



TEXAS TECH UNIVERSITY SYSTEM

BOARD OF REGENTS

AGENDA BOOK

October 20, 2017

BOARD OF REGENTS
TEXAS TECH UNIVERSITY SYSTEM

AGENDA

October 20, 2017

BOARD OF REGENTS

Mr. L. Frederick “Rick” Francis, Chairman

Mr. Tim Lancaster, Vice Chairman

Mr. John D. Esparza

Mr. Ron Hammonds

Mr. Christopher M. Huckabee

Mr. J. Michael Lewis

Mr. Mickey L. Long

Mr. John D. Steinmetz

Mr. John B. Walker

Mr. Jarett Lujan, Student-Regent

Standing Committees:

Academic, Clinical and Student Affairs:

John Esparza; Jarett Lujan, John Steinmetz; John Walker (Chair)

Audit:

Chris Huckabee; Ron Hammonds; Mickey Long (Chair)

Facilities:

John Esparza (Chair); Mickey Long; John Walker

Finance and Administration:

Chris Huckabee; Michael Lewis; John Steinmetz (Chair)

AGENDA

Board of Regents Meeting

Lubbock, Texas

October 20, 2017

Abbreviated Agenda with Approximate Times*

Friday, October 20, 2017

Meeting of the Board

8:30 am Call to Order; convene Meeting of the Board—Open Session and Meeting of the Committee of the Whole

- Introductions and Recognitions
- Report from THECB Commissioner Raymund Paredes

Location: Regents Committee Room (106), First Floor, System Building, 1508 Knoxville Avenue, Lubbock, Texas

9:15 am Recess

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*For general information. Unless otherwise noted, all open session meetings will take place in the Regents Conference Room (104A), First Floor, System Building, 1508 Knoxville Avenue, Lubbock, Texas. Any executive session meetings that should occur throughout the day will take place in the Regents Committee Room (106), First Floor, System Building, 1508 Knoxville Avenue, Lubbock, Texas. The times listed are estimates, with periodic recesses. The Meeting of the Board will convene no earlier than 8:30 am on Friday, October 20, 2017. Upon recess of the Meeting of the Board, at approximately 9:15 am on Friday, October 20, 2017, committee meetings will take place sequentially. The Meeting of the Board will reconvene after the last committee meeting adjourns or after a lunch break at approximately 12:30 pm or whenever is deemed necessary on Friday, October 20, 2017. The Meeting of the Board is expected to adjourn at approximately 3:30 pm; however, if needed, the meeting may continue beyond 3:30 pm until completed. The full board agenda is detailed on pages v-xi. The agenda for each session of the board meeting or a meeting of a committee of the board is detailed behind the appropriate divider tab.

Board of Regents Meeting

Lubbock, Texas

October 20, 2017

Abbreviated Agenda with Approximate Times*

Friday, October 20, 2017

Meeting of Standing Committees (Conducted sequentially)

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9:15 am (or upon recess of the Committee of the Whole)	Audit Committee Location: Regents Conference Room (104A), First Floor, System Building, 1508 Knoxville Avenue, Lubbock, Texas
9:45 am (or upon adjournment of the Audit Cmte. meeting)	Facilities Committee Location: Regents Conference Room (104A), First Floor, System Building, 1508 Knoxville Avenue, Lubbock, Texas
10:45 am (or upon adjournment of the Facilities Cmte. meeting)	Finance and Administration Committee Location: Regents Conference Room (104A), First Floor, System Building, 1508 Knoxville Avenue, Lubbock, Texas
11:05 am (or upon adjournment of the Finance & Administration Cmte. meeting)	Academic, Clinical and Student Affairs Committee Location: Regents Conference Room (104A), First Floor, System Building, 1508 Knoxville Avenue, Lubbock, Texas

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Board of Regents Meeting

Lubbock, Texas

October 20, 2017

Abbreviated Agenda with Approximate Times*

Friday, October 20, 2017

Meeting of the Board

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- | | |
|----------|---|
| 12:30 pm | Call to Order; reconvene Meeting of the Board
Meeting of the Committee of the Whole and the Board
Location: Regents Committee Room (106), First Floor,
System Building, 1508 Knoxville Avenue, Lubbock,
Texas |
| 12:30 pm | Executive Session
Location: Regents Committee Room (106), First Floor,
System Building, 1508 Knoxville Avenue, Lubbock,
Texas |
| 3:15 pm | Following Executive Session, convene into Open Session,
and continue as Meeting of the Committee of the Whole
and the Board and/or continuation of meetings of the
Standing Committees of the Board, if necessary
Location: Regents Conference Room (104A), First
Floor, System Building, 1508 Knoxville Avenue,
Lubbock, Texas |
| 3:30 pm | Adjournment |

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Board of Regents Meeting

October 20, 2017

Agenda

Friday, October 20, 2017

**Regents Conference Room (Suite 104A), First Floor,
System Building, 1508 Knoxville Avenue,
Lubbock, Texas**

- I. Meeting of the Board—Call to Order; convene into Open Session of the Board** Chairman Francis
- II. Introductions and Recognitions** Chancellor Duncan,
President May,
President Schovanec
President Mitchell, and
President Lange
- III. Presentation by Texas Higher Education Coordinating Board (“THECB”) Commissioner**..... Raymund A. Paredes, Ph.D.
- IV. Recess** Chairman Francis
- V. Meeting of Standing Committees**
Location: Regents Conference Room (104A), First Floor, System Building,
1508 Knoxville Avenue, Lubbock, Texas

A. Audit Committee

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- 1. TTUS: Report on audits..... 3
- 2. Executive Session: The Audit Committee will convene into Executive Session in the Regents Committee Room (106), First Floor, System Building, 1508 Knoxville Avenue, to consider matters permissible under Chapter 551 of the Texas Government Code, including:
 - a. Consultation with Attorney — Section 551.071.

b.	Discussion of personnel matters – Section 551.074.	
3.	Open Session: At the conclusion of Executive Session, the committee will convene into Open Session in the Regents Conference Room (104A), First Floor, System Building, 1508 Knoxville Avenue, to consider appropriate action, if any, on items discussed in Executive Session.	
4.	Adjournment	
B.	Facilities Committee	<u>Page</u>
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1.	TTU: Approve Stage I design budgets for Phase II of the Sports Performance Complex & Jones Stadium South End Zone Facility design professional contract and amend that contract to include the renovation & expansion of the Football Training Facility	3
2.	TTU: Approve concept and Stage I design budget for a new Athlete Dining Facility	5
3.	TTU: Approve scope and budget adjustment to the United Supermarkets Arena renovations project	7
4.	TTU: Approve naming lab within the College of Architecture	8
5.	TTU: Approve naming lab within the College of Engineering	9
6.	TTU: Approve text, installation and location of memorial(s) honoring Texas Tech University Medal of Honor recipients	10
7.	TTUHSC: Approve budget adjustment to the Lubbock Expansion project	12
8.	TTUS: Approve amendments to Chapter 08 (Facilities), <i>Regents’ Rules</i> , regarding approval of major construction projects.....	13
9.	TTUS: Report on Facilities Planning and Construction projects.....	15

10. Adjournment

C. Finance and Administration Committee

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FA

1. TTUS: Approve amendments to Chapter 07 (Fiscal Management), *Regents' Rules*, regarding certain medical services contracts2

2. Adjournment

D. Academic, Clinical and Student Affairs Committee

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ACS

1. ASU: Approve the addition of the Bachelor of Science Degree in Mechanical Engineering 3

2. ASU: Approve exceptions to Section 03.01.11.c., *Regents' Rules* (nepotism) 5

3. TTU: Approve appointments with tenure 7

4. TTU: Approve exception to Section 03.01.11, *Regents' Rules* (nepotism) 8

5. TTU: Authorize president to begin process for establishing a tax-exempt 501(c)(3) organization 9

6. TTU: Authorize president to execute consulting contracts related to analyzing feasibility and overall planning for a School of Veterinary Medicine 11

7. TTUHSC: Approve the name change and expansion of the ScD Program in Physical Therapy in Lubbock 13

8. Adjournment

VI. Meeting of the Board—Call to Order; reconvene into Open Session of the Board Chairman Francis

VII. Open Session: The Board will continue in Open Session and meet as a Committee of the Whole and Meeting of the Board to consider and act on:

- A. Approve minutes of board meetings held on August 10-11, 2017 Chairman Francis
- B. Committee of the Whole..... Vice Chairman Lancaster

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1. ASU, TTU, TTUHSC, TTUHSC El Paso, TTUSA and TTUS: Approve Consent Agenda; acknowledge review of Information Agenda	6

Consent Agenda

- a. TTU: Approve faculty development leaves of absence (ACS)
- b. TTU: Approve faculty leave of absence with pay (ACS)
- c. TTU and TTUHSC: Approve employees to serve as employees, officers, or members of the Board of Directors with a company in which TTUS has a vested interest in the intellectual property (ACS)
- d. TTU and TTUHSC: Approve employees to serve as employees, officers, or members of the Board of Directors with a company in which TTUS has a vested interest in the intellectual property (ACS)
- e. TTUHSC: Approve text, installation and location of plaques for Drs. M. Roy Wilson and John C. Baldwin, former presidents of Texas Tech University Health Sciences Center (ACS)
- f. TTUHSC El Paso: Approve revisions to OP 60.01, Tenure & Promotion Policy (ACS)
- g. TTUHSC El Paso: Approve revisions to OP 60.03, Comprehensive Performance Evaluation of Tenured Faculty (ACS)
- h. ASU, TTU, TTUHSC and TTUHSC El Paso: Approve campus policies regarding Sexual Assault at each of the System Component Universities (ACS)
- i. TTU: Approve acceptance of a barn for Proctor Park at the National Ranching Heritage Museum (F)
- j. TTU: Authorize a Brush Control Agreement for Texas Tech University’s Junction campus (FA)

- k. TTUHSC: Approve modification of name for future School of Public Health (F)
- l. TTU: Approve commissioning of police officers (FA)
- m. TTU and TTUHSC El Paso: Approve purchasing contracts in excess of \$1,000,000 (FA)
- n. TTUHSC: Authorize president to execute a contract with BSA Health System Holdings, LLC (FA)
- o. TTUHSC and TTUHSC El Paso: Approve submission of request to exceed the Full Time Equivalent (“FTE”) limitation established by the General Appropriations Act (FA)
- p. TTUHSC El Paso: Authorize president to amend contract with Community Resources LLC (FA)
- q. TTUS: Approve appointment of new members to the Board of Directors of Texas Tech Foundation, Inc (FA)
- r. TTUS: Approve Investment Advisory Committee appointment as recommended by the Board of Directors of Texas Tech Foundation, Inc (FA)
- s. ASU, TTU, TTUHSC, TTUHSC El Paso, TTUS and TTUSA: Approve delegation of signature authority (FA)

Information Agenda

Information is provided as required by Section 01.02.7.d(4)(c), *Regents' Rules*

- (1) TTUHSC: Contract Renewals per Sections 07.12.4.d and 07.12.6.b., *Regents' Rules* – A list of renewal, extended or amended contracts in excess of \$1,000,000 per annum, including the amount of the contract, shall be provided to the board as an information item at the next regular board meeting.
- (2) TTU, TTUHSC and TTUHSC El Paso: Consulting contracts with an initial consideration of \$25,000 or less per Section 07.12.4.e.(2), *Regents' Rules* – “(a) Board approval is not required, but notice of the proposed contract must be provided to the chair and the chair of the Finance and Administration Committee prior to execution of the contract. (b) A report of the contract shall be provided as an Information Agenda item at the next board meeting.”

- (3) TTUHSC: Approval of sponsored programs projects in excess of \$1,000,000 per annum as provided by Section 07.12.4.b., *Regents' Rules* – “Notwithstanding Section 07.12.3.a, *Regents' Rules*, the board delegates to the presidents the authority to approve the proposals and execute and sign contracts for sponsored program projects in excess of \$1,000,000 per annum. Sponsored program projects are those grants, contracts, and cooperative agreements from either the public or private sectors that support research, instructional, and service projects. A list of such contracts for sponsored program projects in excess of \$1,000,000 per annum shall be provided to the board as an information item at the next regular board meeting.”

VIII. Reports of Standing Committees: Standing Committee reports will be presented sequentially to the Committee of the Whole.

- A. Report of the Audit Committee Regent Long
- B. Report of the Facilities CommitteeRegent Esparza
- C. Report of the Finance and Administration Committee..... Regent Steinmetz
- D. Report of the Academic, Clinical and Student Affairs Committee.....Regent Walker

IX. The Board will continue in Open Session as the Committee of the Whole and Meeting of the Board of Regents.

- A. Schedule for Board meetings:
 December 14-15, 2017, Lubbock
 March 1-2, 2018, El Paso
 May 17-18, 2018, Lubbock
 August 9-10, 2018, Lubbock
 December 13-14, 2018, Lubbock Ben Lock
- B. Student Government Association Reports Tristan Fielder,
 Robbie Meyer,
 Austin Lunney,
 Chris Gerzina

X. Executive Session: The Board will convene into Executive Session, in the Regents Committee Room (106), First Floor, System Building, 1508 Knoxville Avenue to consider matters permissible under Chapter 551 of the *Texas Government Code*, including, for example:..... Chairman Francis

- A. Consultation with attorney regarding privileged communications, pending or contemplated litigation and settlement negotiations – Section 551.071
- B. Deliberations regarding real property: The purchase, lease, exchange, or value of real property – Section 551.072
- C. Deliberations regarding prospective gifts – Section 551.073
- D. Personnel matters: Discuss the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of employees – Section 551.074
- E. Deliberations regarding security devices—deployment of security personnel or devices – Section 551.076

XI. Open Session: The Board will convene into Open Session in the Regents Conference Room (104A), First Floor, System Building, 1508 Knoxville Avenue and meet as a Committee of the Whole and Meeting of the Board to consider and act on:

- A. Consideration of appropriate action, if any, on items discussed in Executive Session Vice Chairman Lancaster
- B. TTUS: Report on the progress and future direction of the IA Task Force..... Don Maddox
- C. Chairman’s Announcements..... Chairman Francis

XII. Adjournment Chairman Francis

AUDIT

Audit Committee

Committee Meeting
October 20, 2017

Time: 9:15 am (or upon recess of the Meeting of the Board)

Place: Regents Conference Room (104A), First Floor, System Building, 1508 Knoxville Avenue, Lubbock, Texas

Regents: Long (Chair), Hammonds, Huckabee

Agenda

- Approve minutes of committee meeting held on August 10, 2017
- I.A.** Consideration of items to be recommended by the Audit Committee to the Board of Regents of the Texas Tech University System (“TTUS”) for and on behalf of Angelo State University (“ASU”), TTUS, the TTU System Administration (“TTUSA”), Texas Tech University (“TTU”), Texas Tech University Health Sciences Center (“TTUHSC”), and Texas Tech University Health Sciences Center at El Paso (“TTUHSC El Paso”)

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|----|---|---|
| 1. | TTUS: Report on audits | 3 |
| 2. | Executive Session: The Audit Committee will convene into Executive Session in the Regents Committee Room (106), First Floor, System Building, 1508 Knoxville Avenue, to consider matters permissible under Chapter 551 of the <i>Texas Government Code</i> , including: | |
| | a. Consultation with Attorney — Section 551.071. | |
| | b. Discussion of personnel matters – Section 551.074. | |
| 3. | Open Session: At the conclusion of Executive Session, the committee will convene into Open Session in the Regents Conference Room (104A), First Floor, System Building, 1508 Knoxville Avenue, to consider appropriate action, if any, on items discussed in Executive Session. | |
| 4. | Adjournment | |

NOTE: Following consideration of the above items by the committee, the Committee Chair will present the Committee Report to the full Board of Regents for its consideration on Friday, October 20, 2017.

