texas Government Code Section 2175.304
- c. Add language for clarification purposes
- d. Increase the dollar threshold in Subsections 8.3 through 8.5 to give component institutions more flexibility in the disposal of surplus property as recommended by the U. T. System Property Managers Council.

The addition of Section 11 to Part Two, Chapter VII of the Regents' Rules and Regulations updates and includes the existing Regental Policy on "Sale of Artwork or Duplicate Rare Volumes", approved by the U. T. Board of Regents in April 1994 and amended in May 1996, as Section 11 of this Chapter. Inclusion of this policy in the Regents' Rules groups related policies for clarity and is the result of an ongoing review of U. T. System and Regental policies.

EXCERPT FROM THE MINUTES

MAY 11 2000

2. U. T. Board of Regents - Regents' Rules and Regulations, Part Two: Amendments to Chapter VI, Sections 2 through 11 (Staff Benefits)

The Board amended the Regents' Rules and Regulations, Part Two, Chapter VI, Sections 2 through 11, relating to staff benefits, to read as set forth below:

Sec. 2. Optional Retirement Program.

- 2.1 Eligibility standards for participation in the Optional Retirement Program (O.R.P.) shall be established pursuant to Texas Government Code Section 830.001 et seq. and eligibility rules adopted by the Texas Higher Education Coordinating Board.

- 2.2 In consultation with the Office of the Executive Vice Chancellor for Business Affairs and in accordance with federal and State laws and regulations, the Director of Human Resources is authorized to issue on a periodic basis a Request for Proposals which contains the criteria a life insurance or mutual fund vendor must meet and continue to meet for selection and retention as an authorized vendor under the Optional Retirement Program. The Board of Regents shall select those companies accepted as vendors, based upon recommendation from the Director of Human Resources with the concurrence of the Executive Vice Chancellor for Business Affairs. Within a reasonable time period following selection by the Board of Regents, each vendor must execute a contract for products and services. The contract must be acceptable to The University of Texas System and must include the selection criteria contained in the Request for Proposals.
- 2.3 Each O.R.P. participant shall be permitted up to four changes of O.R.P. vendors per year, provided each change is to a company on the currently authorized vendor list. All O.R.P. vendor changes shall be in accordance with institutional policy governing such changes.
- 2.4 Transfers of O.R.P. accounts may be made only to one of the currently authorized O.R.P. vendors. The change may be made only on the first day of a month.

Sec. 3. University of Texas Governmental Retirement Arrangement.

- 3.1 The Board of Regents of The University of Texas System has established a "governmental excess benefits plan" for the Optional Retirement Program, authorized under Internal Revenue Code Section 415(m) and Texas Government Code Section 830.004 and designated as The University of Texas Governmental Retirement Arrangement (UTGRA).
- 3.2 Eligibility for participation shall be based on an employee's date of initial participation in the Optional Retirement Program and the employee's level of earnings.

- 3.3 Participation in the program and all subsequent distributions shall be in accordance with the plan documents.
- 3.4 All funds participating in UTGRA including the monthly State contribution, amounts reduced from each participant's salary, and any subsequent investment earnings are the property of the Board of Regents until such time as an authorized distribution is executed in accordance with the plan document.
- 3.5 The Board of Regents shall, at its discretion, authorize an external organization to provide trustee services and record keeping services for UTGRA.

Sec. 4. Tax Sheltered Annuities.

- 4.1 Pursuant to Article 6228a-5, Vernon's Texas Civil Statutes, an employee may purchase Tax Sheltered Annuities (T.S.A.) from a company authorized to engage in business in the State of Texas, provided the products are authorized for Internal Revenue Code Section 403(b) participation.
- 4.2 The University of Texas System Office of Human Resources, in consultation with the Office of the Executive Vice Chancellor for Business Affairs, shall maintain a listing of companies authorized to offer annuities or other investments under the Tax Sheltered Annuity Program.

Sec. 5. Employee Group Insurance and Health Benefits.

- 5.1 All group insurance, health benefit programs and cafeteria plans authorized by law for employees of the U. T. System and its component institutions shall be administered by the Chancellor on behalf of the Board.
- 5.2 The Chancellor shall provide for the planning, implementation, management, and administration of the employee

group insurance and health benefit programs through such U. T. System committees and administrators as the Chancellor deems appropriate.

- 5.3 The Chancellor will submit for review and approval by the Board, recommendations on matters regarding the employee group insurance program.

Sec. 6. Workers' Compensation Insurance.

- 6.1 Pursuant to Texas Labor Code Section 503.001 et seq., a self-insured System-wide Workers' Compensation Insurance (W.C.I.) Program will provide certain benefits for injuries sustained in the course and scope of employment.
- 6.2 The Office of Business and Administrative Services shall investigate injuries, with the assistance of other appropriate System and component institution offices.
- 6.3 The component institutions shall be responsible for reporting all work-related injuries to the Office of Business and Administrative Services. The Office of Business and Administrative Services shall file reports of lost time injuries and occupational diseases with the Texas Workers' Compensation Commission (T.W.C.C.).
- 6.4 The Office of Business and Administrative Services shall coordinate occupational safety and health activities.
- 6.5 The Office of General Counsel shall be responsible for a determination on appeal of T.W.C.C. decisions.
- 6.6 A percentage of annual payroll, as approved by the Executive Vice Chancellor for Business Affairs, shall be set aside to fund the Workers' Compensation Insurance Fund (W.C.I. Fund).
  - 6.61 Each institutional chief business officer shall be responsible for the transmission of amounts to be added to the W.C.I. Fund for all salaries paid, as instructed by the Office of Business and

Administrative Services, for receipt into the W.C.I. Fund no later than 20 days after the end of each month.

6.62 The W.C.I. Fund must be deposited or invested in the same manner as other local institutional funds as specified in these Rules and Regulations.

6.7 The Office of Business and Administrative Services shall be responsible for processing all W.C.I. claims for medical care and compensation.

6.8 The Office of Business and Administrative Services shall prepare an annual report on the status of the W.C.I. Fund for the U. T. Board of Regents.

Sec. 7. Unemployment Compensation Insurance Program.

7.1 The System-wide Unemployment Compensation Insurance (U.C.I.) Program will provide weekly benefits as specified in Section 207.001 et seq., Texas Labor Code.

7.2 The Unemployment Compensation Insurance Fund (U.C.I. Fund) is established by the U. T. Board of Regents to be deposited or invested in the same manner as other local institutional funds as specified in Part Two, Chapter III, Section 4 of these Rules and Regulations. The Office of Human Resources shall administer funding by assessment on all salary sources excluding those salaries paid from State General Revenue as provided in Subsection 7.24 below.

7.21 The System will reimburse the State from the U.C.I. Fund for claims charge-backs paid by the State Comptroller for former employees whose salaries were paid from sources other than State General Revenue.

7.22 Claims charge-backs for former employees whose salaries were paid from State General Revenue shall be referred to each component institution for reimbursement of one-half of the claim paid by the State Comptroller.

- 7.23 The U.C.I. Fund shall at all times operate under principles established by the U. S. Department of Health and Human Services.
- 7.24 Assessment rates shall be calculated to provide minimum U.C.I. Fund balance fluctuations and maximum rate stability. Each institutional chief business officer shall be responsible for the transmission of such assessed amounts, as instructed by the Office of Human Resources, for receipt into the U.C.I. Fund no later than 20 days after the end of the month.
- 7.25 Expenditures from the U.C.I. Fund shall be limited to direct costs in accordance with Office of Management and Budget Circular A-21.

- 7.3 The Office of Human Resources, working in coordination with appropriate System and component institution offices, shall administer the U.C.I. Program, provide assistance as necessary to component institutions, and represent System Administration in appeals to the Texas Workforce Commission (T.W.C.).
- 7.4 The Office of General Counsel shall be responsible for a determination on appeals of T.W.C. decisions.
- 7.5 The Office of Human Resources shall prepare an annual report on the status of the U.C.I. Fund for the U. T. Board of Regents.

Sec. 8. Social Security (Old Age and Survivors Insurance).

Pursuant to 42 U.S.C. Sections 410 through 418, all employees must participate in the Social Security Program, except for those employees specifically exempted from participation such as student employees in accordance with applicable agreements between the State of Texas and the Social Security Administration.

Sec. 9. Deferred Compensation Plan.

As authorized by Chapter 609, Texas Government Code, any employee may participate in the Deferred Compensation Plan.

Sec. 10. U. S. Savings Bonds.

All employees shall be provided the opportunity to participate in the purchase of U. S. Savings Bonds by payroll deduction.

Sec. 11. Availability of Benefit Descriptions.

The Director of Employee Group Insurance Programs and the Director of Human Resources, through coordination with each of the component institutions, shall insure that up-to-date accurate descriptions of the participation and eligibility requirements for all employee benefits and programs are conveniently available to all prospective and current employees at System Administration offices and at all component institutions.

The revisions to former Section 3 of the Regents' Rules, concerning the Tax Sheltered Annuity Program, reflect changes to State law that permit an employee to participate with any company that is authorized to do business in the State of Texas and provide products that are in compliance with Internal Revenue Code Section 403(b). These amendments to the Regents' Rules and Regulations, Part Two, Chapter VI, Sections 2 through 11, formally repeal the "Conditions to be Met by Organizations Seeking Authorization to Write Tax Sheltered Annuities or Other Investments for Employees of The University of Texas System" approved by the U. T. Board of Regents in December 1981, and amended in October 1983. These Conditions, although outdated, form the basis of the list of companies authorized to offer annuities or other investments referenced in former Subsection 3.2.

EXCERPT FROM THE MINUTES

MAY 11 2000

2. U. T. Board of Regents - Regents' Rules and Regulations: Approval to Amend Part One, Chapter I, Section 7 (Committees and Other Appointments), Subsection 7.1, Subdivisions 7.15 through 7.18; Section 8 (Procedure), Subsection 8.5, Subdivision 8.52 and Subsection 8.6; and Part Two, Chapter II, Section 6 (Legislative Appropriation Requests)

The Board amended the Regents' Rules and Regulations as set forth below:

- a. Part One, Chapter I, Section 7 (Committees and Other Appointments), Subsection 7.1, Subdivisions 7.15 through 7.18 was amended to read as follows:

Sec. 7. Committees and Other Appointments.

...

- 7.15 Duties of the Business Affairs and Audit Committee.—The Business Affairs and Audit Committee shall:
- 7.151 Recommend appropriate Board action with respect to any recommendations by the Chancellor related to the appointment, promotion, and dismissal of such System Administration business affairs officers as report directly or indirectly to the Chancellor.

- 7.152 Recommend to the Board compensation for the System Administration and the rates of professional compensation.
- 7.153 Make recommendations to the Board on matters related to employee personnel programs, fringe benefits, retirement programs, and labor relations in the System Administration and the component institutions.
- 7.154 Obtain, review, and report to the Board on State Auditor's Reports and Management Letters and System and institutional internal audit reports.
- 7.155 Approve the System-wide internal audit plan.
- 7.156 Transmit to the Chancellor, subject to the prior approval of the Board, such instructions as it deems necessary for the implementation of appropriate internal auditing practices.
- 7.157 Initiate System and institutional audits as deemed necessary to ensure management control within The University of Texas System. (In this regard, the System Director of Audits reports to the Chairman of the Business Affairs and Audit Committee.)
- 7.158 Make recommendations to the Board on matters relating to the fiscal management of The University of Texas System Administration and each component institution of the System.
- 7.159 Consider and recommend to the Board the operating budgets of The University of Texas System Administration and each component institution of the System.
- 7.15(10) Propose to the Board appropriations of funds and modifications of or additions to such appropriations.
- 7.15(11) Make recommendations to the Board on matters that commit the U. T. System or any component to operating expenditures in future fiscal years.
- 7.15(12) Consider and make recommendations to the Board concerning the availability of funds for, and application of funds to, capital improvement requests.
- 7.15(13) Make recommendations on matters relating to management of the lands constituting the permanent endowment of the University, including oversight of the offices of University Lands - Surface and Mineral Interests.