1. TTUS: Report on audits.

Presenter: Mrs. Kim Turner

Presentation Time: 10 minutes

Report to Board required by: Section 07.02.7, *Regents' Rules*; and Audit Committee Charter

Mrs. Kim Turner, Chief Audit Executive, will present a report on the System's audit projects.

FACILITIES

Facilities Committee

Committee Meeting
October 20, 2017

Time: 9:45 am (or upon adjournment of the Audit Committee meeting)

Place: Regents Conference Room (104A), First Floor, System Building, 1508 Knoxville Avenue, Lubbock, Texas

Regents: Esparza (Chair), Long, Walker

Agenda

- Approve minutes of committee meetings held on August 10, 2017
- I.B.** Consideration of items to be recommended by the Facilities Committee to the Board of Regents of the Texas Tech University System (“TTUS”) for and on behalf of Angelo State University (“ASU”), TTUS, the TTU System Administration (“TTUSA”), Texas Tech University (“TTU”), Texas Tech University Health Sciences Center (“TTUHSC”), and Texas Tech University Health Sciences Center at El Paso (“TTUHSC El Paso”)

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1.	TTU: Approve Stage I design budgets for Phase II of the Sports Performance Complex & Jones Stadium South End Zone Facility design professional contract and amend that contract to include the renovation & expansion of the Football Training Facility	3
2.	TTU: Approve concept and Stage I design budget for a new Athlete Dining Facility	5
3.	TTU: Approve scope and budget adjustment to the United Supermarkets Arena renovations project.....	7
4.	TTU: Approve naming lab within the College of Architecture	8
5.	TTU: Approve naming lab within the College of Engineering	9

6.	TTU: Approve text, installation and location of memorial(s) honoring Texas Tech University Medal of Honor recipients	10
7.	TTUHSC: Approve budget adjustment to the Lubbock Expansion project.....	12
8.	TTUS: Approve amendments to Chapter 08 (Facilities), <i>Regents' Rules</i> , regarding approval of major construction projects	13
9.	TTUS: Report on Facilities Planning and Construction projects	15
10.	Adjournment	

NOTE: Following consideration of the above items by the committee, the Committee Chair will present the Committee Report to the full Board of Regents for its consideration on Friday, October 20, 2017.

1. **TTU: Approve Stage I design budgets for Phase II of the Sports Performance Complex & Jones Stadium South End Zone Facility design professional contract and amend that contract to include the renovation & expansion of the Football Training Facility.**

Presenters: Mr. Michael Molina and Mr. Kirby Hocutt Presentation Time: 5 minutes
Board approval required by: Section 08.01.3, *Regents' Rules*

RECOMMENDATION

The chancellor concurs with the recommendation of the president that the Board of Regents authorize the chancellor or the chancellor's designee to (i) establish a Stage I design budget not to exceed \$650,000 to provide planning and schematic design services for Phase II of the Sports Performance Complex & Jones Stadium South End Zone Facility design professional contract. The South End Zone Facility total project budget is anticipated to be between \$45 - \$50 million; (ii) establish another Stage I design budget not to exceed \$250,000 to provide planning and schematic design services for the renovation & expansion of the Football Training Facility, with an anticipated total project budget of \$6,000,000; (iii) adjust the design professional's contract budget by an amount not to exceed \$900,000; (iv) report the adjustments to the Texas Higher Education Coordinating Board; and (v) amend the design professional contract to reflect both scopes of work. The Stage I design budgets will be funded with gifts and donations and Athletics Revenue (cash).

BACKGROUND INFORMATION

Stage I design services will provide for the contracting of the design professional; facility functional use programming; schematic design; survey; geo-tech testing; site analysis; utility infrastructure analysis; and concept budget development.

Article 1, Section 1.1 of the executed design professional contract outlines the scope of professional services for "a multi-phased project that will renovate the current Indoor Track facility and the South End Zone building to create a new Sports Performance Complex and a new South End Zone Facility, respectively. The first phase will be the new Sports Performance Complex..... The second phase will be the new South End Zone Facility."

The existing Football Training Facility ("FTF") is an integral component in the overall programming of the South End Zone Facility and the relocation of internal groups and services. Full requirements for the renovation and expansion of the FTF will be determined through the programming process. The scope of the project would also include site utility infrastructure work, landscape enhancements, and public art.

In October 2015, the board approved a partial Stage II design budget for the Sports Performance Center of \$1,165,330 and ratified the previously allocated budget of \$995,000 for a total project budget of \$2,160,330. The partial Stage II design services allowed for the completion of the Schematic Design and Design Development packages, and development of the initial construction documents in order to define the construction Guaranteed Maximum Price (“GMP”).

In December 2015, the board approved the Sports Performance Center project with a total project budget of \$48,000,000. The project demolished the existing Indoor Track facility in order to create a new 159,285 gross square foot complex that would house indoor track with fixed seating for approximately 750 spectators, box office, concessions, first aid, and public restrooms. The facility also provided for a weight room, nutrition center, sports medicine treatment areas, staff offices, offices for media and officials, equipment and training storage, clerk room and track equipment storage room. An adjacent structure will provide space for an 80 yard indoor football practice field. The football training program will be supported with an equipment and apparel storage area adjacent to the laundry and a maintenance shop for equipment repair. The scope of the project also included site utility infrastructure work, landscape enhancements, and public art.

For reference, both projects are listed on the THECB’s Capital Expenditure Plan (MP1) Summary Report (Fiscal Years 2018-2022). The Jones AT&T Stadium South End Zone Renovation project proposed a new 128,000 GSF facility, estimated at \$80,000,000. The Football Training Facility Repurpose project proposed a renovation only at \$2,000,000.

The vice president for administration and finance and chief financial officer has verified the source of funds.

2. TTU: Approve concept and Stage I design budget for a new Athletic Dining Facility.

Presenters: Mr. Michael Molina and Mr. Kirby Hocutt Presentation Time: 5 minutes
Board approval required by: Section 08.01.3, *Regents' Rules*

RECOMMENDATION

The chancellor concurs with the recommendation of the president that the Board of Regents approve the concept for the project and authorize the chancellor or the chancellor's designee to (i) establish a Stage I design budget of \$220,000 to provide planning and schematic design services for a new Athletic Dining Facility project with an anticipated budget of \$5,500,000; and (ii) award a design professional contract. The Stage I design budget will be funded with Athletics Revenue (cash).

BACKGROUND INFORMATION

Stage I design services will provide for the contracting of the design professional; facility functional use programming; schematic design; survey; geo-tech testing; site analysis; utility infrastructure analysis; and concept budget development.

Due to the university's immediate need of the facility, the design professional was selected from the university's approved design professional pre-qualification list. MWM Architects was chosen based upon their specific expertise in the area of kitchen design, dining facilities, food service, athletic needs, and their extensive knowledge of the university's infrastructure.

The scope of work will provide for the programming and schematic design of an approximate 12,000 GSF Athletic Dining Facility to serve 400 athletes. The facility will include multiple dining environments; educational kitchen; a full service kitchen with storage area, scullery, and walk-in cooler and freezer; men's and women's restrooms; operations office area; and a service dock. The scope of this project also includes site utility infrastructure work, landscape enhancements, and public art.

Texas Tech University is committed to meeting the nutritional needs of athletes. We seek to meet these needs through assessment, education, and implementation of proper nutritional practices. Nutrition is a vital piece of the puzzle for optimum sports performance.

For reference, this project is listed on the THECB's Capital Expenditure Plan (MP1) Summary Report (Fiscal Years 2018-2022) proposed as a new 16,000 GSF facility, estimated at \$7,000,000.

The vice president for administration and finance and chief financial officer has verified the source of funds.

3. TTU: Approve scope and budget adjustment to the United Supermarkets Arena renovations project.

Presenter: Mr. Michael Molina

Presentation Time: 5 minutes

Board approval required by: Section 08.01.3, *Regents' Rules*

RECOMMENDATION

The chancellor concurs with the recommendation of the president that the Board of Regents authorize the chancellor or the chancellor's designee to (i) adjust the scope and budget of the United Supermarkets Arena Renovations by \$268,000 for a total project budget of \$5,581,624; (ii) report the adjustment to the Texas Higher Education Coordinating Board; (iii) waive the board directed fees for landscape enhancements and public art associated with this expanded scope of work; (iv) complete the contract documents; and (v) amend the design-build contract. The budget adjustment will be funded with Athletics Revenue (cash).

BACKGROUND INFORMATION

The expanded scope for the project covers the new branding graphic package and associated electrical and interior finishes for the west entry lobby.

In August 2015, the board approved a budget increase of \$263,624 to the project budget for a total of \$5,313,624 and waived the board directed fees for landscape enhancements and public art associated with this expanded scope of work. The expanded scope included renovation of the north and south event level corridors, along with interior finishes and graphic upgrades to the practice gym.

In December 2014, the board approved an increase of \$750,000 to the project budget for a total of \$5,050,000. The additional scope included renovation of the Men, Women, and Volleyball coaches' offices and suites and full redesign and renovation of the main west front entry lobby, gathering space, and former retail space.

In May 2014, the board approved the original project to renovate the United Spirit Arena with a project budget of \$4,300,000; waive the board directed fees for landscape enhancements and public art; report the project to the Texas Higher Education Coordinating Board; and award a design-build contract. The original renovation scope was to renovate both the men's and women's basketball locker rooms and team area; update the women's volleyball locker room and team area; update the west entry lobby and practice gym with the introduction of enhanced graphics; and all team training and sports nutrition areas.

The vice president for administration and finance and chief financial officer has verified the source of funds.

4. TTU: Approve naming lab within the College of Architecture.

Presenters: Mr. Patrick Kramer and Mr. Michael Molina Presentation Time: 5 minutes
Board approval required by: Section 08.05.1, *Regents' Rules*

RECOMMENDATION

The chancellor concurs with the recommendation of the president that the Board of Regents approve the naming of an interdisciplinary fabrication research lab located within the College of Architecture, to be named the "F. Marie Hall Collaborative Fabrication Shop." The donor's legal representative concurs with the naming of this interior space. Appropriate signage for the lab will specify the approved name.

BACKGROUND INFORMATION

The Texas Tech University College of Architecture began a project to renovate and expand its interdisciplinary research lab and fabrication workshop in 2011. Florence Marie Hall made a lead gift of \$250,000 in 2012, and over the course of the project contributed \$300,000 in 2013 and \$250,000 in 2014, for a total of \$800,000. These gifts were matched by the Texas Research Incentive Program, per program guidelines, in FY2014, FY2016 and FY2017 respectively, for an additional total of \$400,000, making the total impact of Ms. Hall's gifts \$1.2 million.

Ms. Hall passed away on Wednesday, April 5, 2017. She supported numerous components within the Texas Tech University System, most notably the F. Marie Hall Institute for Rural and Community Health at TTUHSC. She was a community supporter and served as a board member for the FMH Foundation, which she founded, the Midland College Foundation and the Advisory Governors for the Permian Basin Area Foundation. Ms. Hall was a long-time friend and champion of the College of Architecture. The College awarded her the prestigious Kleinschmidt Award in 2012. Without Ms. Hall's enthusiastic support and generous gifts the renovation of the interdisciplinary research lab and fabrication workshop could not have been realized. The project was completed in August 2017.

Under the terms of the gift agreement dated September 9, 2014, and Board of Regents policy, Ms. Hall's gifts totaling \$800,000 meets the 50% threshold for naming the lab as verified by the vice chancellor for facilities planning and construction.

Regents' Rules 08.05.1, requires board approval of the naming of all buildings and other facilities within the TTU system.

5. TTU: Approve naming lab within the College of Engineering.

Presenters: Mr. Patrick Kramer and Mr. Michael Molina Presentation Time: 5 minutes
Board approval required by: Section 08.05.1, *Regents' Rules*

RECOMMENDATION

The chancellor concurs with the recommendation of the president that the Board of Regents approve the naming of a core sample research lab located within the Bob L. Herd Department of Petroleum Engineering in the Edward E. Whitacre Jr. College of Engineering, as the "Chevron Reservoir Rock Properties Laboratory and Workshop." The donor's legal representative concurs with the naming of this interior space. Appropriate signage for the lab will specify the approved name.

BACKGROUND INFORMATION

Chevron Corporation has generously pledged a gift of \$500,000 to the Texas Tech Foundation, Inc., benefitting Texas Tech University's Edward E. Whitacre Jr. College of Engineering. The gift is to be used to support funding areas within an existing core prepping laboratory and workshop located within the Bob L. Herd Department of Petroleum Engineering, including the purchase of new laboratory and classroom equipment, facility needs, scholarships, fellowships, and faculty recruitment. In honor and recognition of Chevron's support, the lab will be named the "Chevron Reservoir Rock Properties Laboratory and Workshop."

Chevron's gift of \$500,000 meets the minimum fifty percent (50%) threshold for facility namings as verified by the vice chancellor for facilities planning and construction.

Regents' Rules 08.05.1 requires board approval of the naming of all buildings and other facilities within the TTU system.

6. TTU: Approve text, installation and location of memorial(s) honoring Texas Tech University Medal of Honor recipients.

Presenter: Dr. Lawrence Schovanec

Presentation Time: 3 minutes

Board approval required by: Section 08.05.1, *Regents' Rules*

RECOMMENDATION

The chancellor concurs with the recommendation of the president that the Board of Regents approve the location, installation, and text of memorials honoring Texas Tech University alumni who are recipients of the Medal of Honor.

BACKGROUND INFORMATION

Texas Tech University is honored to have two alumni who have been awarded the Medal of Honor. The Medal of Honor is the highest award for valor in action against an enemy force which can be bestowed upon an individual serving in the Armed Services of the United States. The award is generally presented to its recipient by the President of the United States of America.

Lt. George H. O'Brien, Jr. is a 1950 graduate of Texas Technological College. Lt. O'Brien was awarded the Medal of Honor for his action during the Korean conflict.

**Medal of Honor
Second Lieutenant George H. O'Brien, Jr.
Bachelor of Arts in Geosciences 1950**

Citation:

For conspicuous gallantry and intrepidity at the risk of his life above and beyond the call of duty as a rifle platoon commander of Company H, Third Battalion, Seventh Marines, First Marine Division in action against enemy aggressor forces. With his platoon subjected to an intense mortar and artillery bombardment while preparing to assault a vitally important hill position on the main line of resistance which had been overrun by a numerically superior enemy force on the preceding night, 2d Lt. O'Brien leaped from his trench when the attack signal was given and, shouting for his men to follow, raced across an exposed saddle and up the enemy-held hill through a virtual hail of deadly small-arms, artillery, and mortar fire. Although shot through the arm and thrown to the ground by hostile automatic-weapons fire as he neared the well-entrenched enemy position, he bravely regained his feet, waved his men onward, and continued to spearhead the assault, pausing only long enough to go to the aid of a wounded marine. Encountering the enemy at close range, he proceeded to hurl hand grenades into the bunkers and, utilizing his carbine to best advantage in savage hand-to-hand combat, succeeded in killing at least 3 of the enemy. Struck down by the concussion of grenades on 3 occasions during the subsequent action, he steadfastly refused to be evacuated for medical treatment and continued to lead

his platoon in the assault for a period of nearly 4 hours, repeatedly encouraging his men and maintaining superb direction of the unit. With the attack halted he set up a defense with his remaining forces to prepare for a counterattack, personally checking each position, attending to the wounded and expediting their evacuation. When a relief of the position was effected by another unit, he remained to cover the withdrawal and to assure that no wounded were left behind. By his exceptionally daring and forceful leadership in the face of overwhelming odds, 2d Lt. O'Brien served as a constant source of inspiration to all who observed him and was greatly instrumental in the recapture of a strategic position on the main line of resistance. His indomitable determination and valiant fighting spirit reflect the highest credit upon himself and enhance the finest traditions of the U.S. Naval Service.

Private First Class Herman C. Wallace was attending Texas Technological College in 1943 when he was called to service in the European theater of operations during World War II. PFC Wallace was killed in action on February 27, 1945.

**Medal of Honor
PFC Herman C. Wallace
Texas Tech University Freshman 1942-1943**

Citation:

For conspicuous gallantry and intrepidity while serving with Company B, 301st Combat Engineer Battalion, 76th Infantry Division. While helping clear enemy mines from a road, he stepped on a well-concealed S-type antipersonnel mine. Hearing the characteristic noise indicating that the mine had been activated and, if he stepped aside, would be thrown upward to explode above ground and spray the area with fragments, surely killing 2 comrades directly behind him and endangering other members of his squad, he deliberately placed his other foot on the mine even though his best chance for survival was to fall prone. Pvt. Wallace was killed when the charge detonated, but his supreme heroism at the cost of his life confined the blast to the ground and his own body and saved his fellow soldiers from death or injury.

Texas Tech University desires to recognize these brave men for their service and sacrifice for, and dedication to, the United States of America. It is the institution's hope that the memorial plaques and markers to be placed on the east entrance into Memorial Circle will be a fitting tribute to their legacies.

The cost for the memorials, including the granite monuments, bronze plaques, brickwork, and lighting, is estimated to be approximately \$35,000 to be paid with institutional funds.

The vice president for administration and finance and chief financial officer has verified the source of funds.

7. TTUHSC: Approve budget adjustment to the Lubbock Expansion project.

Presenters: Dr. Tedd Mitchell & Mr. Michael Molina Presentation Time: 5 minutes
Board approval required by: Section 08.01.3, *Regents' Rules*

RECOMMENDATION

The chancellor concurs with the recommendation of the president that the Board of Regents authorize the chancellor or the chancellor's designee to (i) adjust the budget of the Lubbock Education, Research & Technology + West Expansion project in the amount not to exceed \$5,475,000 if no additional savings are identified for a total project budget of \$91,375,000; (ii) report the adjustment to the Texas Higher Education Coordinating Board; (iii) waive the board directed fees for landscape enhancements and public art associated with this budget adjustment; (iv) amend the Design Professional contract; (v) amend the Construction Manager Agent contract; and (vi) amend the Construction Manager at Risk contract. The budget adjustment will be funded with Higher Education Assistance Fund ("HEAF") cash.

The chancellor further recommends that the president be authorized to negotiate and execute any and all agreements with city, state, and county agencies, utility companies and other entities required to successfully complete the project.

BACKGROUND INFORMATION

The budget adjustment will allow the following originally programmed components to be constructed: (1) a 2,300 GSF expansion to the Fifth Floor for student collaboration, engagement and study area, (2) the 12,500 GSF Classroom/Academic Event Center facility; and (3) the reinstatement of other value engineering items.

In August 2015, the Board of Regents approved Stage I design services to provide for the solicitation and contracting of Design Professional, Construction Manager Agent, and construction partners; facility functional use programming; schematic design; survey; geo-tech testing; site analysis; utility infrastructure analysis; and final package development for a full funding request.

In October 2016, the Board of Regents approved to move forward with the plan, design, and construction of the Education, Research & Technology building, the Conference Center building, TTUHSC's West Expansion, and new front entry to the Lubbock TTUHSC campus with a total project budget of \$85,900,000.

The vice president and chief financial officer has verified the source of funds.

**8. TTUS: Approve amendments to Chapter 08 (Facilities),
Regents' Rules, regarding approval of major construction
projects.**

Presenter: Mr. Michael Molina

Presentation Time: 5 minutes

Board approval required by: Section 01.08, *Regents' Rules*

RECOMMENDATION

The Regents Rules Review Committee (“Rules Committee”) recommends that the Facilities Committee consider adoption of the following amendments to Chapter 08 (Facilities). [*The text of the proposed amendment is provided in an attachment to the Agenda Book.*]

Board approval of the amendment also includes an authorization for the Board Secretary to make technical/conforming changes elsewhere in the *Regents' Rules* as needed. For example, changes in the numbering of subsections within Chapter 08 may require corresponding changes elsewhere in the *Regents' Rules* where provisions cite a section number that has changed.

BACKGROUND INFORMATION

Modifications to *Regents' Rules* policy are proposed to improve the construction project approval process, add more transparency for project budgets and the award of construction contracts, and enhance the management of contractual relationships with external partners. Accordingly, a series of amendments to the *Regents' Rules* are proposed for major construction projects. [Major construction projects are those with a total budget of \$2.0 million or more.]

Key elements of the policy modifications include the separation of project approvals into two separate steps:

- **Board grants preliminary approval for the project ... “preliminary project approval.”** Before a contract with a design firm or construction manager for pre-construction planning work could be executed, the Board first must give preliminary approval for the project. The Board’s approval would involve the following: (1) approve a planning budget; and (2) authorize the use of external partners for pre-construction planning assistance.
- **Board authorizes construction of the project ... “proceed with construction approval.”** After preliminary project approval is granted and a sufficient level of project planning is complete, the proposed project is brought back to the Board for a second approval — an authorization to proceed with construction using the identified external partners.

Various other enhancements for major construction projects also are proposed for the *Regents' Rules* policies.

The Rules Committee (composed of Regents Tim Lancaster-chair, Mickey Long, and John Steinmetz) is charged with considering and, when appropriate, submitting to the appropriate Board committee proposed amendments to the *Regents' Rules* of the Texas Tech University System. Any amendment to the *Regents' Rules* or a Board Policy Statement must be approved by the full Board in accordance with Section 01.08, *Regents' Rules*.

9. **TTUS: Report on Facilities Planning and Construction projects.**

Presenter: Mr. Michael Molina
Report requested by: Board of Regents

Presentation Time: 5 minutes

Mr. Michael Molina, Vice Chancellor for Facilities Planning and Construction, TTUS, will present a report on Facilities Planning and Construction managed projects.



FINANCE AND ADMINISTRATION

Finance and Administration Committee

Committee Meeting
October 20, 2017

Time: 10:45 am (or upon adjournment of the Facilities Committee meeting)

Place: Regents Conference Room (104A), First Floor, System Building, 1508 Knoxville Avenue, Lubbock, Texas

Regents: Steinmetz (Chair), Huckabee, Lewis

Agenda

- Approve minutes of committee meetings held on August 10, 2017
- I.C.** Consideration of items to be recommended by the Finance and Administration Committee to the Board of Regents of the Texas Tech University System (“TTUS”) for and on behalf of Angelo State University (“ASU”), TTUS, the TTU System Administration (“TTUSA”), Texas Tech University (“TTU”), Texas Tech University Health Sciences Center (“TTUHSC”), and Texas Tech University Health Sciences Center at El Paso (“TTUHSC El Paso”)

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1. TTUS: Approve amendments to Chapter 07 (Fiscal Management), *Regents’ Rules*, regarding certain medical services contracts 2
2. Adjournment

NOTE: Following consideration of the above items by the committee, the Committee Chair will present the Committee Report to the full Board of Regents for its consideration on Friday, October 20, 2017.

1. TTUS: Approve amendments to Chapter 07 (Fiscal Management), Regents' Rules, regarding certain medical services contracts.

Presenters: Mr. John Huffaker and
Presidents Mitchell and Lange

Presentation Time: 4 minutes

Board approval required by: Sec. 01.08, *Regents' Rules*

RECOMMENDATION

The Regents Rules Review Committee ("Rules Committee") recommends that the Finance and Administration Committee consider adoption of the attached amendment to Chapter 07 (Fiscal Management). [*The text of the proposed amendment is provided in an attachment to the Agenda Book.*]

Board approval of the amendment also includes an authorization for the Board Secretary to make technical and conforming changes elsewhere in the *Regents' Rules* as needed. For example:

- Sec. 07.12.7 provides a summary table of required approvals for contracts that will need to be adjusted if the proposed amendments herein are adopted.
- The changes in the numbering of subsections within Sec. 07.12.4 may require corresponding changes elsewhere in the *Regents' Rules* where provisions cite a section number that has changed.

BACKGROUND INFORMATION

Modifications to *Regents' Rules* policy are requested to add a new delegation of authority for the presidents of TTUHSC and TTUHSC El Paso to approve certain medical services contracts in excess of \$1 million that involve health care entities with which these institutions have continuing contractual relationships.

Both health-related institutions have numerous ongoing contractual relationships — such as hospital affiliation agreements and health care agreements with regional and state agencies, including state correctional health care — for which the institutions receive payments for health care services provided (i.e., revenue contracts). There also are numerous related agreements with subcontractors tied to these medical services contracts (i.e., expenditure contracts with subcontractors, such as hospitals and pharmacy suppliers, that are necessary for the institution to fulfill its obligations under the related revenue contract).

Due to the frequency of and short turnaround times when these contracts need to be approved, extended or modified, and due to the highly specialized nature of the contractual elements of these agreements, the proposed *Regents' Rules* amendment would delegate to the TTUHSC and TTUHSC El Paso presidents the authority to approve such contracts subject to: (1) the prior review of the System's Office of General Counsel and the System CFO; and (2) post-approval reporting to the Board.

The proposed delegation of authority for these medical services contracts is similar in nature to the existing delegation of authority to presidents to approve contracts in excess of \$1 million for research projects in Section 07.12.4.b.

Per Section 01.07, *Regents' Rules*, the Rules Committee (composed of Regents Tim Lancaster-chair, Mickey Long, and John Steinmetz) is charged with considering and, when appropriate, submitting to the appropriate Board committee proposed amendments to the *Regents' Rules* of the Texas Tech University System. Any amendment to the *Regents' Rules* or a Board Policy Statement must be approved by the full Board in accordance with Section 01.08, *Regents' Rules*.

**ACADEMIC,
CLINICAL AND
STUDENT AFFAIRS**

Academic, Clinical and Student Affairs Committee

Committee Meeting
October 20, 2017

Time: 11:05 am (or upon adjournment of the Finance and Administration
Committee meeting)

Place: Regents Conference Room (104A), First Floor, System Building, 1508
Knoxville Avenue, Lubbock, Texas

Regents: Walker (Chair), Esparza, Steinmetz, Lujan

Agenda

- Approve minutes of committee meeting held on August 10, 2017
- I.D.** Consideration of items to be recommended by the Academic, Clinical and Student Affairs Committee to the Board of Regents of the Texas Tech University System (“TTUS”) for and on behalf of Angelo State University (“ASU”), TTUS, the TTU System Administration (“TTUSA”), Texas Tech University (“TTU”), Texas Tech University Health Sciences Center (“TTUHSC”), and Texas Tech University Health Sciences Center at El Paso (“TTUHSC El Paso”)

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2.	ASU: Approve exceptions to Section 03.01.11.c., <i>Regents’ Rules</i> (nepotism)	5
3.	TTU: Approve appointments with tenure	7
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6.	TTU: Authorize president to execute consulting contracts related to analyzing feasibility and overall planning for a School of Veterinary Medicine	11

7. TTUHSC: Approve the name change and expansion of the ScD Program in Physical Therapy in Lubbock 13
8. Adjournment

NOTE: Following consideration of the above items by the committee, the Committee Chair will present the Committee Report to the full Board of Regents for its consideration on Friday, October 20, 2017.

1. **ASU: Approve the addition of the Bachelor of Science Degree in Mechanical Engineering.**

Presenter: Dr. Don Topliff

Presentation Time: 3 minutes

Board approval required by: Section 04.09.1, *Regents' Rules*

RECOMMENDATION

The chancellor concurs with the recommendation of the president that the Board of Regents approve the new degree program request for the Bachelor of Science ("B.S.") degree with a major in Mechanical Engineering in the David L. Hirschfield Department of Engineering within the College of Science and Engineering and authorize submission to the Texas Higher Education Coordinating Board seeking its approval for such a program and to the Southern Association of Colleges and Schools for its review. Implementation of this new program will begin in fall 2018.

BACKGROUND INFORMATION

The proposal to establish a Bachelor of Science degree in Mechanical Engineering ("ME") is a result of the overwhelming success of the B.S. degree in Civil Engineering ("CE"), approved by the Texas Higher Education Coordinating Board and begun in Fall 2016. There are currently 159 majors in CE and student inquiries concerning ME continue to grow. A number of students begin their pre-engineering coursework at Angelo State University ("ASU") and then transfer to ME programs at other institutions. Mechanical Engineering is the next logical step for ASU. The recently completed Hunter Strain Engineering Laboratory complex will easily support the laboratory requirements of the ME program without additional added space.

The addition of a program director (currently on the faculty) will provide appropriate oversight for the ME curriculum, faculty hires and tenure/promotion decisions, program budgets and other administrative functions. Five-Year Enrollment Projections are shown in Table 1. Five-year costs and funding are shown in Table 2. Departmental costs for the first five years total \$3,382,121. Those costs include three additional faculty members and all support costs shown in the table. Program costs will be covered by a Hispanic Serving Institution ("HSI") grant recently approved, anticipated formula funding, tuition and designated tuition. Five year funding for the program totals \$4,844,956.

A copy of the proposal to be submitted to the Texas Higher Education Coordinating Board has been forwarded to the Texas Tech University System Vice Chancellor for Academic Affairs and the Board of Regents.

Table 1. Five-Year Enrollment Projection

YEAR	1	2	3	4	5
Headcount	23	41	62	76	110
FTSE	23	38	54	62	85

Table 2. Five-Year Costs and Funding Sources

Five-Year Costs		<i>Five-Year Funding</i>	
Personnel (with fringe added)	\$2,060,890	Reallocated Funds	\$424,730
Facilities and Equipment	\$768,950	Anticipated New Formula Funding (years 3-5)	\$774,165
Library, Supplies, and Materials	\$252,281	Special Item Funding	\$0
Other (Administrative costs and support, travel, accreditation)	\$300,000	Other (HSI Grant Received)	\$2,750,000
		Other (Expected Donation)	\$0
		Other (Designated Tuition)	\$896,061
Total Costs	\$3,382,121	Total Funding	\$4,844,956

2. **ASU: Approve exceptions to Section 03.01.11.c., Regents' Rules (nepotism).**

Presenter: Dr. Don Topliff

Presentation Time: 2 minutes

Board approval required by: Section 03.01.11.c., *Regents' Rules*

RECOMMENDATION

The chancellor concurs with the recommendation of the president that the Board of Regents approve the following exceptions to Section 03.01.11.c. Nepotism, *Regents' Rules*.