- 7.16 Duties of the Academic Affairs Committee.--The Academic Affairs Committee shall:
- 7.161 Report to the Board on the instructional, research, and professional service programs and activities of the general academic components.
  - 7.162 Report to the Board on policies relating to soliciting and securing gifts for the University's general academic institutions.
  - 7.163 Consider and report to the Board on matters affecting the libraries of the general academic institutions.
  - 7.164 Review proposed substantive changes in the degree program inventory and the academic administrative structure; and recommend to the Board approval or disapproval of such changes.
  - 7.165 Report and recommend to the Board approval of matters related to education in the general academic institutions.
  - 7.166 Recommend appropriate Board action with respect to any recommendations by the Chancellor related to the appointment, promotion, and dismissal of such institutional officers as may be appropriate in the general academic institutions.
  - 7.167 Consider and report to the Board on matters relating to the research, training, and community service activities at the general academic institutions.
  - 7.168 Recommend appropriate Board action with respect to any recommendations by the Chancellor related to the appointment, promotion, and dismissal of such System Administration academic affairs officers as report directly or indirectly to the Chancellor.
  - 7.169 Make recommendations concerning capital improvement priorities related to the approved missions of the general academic institutions.
- 7.17 Duties of the Health Affairs Committee.--The Health Affairs Committee shall:
- 7.171 Consider and report to the Board on matters concerned with substantive aspects of policies and programs related to the academic philosophy and objectives of the health-related institutions; with University relations; and with health-related academic planning, instruction, and research.

- 7.172 Report and recommend to the Board approval of matters relating to education in the health-related institutions.
- 7.173 Recommend appropriate Board action with respect to any recommendations by the Chancellor related to the appointment, promotion, and dismissal of such institutional officers as may be appropriate in the health-related institutions.
- 7.174 Consider and report to the Board on matters relating to the research, training, and community service activities of the health-related institutions.
- 7.175 Consider and report to the Board on matters affecting the libraries of the health-related institutions.
- 7.176 Report to the Board on policies relating to soliciting and securing gifts for the University's health-related institutions.
- 7.177 With respect to each Hospital, clinic and patient-care facility owned by The University of Texas System:
  - 7.1771 Counsel with the Executive Vice Chancellor for Health Affairs regarding the bylaws, and rules and regulations of the medical staff;
  - 7.1772 Review and make recommendations to the Board concerning mechanisms and controls for the achievement and maintenance of high standards of professional practices in and at the Hospital, clinic or patient-care facility.
- 7.178 Recommend appropriate Board action with respect to any recommendations by the Chancellor related to the appointment, promotion, and dismissal of such System Administration health affairs officers as report directly or indirectly to the Chancellor.
- 7.179 Make recommendations concerning capital improvement priorities related to the approved missions of the health-related institutions.
- 7.18 Duties of the Facilities Planning and Construction Committee.--  
The Facilities Planning and Construction Committee shall:
  - 7.181 Consider matters relating to the acquisition and use of the grounds and buildings on campus and campus-related real property of The University of Texas System.

- 7.182 Review proposed construction projects and make decisions on the selection of architects for projects determined to be of special interest to the Board; approve plans and accept bids for construction projects.
- 7.183 Make recommendations to the Board on the award and execution of construction and equipment contracts.
- 7.184 Make recommendations to the Board with respect to the naming of University buildings and other major facilities.

b. Part One, Chapter I, Section 8, Subsection 8.5, Subdivision 8.52, relating to the procedure for addressing the Board of Regents, was amended as follows:

8.52 Except upon invitation of the Board, the Chairman of the Board, the Chancellor, or the appropriate Executive Vice Chancellor, no person shall appear before the Board or any committee thereof unless that person files with the Executive Secretary to the Board a written request explaining the purpose of such appearance at least three days before the date of such appearance and unless the Chairman of the Board, the appropriate Committee Chairman, or at least three members of the Board, shall approve the request. It is understood, however, that the president of a component institution or his or her delegate and/or the president or chair of the student or faculty governance organization(s) or his or her delegate may appear without prior notice or request before the Board or any committee whenever the matter under consideration directly affects the component institution represented by such person. Persons requesting to appear must identify the subject of their remarks, which must be directly related to a matter on the Agenda for consideration by the Board. Whenever time and other circumstances permit, the person making the request shall first consult with the president, or his or her delegate, of such institution regarding the purpose of the appearance prior to the meeting of the Board or committee. Insofar as possible, any person who appears before the Board shall provide a written statement of the substance of such person's presentation to the Board, and such written statement shall be delivered to the Executive Secretary to the Board in sufficient time for copies to be distributed to the Regents prior to the meeting.

Any person appearing before the Board or a committee shall be subject to restrictions on time, place and manner as may be prescribed by the Chairman or a majority of the Board or by the Chairman or a majority of a committee. The Chairman or a majority of the Board may prescribe sanctions against any person exceeding established time, place or manner limits; disrupting a meeting of the Board or a committee of the Board; or violating any provision of the Regents' Rules and Regulations. Sanctions may include the refusal to allow such person to speak again to the Board or committees of the Board for up to one year.

c. Part One, Chapter I, Section 8, Subsection 8.6 was amended as follows:

8.6 Report to Press on Actions of Board.--Reports on matters of public interest will be given to the press as promptly as possible during or after each meeting. These press reports shall be under the direction of the Chairman of the Board, the Chancellor or their designated representatives.

d. Part Two, Chapter II, Section 6 (Legislative Appropriation Requests) was amended as follows:

Sec. 6. Legislative Appropriation Requests.

6.1 Legislative appropriation requests, biennial or otherwise, shall be prepared in conformity with the Detailed Instructions for Agencies of Higher Education as prescribed by the Legislative Budget Board and the Governor's Office of Budget and Planning.

6.2 Appropriation requests for all component institutions shall be prepared by the president in conformity with these instructions and approved by the Executive Vice Chancellor for Health Affairs, the Executive Vice Chancellor for Business Affairs, the Executive Vice Chancellor for Academic Affairs, and the Chancellor.

6.3 Appropriation requests shall be submitted to the Legislative Budget Board, to the Governor's Budget and Planning Office, and to other State offices as required in the form and at the time prescribed.

The nonsubstantive amendments to the Regents' Rules and Regulations, Part One, Chapter I, Section 7, Subsection 7.1, Subdivisions 7.15 through 7.18 regarding committees and other appointments, streamline and conform this Subsection to current committee processes, following delegation by the U. T. Board of Regents of certain approvals to The University of Texas System and the component institutions in 1997.

The amendments to Part One, Chapter I, Section 8, Subsection 8.5, Subdivision 8.52 of the Rules make the timing of requests to address the Board more flexible for a requestor by requiring that the request be submitted at least three days prior to the desired appearance.

The amendment to the Regents' Rules, Part One, Chapter I, Section 8, Subsection 8.6 authorizes the Office of Development and External Relations to provide press information prior to the end of a regular meeting.

Amendments to Part Two, Chapter II, Section 6 conform the text of the Regents' Rules to current practice related to Legislative Appropriation Requests (LAR) by indicating that each president will prepare the LAR with final approval by the Executive Vice Chancellors for Health Affairs, Business Affairs, and Academic Affairs, and the Chancellor prior to submission.

EXCERPT FROM THE MINUTES

FEB 10 2000

2. U. T. Board of Regents - Regents' Rules and Regulations, Part Two: Amendments to Chapter I, Section 1 (Gifts to The University of Texas System) and Chapter IX (Matters Relating to Investments, Trusts, and Lands), Sections 2, 5, and 6; Rescission of Section VIII (Gifts of Real Estate) of the U. T. System Gifts Policy Guidelines; and Adoption of New Gift Policy Guidelines for Surface and Mineral Estates in Real Property

The Board amended the Regents' Rules and Regulations, Part Two, Chapter I, Section 1, regarding authorization to accept gifts of real property, and Chapter IX, Sections 2, 5, and 6, regarding investments, trusts, and lands, as set forth below:

- a. Chapter I, Section 1 was amended to read as follows and present Subdivisions 1.(15)1 through 1.(15)5 were renumbered accordingly:

Sec. 1. Gifts to The University of Texas System.

...

- 1.2 Unless otherwise approved by the Board, all gifts to the System or any component institution shall be made in

accordance with all relevant laws and Board policies, including but not limited to the provisions of the U. T. System Gift Acceptance Procedures, the Gift Policy Guidelines for Surface and Mineral Estates in Real Property, the Environmental Review Policy for Acquisitions of Real Property Assets, and approved institutional policies.

- 1.3 The Board delegates to the Chancellor or the president of a component institution, or a designee specified in writing, the authority to accept gifts, other than gifts of real property, that are not processed or administered by the Office of Development and External Relations and that conform to all relevant laws and Board policies, including but not limited to the U. T. System Gift Acceptance Procedures, the Gift Policy Guidelines for Surface and Mineral Estates in Real Property, the Environmental Review Policy for Acquisitions of Real Property Assets, and approved institutional policies, provided that such gifts have a value of \$500,000 or less (in cash or in-kind). Such gifts that have a value of more than \$500,000 (in cash or in-kind) must be submitted to the Board for approval via the docket.
- 1.4 The Board delegates to the Executive Vice Chancellor for Business Affairs, or a designee specified in writing, authority to accept all gifts of real property of any value that are not processed or administered by the Office of Development and External Relations and that conform to all relevant laws and Board policies, including but not limited to the U. T. System Gift Policy Guidelines for Surface and Mineral Estates in Real Property, the Environmental Review Policy for Acquisitions of Real Property Assets, and approved institutional policies.
- 1.5 The Board delegates to the Vice Chancellor for Development and External Relations, or a designee specified in writing, authority to accept all gifts of any value (either in cash or in-kind) that conform to all relevant laws and Board policies, including but not limited to the U. T. System Gift Acceptance Procedures, the Gift Policy Guidelines for Surface and Mineral Estates in Real Property, and the Environmental Review Policy for

Acquisitions of Real Property Assets, and are processed or administered by the Office of Development and External Relations.

- 1.6 The Board delegates to the Vice Chancellor for Development and External Relations, or a designee specified in writing, authority to take any and all desirable actions relating to the administration and management of gifts accepted by the Office of Development and External Relations, including without limitation the modification or termination of trusts, endowments, and quasi-endowments as may be permitted by applicable law, policies, these Rules and Regulations, and the Gift Acceptance Procedures.
- 1.7 The Board delegates to the president of a component institution, or a designee specified in writing, authority to execute all necessary Internal Revenue Service forms, including without limitation IRS Forms 8283 and 8282, that relate to gifts accepted by the president or accepted by the Board via the docket or as an agenda item.
- 1.8 The Board delegates to the Vice Chancellor for Development and External Relations, or a designee specified in writing, authority to execute all necessary Internal Revenue Service forms, including without limitation IRS Forms 8283 and 8282, that relate to gifts processed or administered by the Office of Estates and Trusts.
- 1.9 The Board delegates to the Executive Vice Chancellor for Business Affairs, or a designee specified in writing, authority to execute all necessary Internal Revenue Service forms, including without limitation IRS Forms 8283 and 8282, that relate to real property gifts processed or administered by the Real Estate Office and University Lands - West Texas Operations.
- 1.(10) The Office of Development and External Relations shall submit a report to the Board summarizing acceptance and approval by the Office of Development and External Relations of gifts and other actions which conform to all

relevant laws and Board policies, including but not limited to the Gift Acceptance Procedures, no less frequently than annually.