1. To allow Mrs. Marie-Clare Prisco to be employed as an instructor in English in the Department of English and Modern Languages where her husband, Dr. Laurence Musgrove, serves as the department chair. Mrs. Prisco will be directly supervised by Dr. Carolyn Gascoigne, Dean of the College of Arts and Humanities, who will also be responsible for all supervisory and personnel matters related to Mrs. Prisco's appointment. A new instructor who was to teach five classes of freshman composition resigned prior to the beginning of the fall semester. The pool of adjunct faculty had been exhausted and Mrs. Prisco qualified under the SACS criteria. Due to the urgency of filling the position, an emergency approval of a waiver of nepotism was requested and granted by Vice Chairman Tim Lancaster and ACS Committee Chairman John Walker. Ratification of the official approval of the waiver of nepotism is being requested.
2. To allow Mrs. Tonya Starkey to be employed as an adjunct in Social Work (.25) in the Department of Social Work where her husband, Dr. Thomas Starkey, serves as the department chair. Mrs. Starkey will be directly supervised by Dr. Leslie Mayrand, Dean of the Archer College of Health and Human Services, who will also be responsible for all supervisory and personnel matters related to Mrs. Starkey's appointment. The pool of adjunct faculty had been exhausted and Mrs. Starkey qualified under the SACS criteria.

These arrangements will be re-evaluated after the end of every academic year to assure there is effective management of the conflict of interest and determine whether modifications are necessary.

BACKGROUND INFORMATION

Section 03.01.11.c., *Regents' Rules*, states that no person related to an administrator within a prohibited degree shall be eligible for initial appointment to a position in an area of responsibility over which an administrator has appointive authority, in whole or in part, regardless of the source of funds from which the position's salary is to be paid. Exceptions to this restriction on the initial

appointment of an individual may be made only by the board upon recommendations of the president and the chancellor and then only when the administrator in question does not directly supervise the person to be appointed.

3. TTU: Approve appointments with tenure.

Presenter: Dr. Michael Galyean

Presentation Time: 2 minutes

Board approval required by: Section 04.02, *Regents' Rules*; TTU Operating Policy 32.01

RECOMMENDATION

The chancellor concurs with the recommendation of the president that the Board of Regents approve the granting of tenure to faculty, as listed below, concurrently with their respective appointments to Texas Tech University effective September 2017:

Joseph Heppert, Ph.D., professor, Department of Chemistry and Biochemistry, College of Arts and Sciences, and Vice President for Research at Texas Tech University. Dr. Heppert is most recently a tenured professor of chemistry and had serviced as director of the Center for Science Education at the University of Kansas.

Min Wang, Ph.D., associate professor, Department of Mathematics and Statistics, College of Arts and Sciences. Dr. Wang comes to Texas Tech from Michigan Tech University where he has been a tenured associate professor of statistics.

BACKGROUND INFORMATION

The faculty members whose names appear above have been judged by the respective department faculty, appropriate committees and administrative personnel as worthy of academic tenure conferred with their respective appointments to Texas Tech University. University procedures (OP 32.01) for recommending tenure of qualified members of the faculty have been carefully followed.

Approval of these individuals will bring the number of full-time tenured faculty at Texas Tech University to 767. After these appointments, the percentage of tenure-track faculty who have been awarded tenure will be 70.

4. **TTU: Approve exception to Section 03.01.11, Regents' Rules (nepotism).**

Presenter: Dr. Michael Galyean

Presentation Time: 2 minutes

Board approval required by: Section 03.01.11, *Regents' Rules*; TTU Operating Policy 70.08 3.d

RECOMMENDATION

The chancellor concurs with the recommendation of the president that the Board of Regents approve an exception to Section 03.01.11, Nepotism, *Regents' Rules*, to allow Dr. Steven Presley to be appointed chair of the Department of Environmental Toxicology where his daughter-in-law, Ms. Stephanie Presley, is employed as a unit manager. After consultation with the department faculty, Dean Brent Lindquist views Dr. Presley as the most qualified faculty member to lead the department going forward. Ms. Presley will be directly supervised by Dr. Todd Anderson – outgoing chair of the department and continuing as interim director of The Institute for Environmental and Human Health. Dr. Anderson will be responsible for Ms. Presley's day-to-day department activities and will conduct her annual performance evaluations and make recommendations regarding personnel and compensation actions related to Ms. Presley. Authorization and implementation of action in any such matters will circumvent Dr. Presley, the chair, and be directed to Dr. Randy McBee, associate dean for faculty affairs in the College of Arts and Sciences. This plan will be re-evaluated after the end of every academic year to assure there is effective management of the conflict of interest and determine whether modifications are necessary.

BACKGROUND INFORMATION

Section 03.01.11.f, *Regents' Rules*, states that in the event an employee's ... promotion ... makes the employee an administrative supervisor over an employee who is related within a prohibited degree, the employee's administrator must complete an *Application for Waiver of Nepotism* and submit it through administrative channels to the President and the Chancellor for their approval so it can be reported to the Board of Regents as an information item. Dr. Presley's request for exception has been approved by the dean of the College of Arts and Sciences, and the provost and senior vice president, and recommended to the president.

5. **TTU: Authorize president to begin process for establishing a tax-exempt 501(c)(3) organization.**

Presenter: President Lawrence Schovanec
Board approval required by: The Board of Regents

Presentation Time: 5 minutes

RECOMMENDATION

The chancellor concurs with the recommendation of the president that the Board of Regents authorize the president to proceed with initial steps necessary to establish a tax-exempt 501(c)(3) organization, including filing required state and federal documents. The purpose of this organization will be to support and enhance education, research, and collaborative innovation opportunities for Texas Tech University System and each of its component institutions.

BACKGROUND INFORMATION

To further the research, economic development, and educational missions of Texas Tech University, consideration is being given to establishing a tax-exempt entity for the Texas Tech Research Park. Executive Leadership investigated best-practices of other Research Park models, including those in an early stage of development (e.g., University of Wisconsin – Milwaukee) and those in a more mature stage (e.g., Purdue University). The experiences of these and many other institutions indicate that creating a tax-exempt Research Park entity contributes to the recruitment of industry partners, and generates a more favorable incubation environment for new business startups.

This initial request is to allow the president to proceed with steps necessary to form a tax-exempt 501(c)(3) organization. Such steps include filing a Certificate of Formation with the State of Texas and filing Internal Revenue Service (“IRS”) Form 1023 Application for Recognition of Exemption. Obtaining recognition as a tax-exempt 501(c)(3) organization from the IRS can take a minimum of six months. During such time, discussion related to the long-term vision for research, development, commercialization and entrepreneurial activities will continue among executive leadership and staff of TTUS, TTU, TTUHSC and the Board of Regents. A fully developed proposal for purpose and activities, governance structure and conflict of interest policy, and 3-year financial projections will be presented to the Board of Regents no earlier than the May, 2018 meeting for full approval.

Implementing a successful Research Park aligns with, and will be integral to the success of, the Texas Tech University Strategic Plan:

- *Educate and Empower a Diverse Student Body*
 - Experiences at successful research parks demonstrate that companies – either start-up or existing entities – provide students with a broader and richer opportunity for experiential learning.

These companies also grow demand for highly skilled workforce that aligns with the University's academic programs.

- *Enable Innovative Research and Creative Activities*
 - Research parks accelerate the connection between research discovery and technology translation for the benefit of society. They generate value and in turn accelerate growth of the research enterprise at the University.
- *Transform Lives and Communities through Strategic Outreach and Engaged Scholarship*
 - Research parks are built on and facilitate active community and private sector engagement. They become an engine for economic development and enrich communities.

6. TTU: Authorize president to execute consulting contracts related to analyzing feasibility and overall planning for a School of Veterinary Medicine.

Presenter: Dr. Michael Galyean

Presentation Time: 3 minutes

Board approval required by: Section 07.12.4.e, Regents' Rules

RECOMMENDATION

The chancellor concurs with the recommendation of the president of Texas Tech University that the Board of Regents authorize the president or his designee to approve and execute contracts with Alastair E. Cribb, DVM and John U. Thomson, DVM for the purpose of providing consulting services related to studying the feasibility of, and planning for, a School of Veterinary Medicine.

BACKGROUND INFORMATION

Alastair E. Cribb, DVM, served as the Dean of the University of Calgary Faculty of Veterinary Medicine ("UCVM") for 10 years beginning in 2006 in the form of 2 consecutive 5-year terms. He is a veterinarian and earned his Doctor of Veterinary Medicine degree from Western College of Veterinary Medicine in 1984. He subsequently earned a Ph.D. in Clinical Pharmacology from the University of Toronto in 1991.

Dr. Cribb's services are needed to assist in developing a plan for a School of Veterinary Medicine. Dr. Cribb planned and developed the UCVM program and successfully achieved full accreditation from the North American accrediting body, the American Veterinary Medical Association ("AVMA"). To date, all students of this program have passed the North American Veterinary Licensing Exam. This model of education serves as the basis of the proposed School of Veterinary Medicine because of its innovation, evidence of success, and cost efficiency. He is widely respected in the veterinary community and has accumulated a unique base of administrative accomplishments.

Dr. Cribb will work closely with Texas Tech personnel to review and provide feedback on documents, and where appropriate, give presentations related to the formation of a veterinary medicine program. He will work on programmatic needs of the physical infrastructure and aid in the development of the associated admission procedures and curriculum. He will also aid in the planning for AVMA accreditation.

The estimated consulting fee is \$75,000. The university will also reimburse Dr. Cribb's actual travel, lodging, and out-of-pocket expenses related to the services provided. The contract will be effective upon approval by execution and will expire on August 31, 2019.

John U. Thomson, DVM, is the Dean Emeritus of the Iowa State University College of Veterinary Medicine ("CVM"). After 20 years of food animal veterinary practice in Iowa he spent over 28 years working with state and federal government bodies to enhance veterinary medicine contributions to animal, human and environmental health. His service includes 10 years at South Dakota State University as an Extension veterinarian and director of the Animal Disease and Research and Diagnostic Laboratory, 5 years as the dean of the Mississippi State University CVM, and 7 years as the Dean of the Iowa State University CVM.

Dr. Thomson's services are needed to assist in developing a plan for a School of Veterinary Medicine. Dr. Thomson has considerable experience in engaging the American Association of Veterinary Medicine ("AVMA"), which is the North American accrediting body for veterinary medicine programs. He is widely respected among the various schools and colleges of veterinary medicine, and his diverse administrative experiences are valuable in determining personnel and physical infrastructure needs of veterinary medicine programs.

Dr. Thomson will work on the development of a pro forma college business plan and programmatic aspects of physical infrastructure. He will participate in steering committee activities and meetings with the veterinary community. He will work with Texas Tech leadership on effective engagement of AVMA and other relevant veterinary associations.

The estimated consulting fee is \$45,000. The university will also reimburse Dr. Thomson's actual travel, lodging, and out-of-pocket expenses related to the services provided. The contract will be effective upon execution and will expire on August 31, 2019.

Section 07.12.4.e. *Regents' Rules*, requires Board approval on consulting contracts with an initial consideration in excess of \$25,000.

7. TTUHSC: Approve the name change and expansion of the ScD Program in Physical Therapy in Lubbock.

Presenter: Dr. Tedd L. Mitchell

Presentation Time: 5 minutes

Board approval required by: Section 04.09.1, *Regents' Rules*; HSC Operating Policy 60.11; and Chapter 5, Subchapter C, THECB Laws and Rules

RECOMMENDATION

The chancellor concurs with the recommendation of the president that the Board of Regents approve the name change of the Doctor of Science in Physical Therapy Program ("ScDPT") to the Doctor of Science in Rehabilitation Sciences Program ("ScDRS") and expand the program to include three concentrations; Physical Therapy ("PT"), Occupational Therapy ("OT") and Athletic Training ("AT"). The Board further authorizes the submission by the executive vice president for Academic Affairs to the Texas Higher Education Coordinating Board and the Southern Association of Colleges and Schools Commission on Colleges seeking approval for such a program.

BACKGROUND INFORMATION

The Doctor of Science Program in Physical Therapy is a terminal post-professional doctoral degree program that aims to raise the Physical Therapy (PT) clinician and educator beyond the professional entry doctorate. While considered by the United States Department of Education as equivalent to a PhD, the ScDPT degree emphasizes professional development and expertise in comparison to the more traditional academic emphases in PhD programs. **The present ScD program** at TTUHSC has equipped our graduates with advanced clinical skills to allow them to function as full-time entry-level and post-professional educators, as well as clinical mentors/educators in clinical residency and/or fellowship programs. **Program outcomes** reflect ScDPT program success, producing 5-10 graduates per year. Over 40% of the ScD graduates have gained faculty positions in graduate PT education programs, approximately 40% have transitioned into PT leadership and/or advanced practice ownership roles, and a considerable number have developed into post-professional educators in a clinical setting.

The School of Health Professions at TTUHSC proposes to change the name and expand the mission of the ScD program in Physical Therapy to the ScD program in Rehabilitation Sciences to include Physical Therapy ("PT"), Occupational Therapy ("OT") and Athletic Training ("AT"). The ScDRS aims to educate experienced PT, OT, and AT practitioners to become master clinicians, educators, and collaborative researchers. In addition to enhancing advanced clinical practice, this program expansion will prepare clinicians for leadership and teaching in clinical residencies and fellowships, as well as providing a terminal degree that makes them suitable for hire in entry-level and post-professional programs in PT, OT and AT.

Occupational Therapy and Athletic Training are among those health professions with the greatest shortages of faculty with qualifying terminal degrees, accompanied by growth in the number of entry-level occupational therapy and athletic training degree programs. The hybrid online program offered by the proposed ScDRS program at TTUHSC will be highly desirable to many seasoned clinicians and educators in these professions, as well as new PT, OT, and AT graduates who wish to further their education early in their careers. The current Accreditation Council for Occupational Therapy Education (“ACOTE”) standards require that the majority of full-time faculty teaching in a master’s or doctoral degree level educational program must hold a doctoral degree (Standard A.2.10.). The new standards (to be adopted December 2017) will require at least 50% of full-time faculty members to have a terminal doctorate for entry-level doctoral programs (revised Standard A.2.10.). Similarly, the Commission on Accreditation of Athletic Training Education (“CAATE”) in May 2015 mandated that accredited entry-level professional athletic training education occur at the master’s degree level. Currently there are 312 baccalaureate level athletic training education programs accredited by CAATE that require transition to a master’s degree. More than twenty-five athletic training faculty position vacancies exist nationally, accompanied by many existing faculty who do not possess a terminal degree and may be ineligible for a graduate faculty appointment. The proposed ScDRS program expansion will help to address these professional shortages with a clinical terminal degree that is well suited for the changing clinical practice and education landscapes.

COSTS and FUNDING

Total costs for the Doctor of Science in Rehabilitation Sciences program are outlined in the table below which includes \$558,385 per year of costs associated with the existing ScDPT program. The increased recurring costs over the initial five years of the expansion is \$1,030,575 to be funded from reallocated funds from vacant positions, formula funding, board authorized tuition, and student fees.

Recurring Costs	FY 2018	FY2019	FY2020	FY2021	FY2022	5 YR Total
Faculty	552,500	695,500	695,500	695,500	812,500	3,451,500
Staff	42,900	42,900	42,900	42,900	42,900	214,500
Operating Costs	10,500	14,000	44,000	44,000	44,000	156,500
Total Expenses	605,900	752,400	782,400	782,400	899,400	3,822,500

Funding Sources	FY2018	FY2019	FY2020	FY2021	FY2022	5 YR Total
Reallocated Funds from Vacant Positions	25,157	49,467	0	0	0	74,624
Formula Funding	234,203	234,203	270,355	270,355	297,600	1,306,716
Board Authorized Tuition	21,300	26,500	28,400	28,400	28,400	133,000
Student Fees	325,240	442,230	528,972	553,960	580,447	2,430,849
Total Funding Sources	605,900	752,400	827,727	852,715	906,447	3,945,189

Projected Student Enrollment	FY2018	FY2019	FY2020	FY2021	FY2022
	105	115	125	125	125



**MEETING OF THE
BOARD**

Meeting of the Board
Friday, October 20, 2017

Time: 8:30 am

Place: Regents Conference Room (104A), First Floor, System Building, 1508 Knoxville Avenue, Lubbock, Texas

Agenda

- I. **Meeting of the Board—Call to Order; convene into Open Session of the Board**..... Chairman Francis
- II. **Introductions and Recognitions** Chancellor Duncan, President May, President Schovanec, President Mitchell, and President Lange
- III. **Presentation by Texas Higher Education Coordinating Board (“THECB”) Commissioner**..... Raymund A. Paredes, Ph.D
- IV. **Recess** Chairman Francis

V. **Meeting of Standing Committees:** Conducted sequentially and separately from the Meeting of the Board at the adjournment of the Carr Scholarship Foundation meeting—refer to agenda for each respective committee meeting.

Location: Regents Conference Room (104A), First Floor, System Building, 1508 Knoxville Avenue, Lubbock, Texas

Meeting of the Board
Friday, October 20, 2017

Time: 12:30 pm (or upon adjournment of the last committee meeting of the day or whenever deemed necessary)

Place: Regents Conference Room (104A), First Floor, System Building, 1508 Knoxville Avenue, Lubbock, Texas

Agenda

VI. Meeting of the Board—Call to Order; reconvene into Open Session of the Board Chairman Francis

VII. Open Session: The Board will continue in Open Session and meet as a Committee of the Whole and Meeting of the Board to consider and act on:

A. Approve minutes of Board meetings held on August 10-11, 2017 Chairman Francis

B. Committee of the Whole..... Vice Chairman Lancaster

Page
CW

1. ASU, TTU, TTUHSC, TTUHSC El Paso, TTUSA, and TTUS: Approve Consent Agenda; acknowledge review of Information Agenda 6

Consent Agenda

- a. TTU: Approve faculty development leaves of absence (ACS)
- b. TTU: Approve faculty leave of absence with pay (ACS)
- c. TTU and TTUHSC: Approve employees to serve as employees, officers, or members of the Board of Directors with a company in which TTUS has a vested interest in the intellectual property (ACS)
- d. TTU and TTUHSC: Approve employees to serve as employees, officers, or members of the Board of Directors with a company in which TTUS has a vested interest in the intellectual property (ACS)
- e. TTUHSC: Approve text, installation and location of plaques for Drs. M. Roy Wilson and

- John C. Baldwin, former presidents of Texas Tech University Health Sciences Center (ACS)
- f. TTUHSC El Paso: Approve revisions to OP 60.01, Tenure & Promotion Policy (ACS)
 - g. TTUHSC El Paso: Approve revisions to OP 60.03, Comprehensive Performance Evaluation of Tenured Faculty (ACS)
 - h. ASU, TTU, TTUHSC and TTUHSC El Paso: Approve campus policies regarding Sexual Assault at each of the System Component Universities (ACS)
 - i. TTU: Approve acceptance of a barn for Proctor Park at the National Ranching Heritage Museum (F)
 - j. TTU: Authorize a Brush Control Agreement for Texas Tech University's Junction campus (FA)
 - k. TTUHSC: Approve modification of name for future School of Public Health (F)
 - l. TTU: Approve commissioning of police officers (FA)
 - m. TTU and TTUHSC El Paso: Approve purchasing contracts in excess of \$1,000,000 (FA)
 - n. TTUHSC: Authorize president to execute a contract with BSA Health System Holdings, LLC (FA)
 - o. TTUHSC and TTUHSC El Paso: Approve submission of request to exceed the Full Time Equivalent ("FTE") limitation established by the General Appropriations Act (FA)
 - p. TTUHSC El Paso: Authorize president to amend contract with Community Resources LLC (FA)
 - q. TTUS: Approve appointment of new members to the Board of Directors of Texas Tech Foundation, Inc (FA)
 - r. TTUS: Approve Investment Advisory Committee appointment as recommended by the Board of Directors of Texas Tech Foundation, Inc (FA)
 - s. ASU, TTU, TTUHSC, TTUHSC El Paso, TTUS and TTUSA: Approve delegation of signature authority (FA)

Information Agenda

Information is provided as required by Section 01.02.7.d(4)(c), *Regents' Rules*

- (1) TTUHSC: Contract Renewals per Sections 07.12.4.d and 07.12.6.b., *Regents' Rules* – A list of renewal, extended or amended contracts in excess of \$1,000,000 per annum, including the amount of the contract, shall be provided to the board as an information item at the next regular board meeting.
- (2) TTU, TTUHSC and TTUHSC El Paso: Consulting contracts with an initial consideration of \$25,000 or less per Section 07.12.4.e.(2), *Regents' Rules* – “(a) Board approval is not required, but notice of the proposed contract must be provided to the chair and the chair of the Finance and Administration Committee prior to execution of the contract. (b) A report of the contract shall be provided as an Information Agenda item at the next board meeting.”
- (3) TTUHSC: Approval of sponsored programs projects in excess of \$1,000,000 per annum as provided by Section 07.12.4.b., *Regents' Rules* – “Notwithstanding Section 07.12.3.a, *Regents' Rules*, the board delegates to the presidents the authority to approve the proposals and execute and sign contracts for sponsored program projects in excess of \$1,000,000 per annum. Sponsored program projects are those grants, contracts, and cooperative agreements from either the public or private sectors that support research, instructional, and service projects. A list of such contracts for sponsored program projects in excess of \$1,000,000 per annum shall be provided to the board as an information item at the next regular board meeting.”

VIII. Reports of Standing Committees: Standing Committee reports will be presented sequentially to the Committee of the Whole.

- A. Report of the Audit CommitteeRegent Long
- B. Report of the Facilities CommitteeRegent Esparza
- C. Report of the Finance and Administration Committee.....Regent Steinmetz
- D. Report of the Academic, Clinical and Student Affairs Committee.....Regent Walker

IX. The Board will continue in Open Session as the Committee of the Whole and Meeting of the Board of Regents.

- A. Schedule for Board meetings:

December 14-15, 2017, Lubbock
March 1-2, 2018, El Paso
May 17-18, 2018, Lubbock
August 9-10, 2018, Lubbock
December 13-14, 2018, Lubbock Ben Lock

B. Student Government Association Reports Tristan Fielder,
Robbie Meyer,
Austin Lunney,
Chris Gerzina

X. Executive Session: The Board may convene into Executive Session in the Regents Committee Room (106), First Floor, System Building, 1508 Knoxville Avenue to consider matters permissible under Chapter 551 of the *Texas Government Code*, including, for example: Chairman Francis

- A. Consultation with attorney regarding privileged communications, pending or contemplated litigation and settlement negotiations – Section 551.071
- B. Deliberations regarding real property: The purchase, lease, exchange, or value of real property – Section 551.072
- C. Deliberations regarding prospective gifts – Section 551.073
- D. Personnel matters: Discuss the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of employees – Section 551.074
- E. Deliberations regarding security devices—deployment of security personnel or devices – Section 551.076

XI. Open Session: The Board will reconvene in the Regents Conference Room (104A), First Floor, System Building, 1508 Knoxville Avenue and meet as a Committee of the Whole and Meeting of the Board to consider and act on:

- A. Consideration of appropriate action, if any, on items discussed in Executive Session..... Vice Chairman Lancaster
- B. TTUS: Report on the progress and future direction of the IA Task Force..... Don Maddox
- C. Chairman’s Announcements..... Chairman Francis

XII. Adjournment Chairman Francis

1. **ASU, TTU, TTUHSC, TTUHSC El Paso, TTUSA and TTUS: Approve Consent Agenda; acknowledge review of Information Agenda.**

RECOMMENDATION

The chancellor recommends that the Board of Regents (i) approves the Consent Agenda for the meeting of October 20, 2017; and (ii) acknowledge its review of the Information Agenda for the same meeting.

BACKGROUND INFORMATION

Pursuant to Section 01.02.6.b(2), *Regents' Rules*, the Board of Regents approves certain administrative actions.

This action is required to authorize the various officers and officials of Texas Tech to perform the tasks and duties delineated in the policies of the Board of Regents. This action also confirms the authority to prepare reports, execute contracts, documents, or instruments approved within the Consent Agenda and further confirms that such authority has been delegated to the officer or official preparing and/or executing the said item.

B. TTUS: Report on the progress and future direction of the IA Task Force.

Presenter: Mr. Don Maddox
Report requested by: Board of Regents

Presentation Time: 10 minutes

Mr. Don Maddox, Chairman of the Board of Directors of the Texas Tech Foundation, Inc. and Chairman of the Institutional Advancement (“IA”) Task Force, will present a report on the progress and future direction of the IA Task Force.

**CONSENT/
INFORMATION
AGENDA**

BOARD OF REGENTS
TEXAS TECH UNIVERSITY SYSTEM

CONSENT AGENDA
and
INFORMATION AGENDA

October 20, 2017

BOARD OF REGENTS

Mr. L. Frederick “Rick” Francis, Chairman

Mr. Tim Lancaster, Vice Chairman

Mr. John D. Esparza

Mr. Ron Hammonds

Mr. Christopher M. Huckabee

Mr. J. Michael Lewis

Mr. Mickey L. Long

Mr. John D. Steinmetz

Mr. John B. Walker

Mr. Jarett Lujan, Student-Regent

Standing Committees:

Academic, Clinical and Student Affairs:
John Esparza; Jarett Lujan; John Steinmetz; John Walker (Chair)

Audit:
Chris Huckabee; Ron Hammonds; Mickey Long (Chair)

Facilities:
John Esparza (Chair); Mickey Long; John Walker

Finance and Administration:
Chris Huckabee; Michael Lewis; John Steinmetz (Chair)

**TEXAS TECH UNIVERSITY SYSTEM
BOARD OF REGENTS**

October 20, 2017

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INFORMATION AGENDA

(Titles only; full agenda is on page 28)
Information is provided as required by
Section 01.02.7.d(4)(c), *Regents' Rules*

NOTE: The following are reports or other documents which, according to the *Regents' Rules* or state law, must be made available to the Board of Regents. As such, the reports below are on file in the Board Office, and their listing on the Information Agenda constitutes notice that they are available to Board members upon request.

- (1) **TTUHSC: Contract Renewals per Sections 07.12.4.d and 07.12.6.b., *Regents' Rules*** – A list of renewal, extended or amended contracts in excess of \$1,000,000 per annum, including the amount of the contract, shall be provided to the board as an information item at the next regular board meeting.
- (3) **TTU, TTUHSC and TTUHSC El Paso: Consulting contracts with an initial consideration of \$25,000 or less per Section 07.12.4.e.(2), *Regents' Rules*** – “(a) Board approval is not required, but notice of the proposed contract must be provided to the chair and the chair of the Finance and Administration Committee prior to execution of the contract. (b) A report of the contract shall be provided as an Information Agenda item at the next board meeting.”
- (3) **TTUHSC: Approval of sponsored programs projects in excess of \$1,000,000 per annum as provided by Section 07.12.4.b., *Regents' Rules*** – “Notwithstanding Section 07.12.3.a, *Regents' Rules*, the board delegates to the presidents the authority to approve the proposals and execute and sign contracts for sponsored program projects in excess of \$1,000,000 per annum. Sponsored program projects are those grants, contracts, and cooperative agreements from either the public or private sectors that support research, instructional, and service projects. A list of such contracts for sponsored program projects in excess of \$1,000,000 per annum shall be provided to the board as an information item at the next regular board meeting.”

a. TTU: Approve faculty development leaves of absence.

Board approval required by: Section 04.05.01, *Regents' Rules*

The request is to approve the faculty development leaves of absence as listed below. This request has been approved administratively by the president and the chancellor and is recommended for approval by the Board of Regents.

FACULTY DEVELOPMENT LEAVE

Faculty development leave with full salary for Dr. Cristina Bradatan, associate professor in the Department of Sociology, Anthropology, and Social Work, College of Arts and Sciences, for the period January 1, 2018 through May 31, 2018. Dr. Bradatan will be on leave as a Fulbright Foreign Scholar at the University Bucharest, Romania. Her project will be to analyze how cooperation, or lack of cooperation, affects adaptation to climate change in rural communities in southern Romania.

Faculty development leave with full salary for Dr. Elizabeth Trejos-Castillo, associate professor in the Department of Human Development and Family Studies, College of Human Sciences, for the period January 1, 2018 through May 31, 2018. Dr. Trejos-Castillo will be on leave as a Fulbright Foreign Scholar recipient at the State University of Ponta Grossa, Curitiba, Brazil. Her project will be to conduct cross-cultural research with foster youth to further the efforts of the Brazilian and American governments by extending knowledge available from both countries about the socio-emotional well-being of abused and neglected youth in foster systems. She will also teach an advanced course on cross-cultural research methods and individually mentor students at the State University of Ponta Grossa.

Faculty development leave with full salary for Dr. James Yang, associate professor in the Department of Mechanical Engineering, Whitacre College of Engineering, for the period September 1, 2017 through December 15, 2017. Dr. Yang will be on leave as a Fulbright Foreign Scholar with the University of Vigo, Spain. Dr. Yang will be conducting research, primarily in Hungary (while stationed in Spain) on intrinsic factors (deterioration of muscle strength, gait adaptation, sensory degradation) and extrinsic factors (physical environment, work processes, culture) associated with Hungarian older adults' falls and fall-related injuries. He will also teach a related course at the University of Vigo.

BACKGROUND INFORMATION

Board approval is required for leaves of absence of faculty. The existing policy provides that leaves may be granted under conditions allowable by the State of Texas. Faculty members submit requests for leave through their respective deans to the provost. The principle objective of faculty development leaves is to

enable faculty members to engage in study, research, writing, field work, or similar professional activities for a period of time free from their obligations at the university. The ultimate purpose of faculty development leaves is to subsequently enhance educational offerings available to Texas Tech University students through the faculty members' refreshed or expanded knowledge gained from the leave activities. A faculty member is eligible when he or she has served as a member of the Texas Tech faculty for at least five academic years and is tenured by the time of the leave. Applications are reviewed according to criteria including the potential of the work to contribute to the faculty members' field of study and teaching. Faculty development leaves may be granted for one semester at full salary or for an academic year (two semesters) at one-half salary. Each faculty member listed above is a recipient of a highly prestigious national or international award for which the university provides a development leave.

b. TTU: Approve faculty leave of absence with pay.