- 1.(11) Recommendations regarding the acceptance of gifts or other actions which do not conform to all relevant laws and Board policies, including but not limited to the Gift Acceptance Procedures, shall be made through the Chancellor to the Board via the Agenda after review by the appropriate offices of the terms of the gifts, the nature of the donated assets and/or the requested action.
- 1.(12) Gifts to Establish Endowments.--Endowments will be established with gifts which have been completed for tax purposes or with a combination of such gifts and pledges at a minimum funding level of \$10,000. Endowments may be established to fund scholarship programs and other educational activities as well as the endowed academic positions specified in Section 3 below.
- 1.(13) Except as provided in this Subsection, the preceding Subsections, or approved institutional policies, no member of the staff of any institution has the authority to accept gifts.
- 1.(14) Neither the System nor any of its component institutions will administer a gift for the benefit of any designated individual unless the donor is exempt from federal income taxes as defined by the Commissioner of Internal Revenue.
- 1.(15) Acceptance of all gifts of real property shall be subject to the U. T. System Gift Policy Guidelines for Surface and Mineral Estates in Real Property and the Environmental Review Policy for Acquisitions of Real Property Assets.
- 1.(16) Conduct Related to Gifts.

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- b. Chapter IX, Section 2, Subsection 2.3 and Subdivision 2.52 were amended to read as shown below:

Sec. 2. Authorizations Regarding Sales, Assignments, Conveyances, Receipt of Property, and Proxies.

...

2.3 Additional Authority to Sell Securities for and on Behalf of the Board.--The Executive Director, Estates and Trusts shall be authorized to sell, for and on behalf of the Board, any and all securities of any description whatever from any source, received as gifts and/or bequests, registered in the name of the Board, or in any other form of registration of such securities held for the account of the Board in whatever manner, including all fiduciary capacities and including those registered in the names of trusts managed and controlled by said Board.

...

2.52 The Vice Chancellor for Development and External Relations or the Executive Director, Estates and Trusts is authorized to seek, demand, collect, recover, and receive any and all sums of money, debts, dues, rights, property, effects, or demands due, payable, or belonging, or that may become due or payable to the Board from any person or persons as a result of, or relating to, a gift or bequest and to execute any and all necessary or proper receipts, releases, and discharges therefor and any other instruments as may be necessary or appropriate from time to time relating to the receipt, handling, management, control, and disposition of any asset acquired by gift or bequest unless and until such time as the Office of Estates and Trusts has delivered the asset to another office for management purposes as provided in these Rules and Regulations.

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- c. Chapter IX, Section 5, Subsections 5.1 and 5.2 were amended to read as set forth below:

Sec. 5. Policy for Investment and Management of Endowment, Trust, and Other Accounts Invested Through or Separate from U. T. Investment Pools.

5.1 Endowment funds and funds functioning as endowments will be managed in a manner consistent with the U. T. System Gift Acceptance Procedures, prudent person investment standards, and the Uniform Management of Institutional Funds Act (Title 10, Chapter 163, Texas Property Code). These funds will be managed separately and not commingled with the Long Term Fund if the terms of the instrument by which the fund was created preclude investment through the Long Term Fund. In addition, nonmarketable securities held by an endowment fund may be recorded as separately invested. All other endowment funds and funds functioning as endowments will be invested through the Long Term Fund.

5.2 Trust funds and other life income accounts will be invested and administered consistent with The University of Texas System Separately Invested Endowment, Trust, and Other Accounts Investment Policy Statement, U. T. System Gift Acceptance Procedures, prudent person investment standards, and the Texas Trust Code (Title 9, Subtitle B, Texas Property Code).

....

- d. Chapter IX, Section 6, Subsections 6.8 and 6.9 were amended to read as follows:

Sec. 6. Matters Relating to Real Property.

...

6.8 Planned Gifts and Bequests.—The Office of Estates and Trusts shall, in accordance with applicable Board policies, process and administer the receipt of real property

received by the Board through a bequest, an interest in an account held in trust, a gift to establish or modify an endowment (other than the Permanent University Fund), a fund functioning as an endowment, or a life income or annuity fund. The Office of Estates and Trusts shall promptly notify the Real Estate Office and University Lands - West Texas Operations of gifts of surface and mineral estates in real property received, processed, and administered pursuant to this Subsection 6.8 to be managed by the Real Estate Office and University Lands - West Texas Operations, respectively. This Subsection 6.8 shall not apply to current purpose gifts of surface and mineral estates in real property (other than gifts received through a bequest or a trust) or additions to an existing endowment, a fund functioning as an endowment, or a life income or annuity fund if the addition does not change or modify the purpose of the endowment or fund.

- 6.9 Current Purpose Gifts.--The Real Estate Office and University Lands - West Texas Operations shall, in accordance with Board policies, process and administer the receipt of all gifts of surface and mineral estates in real property that are not processed and administered in accordance with Subsection 6.8 of this Section, unless the property is used as campus property by the component. The component shall manage real property used for campus purposes.

.....

These amendments to the Regents' Rules and Regulations, Part Two, Chapter I, Section 1 revise existing policies and the procedure that relates to the acceptance of gifts to the U. T. System or to a component institution.

In addition, amendments to Subsection 1.4 delegate authority to the Executive Vice Chancellor for Business Affairs to accept gifts of real property of any value that are not processed or administered by the Office of Development and External Relations. This change provides greater efficiency in the processing of real property gifts and delegation to the Executive Vice Chancellor for Business Affairs that is consistent with the delegation given to the Vice Chancellor for Development and External Relations for the acceptance of planned gifts.

Subsection 1.(11)2 concerning modification of endowment funds was deleted as this authority was previously delegated to the Vice Chancellor for Development and External Relations and is contained in Subsection 1.6.

New language has been added to Subsection 1.9 to delegate authority to the Executive Vice Chancellor for Business Affairs to execute IRS Forms 8283 and 8282 that relate to the acceptance of real property gifts.

Editorial amendments to the Regents' Rules and Regulations, Part Two, Chapter IX, Sections 2 and 5 update the title of the Executive Director, Estates and Trusts and the title of the U. T. System Gift Acceptance Procedures.

Amendments to Part Two, Chapter IX, Section 6, Subsections 6.8 and 6.9 clarify which U. T. System office or component institution maintains the responsibility for real property designated for planned gifts and bequests or current purpose gifts.

In addition, the Board rescinded Section VIII (Gifts of Real Estate) of The University of Texas System Gifts Policy Guidelines and adopted the new Gift Policy Guidelines for Surface and Mineral Estates in Real Property as set out below in its entirety:

Gift Policy Guidelines for Surface and Mineral Estates in Real Property

A. Introduction

These guidelines apply to all gifts of surface and mineral estates in real property regardless of type, location, or designated use of the funds to be derived therefrom. In the absence of guidelines or policies relating to such gifts designated for campus use, these policy guidelines shall apply. The Board of Regents recognizes that the full implementation of these guidelines with respect to surface and mineral estates in real property donated or bequeathed to the U. T. System or any of its component institutions may not be achievable in all cases. The Real Estate Office (REO) and University Lands - West Texas Operations (ULWTO) will evaluate gifts of surface and mineral estates in real property and apply these guidelines to the extent reasonably practicable and in the best interest of the U. T. System.

## B. Definitions

1. A "gift" includes conveyances and testamentary transfers, as well as trust distributions to the U. T. System or any of its component institutions.
2. "Real property" means, individually and collectively, the surface estate and the mineral estate.
3. "Surface estate" means any interest in the surface of real property including fee and leased fee interests, together with all appurtenances and improvements attached thereto, and all property interests that do not constitute the mineral estate.
4. "Mineral estate" means mineral rights of gas, oil and minerals, whether joined to or severed from the surface estate and the associated rights as properly conveyed to the U. T. System or component institution. An overriding royalty interest that is not subject to any costs shall also be a "mineral estate."
5. The "Responsible Officer" is the Executive Vice Chancellor for Business Affairs or his/her designee (for current purpose gifts) or the Vice Chancellor for Development and External Relations or his/her designee (for endowments and other planned gifts) and is responsible, based on the recommendations of the REO and ULWTO, for the initiation and completion of the formal acceptance of the gift via administrative approval, the Docket, or the Agenda, as appropriate.
6. A "qualified gift of a surface estate" is:
  - a. any interest that will net more than \$25,000 upon sale; or
  - b. a property for which there is an effective direct use by a component institution.

## C. Procedures for Acceptance of Gifts of Surface Estates

1. Notification of the REO. The component institution (for current purpose gifts) or the Office of Estates and Trusts (OET) (for planned or endowment gifts) will notify the REO upon identification of a potential gift of real property.

2. Information to be submitted to the REO. The component institution or REO will request that the donor provide as much of the following information as possible to allow the REO to evaluate the proposed gift. If not paid by the donor, the benefited component institution shall pay all costs incurred by the REO to evaluate the gift or protect U. T. System's interests with respect to the gift, including title policy premiums. The Board of Regents strongly encourages the acquisition of a title policy at the time the property is acquired whether the policy premium is paid with funds provided by the donor or the component.

a. Fee Interests in Surface Estates.

- i) Map showing location of property
- ii) Legal description of property
- iii) Proof of ownership (deed)
- iv) Survey of subject property and improvements (Category 1A survey preferred)
- v) List of improvements
- vi) Copies of current leases, if any
- vii) Current title commitment and copies of all title exceptions, including deed restrictions or covenants and liens
- viii) Copy of the donor's title policy, if any
- ix) List of current expenses required to maintain/operate the property
- x) Proof of payment of taxes and association fees, if any
- xi) Recent appraisal or other acceptable valuation

- xii) Copies of documents relating to past or current litigation directly affecting the real estate
- xiii) A written statement from the donor identifying any known waste disposal sites or contamination or spills of hazardous or other regulated materials on the property, or a statement to the contrary, and assuring compliance with the U. T. System Environmental Review Policy for Acquisitions of Real Property Assets
- xiv) Written statement from the donor outlining purpose of the gift
- xv) Permission for access to the property to conduct on-site inspections
- xvi) Such other information as may be requested by the Office of General Counsel, REO, or OET.

b. **Leased Fee Interests in Surface Estates.**

- i) Copies of fully executed leases and lease amendments
- ii) Items listed in a. above
- iii) History of all lease payments
- iv) Estoppel certificates
- v) Insurance policy and certificates.

3. **Sale of a Surface Estate by Executor or Trustee.** The REO will generally request that the surface estate received from an estate or trust be sold rather than distributed to the University. The sale price shall be based upon a fair market value appraisal or other generally accepted industry standard for valuing the property. The REO shall provide assistance to facilitate the sale of the surface estate, when appropriate. If the surface

estate is not sold within a reasonable period of time, the REO will evaluate the surface estate to determine whether the gift will be accepted or rejected.

4. Evaluation of Qualified Gifts of Surface Estates. The REO will evaluate and inspect a proposed gift of surface estate. Only qualified gifts of surface estates will be recommended for further review and evaluation.
5. Special Conditions.
  - a. **Unencumbered Surface Estate.** The REO generally will not recommend acceptance of a qualified gift of an unencumbered surface estate unless there is a clear benefit to the U. T. System and the following conditions are met:
    - i) Adequate provisions are made by the donor or the component institution for the expense of management until disposition. The donor should be encouraged to contribute funds for the management of the property until disposition occurs. Any unreimbursed costs of management or sale of the property will be charged either against income from the property or proceeds from the sale of the property;
    - ii) The gift is of a 100% interest in the property; and
    - iii) There are no undue limitations on the U. T. System's ability to own, manage, and dispose of the property.
  - b. **Encumbered Surface Estate.** The REO generally will not recommend acceptance of a qualified gift of a surface estate that is mortgaged or encumbered unless there is a clear benefit to the U. T. System and the following conditions are met:
    - i) The donor donates funds or makes other appropriate arrangements to meet all debt requirements;

- ii) Adequate provisions are made by the donor or the component institution for the expense of management until disposition. The donor should be encouraged to contribute funds for the management of the property until disposition occurs. Any unreimbursed costs of management or sale of the property will be charged either against income from the property or proceeds from the sale of the property;
  - iii) The gift is of a 100% interest in the property; and
  - iv) There are no undue limitations on the U. T. System's ability to own, manage, and dispose of the property.
6. Environmental Assessment. An environmental assessment of the gift must be completed in accordance with the "U. T. System Environmental Review Policy for Acquisitions of Real Property Assets."
7. Evaluation Criteria. The REO will consider all criteria for acceptance outlined in this policy and information gathered with respect to the property in determining whether to recommend acceptance of a qualified gift of real property. To demonstrate a clear benefit to the U. T. System, the REO will evaluate the return expected from a qualified gift of a surface estate based on, but not limited to, such factors as income potential, development characteristics, type of property interest, holding costs, management requirements, holding period, location, potential environmental liabilities, encumbrances, and any other potential liabilities or risks associated with the asset.
8. Gift Acceptance. The REO will make a recommendation to the Responsible Officer or the Board of Regents who will accept or reject the gift.
9. Title. Title to each property shall be held in the name of the Board of Regents, and not in the name of any component institution, department, or individual. The REO will ensure that all

deeds for gifts of surface estates are recorded in the county where the property is located and will retain the original deed in its permanent records.

10. Valuation of a Surface Estate.

- a. **Appraisal Preferred.** The preferred method of valuation for the purpose of determining gift value, sale price, or lease rates for a surface estate shall be an appraisal prepared by an independent State-certified or other licensed appraiser.
- b. **Small Gifts.** The value of a surface estate less than \$50,000 may be determined by solicitation of offers or by any other generally accepted industry standards including tax assessments.
- c. **Public Auction or Bids.** An appraisal is not required when a surface estate is sold at public auction or by use of sealed bids.

D. **Procedures for Acceptance of Gifts of Mineral Estates**

1. Notification of the ULWTO. The component institution (for current purpose gifts) or OET (for planned or endowment gifts) will notify ULWTO upon identification of a potential gift of a mineral estate. ULWTO will evaluate the mineral estate and determine whether the asset should be accepted or rejected by the U. T. System or in the case of a testamentary transfer or trust whether to request that the interest be sold. ULWTO will provide assistance to facilitate the conveyance or sale of the mineral assets.
2. Information to be submitted to ULWTO. The component institution or ULWTO will request that the donor provide as much of the following information as possible to allow ULWTO to evaluate the proposed gift. If not paid by the donor, the benefited

component institution shall pay all costs incurred by ULWTO to evaluate the gift or to protect the U. T. System's interests with respect to the gift.

- a. Map, plat, or survey of the property
  - b. Legal description of the property
  - c. Proof of ownership (deed or assignment)
  - d. Copies of current oil and gas leases, if any
  - e. Copies of division orders, if any
  - f. Copies of other relevant documents, such as unit agreements and operating agreements
  - g. List of encumbrances including any liens and copies of the corresponding documentation
  - h. Abstracts of title or title opinions
  - i. Geological or geophysical records
  - j. Lease ratifications and lease assignments
  - k. Copies of appraisals or reserve studies
  - l. Copies of documents relating to past or present litigation directly affecting the property
  - m. Copies of insurance coverage carried by the well operator relative to environmental damage.
3. Sale of a Mineral Estate by Executor or Trustee. ULWTO will generally request that the mineral estate received from an estate or trust be conveyed. However, if the sale of the minerals is appropriate, the sale price shall be based upon a fair market value appraisal or other generally accepted industry standard for valuing the property. ULWTO shall provide assistance to facilitate the sale of the mineral estate, when

appropriate. If the mineral estate is not sold within a reasonable period of time, ULWTO will evaluate the mineral estate to determine whether the gift will be accepted or disclaimed.

4. Evaluation of Qualified Gifts of Mineral Estates. ULWTO will evaluate a proposed gift of mineral estate. Only qualified gifts of mineral estates will be recommended for further review and evaluation.
5. Evaluation Criteria. ULWTO will consider all of the criteria for acceptance outlined in this policy and information gathered with respect to the minerals in determining whether to recommend acceptance of a qualified gift of a mineral estate.
6. Gift Acceptance. ULWTO will make a recommendation to the Responsible Officer or the Board of Regents who will accept or reject the gift.
7. Title. Title to each mineral estate shall be held in the name of the Board of Regents, and not in the name of any component institution, department, or individual. ULWTO will ensure that all deeds for gifts of mineral estates are recorded in the county where the mineral estate is located and will retain the original deed in its permanent records.
8. Valuation of a Mineral Estate. The preferred method of valuation for the purpose of determining value for a mineral estate shall be at the discretion of ULWTO, but shall always be by generally accepted industry standards.

The U. T. System Trust Fund Real Estate Policy Statement was adopted by the U. T. Board of Regents in April 1988 and was amended in August 1991. The policy was subsequently incorporated into the U. T. System Gifts Policy Guidelines that was adopted by the U. T. Board of Regents in August 1995 and amended in November 1995.

At the August 1999 meeting, the U. T. Board of Regents amended the Regents' Rules and Regulations and delegated authority to the Vice Chancellor for Development and External Relations to promulgate U. T. System Gift Acceptance Procedures consistent with the Regents' Rules and Regulations. As part of this action, it was decided that Section VIII (Gifts of Real Estate) of the U. T. System Gifts Policy Guidelines would remain in effect until a new real estate gift policy was presented to the U. T. Board of

Regents for approval. Section VIII (Gifts of Real Estate) of the U. T. System Gifts Policy Guidelines has now been rescinded and a new U. T. System Gift Policy Guidelines for Surface and Mineral Estates in Real Property has been adopted to provide guidelines for accepting leasehold interests, campus properties, and bequests of surface and mineral estates in real property.

The new policy reflects the authority of the Executive Vice Chancellor for Business Affairs to accept current purpose gifts of real property of any value not processed or administered by the Office of Development and External Relations. The policy also confirms the authority of the Vice Chancellor for Development and External Relations or his/her designee to accept real property gifts of any value for endowments or other planned gifts. The policy states standards for the valuation of gifts of real property and the Real Estate Office and University Lands - West Texas Operations will make an initial determination of qualification for acceptance for all gifts and bequests of real property in accordance with standards set out in the new policy.

EXCERPT FROM THE MINUTES

FEB 10 2000

1. U. T. Board of Regents - Regents' Rules and Regulations, Part Two: Amendments to Chapter VIII, Section 1, Subsections 1.3 (Architect Selection Advisory Committees) and 1.4 (Selection Committees for Design-Build Contractors, Construction Managers-Agents, Construction Managers-at-Risk, General Contractors, and Job Order Contractors); and Section 2, Subsections 2.1 (General Requirements) and 2.2 (Major Projects Procedures)

The Board amended the Regents' Rules and Regulations, Part Two, Chapter VIII, Sections 1 and 2, regarding architect and design-build contractor selection for major projects, to read as set forth below. Subsequent to the Board of Regents' meeting on February 10, 2000, The University of Texas System Office of General Counsel suggested editorial amendments which were incorporated in the following amendments to reflect more precisely the intent of the Board expressed at the meeting.

- a. A new Subsection 1.3 was added to Section 1 as follows:

- 1.3 Architect Selection Advisory Committees.--Architect Selection Advisory Committees for Major Projects shall be appointed by the institutional president in consultation with the Office of Facilities Planning and Construction and the Executive Vice Chancellor for Business Affairs. Architect Selection Advisory Committees for Minor Projects shall be appointed by the Responsible Administrator.
- 1.31 For projects identified by the Facilities Planning and Construction Committee (FPCC) to be of special interest to the Board of Regents because of proposed siting, historical or cultural significance, proposed use, or other unique characteristics, the FPCC will select the architect. For these special interest projects, the institutional president will appoint an Architect Selection Advisory Committee which may include two

members of the Board named by the Chairman. The Architect Selection Advisory Committee will interview and review the competence and qualifications of candidates and prepare an unranked list of approximately four architects to be presented through the Chancellor to the FPCC for consideration. The FPCC may select an architect from this list, may ask the Selection Advisory Committee for additional recommendations of architects responding to the Request for Qualifications (RFQ), or may select an architect responding to the RFQ but not on the list on the basis of competence and qualifications. The FPCC will conduct interviews and site visits as necessary and will select the architect based on competence, qualifications, and criteria published in the RFQ.

1.32 For all other Major Construction and Repair and Rehabilitation Projects, Architect Selection Advisory Committees are authorized to evaluate, rank, and make selection recommendations of project architects for appointment by the Chancellor.

b. Former Section 1, Subsection 1.3 was renumbered as Subsection 1.4 and revised to read as follows:

1.4 Selection Committees for Design-Build Contractors, Construction Manager-Agents, Construction Managers-at-Risk, General Contractors, and Job Order Contractors.--Selection Committees are authorized to evaluate, rank, and select design-build contractors, construction manager-agents, construction managers-at-risk, general contractors, and job order contractors on the basis of qualifications and competitive sealed proposals in response to RFQs and Requests for Proposals (RFPs). Selection Committees are also authorized to enter into discussions for modification and negotiation of competitive sealed proposals in response to requests for proposals with respondents, as required or permitted by law. Selection Committees for Major Projects shall be appointed by the Director of the Office of Facilities Planning and Construction in consultation with the institutional

Selection Advisory Committee will submit an unranked short list of architects to the FPCC, through the Chancellor, for interview and selection. The FPCC may select an architect from this list or an architect who responded to the RFQ but is not on this list on the basis of competence and qualifications.

The amendments to Section 2, Subsections 2.1 and 2.2 of Chapter VIII, Part Two of the Rules are required to reflect emphasis on architectural design meeting the project program criteria and the Campus Master Plan. At each step in the design process, beginning with the RFQ, new emphasis will be placed on the requirement that the selected design agent adhere to the Campus Master Plan, the set of criteria applicable to the facility program, and the needs of the component in developing the project design.

Consistent with Subdivision 2.25, the design of all Major Project new construction and architecturally or historically significant Repair and Rehabilitation projects will continue to be reviewed by the FPCC and recommendations forwarded to the U. T. Board of Regents for final approval.

Editorial amendments to the corresponding 1994 Regental Policy entitled "Procedures to be Followed by University of Texas System Institutions to Gain Authorization of Major New Construction and Major Renovation Projects" will be made and circulated to members of the Board for review prior to general distribution.

EXCERPT FROM THE MINUTES

FEB 10 2000

2. U. T. Board of Regents - Regents' Rules and Regulations, Part Two: Approval to Amend Chapter I, Section 4 (Assessment, Collection, and Waiver of Tuition and Fees) to Add New Subsection 4.3

The Board, upon recommendation of the Academic Affairs and Health Affairs Committees, amended the Regents' Rules and Regulations, Part Two, Chapter I, Section 4, relating to assessment, collection, and waiver of tuition and fees, by adding Subsection 4.3 as set forth below:

Sec. 4. Assessment, Collection, and Waiver of Tuition and Fees.--  
Tuition, fees, and other charges will be fixed as prescribed or as authorized by statute and will be published in the institutional catalog with a description of the criteria for any authorized exemptions and waivers.

- 4.1 The authority of the U. T. 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 U. T. System component institutions.
- 4.2 The Board delegates to the presidents of the component institutions the authority to approve changes in the amounts of incidental fees authorized by Section 54.504, Texas Education Code, for those fees that have previously been approved by the Board. As a condition to approval of any increase in such fees, the president must find that such increase is required in order for the incidental fee to reasonably reflect the actual cost to the component institution of the materials or services to be provided.

- 4.3 The Board delegates to the presidents of the component institutions the authority to approve changes in laboratory fees authorized by Section 54.501(a), Texas Education Code, and changes in supplemental fees authorized by Section 54.051(l), Texas Education Code, for laboratory and supplemental fees previously approved by the Board.