Board approval required by: Section 04.05.01, *Regents' Rules*; TTU Operating Policy 32.15

The request is to approve the faculty leave of absence as listed below. This request has been approved administratively by the president and the chancellor and is recommended for approval by the Board of Regents.

FACULTY LEAVE

Leave with pay for Dr. Patrick Scharfe, assistant professor of history, College of Arts and Sciences, for the period January 2018 through May 2018. Dr. Scharfe is recipient of a grant from the American Research Institute in Turkey (ARIT; headquarters Philadelphia, Pennsylvania, USA) to conduct archive research on-site at the Prime Minister's Ottoman Archives of Istanbul. The ARIT grant is funded by the National Endowment for the Humanities. Dr. Scharfe's department and college consider this an outstanding achievement and opportunity, and the research is critical to completion of his book project, "An Islamic Public Sphere: Muslim Scholars and Dissent in Late Ottoman Egypt, 1801-1841." The Department of History will provide for Dr. Scharfe's normal TTU salary and benefits throughout the leave, and cover teaching of his courses during the spring semester.

BACKGROUND INFORMATION

Section 04.05.01, *Regents' Rules*, requires Board approval of leaves of absence for faculty. The existing policy provides that leaves may be granted under conditions allowable by the State of Texas. Faculty members submit requests for leaves of absence through their respective deans to the provost and senior vice president. The provost has approved the leave as indicated, upon recommendations of the dean and department chair.

c. **TTU and TTUHSC: Approve employees to serve as employees, officers, or members of the Board of Directors with a company in which TTUS has a vested interest in the intellectual property.**

Board approval required by: Section 10.16.2, *Regents' Rules*

The request is to approve Texas Tech University ("TTU") and Texas Tech University Health Sciences Center ("TTUHSC") employees, as listed below, to be employees, officers, or members of the Board of Directors of TKQuant, LLC, in which TTUS has a vested interest in the intellectual property. This request has been approved administratively by the president and the chancellor and is recommended for approval by the Board of Regents.

BACKGROUND INFORMATION

Suhas Pol (TTU) Co-Inventor, Co-founder,
Kerry Gilbert (TTUHSC) Co-Inventor, Co-Founder,
Phil Sizer (TTUHSC) Co-Inventor, Co-founder,
Kinyata Cooper (TTUHSC) PhD student & Teaching Assistant

TKQuant, LLC, based in Lubbock, TX, has invented a technology that can be applied to quantify uterine C-section scar tissue integrity, allowing Obstetric/Gynecological (OB-GYN) physicians to reduce risk during labor and birth that involves women with previous C-section history. Nearly one in three births in US occurs via C-section.

TKQuant's management team consists of 4 co-founders who are co-inventors of the technology and a student researcher. Additionally, the team has identified a mentor who is a co-founder and investor in the healthcare space. TKQuant's co-founders have a Validation License agreement with TTUORC which permits eventual, total ownership of Intellectual property ("IP"). Beyond the patent, TKQuant will develop trade secrets to maintain a competitive advantage.

- d. **TTU and TTUHSC: Approve employees to serve as employees, officers, or members of the Board of Directors with a company in which TTUS has a vested interest in the intellectual property.**

Board approval required by: Section 10.16.2, *Regents' Rules*

The request is to approve the Texas Tech University ("TTU") and Texas Tech University Health Sciences Center ("TTUHSC") employees, as listed below, to be employees, officers, or members of the Board of Directors of Reproductive Solutions, Inc., in which TTUS has a vested interest in the intellectual property. This request has been approved administratively by the president and the chancellor and is recommended for approval by the Board of Regents.

BACKGROUND INFORMATION

Samuel D. Prien (TTUHSC/TTU) Co-Inventor, Co-founder
Lindsay L. Penrose (TTUHSC/TTU) Co-Inventor, Co-founder

Reproductive Solutions Inc. ("RSI"), located in Lubbock, Texas, is a C-corporation formed under the laws of the State of Texas, and produces a unique semen collection device, to be marketed under the name ProTex. The product will be marketed to human fertility clinics and offers a solution to one of the problems of male infertility.

e. **TTUHSC: Approve text, installation and location of plaques for Drs. M. Roy Wilson and John C. Baldwin, former presidents of Texas Tech University Health Sciences Center.**

Board approval required by: Section 12.03, *Regents' Rules*

The request is to approve the installation, location, and the following text of plaques recognizing the tenure of M. Roy Wilson, the sixth president, and John C. Baldwin, the seventh president of Texas Tech University Health Sciences Center. This request has been approved administratively by the president and the chancellor and is recommended for approval by the Board of Regents.

M. Roy Wilson
Sixth President
Texas Tech University Health Sciences Center
2003 – 2006

M. Roy Wilson, born in Yokohama, Japan, a board-certified ophthalmologist, became the sixth president of Texas Tech University Health Sciences Center in 2003. He received his medical doctorate from Harvard Medical School in 1980. He earned his Master of Science in Epidemiology at University of California at Los Angeles in 1990. As an internationally renowned scholar, his research focused on glaucoma and blindness in populations from the Caribbean to West Africa. Under his leadership, Texas Tech University Health Sciences Center El Paso Medical Education Building was constructed. The F. Marie Hall Institute for Rural and Community Health was established in February of 2006 as an interdisciplinary institute to synthesize the medical needs of the region. Wilson was elected as a lifetime member of the National Academy of Medicine in 2003.

John C. Baldwin
Seventh President
Texas Tech University Health Sciences Center
2007 – 2009

John C. Baldwin, a native Texan, became the seventh president of Texas Tech University Health Sciences Center in 2007. He received his medical doctorate from Stanford School of Medicine and completed his cardiothoracic surgery residency at Stanford Medical School in 1983. The Paul L. Foster School of Medicine at Texas Tech University Health Sciences Center El Paso received its accreditation as a four-year medical school in 2008 during his tenure. As chief of cardiothoracic surgery at Yale University School of Medicine, Baldwin performed the first successful heart-lung transplant on the east coast. He served on the board of directors of the Robert F. Kennedy Foundation and received a 2011 presidential appointment to the U.S. Defense Health Board.

The plaques will be installed in the Academic Classroom Building, first floor foyer, along with the plaques of other past presidents.

f. **TTUHSC El Paso: Approve revisions to OP 60.01, Tenure & Promotion Policy.**

Board approval required by: Section 04.02, *Regents' Rules*

The request is to approve the revisions to Operating Policy ("OP") 60.01, Tenure and Promotion Policy. This request has been approved administratively by the president and the chancellor and is recommended for approval by the Board of Regents.

The revisions to OP 60.01 include minor formatting changes to correct errors in line spacing and indentation errors. The only substantive change was to add the Assistant Vice President for Faculty Affairs in the review section.

[NOTE: OP 60.01 with proposed revisions is included as a supplemental attachment to the agenda.]

BACKGROUND INFORMATION

Section 04.02 *Regents' Rules*, requires Board approval on changes to institutional operating policies for tenure and promotion.

g. TTUHSC El Paso: Approve revisions to OP 60.03, Comprehensive Performance Evaluation of Tenured Faculty.

Board approval required by: Section 04.03, *Regents' Rules*

The request is to approve revisions to Operating Policy ("OP") 60.03, Comprehensive Performance Evaluation of Tenured Faculty. This request has been approved administratively by the president and the chancellor and is recommended for approval by the Board of Regents.

The revisions to HSC EP OP 60.03 include review of policy section include deletion of Council of Deans; addition of deans, assistant vice president for faculty affairs, and Board of Regents

The revisions to HSC EP OP 60.03a (PLFSOM Procedure) include:

- In Purpose, addition that procedure will be consistent with Board of Regents Rules 04.03
- Deletion of reference to department-specific criteria
- Definition of who qualifies as a full-time administrator
- Updating of report routing to Assistant Vice President of Faculty Affairs
- Correction of title of Associate Dean of Faculty Affairs (deleted "and Development")

[NOTE: OP 60.03 with proposed revisions is included as a supplemental attachment to the agenda.]

BACKGROUND INFORMATION

Section 04.03 *Regents' Rules*, requires Board approval on changes to institutional operating policies for the comprehensive performance evaluation of tenured faculty.

h. ASU, TTU, TTUHSC and TTUHSC El Paso: Approve campus policies regarding Sexual Assault at each of the System Component Universities.

Board approval required by: Section 51.9363, Texas Education Code

The request is to approve the published policies with respect to Campus Sexual Assault for each of the four institutions—Texas Tech University (“TTU”), Angelo State University (“ASU”), Texas Tech University Health Sciences Center (“TTUHSC”), and Texas Tech University Health Sciences Center at El Paso (“TTUHSC El Paso”)—and grant authority to the president of each institution to make conforming changes, as necessary, to the respective student handbooks and codes of student conduct. This request has been approved administratively by the president of each respective institution and the chancellor and is recommended for approval by the Board of Regents.

The Board approves the following operating policies:

1. Texas Tech University: OP 40.03
2. Texas Tech University Health Sciences Center: OP 51.03
3. Texas Tech University Health Sciences Center El Paso: OP 51.03
4. Angelo State University: OP 16.03

The Board finds that policies at each campus fully address:

- Updated definitions of prohibited behavior;
- Updated and added provisions in accordance with amended state law related to amnesty for students; protocols for informing students and employees of the institution’s sexual assault policy; and protocols for responding to reports of sexual assault.

BACKGROUND INFORMATION

The recently concluded 85th Session of the Texas Legislature amended section 51.9363 of Texas Education Code, Chapter 51, as well as added Section 51.9366 to Texas Education Code, Chapter 51. To comply with state law, a conforming policy must include:

- Updated definitions of prohibited behavior;
- Updated and added provisions in accordance with amended state law related to amnesty for students; protocols for informing students and employees of the institution’s sexual assault policy; and protocols for responding to reports of sexual assault.

i. **TTU: Approve acceptance of a barn for Proctor Park at the National Ranching Heritage Museum.**

Board approval required by: Section 06.01.2, *Regents' Rules*

The request is to approve acceptance of a historic barn for Proctor Park at the National Ranching Heritage Museum. This request has been approved administratively by the president and the chancellor and is recommended for approval by the Board of Regents.

BACKGROUND INFORMATION

The Hoffman Family Trust donated a 100+ year old barn to the historic structure collection at the National Ranching Heritage Center. The barn located outside Snyder, Texas was built by L.H. Jones. The barn measures 64 feet by 34 feet with a loft. Constructed almost entirely of wood (wood frame, wood plank walls and wood doors) with the roof covered in corrugated metal.

The barn has been dismantled and labeled, with all the materials relocated to the National Ranching Heritage Center ("NRHC"). The plan is to rebuild the structure on the vacant property south of the Cotton Gin and north of the Preservation Building. Reconstruction of the barn includes a concrete footing for the building frame and construction of a steel skeleton inside the building to provide stability. A crushed granite floor will be installed to provide positive drainage for the building pad. Not only does this structure add another building to the heritage of ranching but will allow for the storage and exhibit of the rolling stock collection of the Center. The rolling stock collection includes wagons, buggies, hacks and automobiles. Funding for the reconstruction is in the NRHC's budget.

j. TTU: Authorize a Brush Control Agreement for Texas Tech University's Junction campus.

Board approval required by: Section 07.12.3.d, *Regents' Rules*

The request is to authorize the president or the president's designee to negotiate and execute a Water Supply Enhancement Program Cost-Share Assistance Contract ("Contract") with the Texas State Soil and Water Conservation Board ("TSSWCB"). This request has been approved administratively by the chancellor and the president and is recommended for approval by the Board of Regents.

BACKGROUND INFORMATION

The Texas legislature created the Texas Brush Control Program in 1985 (now known as the State Water Supply Enhancement Plan) to enhance water resources through selective control of brush species and has continued to fund the program, which is administered through TSSWCB under Texas Agriculture Code, Chapter 203 (the "Program").

TTU desires the Contract to enable funding from TSSWCB under the Program to pay for clearing of Juniper brush on 107 acres of TTU's Junction campus (the "Land"). The Land accounts for about 25% of the Junction campus, is largely impassable due to dense cedar breaks and is little used in its present state.

TTU evaluated the benefits of clearing the Juniper brush from the Land and determined that in addition to the State's conservation initiative, participation with TSSWCB also benefits TTU in other key ways.

1. The first benefit is to existing research and projects. Clearing the Juniper brush will:
 - a. Reduce the fire hazard to equipment placed by TTU's Department of Geosciences to conduct earthquake monitoring research, and implementation of the Upper Llano Watershed Protection Plan approved by the EPA, a project approved by the Upper Llano Watershed Coordinating Committee.
 - b. Enable the National Park Service Rivers, Trails, and Conservation Assistance Program effort, in which TTU participates with a variety of public and private organizations dedicated to the develop of interpretive trail systems for the TTU Llano River Field Station and educational programming at TTU Junction.
2. The second benefit is increasing the overall value of TTU land by improving range conditions and water supplies, which may benefit any future master plan.

3. The third benefit is future research, since brush control provides opportunities to analyze water budget output and watershed studies.

The Contract allows TSSWCB to fund upfront costs. Specifically, the TSSWCB will contribute an estimated \$210.00 per acre of brush cleared, or about \$22,470.00. After the clearing, TTU has an obligation to manage regrowth of Juniper brush through routine maintenance, herbicide treatment and clipping during the growing season until 2027, or ten years from the effective date of the Contract at the estimated cost of \$200.00/year.

Section 07.12.3.d. *Regents' Rules*, requires Board approval on contracts that involve a sale or lease of land and/or improvements thereon, or a commitment of funds or other resources for more than four years.

k. **TTUHSC: Approve modification of name for future School of Public Health.**

Board approval is required by Section 06.06.1, *Regents' Rules*

The request is to approve a modification to the previously approved naming of the Texas Tech University Health Sciences Center's ("TTUHSC") Department of Public Health from the "Judy Jones Matthews Department of Public Health to the "Julia Jones Matthews Department of Public Health." Also, at such time as the Board of Regents and the institution's accreditation agency authorize this department to become a separate school, the naming would change to the "Julia Jones Matthews School of Public Health." This request has been approved administratively by the chancellor and the president and is recommended for approval by the Board of Regents.

BACKGROUND INFORMATION

On August 11, 2017, the Board of Regents approved the naming of the "Judy Jones Department of the School of Health," and pending accreditation and the Board's approval of the establishment of the School of Public Health, the Board also approved naming the future TTUHSC School of Public Health the "Judy Jones Matthews School of Public Health."

Since that date, the donor has requested that the name reflect Mrs. Jones' proper given name, Julia, rather than her familiar name, Judy. Therefore, it is requested that the current department and the future school include the name "Julia" rather than "Judy."

Section 06.06.1, *Regents' Rules*, requires board approval of any naming related to a restricted gift in excess of \$250,000.