This amendment to the Regents' Rules and Regulations, Part Two, Chapter I, Section 4 is in keeping with prior actions of the U. T. Board of Regents, most recently at the November 1999 meeting, to delegate approval authority for increases to approved incidental fees. Approval of this item, coupled with Board delegation in November 1999, repealed the Board's August 1987 policy on laboratory fees and the October 1987 policy on incidental fees which required all fee increases to be submitted to the Board in February of each year.

The U. T. System Offices of Academic Affairs and Health Affairs will continue to process fee requests throughout the year with the understanding that incidental fees must be published in a catalog or catalog addendum before they are charged and that no fees may be assessed retroactively for courses for which a student has already registered.

EXCERPT FROM THE MINUTES

NOV 11 1999

1. U. T. Board of Regents - Regents' Rules and Regulations, Part Two: Amendments to Chapter I, Section 4 (Assessment, Collection, and Waiver of Tuition and Fees).--Upon recommendation of the Academic Affairs and Health Affairs Committees, the Board amended the Regents' Rules and Regulations, Part Two, Chapter I, Section 4, relating to tuition and other fees as set forth below:
  - Sec. 4. Assessment, Collection, and Waiver of Tuition and Fees.--Tuition, fees, and other charges will be fixed as prescribed or as authorized by statute and will be published in the institutional catalog with a description of the criteria for any authorized exemptions and waivers.
    - 4.1 The authority of the U. T. 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 U. T. System component institutions.
    - 4.2 The Board delegates to the presidents of the component institutions the authority to approve changes in the amounts of incidental fees authorized by Section 54.504, Texas Education Code, for those fees that have previously been approved by the Board. As a condition to approval of any increase in such fees, the president must find that such increase is required in order for the incidental fee to reasonably reflect the actual cost to the component institution of the materials or services to be provided.

The amendments to the Regents' Rules and Regulations, Part Two, Chapter I, Section 4 are in keeping with prior actions of the U. T. Board of Regents at the August 1998 meeting to delegate approval authority as appropriate and prudent. Prior delegation of authority to grant tuition and fee waivers had been granted to component presidents but had not been formally codified in the Regents' Rules and Regulations. These amendments formally codify past actions by the U. T. Board of Regents and accommodate current and future statutory changes related to tuition and fee waivers and exemptions.

The 76th Texas Legislature added a new Section 54.5035 to the Texas Education Code to permit, but not require, the governing board of an institution of higher education to exempt a student from the payment of a mandatory or discretionary fee if the board determines the student is not reasonably able to participate in or use the activity, service, or facility for which the fee is charged. Other sections of the Texas Education Code authorize a governing board to grant exemptions from the payment of specific tuition and fees.

The incidental fee statute, Section 54.504, Texas Education Code, authorizes the governing board of an institution of higher education to fix the rate of incidental fees to be paid to an institution under its governance and requires that the rate of an incidental fee must reasonably reflect the actual cost to the university of the materials or services for which the fee is collected. The large number of proposed changes to existing incidental fees submitted annually by component institutions to the U. T. System for review and approval by the U. T. Board of Regents resulted in the recommendation that final approval of the amount of the incidental fee, as well as the required finding that the incidental fee reasonably reflects the actual cost to the component of the materials or services involved, could be performed more efficiently at the component institution.

Section 65.31(g), Texas Education Code, permits the U. T. Board of Regents, by rule, to delegate a power or duty of the Board to the presidents of the component institutions, acting as agents of the U. T. Board of Regents. The amendments to the Regents' Rules and Regulations, Part Two, Chapter I, Section 4 apply only to incidental fees previously approved by the U. T. Board of Regents for a component institution. New incidental fees proposed by a component institution will be submitted to the U. T. System for review and will be submitted to the U. T. Board of Regents for final approval via the institutional dockets.

The uses for the incidental fees collected will continue to be subject to periodic audit.

EXCERPT FROM THE MINUTES

- NOV 11 1999
2. U. T. Board of Regents - Regents' Rules and Regulations, Part Two: Amendments to Chapter V, Section 3 (Employee Training, Education, and Development).--The Board amended the Regents' Rules and Regulations, Part Two, Chapter V, Section 3, relating to employee training, education, and development, to read as set forth below:

Sec. 3. Employee Training, Education, and Development.

- 3.1 The State Employees Training Act, Texas Government Code Sections 656.041 et seq., recognizes that programs for the training and education of State administrators and employees materially aid effective State administration and requires each State agency to adopt rules governing such programs, subject to written approval of the Governor of the State of Texas. The Director of the Office of Human Resources, as delegated by the Executive Vice Chancellor for Business Affairs, is responsible for promulgating the necessary policies and procedures for implementation of the State Employees Training Act, consistent with the guidelines approved by the Governor.

- 3.2 The Board of Regents requires the establishment of policies which promote training programs of benefit to employees.
- 3.3 Policies implemented must be consistent with provisions of the State Employees Training Act, as follows:
  - 3.31 The U. T. System Administration and component institutions will not extend funds under these provisions without the interest of the U. T. System Administration and component institutions being given first consideration.
  - 3.32 If an employee does not perform the regular duties of the job for three or more months, a written agreement complying with the provisions of institutional policy will be executed between the employee and the U. T. System Administration or the component institution as required by State law.
  - 3.33 Should an employee fail to honor the provisions of the agreement, the U. T. System Administration or the component institution will be reimbursed for all costs associated with the training period, including any amounts of the employee's salary not accounted for as paid vacation or compensatory leave.
  - 3.34 The U. T. System Administration and component institutions will report annually to the Legislative Budget Board detailing the amount of money expended in the preceding fiscal year for training subject to the Act.

In addition, former Subsections 3.3 through 3.9 of the Regents' Rules and Regulations, Part Two, Chapter V, Section 3 were deleted in their entirety.

These amendments to the Regents' Rules and Regulations, Part Two, Chapter V, Section 3 comply with provisions of Senate Bill 223 enacted by the 76th Texas Legislature which require a State agency to adopt a policy governing the training of employees that is related to the employee's job duties. The revised Human Resources policy will promote various types of training to encourage the initiative of all employees and stimulate and motivate less productive employees. Organized training programs will, moreover, help identify employees who exercise initiative and demonstrate

high levels of performance. The programs will also identify areas where employees need assistance in adapting to and adopting change and improved procedures and programs.

**EXCERPT FROM THE MINUTES**

AUG 12 1999

1. U. T. Board of Regents - Regents' Rules and Regulations, Part Two: Amendments to Chapter VIII, Section 2, Subsection 2.1, Subdivision 2.11 (Major Construction and Repair and Rehabilitation Projects); Section 3, Subsection 3.1 (Minor Construction and Repair and Rehabilitation Projects); and Section 5, Sections 5.1 and 5.2 (Constitutional and Legislative Restrictions). --Upon recommendation of the Facilities Planning and Construction Committee, the Regents' Rules and Regulations, Part Two, Chapter VIII, relating to physical plant improvements, were amended as follows:
  - a. Section 2, Subsection 2.1, Subdivision 2.11, relating to major construction and repair and rehabilitation projects, was amended to read as follows:
    - 2.11 Subject to Subdivisions 2.12, 2.13, 2.14 and 2.15 of this Section and the general provisions of Part One, Chapter I, Section 9 and except as otherwise specified in these Rules and Regulations, the Chancellor with the advice of the appropriate Executive Vice Chancellor or Vice Chancellor and chief administrative officer is authorized to appoint architects, approve plans and execute contracts for all new construction projects exceeding \$1,000,000 and for major repair and rehabilitation projects exceeding \$2,000,000 ("Major Projects") that have previously been approved or authorized by the Board.

b. Section 3, Subsection 3.1, relating to minor construction and repair and rehabilitation projects, was amended to read as set forth below:

3.1 Delegation of Authority.--Subject to Subsections 3.2 and 3.3 of this Section and the general provisions of Part One, Chapter I, Section 9 and except as otherwise specified in these Rules and Regulations, each chief administrative officer is authorized to appoint architects, approve plans and Construction Documents, and execute and deliver contracts, agreements, guaranteed maximum price or stipulated sum proposals, and other documents on behalf of the Board for all new construction projects of \$1,000,000 or less and for repair and rehabilitation projects of \$2,000,000 or less ("Minor Projects").

c. Section 5, Subsections 5.1 and 5.2, relating to constitutional and legislative restrictions, was amended to read as follows:

5.1 Improvements Financed by Bonds.--Sections 17 and 18 of Article VII of the Texas Constitution (regarding the Permanent University Fund and the Higher Education Fund) require approval by the Legislature, or an agency designated by the Legislature, prior to the construction of physical improvements financed by bonds authorized under those Sections at components other than The University of Texas at Austin.

5.2 Texas Higher Education Coordinating Board.--Unless otherwise authorized by law, new construction projects in excess of \$1,000,000 and major repair and rehabilitation projects in excess of \$2,000,000 must be approved by the Texas Higher Education Coordinating Board. Format for submission will be as prescribed by the Coordinating Board. Submission will be prepared by the component, in consultation with and assisted by the Office of Facilities Planning and Construction, if necessary, and forwarded to System

Administration for review, approval, and handling of submission. It is anticipated that necessary documents will be submitted to the Coordinating Board when the project scope and estimated cost are sufficiently defined to meet the Coordinating Board's requirements for approval. Normally, submission will be made after the Chancellor and the Board have approved the Design Development Plans and the related cost estimate.

The Texas Higher Education Coordinating Board has delegated to its Commissioner approval authority for certain projects *qualifying under Coordinating Board Rule 17.46*. This delegation requires a certification that the project meets specified criteria. The authority to execute this certification for the Board of Regents is delegated to the Executive Vice Chancellor for Business Affairs or his delegate, the Director of the Office of Facilities Planning and Construction.

These amendments to the Regents' Rules and Regulations, Part Two, Chapter VIII, more accurately align these Sections with the action of the 76th Texas Legislature which raised the Texas Higher Education Coordinating Board approval level for new construction and major repair and rehabilitation projects. These amendments also delegate more authority to The University of Texas System component institutions to manage smaller construction projects and delegate authority to the Executive Vice Chancellor for Business Affairs or his delegate, the Director of the Office of Facilities Planning and Construction, to certify that a project meets specified Coordinating Board criteria.

EXCERPT FROM THE MINUTES

- AUG 12 1999
3. U. T. Board of Regents - Regents' Rules and Regulations, Part Two: Amendments to Chapter III, Section 1, Subsection 1.4 (Receipts, Admission Tickets, and Charges). -To require payment of certain oil and gas royalties to the U. T. Board of Regents by electronic funds transfer and filing of certain reports to the U. T. Board of Regents by electronic transmission, the Board amended the Regents' Rules and Regulations, Part Two, Chapter III, Section 1, Subsection 1.4, relating to receipts, admission tickets, and charges, to read as set forth on Pages 98 - 99.

Sec. 1. Receipts, Admission Tickets, and Charges.