I. TTU: Approve commissioning of police officers.

Board approval required by: Section 51.203, *Texas Education Code*

The request is to commission the individuals as listed below as a police officer, effective on the date indicated. This request has been approved administratively by the chancellor and the president and is recommended for approval by the Board of Regents.

Khanh Truong, effective June 16, 2017

BACKGROUND INFORMATION

The Board of Regents routinely takes action to commission certain employees as peace officers in accordance with *Texas Education Code*, Section 51.203.

m. TTU and TTUHSC El Paso: Approve purchasing contracts in excess of \$1,000,000.

Board approval required by: Sections 07.12.3.a, 07.12.4.a, and 07.12.3.c, *Regents' Rules*

The request is to approve purchasing contracts for Texas Tech University and Texas Tech University Health Sciences Center at El Paso in excess of \$1,000,000 per annum as listed on the following pages. This request has been approved administratively by the chancellor and the president and is recommended for approval by the Board of Regents.

Also provided is the reporting of certain information required for purchasing contracts that exceed \$5,000,000 over the entire term of the contract.

BACKGROUND INFORMATION

In accordance with the *Regents' Rules*, the Board is routinely requested to approve purchasing contracts under which the TTUS components spend more than \$1,000,000 per annum. Purchasing contracts are procured and executed in compliance with Texas Education Code §51.9335 as well as the *Regents' Rules* and TTUS component Operating Policies and Procedures.

Section 07.12.3.a, *Regents' Rules*, requires Board approval for contracts that total in excess of \$1,000,000 over the entire term of the contract, unless a different consideration is specified by this policy.

Section 07.12.4.a specifies such a different consideration by providing, "... contracts that involve a stated or implied consideration that total in excess of \$1,000,000 over the entire term of the contract but the per annum amount is less than \$1,000,000 shall be approved by the chancellor or president, as appropriate."

However, Section 07.12.3.c provides that, for all purchasing contracts that exceed a total value of \$5,000,000 over the life of the contract (even if the annual amount is less than \$1,000,000), the Board must be provided:

- (1) verification that the solicitation and purchasing method and contractor selection process comply with state law and TTU System policies; and
- (2) information on any potential issue(s) that may arise in the solicitation, purchasing, or contractor selection process.

The attached table shows: (1) purchasing contracts that exceed \$1,000,000 per year for which Board approval is required; and (2) purchasing contracts that exceed \$5,000,000 over the life of the contract for which the special reporting is required.

TTU: Approval of Purchasing Contracts

<i>Regents' Rules 07.12.3.a</i>									
Component	Vendor	Services or Goods to be Provided	Estimated Per Annum Expenditures	Estimated Term Expenditures (includes renewals)	Start	End	Procurement Method	Verification that the solicitation and purchasing method and contractor selection process comply with State law and TTU System policies	Information on potential issues that may arise in the solicitation, purchasing, or contractor selection process.
TTU	Lubbock Audio Visual	Audio/visual equipment and services	\$ 1,062,152	\$ 3,500,000	9/1/2012	12/19/2017	TIPS Cooperative		
TTU	SHI Government Solutions	Technology commodities	\$ 1,050,753	\$ 3,500,000	7/1/2014	8/31/2018	UT Alliance Cooperative		
<i>Regents' Rules 07.12.3a and 07.12.3.c</i>									
Component	Vendor	Services or Goods to be Provided	Estimated Per Annum Expenditures	Estimated Term Expenditures (includes renewals)	Start	End	Procurement Method	Verification that the solicitation and purchasing method and contractor selection process comply with State law and TTU System policies	Information on potential issues that may arise in the solicitation, purchasing, or contractor selection process.
TTU	LEARN Lonestar Education and Research Network	High performance optical network	\$ 1,363,642	\$ 19,500,000	7/3/2008	1/27/2028	Direct Publisher	Confirm	None. LEARN is a consortium of 40 public and private institutions in Texas and is organized as a 501 (c) (3). In 2003, the Texas Legislature provided an initial investment of \$7.5 million to construct the optical network and in 2005, the Governor provided an additional \$7.28 million in funding for the network project.

TTUHSC at El Paso: Approval of Purchasing Contracts

Component	Vendor	Services or Goods to be Provided	Estimated Per Annum Expenditures	Estimated Term Expenditures (includes renewals)	Start	End	Procurement Method
Regents' Rules 07.12.4.a							
TTUHSC El Paso	Cardinal Health	Pharmaceuticals	\$ 1,077,347	\$ 3,000,000	6/1/2009	8/31/2018	Minnesota Multistates-COOP
TTUHSC El Paso	Summus Dell	Computer Hardware and Computer Software	\$ 1,097,517	\$ 3,000,000	1/9/2013	1/10/2018	DIR
TTUHSC El Paso	J T Vaughn Construction LLC	JOC Orders for campus improvements	\$ 1,030,335	\$ 2,000,000	11/9/2016	10/31/2018	TCPN/National IPA - National Intergovernmental Purchasing Alliance
TTUHSC El Paso	Sigma Solutions	IT Network Infrastructure, IT Security Solutions, VOIP Services	\$ 1,102,043	\$ 3,000,000	7/26/2014	5/5/2018	DIR
TTUHSC El Paso	AO General Contractor Inc	JOC Orders for campus improvements	\$ 1,165,025	\$ 2,000,000	12/11/2015	10/31/2017	State of Texas COOP-Region 19

n. **TTUHSC: Authorize president to execute a contract with BSA Health System Holdings, LLC.**

Board approval required by: Section 07.12.3.a., *Regents' Rules*

The request is to approve the contract with BSA Health System Holdings, LLC, ("BSA") as owner of the BSA Provider Network ("NETWORK"), to facilitate the Texas Tech University Health Sciences Center, School of Medicine Amarillo Campus, ("TTUHSC") participation as an In-Network PPO Physician Group Provider. This request has been approved administratively by the president and the chancellor and is recommended for approval by the Board of Regents.

BACKGROUND INFORMATION

BSA enters into Network Access Agreements and third party payer (PAYER) agreements that offer health plans to participating patients. As a component of those relationships, BSA additionally enters into contracts with hospitals, facilities, physicians, and related health care practitioners to establish "Preferred Provider Panels" for utilization by PAYERS. TTUHSC has collaborated with BSA as an In-Network Provider since 1999 and the current agreement ("CON598899") was created in October of 2015.

The revenue generated from the services provided under the current agreement was not expected to exceed \$1 million per year. However for fiscal year 2017, which was the one year renewal term period of the agreement, revenue totaled \$1,369,813.

TTUHSC would like to continue as a Preferred Provider under the agreement by executing a new contract ("CON1726612") with an effective date of October 1, 2017 through September 30, 2018 with a one year renewal option ending September 30, 2019. The estimated revenue for TTUHSC through the first term of the agreement is \$1,400,000 thus exceeds \$1 million threshold and requires Board of Regents (BOR) approval.

Section 07.12.3.a. *Regents' Rules*, requires Board approval of contracts in excess of \$1,000,000.

o. TTUHSC and TTUHSC El Paso: Approve submission of request to exceed the Full Time Equivalent (“FTE”) limitation established by the General Appropriations Act.

Board Approval required by: Article IX, Section 6.10 of the General Appropriations Act

The request is to allow Texas Tech University Health Sciences Center (“TTUHSC”) and Texas Tech University Health Sciences Center at El Paso (“TTUHSC El Paso”) to exceed the number of full-time equivalent (“FTE”) employees paid from appropriated funds for Fiscal Year 2018 that are authorized in Article III of the General Appropriations Act. It is also recommended for approval that the TTUS Board of Regents submit a request to the Governor and the Legislative Budget Board to grant approval for these institutions to exceed the authorized number of FTE employees paid from appropriated funds and to submit subsequent reports as required in Article IX, Section 6.10 of the General Appropriations Act.

Request to Exceed Limitation on State Employment Levels
FY 2018

Institution	FTE Cap	Requested Increase	Revised FTE Level	Source of Funds
Texas Tech University Health Sciences Center (“TTUHSC”)	1,404.20	115	1,519.20	Appropriated
<u>Justification:</u> TTUHSC has experienced enrollment growth from 4,463 in Fall 2014 to 4,800 in Fall 2017. TTUHSC has also been the recipient of several appropriated funds Texas Higher Education Coordinating Board Graduate Medical Education Expansion grants. These grants create additional residency positions. TTUHSC is requesting additional FTE's to support the enrollment growth and residency positions.				
Institution	FTE Cap	Requested Increase	Revised FTE Level	Source of Funds
Texas Tech University Health Sciences Center El Paso (“TTUHSC El Paso”)	602.30	65	667.30	Appropriated
<u>Justification:</u> TTUHSC El Paso has experienced enrollment growth from 468 in Fall 2014 to 660 in Fall 2017. TTUHSC El Paso has also been the recipient of several Texas Higher Education Coordinating Board Graduate Medical Education Expansion grants that create additional graduate medical residency positions. In addition to enrollment growth, graduate medical residency positions, and the initiation of a new dental school, TTUHSC El Paso is adding FTEs for student services as part of becoming a separately accredited institution for SACSCOC and other accrediting bodies.				

BACKGROUND INFORMATION

The General Appropriations Act places a limit on the number of FTE employees paid from appropriated funds that an institution may employ without written approval of the Governor and the Legislative Budget Board. To exceed the FTE limitation, a request must be submitted by the governing board and must include the date on which the board approved the request, a statement justifying the need to exceed the limitation, the source of funds to be used to pay the salaries, and an explanation as to why the functions of the proposed additional FTEs cannot be performed within current staffing levels. Detailed justification

information is provided in the table above. In addition, the institution must also provide subsequent reporting to the Governor and the Legislative Budget Board when the institution exceeds the FTE limitation established in the General Appropriations Act.

p. TTUHSC El Paso: Authorize president to amend contract with Community Resources LLC.

Board approval required by: Section 07.12.4.e.(1)(a), *Regents' Rules*

The request is to authorize the president to extend the current Consulting Services Agreement with Community Resources LLC to provide expertise to Texas Tech University Health Sciences Center at El Paso ("TTUHSC El Paso") in facilitating outreach to stakeholders and leaders in the health and human service organizations. This request has been approved administratively by the chancellor and the president and is recommended for approval by the Board of Regents.

BACKGROUND INFORMATION

In October 2016, Texas Tech University Health Sciences Center at El Paso recognized the need to obtain expert consulting services to aid in the implementation of the Community Health Worker ("CHW") Core Consensus Project ("C3 PROJECT") which addresses the development of identified CHW clinical and community-based roles and skills, assessment approaches and identifying organizations to endorse findings of this and the previous C3 Project findings. The aim of the C3 Project is to review and refine core roles and competencies of the CHW workforce and identify clinical vs community based skills. The goal is to build healthier communities by strengthening the U.S. public health workforce and help ensure quality prevention services at the state and national level.

TTUHSC El Paso received funding in the amount of \$286,000 from Sanofi US in April 2016 for the project to be used for consultants, core consensus outreach programs, to develop assessment tools and establish roles and skills in varied settings. TTUHSC El Paso received Board approval in August 2016 authorizing TTUHSC EP to enter into a contract with Community Resources LLC for purposes of this project. Community Resources LLC has qualified national experts in the field of Community Health Workers with more than 25 years of expertise and multiple publications on the topic. TTUHSC El Paso obtained approval to execute a contract for a total cost of \$90,000 and is seeking Board approval to amend the contract extending the original term for two months through December 31, 2017 at an additional cost of \$8,200. The additional compensation amount will be funded by existing available funds from the original Sanofi US grant. Total amended contract value will be \$98,200.

The contract will be amended with an effective date of November 1, 2017 and will end on December 31, 2017.

Section 07.12.4.e.(1)(a), *Regents' Rules*, requires Board approval on consulting contracts with an initial consideration in excess of \$25,000 or a consulting

contract where the initial consideration was \$25,000 or less and the modification will cause the total consideration to exceed \$25,000.

q. **TTUS: Approve appointment of new members to the Board of Directors of Texas Tech Foundation, Inc.**

Board approval required by: MOU between Texas Tech University System and the Texas Tech Foundation, Inc.

The request is to approve the appointment of the individuals as listed below to the Board of Directors of Texas Tech Foundation, Inc. This request has been approved administratively by the chancellor and the president and is recommended for approval by the Board of Regents.

First Term Appointments – Expiring August 31, 2021

Dr. W. Tom Fogarty
Kim Ford
Hon. James “Jim” Keffer
Jim Skinner
Dusty Womble

Second Term Appointments – Expiring August 31, 2021

Curtis W. Clerkley, Jr.
Kelly Crofoot
J. Kelly Joy

BACKGROUND INFORMATION

This is an annual procedure whereby members of the Board of Directors of the Texas Tech Foundation, Inc. (the “Foundation”) are appointed to serve four-year terms. On August 25, 2017, the Foundation’s Board Membership & Development Committee, recommended the appointment of the aforementioned individuals at the Foundation’s annual meeting of the Board of Directors.

The Foundation’s Board of Directors unanimously approved the appointment of the persons listed above to serve a four-year term, beginning September 1, 2017 and ending August 31, 2021.

The Memorandum of Understanding between the Texas Tech University System and the Texas Tech Foundation, Inc., the members of the Foundation Board shall be appointed by and serve at the will of the University System Board of Regents, upon recommendation from the Foundation.

r. **TTUS: Approve Investment Advisory Committee appointment as recommended by the Board of Directors of Texas Tech Foundation, Inc.**

Board approval required by: Section 01.02.8.f(4)(c), *Regents' Rules*

The request is to approve the appointment of the individual as listed below to the Investment Advisory Committee ("IAC"). This request has been approved administratively by the chancellor and is recommended for approval by the Board of Regents.

Benton J. Hyatt

Hillwood Development Company, a Perot Company
Vice President, Structured Finance

BACKGROUND INFORMATION

The Investment Advisory Committee ("IAC") is a special committee of indefinite duration authorized by the Texas Tech University System ("TTUS") Board of Regents, charged with the duty to meet quarterly with investment counsel, investment managers and appropriate officers and staff for the purpose of reviewing and consulting with the same and advising the Texas Tech Foundation, Inc. (the "Foundation") Board of Directors and the TTUS Board of Regents on asset allocation, investment policy and investment results. Members of the IAC serve four (4) year staggered terms. Appointments of members of the IAC will be made upon the expiration of a member's term.

Section 01.02.8.f(4)(c), *Regents' Rules*, states that, of the 5 ("IAC") members appointed by the Chancellor, 2 are to be recommended by the Foundation, and the members recommended by the Foundation are subject to approval by the chancellor and the Board of Regents.

On August 25, 2017, the Foundation Board Membership & Development Committee recommended the appointment of the aforementioned individual to the Foundation Executive Committee at the annual meeting of the Board of Directors.

The Foundation's Board of Directors unanimously approved the recommendation to the Chancellor of the individual listed above to serve a four-year term ending January 31, 2021.

**s. ASU, TTU, TTUHSC, TTUHSC El Paso, TTUS and TTUSA:
Approve delegation of signature authority.**

Board approval required by: Title III Section 6.3b of the Texas General Appropriations Act; and Section 09.02.3, Regents' Rules which requires the annual delegation of signature authority to appropriate officers and employees each fiscal year

The request, in accordance with Title III Section 6.3b of the Texas General Appropriations Act, is to approve the signature authority as listed below. This request has been approved administratively by the chancellor and respective component presidents, and is recommended for approval by the Board of Regents.