- ...
- 1.4 Any person who paid oil and gas royalties to the Board in a total amount of \$20,000 or more during a fiscal year, being September 1 to August 31, shall make timely oil and gas royalty payments to the Board by means of electronic funds transfer during the subsequent calendar year. Any person required to pay electronically shall timely take all actions necessary to facilitate payment of oil and gas royalties by electronic funds transfer, including completing any documents required by the Comptroller of the State of Texas and the University Lands Accounting Office. Electronic funds transfers shall be made in accordance with applicable laws, including Section 404.095, Texas Government Code. This Sub-section applies only to oil and gas royalties from Permanent University Fund lands to the extent authorized by Section 404.095, Texas Government Code. Reports relating to oil and gas royalty payments shall also be filed electronically as described in Subdivisions 1.41-1.43.
- 1.41 Any person required to submit payments electronically shall also timely file the required Oil and Condensate Report (Form UT-1), Gas Report (Form UT-2), and Royalty Payment Summary (Form UT-3) by means of electronic transmission in a manner compatible with the requirements, equipment, and facilities of the University Lands Accounting Office.
- 1.42 Any lessee, operator, or reporting company who was required to file monthly an average of ten (10) or more oil or gas royalty reports to the Board during the last fiscal year, shall timely file the required Forms UT-1, UT-2 and UT-3 by means of electronic transmission during the subsequent calendar year in a manner compatible with the requirements, equipment, and facilities of the University Lands Accounting Office.
- 1.43 Any person, lessee, operator, or reporting company required to file reports electronically under Subdivisions 1.41 and 1.42, shall timely take all actions necessary to facilitate the

electronic filing of the Forms UT-1, UT-2 and UT-3, including completing any documents required by the University Lands Accounting Office. Electronic transmission of UT-1s, UT-2s, and UT-3s in a form and manner compatible with the requirements, equipment, and facilities of the University Lands Accounting Office shall satisfy Section 66.77(d), Texas Education Code. Any person, lessee, operator, or reporting company who electronically submits these reports shall not be routinely required to submit purchase statements or other records to the Board unless requested by the University Lands Accounting Office. Nothing in Subsection 1.4 shall limit the authority to inspect, examine, copy, or audit all records, books and accounts, including purchase statements, as provided by applicable law and rules of the Board for Lease of University Lands.

By lowering the threshold for requiring the electronic transfer of oil and gas royalties, this amendment to the Regents' Rules and Regulations, Part Two, Chapter III, Section 1, Subsection 1.4 provides a higher degree of internal control over a greater percentage of oil and gas royalties paid to the Permanent University Fund.

The new Subdivisions 1.41-1.43 of the Rules segregate and expand the requirements for electronically reporting information concerning oil and gas royalties. Electronic reporting is more convenient, more efficient, and less susceptible to error. These new Subdivisions require certain reporting entities and anyone paying electronically to file all their royalty reports electronically beginning January 2000. The University Lands Accounting Office will require that anyone filing electronic reports on leases where the Board for Lease of University Lands accepts oil and gas royalties paid in-kind continue to mail in monthly purchase statements and other records, but other electronic reporters will be required to provide such statements and records only upon the written request of the University Lands Accounting Office.

**EXCERPT FROM THE MINUTES**

AUG 12 1999

1. U. T. Board of Regents - Regents' Rules and Regulations, Part Two: Approval of Amendments to Chapter I, Section 7 (General Admission Policy).—Upon recommendation of the Academic Affairs Committee and the Health Affairs Committee, the Board amended the Regents' Rules and Regulations, Part Two, Chapter I, Section 7, regarding the general admission policy, to read as set forth below:

**Sec. 7. General Admission Policy.**

The component institutions of the U. T. System will make maximum use of resources, consistent with standards of appropriate accrediting bodies and enrollment and admissions policies approved by the Board, to admit and educate as many qualified students as possible.

These amendments to the Regents' Rules and Regulations, Part Two, Chapter I, Section 7, regarding the general admission policy, delete outdated language restricting the use of appropriated funds for recruitment of students within The University of Texas System which was added in 1969 as required by a rider now absent from the General Appropriations Act. Also deleted is language detailing the intent of the recruitment restriction that was added to the Regents' Rules and Regulations in 1972 to provide clarification for the statutory requirement. The first sentence of Section 7 was retained with nonsubstantive revisions to delete repetitive language and make this general policy statement consistent with the review of multiple individual criteria now utilized in the admissions process. Criteria for admission at each institution are submitted to the U. T. Board of Regents for approval via the institutional docket.

Committee Chairman Miller noted that a technical amendment to Section 7 as presented in the Material Supporting the Agenda would be made to retain the word "qualified" to describe students and thanked those who urged the word be retained.

EXCERPT FROM THE MINUTES

AUG 12 1999

4. U. T. Board of Regents: Amendments to the Regents' Rules and Regulations, Part Two, Chapter V, Section 1 (Classified Personnel). --Authorization was given to amend the Regents' Rules and Regulations, Part Two, Chapter V, Section 1, relating to Classified Personnel, to read as set forth below:

Sec. 1. Classified Personnel. --The policy of the Board on the development and coordination of the classified personnel programs is as follows:

...

1.2 Development and Coordination of the System-wide Classified Personnel Program.

1.21 The Classification Plan.

...

1.22 The Pay Plan.

1.221 All classified positions will have a minimum and maximum defined for each salary range. The salary ranges shall be determined by annual market studies and the local economy. Merit increases will be awarded within the established salary ranges according to budget instructions and institutional policy approved for inclusion in the institutional Handbook of Operating Procedures.

1.222 A System-wide Personnel Pay Plan setting forth the salary ranges for each job classification shall be utilized encompassing the salary ranges reflected in the component unit pay plans.

1.223 Salary ranges for each job classification shall be dependent upon the competitive labor market environment for each institution.

1.224 The System-wide Personnel Pay Plan shall be approved annually by the Board. Subsequent changes to a component institution pay plan in a given fiscal year shall be processed as follows:

(a) The System Office of Human Resources shall process requested amendments to

a component institution pay plan based on the impact of the change upon the System-wide Personnel Pay Plan.

(b) The System Office of Human Resources is authorized to approve the following proposed changes to a component institution pay plan:

(1) The adjustment of a salary range within the established System-wide salary range, if the change will not change the System-wide Personnel Pay Plan.

(2) Deletion of a title.

(3) Change of a title.

(4) Change of a code number.

(5) Addition of a title that is in the System-wide Personnel Pay Plan if the salary range requested is within the established System-wide salary range.

(c) The following proposed changes to a component institution pay plan require the approval of the System Office of Human Resources and the Chancellor or his or her delegate:

(1) The addition of a new title that is not included in the System-wide Personnel Pay Plan.

(2) The addition of a title that is included in the System-wide Personnel Pay Plan at a salary range not within the established System-wide Personnel Pay Plan range for the title.

(3) The adjustment of a salary range that would change the established System-wide range by setting a new System-wide minimum or maximum salary.

- (d) The System Office of Human Resources shall notify a component institution of the approval or disapproval of a requested pay plan change as soon as practicable. No requested change may be implemented until authorized in writing.

In addition, the Regents' Rules and Regulations, Part Two, Chapter V, Section 1, Subsection 1.2, Subdivisions 1.23 and 1.24 were deleted and Subdivision 1.25 was renumbered as Subdivision 1.23.

The System-wide Personnel Pay Plan (Pay Plan) is the compilation of all component institution and System Administration classified personnel pay plans. Each August, the Pay Plan for the following fiscal year is presented to the U. T. Board of Regents for approval via the docket. Prior to the amendment, requested changes to a component pay plan or the System Administration Pay Plan that required Regental approval included the addition of a new classified title; the use of a classified title already included in the pay plan at a salary range not within the System-wide salary range maximum or minimum; and the adjustment of the salary range for a current classified title to a level that would require adjustment to the System-wide salary range minimum or maximum.

The amendments to Subdivision 1.22, relating to approval of pay plans, will continue to provide sufficient oversight of component institution plans and administration of the System-wide Personnel Pay Plan by the Chancellor or his or her delegate. The approved change will streamline The University of Texas System business procedures and increase the efficiency of administrative procedures by:

- a. Changing the requirement to produce detailed docket items from four times a year to once per year
- b. Permitting the U. T. System Office of Human Resources to process component pay plan modification requests, obtain authorization from the Chancellor or his or her delegate, and provide a final response to the institution within days versus months as often required under current procedures
- c. Streamlining the currently utilized process for pay plan amendments to effect a simple, effective operational system.

EXCERPT FROM THE MINUTES

AUG 13 1999

5. U. T. Board of Regents - Regents' Rules and Regulations, Part Two: Approval to Amend Chapter XII (Intellectual Property), Section 5 (Property Rights and Obligations), Subsection 5.2, Subdivision 5.22, and Section 8, Subsection 8.1 (Reporting). --Authorization was given to amend the Regents' Rules and Regulations, Part Two, Chapter XII, regarding intellectual property, as set forth below:
- a. Section 5, Subsection 5.2, Subdivision 5.22, regarding approval of release of intellectual property rights, was amended to read as follows:
- 5.22 If the chief administrative officer recommends that the System not assert and exploit its interest and that recommendation is approved by the Office of General Counsel, the creator shall be notified within one hundred eighty (180) days of the date of submission that he or she is free to obtain and exploit a patent or other intellectual property protection in his or her own right and the System shall not have any further rights, obligations or duties with respect thereto except that, in some instances the System may elect to impose certain limitations or obligations or retain income rights, dependent upon the degree of System support involved in the creation of such property.
- b. Section 8, Subsection 8.1, regarding reporting, was amended as follows:
- 8.1 Any employee covered by Subsections 6.2, 7.1, or 7.2 shall report in writing to the chief administrative officer of the component institution, or to such other person as may be designated by the chief administrative officer, the name of any business entity in which the person has an interest or for which the person serves as a *director, officer or employee* and shall be responsible for submitting a revised written report upon any change in the interest or position held by such person in such business entity. These reports shall be forwarded to the Vice
-

Chancellor and General Counsel by October 1 of each year for filing with the Board as required by Section 51.912, Texas Education Code and inclusion in the annual financial report sent to the State officials listed in Section 51.005, Texas Education Code.

The Regents' Rules and Regulations, Part Two, Chapter XII, Section 5, Subsection 5.2, Subdivision 5.22 specify that release of property rights to inventors must be approved by the appropriate Executive Vice Chancellor or Vice Chancellor in addition to the component chief administrative officer and the Office of General Counsel. This amendment simplifies the processing of such intellectual property actions at The University of Texas System level, allowing release approval and notification to inventors to be handled in the Office of General Counsel without routing to the Office of Health Affairs or the Office of Academic Affairs.

Texas Education Code Section 51.912 requires inclusion of information concerning all U. T. System employees who hold equity interests or certain offices in business entities that have agreements with the U. T. System relating to intellectual property owned by the U. T. Board of Regents in the annual financial report to named State officials as required by Texas Education Code Section 51.005. Amendment of Section 8, Subsection 8.1 of Chapter XII, Part Two of the Regents' Rules and Regulations will simplify the routing of information for that report which is currently completed by the Office of General Counsel and filed with the Board pursuant to Section 51.912 and makes the Rules and Regulations consistent with current law.

EXCERPT FROM THE MINUTES

AUG 12 1999

2. U. T. Board of Regents - Regents' Rules and Regulations: Amendments to Part One, Chapter II, Section 9, Subsection 9.2, Subdivision 9.24 (Vice Chancellor for Development and External Relations, Duties and Responsibilities) and Part Two, Chapter I, Section 1, Subsection 1.1 (Gifts to The University of Texas System).—The Regents' Rules and Regulations, Parts One and Part Two, were amended as set forth below:
  - a. Part One, Chapter II, Section 9, Subsection 9.2, Subdivision 9.24, relating to the duties and responsibilities of the Vice Chancellor for Development and External Relations, was amended to read as follows:

9.24 Promulgating the "U. T. System Gift Acceptance Procedures" and preparing other guidance documents relating to acceptance, processing, and administration (excluding investment management) of gifts for the U. T. System and the component institutions.
  - b. Part Two, Chapter I, Section 1, Subsection 1.1, regarding gifts to The University of Texas System, was amended to read as follows:

Sec. 1. Gifts to The University of Texas System.

    - 1.1 The authority to accept gifts to the U. T. System or to any of the component institutions is vested in the Board and delegated by the Board as specifically set out in this Section. The Board delegates to the Vice Chancellor for Development and External Relations the authority and responsibility to promulgate a set of guidelines regarding the acceptance, processing, investment, and administration of gifts. These guidelines will be known as the "U. T. System Gift Acceptance Procedures" and shall be adhered to by the component institutions and U. T. System. In promulgating the "U. T. System Gift Acceptance Procedures", the delegate shall also consider provisions to:
      - 1.11 Accomplish the goal of increasing financial support for the U. T. System through the appropriate assistance of donors,
      - 1.12 Allow staff members to respond to donor initiatives quickly and with certainty,

- 1.13 Establish administrative processes to accept and administer gifts in a prudent and efficient manner, with fiduciary responsibilities of fundamental importance,
- 1.14 Comply with the Texas Constitution and applicable federal and state law,
- 1.15 Comply with the provisions of the Internal Revenue Code and related regulations,
- 1.16 Specifically incorporate provisions related to the acceptance of pledges to fund endowments as follows:
  - 1.161 At least 20% of the donors' total proposed funding must be received prior to the acceptance of an endowment, and
  - 1.162 The pledge for payment of the remaining funds shall not extend beyond five years from the date of execution of the gift agreement.
- 1.17 Specify that requests to establish quasi-endowments are to be submitted only when it is expected that the endowment will be maintained permanently, and
- 1.18 Provide that, in the interest of financial responsibility and efficiency, it is the specific preference of the Board that all endowment gifts be eligible for commingling for investment purposes with other endowment funds.

In August 1995, the U. T. Board of Regents adopted the current "U. T. System Gifts Policy Guidelines", as amended in November 1995, as a part of the recommendations of The University of Texas System Process Review Committee. These guidelines have greatly increased efficiency in accepting and processing private gifts to the U. T. System Administration and component institutions.

Since these procedural guidelines need to be updated periodically and other guidance documents relating to gifts need to be prepared, these amendments to Parts One and Two of the Regents' Rules and Regulations delegate to the Vice Chancellor for Development and External Relations the authority to promulgate "U. T. System Gift Acceptance Procedures" which are consistent with the Regents' Rules and Regulations without formal action by the

**U. T. Board of Regents. Proposed gifts that constitute exceptions to the Gift Acceptance Procedures will continue to be considered by the U. T. Board of Regents via the agenda process.**

**The current version of the "U. T. System Gifts Policy Guidelines" contains a section of special provisions applicable to gifts of real estate which will be formatted as a separate guidance policy and presented to the U. T. Board of Regents for approval.**

EXCERPT FROM THE MINUTES

MAY 18 1999 1.

U. T. Board of Regents - Regents' Rules and Regulations, Part Two: Amendments to Chapter VIII, Section 2, Subsection 2.1, Subdivision 2.13 (Major Construction and Repair and Rehabilitation Projects). --Upon recommendation of the Facilities Planning and Construction Committee, the Board amended the Regents' Rules and Regulations, Part Two, Chapter VIII, Section 2, Subsection 2.1, Subdivision 2.13, regarding funding for major projects under the general requirements for the major construction and repair and rehabilitation projects, to read as set forth below:

Sec. 2. Major Construction and Repair and Rehabilitation Projects.

...

- 2.13 Funding for Major Projects must be allocated by the Board through the Capital Budget. Funding for Major Repair and Rehabilitation Projects that are not architecturally or historically significant may be appropriated by the Board through the Capital Budget. Funding for all other Major Projects is appropriated at the time of design development plan approval.

...

These amendments to the Regents' Rules and Regulations provide for appropriation of funds through the Capital Budget for major repair and rehabilitation projects that are not architecturally or historically significant and allow these types of projects to be presented to the Chancellor for approval of design development plans and authorization of expenditure of funds.

EXCERPT FROM THE MINUTES

MAY 13 1999 1.

U. T. Board of Regents - Regents' Rules and Regulations: Amendments to Part One, Chapter I, Section 9 (Documents Executed on Behalf of the Board) and Part Two, Chapter III, Section 4 (Local Institutional Funds).—Upon recommendation of the Health Affairs Committee, the Board amended the Regents' Rules and Regulations, as set forth below:

- a. Part One, Chapter I, Section 9, Subsection 9.2, Subdivision 9.22, relating to dollar limitations on delegated authority, was amended to add a new Item 9.227 as follows:

9.227 Loans of institutional funds to certified nonprofit health corporations, which loans have been approved as provided in Part Two, Chapter III, Section 4, Subsection 4.5 of these Rules and Regulations.

- b. Part Two, Chapter III, Section 4, relating to local institutional funds, was amended to add a new Subsection 4.5 to authorize the Chancellor and the Executive Vice Chancellor for Health Affairs to approve loans of institutional funds to certified nonprofit health corporations and to execute and deliver on behalf of the U. T. Board of Regents contracts, agreements, and other documents or instruments relating to such loans, as set forth below:

4.5 Subject to Subdivisions 4.51 and 4.52 of this Subsection and the general provisions of Part One, Chapter I, Section 9 and, except as otherwise specified in these Rules and Regulations, the Board delegates to the Chancellor and to the Executive Vice Chancellor for Health Affairs the authority to act on behalf of the Board to approve loans of institutional funds, which are not otherwise restricted, to a certified nonprofit health corporation and to execute contracts, agreements, and other documents or instruments related to such loans. As used in this Subsection, the term "certified nonprofit health corporation" means a nonprofit health corporation that has been authorized

by the Board and certified under Section 5.01(a) of the Medical Practice Act (Article 4495b, Texas Civil Statutes), as amended from time to time.

4.51 The delegate shall comply with guidelines issued by the Office of General Counsel.

4.52 The delegate shall consult with the institutional chief administrative officer prior to approving and executing any agreement or instrument relating to a loan.

These amendments to the Regents' Rules and Regulations delegate authority to the Chancellor and the Executive Vice Chancellor for Health Affairs to act on behalf of the U. T. Board of Regents to approve loans of institutional funds, not otherwise restricted, to certified nonprofit health corporations that have been authorized by the U. T. Board of Regents and to execute contracts, agreements, and other documents or instruments related to those loans. Loans may be in any amount approved by the Chancellor and the Executive Vice Chancellor for Health Affairs.

All loans are to be made in accordance with guidelines established from time to time by the Office of General Counsel. The Office of General Counsel has advised that such loans fall under the principles announced by the Texas Attorney General in Attorney General Opinion No. JM-1030, which require that the expenditure of institutional funds be for a public purpose, that the institution receive adequate consideration in return, and that the institution retain sufficient control over the use of the funds to ensure that the public purpose is achieved.

Nonprofit health corporations are certified under Section 5.01(a) of the Medical Practice Act. On April 14, 1994, the U. T. Board of Regents authorized each health component of The University of Texas System to establish a certified nonprofit health corporation and stipulated certain requirements for the establishment of those corporations. Each corporation is a single member corporation; and the single member is the chief administrative officer of the health component. The model articles of incorporation and bylaws approved by the U. T. Board of Regents identify the purpose of the nonprofit health corporations as providing health care to the public, as well as support for health care education, scholarships and loans to students, grants to the component institution for research and development of education programs, and opportunities for clinical experience in connection with medical education.

EXCERPT FROM THE MINUTES

MAY 13 1999<sup>2</sup>.

U. T. Board of Regents - Regents' Rules and Regulations, Part Two: Amendments to Chapter I, Section 1 (Gifts to The University of Texas System) and Chapter IX, Section 6 (Matters Relating to Real Property).—  
The Board amended the Regents' Rules and Regulations, Part Two, Chapter I, Section 1, regarding authorization to accept gifts, and Chapter IX, Section 6, regarding matters relating to real property, as set forth below:

- a. A new Subsection 1.4 was added to Chapter I, Section 1, and Subsections 1.3 and 1.5 were amended to read as set forth on Page 31.

## CHAPTER I

### GENERAL

Sec. 1. Gifts to The University of Texas System.

- ...
- 1.3 The Board delegates to the Chancellor, the chief administrative officer, or a designee specified in writing, authority to accept gifts, other than gifts of real property, that are not processed or administered by the Office of Development and External Relations and that conform to all relevant laws and Board policies, including but not limited to the U. T. System Gifts Policy Guidelines and approved institutional policies, provided that such gifts have a value of \$500,000 or less (in cash or in kind). Such gifts that have a value of more than \$500,000 (in cash or in kind) must be submitted to the Board for approval via the docket.
- 1.4 The Board delegates to the Executive Vice Chancellor for Business Affairs, or a designee specified in writing, authority to accept gifts of real property that are not processed or administered by the Office of Development and External Relations and that conform to all relevant laws and Board policies, including but not limited to the U. T. System Gifts Policy Guidelines and approved institutional policies, provided that such gifts have a value of \$500,000 or less. Such gifts that have a value of more than \$500,000 must be submitted to the Board for approval via the docket.
- 1.5 The Board delegates to the Vice Chancellor for Development and External Relations, or a designee specified in writing, authority to accept all gifts of any value (either in cash or in kind) that conform to all relevant laws and Board policies, including but not limited to the U. T. System Gifts Policy Guidelines, and are processed or administered by the Office of Development and External Relations.
- ....

- b. Present Subsections 1.5 through 1.(14) of Chapter I, Section 1, were renumbered as Subsections 1.6 through 1.(15).
- c. Chapter IX, Section 6, Subsections 6.4 and 6.8 through 6.(10), regarding matters relating to real property, were amended to read as set forth below:
  - 6.4 Delegation of Authority.—Subject to Subdivisions 6.41, 6.42, and 6.43 of this Subsection and the general provisions of Part One, Chapter I, Section 9 and except as otherwise specified in these Rules and Regulations, the Board delegates to the Executive Vice Chancellor for Business Affairs or a designee specified in writing the authority to execute and deliver on behalf of the Board contracts, agreements, and other documents or instruments regarding or conveying interests in, real property owned or controlled by the Board, including Permanent University Fund lands; real property acquired by purchase, gift, or bequest; and real property used for institutional purposes. The authority granted in this Subsection shall include all instruments necessary and convenient relating to the management, control, sale, acquisition, lease, and disposition of any real property, including mineral interests, owned or controlled by the Board, and licenses, permits for activities on such lands, and instruments relating to mortgages.
    - 6.41 The delegate shall comply with all guidelines issued by the Office of General Counsel.
    - 6.42 The delegate shall consult with the institutional chief business officer prior to approving and executing any agreement or instrument relating to lands used or to be used for institutional purposes.
    - 6.43 The authority granted by this Subsection 6.4 to execute and deliver binding contracts, agreements, and other documents or instruments relating to the acquisition of real property applies only if the real property is within a

campus master plan approved by the Board or if the matter is an easement or other similar agreement necessary to implement projects approved by the Board in the Capital Improvement Program and the Capital Budget.

- ...
- 6.8 Planned Gifts and Bequests.**—The Office of Estates and Trusts shall, in accordance with applicable Board policies, process and administer the receipt of real property assets received by the Board through a bequest, an interest in an account held in trust, or gift to establish or modify an endowment (other than the Permanent University Fund), a fund functioning as an endowment or a life income or annuity fund. The Office of Estates and Trusts shall promptly notify the Real Estate Office of real property received, processed, and administered pursuant to this Subsection 6.8 to be managed by the Real Estate Office. This Subsection 6.8 shall not apply to current purpose gifts of real property (other than gifts received through a bequest or a trust) or additions to an existing endowment, a fund functioning as an endowment, or a life income or annuity fund if the addition does not change or modify the endowment or fund.
- 6.9 Current Purpose Gifts.**—The Real Estate Office shall, in accordance with Board policies, process and administer the receipt of all gifts of real property that are not processed and administered in accordance with Subsection 6.8 of this Section. The Real Estate Office shall manage all real property so received, unless the property is used as campus property by the component. The component shall manage real property used for campus purposes.
- 6.(10) Rents, Mortgages, and Other Charges.**—The Board delegates to the System Real Estate Office authority to collect, and account for, all rents, mortgages, and other charges relating to real property managed by that Office.

The amendments to the Regents' Rules and Regulations, Part Two, Chapter I, Section 1, Subsections 1.3 through 1.5 delegate authority to the Executive Vice Chancellor for Business Affairs to accept all gifts of real property designated for current purpose that have a value of \$500,000 or less and will enable The University of Texas System to handle gifts of real property with greater efficiency.

The Regents' Rules and Regulations delegate authority for the acceptance of current purpose real property gifts to the Chancellor or to the Chief Business Officer of each component. The amendments to the Regents' Rules and Regulations, Part Two, Chapter IX, Section 6, Subsection 6.4 delegate authority to the Executive Vice Chancellor for Business Affairs to act on behalf of the U. T. Board of Regents to acquire real property if acquisition of the real property is contemplated by a master plan approved by the U. T. Board of Regents, provided that the cost or value of the real property is \$500,000 or less. These amendments will enable the U. T. System to handle with greater efficiency real property acquisitions contemplated by an approved master plan.

The amendments to Subsection 6.4 further implement actions taken by the U. T. Board of Regents at its May 1996 meeting at which it was agreed in principle that the authority to execute a variety of contracts and agreements would be delegated to U. T. System Administration or component officials within specific guidelines, conditions, and restrictions. The authority to execute contracts and agreements was broadly implemented by actions taken by the U. T. Board of Regents at a special called meeting on August 29, 1996. Implementation of delegated authority will continue to be monitored periodically through routine reviews and audits.

The amendments to the Regents' Rules and Regulations, Part Two, Chapter IX, Section 6, Subsections 6.8 through 6.10 move the responsibility for processing and administration of the receipt of current purpose gifts of real property (other than gifts received through a bequest or a trust) from the chief administrative officer of the beneficiary institution to the U. T. System Real Estate Office. These provisions also clarify that the U. T. System Real Estate Office is responsible for the management of gift properties, except real property used for campus purposes, which is to be managed by the component.

EXCERPT FROM THE MINUTES

FEB 11 1999

1. U. T. Board of Regents - Regents' Rules and Regulations, Part Two: Amendments to Chapter VIII (Physical Plant Improvements), Sections 1 Through 4. --Upon recommendation of The University of Texas System Process Review Committee chaired by Regent Lowell H. Lebermann, Jr., the Board amended the Regents' Rules and Regulations, Part Two, Chapter VIII, Sections 1 through 4, regarding physical plant improvements, to read as set forth below:

CHAPTER VIII

PHYSICAL PLANT IMPROVEMENTS

Sec. 1. Institutional Committees.

- 1.3 Selection Committees.--Selection Committees are authorized to evaluate, rank, and select qualifications and competitive sealed proposals in response to requests for qualifications and requests for proposals by design-build contractors, construction manager-agents, construction managers-at-risk, general contractors, and job order contractors and to enter into discussions for modification and negotiation of competitive sealed proposals in response to requests for proposals with respondents, as required or permitted by law. Selection Committees for Major Projects shall be appointed by the Director of the Office of Facilities Planning and Construction in consultation with the institutional chief administrative officer and the Executive Vice Chancellor for Business Affairs. Selection Committees for Minor Projects shall be appointed by the Responsible Administrator.

Sec. 2. Major Construction and Repair and Rehabilitation Projects.

2.1 General Requirements.

...

2.16 The Chancellor or delegate shall approve the construction contractor's, design-build contractor's, or construction manager's estimates, guaranteed maximum price or stipulated sum proposals; sign change orders; and provide general supervision of all Major Projects. The Chancellor with the advice of the appropriate Executive Vice Chancellor or Vice Chancellor and chief administrative officer is authorized to increase the approved Total Project Cost not more than ten percent. To provide funding for the increase, the Chancellor may reallocate funding between or among approved projects at a single component if funding for such projects has previously been authorized in accordance with Subdivision 2.13 or approve funding from some other source available to the component.

2.2 Major Projects Procedures.

...

2.23 The Chancellor, on behalf of the Board, will utilize the services of a project architect, engineer, or design-build contractor for each Major Project or portion thereof as may be desirable or required by law. Contracts with architects and engineers shall comply with guidelines issued by the Office of General Counsel and shall be written on a standard form approved by the Office of General Counsel.

2.24 After approval of the facility program, the Chancellor or delegate is authorized to give the project architect, engineer, or design-build contractor the facility program and direct the preparation of schematic plans, exterior design and site plans, cost estimates, and other necessary and appropriate documents ("Schematic Plans") and design development plans, elevations, and sections, outline specifications, cost estimates, and other

related work to fix the design, dimensions, materials, and scope of the project in greater detail ("Design Development Plans"). Design Development Plans are referred to as Preliminary Plans in applicable rules of the Texas Higher Education Coordinating Board. The project architect, engineer, or design-build contractor shall work with the Ad Hoc Project Building Committee, if any, and the Office of Facilities Planning and Construction with regard to preparation of all plans and documents.

...

**Sec. 3. Minor Construction and Repair and Rehabilitation Projects.**

3.1 Delegation of Authority.--Subject to Subsections 3.2 and 3.3 of this Section and the general provisions of Part One, Chapter I, Section 9 and except as otherwise specified in these Rules and Regulations, each chief administrative officer is authorized to appoint architects, approve plans and Construction Documents, and execute and deliver contracts, agreements, guaranteed maximum price or stipulated sum proposals, and other documents on behalf of the Board for all new construction projects of \$300,000 or less and for repair and rehabilitation projects of \$600,000 or less ("Minor Projects").

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**Sec. 4. Bidding, Proposals, Award of Contract, and Final Payment.**

4.1 Advertisement for Bids and Proposals.--The Chancellor with respect to Major Projects or the chief administrative officer with respect to Minor Projects (the "Responsible Administrator") is authorized to advertise for bids, qualifications, and proposals for construction projects. The Construction Documents must be approved by the Chancellor before the advertisement for bids, or the solicitation of competitive sealed proposals from general contractors, for Major Projects.

- 4.2 **Modification of Bids.**--No bid may be changed, amended, or modified after the time for bid filing set out in the advertisement for bids. The substance of this requirement shall be stated in the advertisement for bids provided, however, that this requirement shall not be construed to prohibit the submission or filing of more than one separate and independent bid by any bidder or the modification and negotiation of proposals as permitted by law.
- 4.3 **Proposed Decision for Award.**--The Responsible Administrator or delegate shall receive and open bids and, with the project architect or engineer, if any, and others, shall tabulate and study such bids. After tabulation and study of the bids, the Responsible Administrator shall make a proposed decision for award. The proposed decision for award based on competitive sealed proposals in response to a request for proposals shall be made by the Selection Committee.
- 4.4 **Notice of Proposed Decision for Award by Bid.**--In the event the lowest bidder is found to be not responsible or other facts and circumstances necessitate award of contract to other than the lowest bidder, the bidder(s) submitting proposal(s) lower than the bidder to whom award is proposed shall be notified of the proposed decision for award. If the lowest bidder fails to timely file notice of protest, the proposed decision for award will be final.

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These amendments to the Regents' Rules and Regulations clarify the authority of the Chancellor to approve proposals from construction managers and design-build contractors and clarify the procedures for advertising and award of construction contracts procured through competitive sealed proposals. Further, the amendments conform U. T. System procedures for construction contracting with the mandatory requirements of Senate Bill 583, 75th Legislature, codified as Sections 44.031 and 51.776 through 51.784 of the Texas Education Code.

EXCERPT FROM THE MINUTES

NOV 12 1998

3. U. T. Board of Regents - Regents' Rules and Regulations, Part Two: Approval to Amend Chapter XII, Section 7, Subsection 7.1 (Business Participation).--The Board, upon recommendation of the Business Affairs and Audit Committee, amended the Regents' Rules and Regulations, Part Two, Chapter XII, Section 7, Subsection 7.1, regarding business participation, to read as follows:

CHAPTER XII

INTELLECTUAL PROPERTY

. . .

Sec. 7. Business Participation.

- 7.1 Any System employee who conceives, creates, discovers, invents or develops intellectual property shall not serve as a member of the board of directors or other governing board or as an officer or an employee (other than as a consultant) of a business entity that has an agreement with the System relating to the research, development, licensing, or exploitation of that intellectual property without prior review and approval by the chief administrative officer of the component institution, the Chancellor and the Board.

. . . .

Section 51.912 of the Texas Education Code provides a legal mechanism for addressing potential conflicts of interest that may arise when a university employee

involved in the development or creation of licensed intellectual property acquires stock in or serves as a board member, officer, or key employee of a company. In exchange for permission to be involved with a company in this way, the employee and the institution of higher education must successfully manage the potential conflict of interest to reduce or eliminate the likelihood that actual conflicts will arise.

Rather than require the U. T. Board of Regents to review each plan to manage the potential conflict of interest as an agenda item, a procedure will be instituted that (1) defines conflicts of interest in this context, (2) provides information to employees and administrators about managing potential conflicts, (3) prescribes required actions in the event of a failure to manage a conflict, (4) requires a written certification from the employee to the institution's administration and from the administration to the appropriate U. T. System Administration officials outlining the steps each will take to mitigate risk, and (5) describes the approval process for the plans to manage conflicts of interest. Upon the recommendation of the Executive Vice Chancellor for Health Affairs or the Vice Chancellor for Academic Affairs, each plan to manage conflicts of interest will be submitted to the U. T. Board of Regents for approval via the institutional docket.

EXCERPT FROM THE MINUTES

NOV 12 1998

2. U. T. Board of Regents - Regents' Rules and Regulations, Part Two: Amendment to Chapter IV, Section 5 (Purchase from or Sale to an Officer or Employee).--Authorization was given to amend the Regents' Rules and Regulations, Part Two, Chapter IV, Section 5, regarding the purchase from or sale to an officer or employee, to read as set forth below:

Sec. 5. Purchase from or Sale to an Officer or Employee.--Purchase from, or sale to, any officer or employee of the System or a component of any supplies, materials, services, equipment, or property must have the prior approval of the chief administrative officer and the Executive Vice Chancellor for Health Affairs, the Executive Vice Chancellor for Business Affairs, the Vice Chancellor for Academic Affairs, or the Chancellor, as appropriate. Any such purchases shall be made only if the cost is less than

from any other known source. This Section does not apply to sales or purchases made at public auction or sales approved by the institutional chief administrative officer valued at \$5,000 or less.

With this amendment to the Regents' Rules and Regulations, employees will be able to purchase surplus items, such as outdated computer equipment for home use, directly from the University if the item is valued at \$5,000 or less and the chief administrative officer grants approval.

EXCERPT FROM THE MINUTES

NOV 12 1998

1. U. T. Board of Regents - Regents' Rules and Regulations, Part Two: Amendment to Chapter XI, Section 3, Subsection 3.2 (Settlement of Disputes).--In order to clarify current practices related to approvals for the settlement of claims, disputes, or litigation, authorization was given to amend the Regents' Rules and Regulations, Part Two, Chapter XI, Section 3, Subsection 3.2, regarding settlement of disputes, to read as set forth below:

3.2 Settlement of Disputes.--Except as provided in Subsection 3.3 of this Section, the Board delegates to the Vice Chancellor and General Counsel authority to execute and deliver on behalf of the Board agreements settling any claim, dispute, or litigation subject to approval of System officials as set out below and compliance with all other legal requirements. The Vice Chancellor and General Counsel shall consult with the chief administrative officer and the appropriate Executive Vice Chancellor or Vice Chancellor with regard to all significant settlements that will be paid out of institutional funds. The Vice Chancellor and General Counsel shall consult with the Office of Development and External Relations with respect to settlement of will contests and other matters relating to gifts and bequests administered by that Office.

<u>Amount</u>	<u>Additional Requirements</u>
\$150,000 or less	None
\$150,001 to \$300,000	Concurrence of the Chancellor or the appropriate Executive Vice Chancellor or Vice Chancellor
\$300,001 to \$500,000	Concurrence of the Chancellor and the Chairman of the Board
More than \$500,000	Concurrence of the Board of Regents, the Executive Committee, or the appropriate standing committee of the Board

The amount of the settlement shall mean the amount claimed by U. T. System but not received pursuant to the settlement or, in the case of a claim against U. T. System, the total settlement amount to be paid by U. T. System.