- (1) To authorize the chancellor to designate officers and employees of the System and its components, to approve all employee travel, except to countries outside the United States other than United States possessions, Canada, and Mexico, provided that such travel contributes to the mission of the System and its components, and is in accordance with current travel regulations. The authorization is effective September 1, 2017 through August 31, 2018, or until such time as the designated officers or employees are separated from the System or its components, or are assigned other responsibilities, whichever comes first.
- (2) To authorize the chancellor to designate officers and employees of the System and its components, to approve official travel reimbursement from State appropriations and all other funds for all officers and employees, provided that the purpose of the travel and reimbursement for such are in accordance with state travel regulations, other statutory requirements, or other action promulgated by this board. This authorization is effective September 1, 2017 through August 31, 2018, or until such time as the designated officers or employees are separated from the System or its components, or are assigned other responsibilities, whichever comes first.
- (3) To authorize the chancellor to designate officers and employees of the System and its components, to approve and pay all accounts covering expenditures for state-appropriated funds and all other System or components-controlled funds. This authorization is effective September 1, 2017 through August 31, 2018, or until such time as the designated officers or employees are separated from the System or its components, or are assigned other responsibilities, whichever comes first.
- (4) To authorize and approve the sale, purchase, and transfer of stocks, bonds, and any other investment vehicles which are owned or controlled by the System and to approve contracts with investment managers funded with assets owned or controlled by the System, provided such action is approved by any two of the individuals listed below. This authorization is effective September 1, 2017 through August 31, 2018, or until such time

as the designated officers or employees are separated from the System or its components, or are assigned other responsibilities,, whichever comes first, in which case the authorization applies to their successor:

Angelo State University

Officers and employees authorized to sign, or countersign:

Lanell Nichols, Manager, Accounts Payable

- (5) To authorize the signature and/or countersignature of checks drawn on all depository accounts of the System or its components in any depository bank. This authorization is effective from September 1, 2017 through August 31, 2018, or until such time as the designated officers or employees are separated from the System or its components, or are assigned other responsibilities, whichever comes first, in which case the authorization applies to their successor. Any manually signed check shall be reviewed and signed by two authorized signers, and any mechanically signed check of \$10,000 or more shall be reviewed by any authorized signer.

Angelo State University

Officers and employees authorized to sign, or countersign:

Lanell Nichols, Manager, Accounts Payable

- (6) To authorize the transfer of funds, by wire or other electronic means, from System or component depositories. This authorization is effective from September 1, 2017 through August 31, 2018, or until such time as the designated officers or employees are separated from the System or its components, or are assigned other responsibilities, whichever comes first, in which case the authorization applies to their successor.

Angelo State University

Officers and employees authorized to sign, or countersign:

Lanell Nichols, Manager, Accounts Payable

BACKGROUND INFORMATION

Title III Section 6.3b of the Texas General Appropriations Act, and Section 09.02.3, *Regents' Rules* requires the annual delegation of signature authority to appropriate officers and employees each fiscal year.

CONTENTS OF THE INFORMATION AGENDA

Section 01.02.7.d(4)(c), *Regents' Rules*, provides: “material required by a provision of the *Regents' Rules* to be furnished to the Board as information will be listed in the information agenda.”

NOTE: The following are reports or other documents which, according to the *Regents' Rules* or state law, must be made available to the Board of Regents. As such, the reports below are on file in the Board Office, and their listing on the Information Agenda constitutes notice that they are available to Board members upon request.

INFORMATION AGENDA

Information is provided as required by
Section 01.02.7.d(4)(c), *Regents' Rules*

NOTE: The following are reports or other documents which, according to the *Regents' Rules* or state law, must be made available to the Board of Regents. As such, the reports below are on file in the Board Office, and their listing on the Information Agenda constitutes notice that they are available to Board members upon request.

- (1) **TTUHSC: Contract Renewals per Sections 07.12.4.d and 07.12.6.b., *Regents' Rules*** – A list of renewal, extended or amended contracts in excess of \$1,000,000 per annum, including the amount of the contract, shall be provided to the board as an information item at the next regular board meeting.
- (a) AMEND599090-002 (REF CON599090) Texas Department of Criminal Justice 696; Amendment to increase funding from TDCJ for FY17; Increase of \$2,820,258 to \$105,010,822.
 - (b) CON1720372 (REF CON599090) Texas Department of Criminal Justice 696; Renewal of TDCJ Master Contract Correctional Health Services FY18-19; \$103,320,436.
 - (c) AMEND598530-001 (REF CON598530) Methodist Hospital Plainview; Amendment to extend health services related to TDCJ Master Agreement (CON1720372) thru 10.31.2017 for onsite health care services at the Formby Unit; Increase of \$196,892.
 - (d) AMEND597389-002 (REF CON597389) Hendrick Medical Center; Amendment to extend health services related to TDCJ Master Agreement (CON1720372) thru 9.30.2017 for offsite hospital services; Increase of \$260,000.
 - (e) AMEND597064-001 (REF CON597064) Medical Arts Hospital; Amendment to extend health services related to TDCJ Master Agreement (CON1720372) thru 9.30.2017 for onsite health care services at the Smith Unit; Increase of \$154,523.
 - (f) AMEND593711-001 (REF CON593711) Mitchell County Hospital District; Amendment to extend health services related to TDCJ Master Agreement (CON1720372) thru 9.30.2017 for onsite health care services at the Daniel Unit; Increase of \$113,565.
 - (g) AMEND589624-001 (REF CON589624) Childress Regional Medical Center – CRMC; Amendment to extend health services related to TDCJ Master Agreement (CON1720372) thru 9.30.2017 for onsite health care services at the T L Roach Unit and Childress ISF/Work Camp; Increase of \$131,535.
 - (h) AMEND589618-001 (REF CON589618) Hendrick Medical Center; Amendment to extend health services related to TDCJ Master Agreement (CON1720372) thru 9.30.2017 for onsite health care services at the Rovertson Unit; Increase of \$325,664.
 - (i) AMEND589614-001 (REF CON589614) Hendrick Medical Center; Amendment to extend health services related to TDCJ Master Agreement (CON1720372) thru 9.30.2017 for onsite health care services at the Middleton Unit; Increase of \$215,885.
 - (j) AMEND589612-002 (REF CON589612) Mitchell County Hospital District; Amendment to extend health services related to TDCJ Master Agreement

- (CON1720372) thru 9.30.2017 for onsite health care services at the Wallace Unit; Increase of \$117,741.
- (k) AMEND597614-001 (REF CON597614) University of Texas Medical Branch; Amendment to extend pharmacy agreement with UTMB for biennium FY18-19; \$11,400,000.
 - (l) AMEND592606-007 (REF CON592606) Discovery Medical Network Inc; Amendments to attachments 1,2,3,4,6,22,25,26,32,41,42,43 – Services Agreement 1115 Waiver; \$23,086,838.
 - (m) AMEND592422-002 (REF CON592422) Northwest Texas Healthcare System Inc; Amendment to Master Services Agreement April 2017 – March 2018; \$17,200,000.
 - (n) AMEND589560-002 (REF CON589560) BSA Health System of Amarillo LLC; Amendment to extend term thru 6.30.2018 for Family Medicine faculty and resident support; \$1,721,461.
 - (o) AMEND589536-002 (REF CON589536) Northwest Texas Healthcare System Inc; Amendment to extend Physician in Training Support Agreement, Medical Resident salary funding; \$4,075,381.
 - (p) CON1708227 (REF CON589413) Texas Health and Human Services Commission; Renewal of Interagency contract for participation in FY18 Network Access Improvement Program; \$2,891,573.
 - (q) CON1720684 (REF HHSC CON1708227) Amerigroup Texas Inc; Renewal of NAIP Participation Agreement FY18; \$2,396,250.

- (2) TTU, TTUHSC and TTUHSC El Paso: Consulting contracts with an initial consideration of \$25,000 or less per Section 07.12.4.e.(2), Regents' Rules – “(a) Board approval is not required, but notice of the proposed contract must be provided to the chair and the chair of the Finance and Administration Committee prior to execution of the contract. (b) A report of the contract shall be provided as an Information Agenda item at the next board meeting.”**

TTU:

- (a) Purpose of Consultant: Mr. Greg Deason will advise TTU in five areas: (1) creation of a robust innovation and entrepreneurial ecosystem, (2) startup creation and support, (3) technology park success and development, (4) incubation success and development, and (5) utilization of a nonprofit support organization. The fee, including travel and reimbursable expenses, is not to exceed \$15,000.

HSC:

- (a) CON1725638 American Association of Collegiate Registrars; Comprehensive assessment of the Office of the Registrar; \$11,955.

TTUHSC El Paso:

- (a) 02513; Thomas Cleary; “Consultant Services Agreement” for TTUHSC El Paso campus, RE: Amending consulting services for initial application for independent Southern Association of Colleges and Schools Commission on Colleges accreditation, total contract value will be amended to \$24,500.
- (b) 02805; Patton Healthcare Consulting Incorporated; “Consultant Services Agreement” for TTUHSC El Paso campus, RE: Amending consulting services for Joint Commission accreditation for one additional year, \$19,200.
- (c) 04378; Emily Hill & Associates; “Consultant Services Agreement” for TTUHSC El Paso campus, RE: Consulting services for medical chart documentation and compliance for multiple clinical departments, \$15,000.

(d) 04436; CampellWilson LLP; "Consultant Services Agreement" for TTUHSC El Paso campus, RE: Consulting services for fiscal year 2016 uncompensated reporting, \$15,000.

(3) TTUHSC: Approval of sponsored programs projects in excess of \$1,000,000 per annum as provided by Section 07.12.4.b., *Regents' Rules* – "Notwithstanding Section 07.12.3.a, *Regents' Rules*, the board delegates to the presidents the authority to approve the proposals and execute and sign contracts for sponsored program projects in excess of \$1,000,000 per annum. Sponsored program projects are those grants, contracts, and cooperative agreements from either the public or private sectors that support research, instructional, and service projects. A list of such contracts for sponsored program projects in excess of \$1,000,000 per annum shall be provided to the board as an information item at the next regular board meeting."

(a) Bill and Melinda Gates Foundation grant funding entitled "Proof of concept trial of Sm-p80/GLA-SE schistosomiasis vaccine"; grant year 06/27/2017 through 08/31/2019; award amount \$2,394,006.

ATTACHMENTS

ATTACHMENT

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**TTUHSC El Paso OP 60.01, Tenure and Promotion Policy,
with proposed revisions**



TEXAS TECH UNIVERSITY HEALTH SCIENCES CENTER EL PASO

Operating Policy and Procedure

HSCEP OP: 60.01, **Tenure and Promotion Policy**

PURPOSE: The purpose of this Texas Tech University Health Sciences Center El Paso (TTUHSC El Paso) Operating Policy and Procedure (HSCEP OP) is to provide TTUHSC El Paso tenure and promotion guidelines within the HSCEP OP manual, as required by Section 04.02, *Regents' Rules*.

REVIEW: This HSCEP OP will be reviewed by April 1 of even-numbered years by the deans, assistant vice president for faculty affairs and vice president for academic affairs, with recommendations for revision forwarded to the president or designee by May 1. Any changes in this HSCEP OP must be approved by the Texas Tech University (TTU) System Board of Regents (BOR).

POLICY/PROCEDURE:

1. General Considerations

- a. **Required contribution by faculty.** TTUHSC El Paso is a community of scholars dedicated to teaching and to the advancement of scientific knowledge through scholarship. An essential component of academic endeavors provided by faculty members who have clinical skills is participation in clinical service. Faculty members may also serve the academic community through participation in institutional governance (e.g., committee work), in addition to other activities. Some TTUHSC El Paso faculty members also make important contributions to the community in the form of their academically related public service complementary to the institutional mission. All of these contributions by faculty members will be recognized as essential to the mission of TTUHSC El Paso.
- b. **Competence and objectivity.** Faculty members at TTUHSC El Paso have correlative responsibilities. In addition to maintaining standards of competence, particularly those relating to scholarship and teaching ability, faculty members are also responsible for maintaining objectivity and industry and cooperating with colleagues and associates in the university.
- c. **Subject to adjustments.** With approval of the dean, faculty members are subject to adjustments to salary, administrative positions, employment duties, and campus location.
- d. **Non-discrimination.** All tenure and/or promotion considerations and recommendations rest upon objective requirements in relationship to the ability of faculty members to perform effectively their responsibilities in teaching, scholarship, clinical service, and academically-related or other public service. Such considerations and recommendations are to be made without regard to race, color, religion, sex, national origin, age, disability, genetic information, status as a covered veteran, or any other legally protected category, class, or characteristic, which, otherwise, do not preclude performance of requisite faculty responsibilities.

2. Academic Freedom

- a. **Open expression.** Achievement of the teaching, research, patient care and service missions of TTUHSC El Paso depends upon an uninhibited search for truth and its open expression. Hence, it is essential that faculty members be free to pursue scholarly inquiry without undue restriction, and to voice and publish individual conclusions concerning the significance of evidence that they consider relevant.

- b. **Content of teaching material.** TTUHSC El Paso faculty members are entitled to freedom in the classroom in discussing the subject they teach, but should refrain from introducing controversial matters which bear no relationship to the classroom subject. When speaking, writing or acting as a citizen of the nation, state or community, faculty members must be free from institutional censorship or discipline, and should make it clear that in this capacity they do not speak for TTUHSC El Paso. Faculty members are subject to academic responsibility as noted below in this policy.

3. **Academic Responsibility**

- a. **Information provided by faculty.** Faculty candidates agree to provide complete, accurate and current information on all applications for employment and credentialing as deemed necessary by TTUHSC El Paso. Prior to commencement of employment, and as a condition of continued employment with TTUHSC El Paso, faculty members shall, at a minimum, obtain and maintain all the requisite licenses/ certifications required by the state of Texas and other such governmental and professional boards having authority over them and practice privileges where applicable. Failure to comply with these requirements may result in suspension without pay and/or termination.
- b. **Responsibility of faculty.** The concept of academic freedom for faculty members is accompanied by an equally important concept of academic responsibility. Faculty members have a responsibility to TTUHSC El Paso, their profession, students, and society at large. The rights of faculty members as extended by society and protected by written policies and the law require the reciprocal assumption of certain responsibilities. The fundamental responsibilities of faculty members as teachers, scholars and/or clinicians include maintaining competence in their field of specialization as exhibited in the classroom, the clinic or laboratory and in the public arena by such activities as discussions, lectures, consulting, publications, and participation in professional organizations and meetings.
- c. **Protection of statements.** Statements by faculty members are protected even though they may be critical in tone or content. However, such statements are not protected by free speech if, they substantially impede faculty members' performance of their duties, materially and substantially interfere with the regular operation of TTUHSC El Paso, or are part of a continuing pattern of expression that may destroy the harmony and morale of an academic unit. False statements made publicly with knowledge of their falsity, or in reckless disregard for the truth, are not subject to constitutional protection. Such action may call into question the fitness of faculty members to perform their professional duties.
- d. **Conduct in the classroom.** Faculty members should be professional in their conduct in the classroom and in relationships with students, maintain respect for students and students' rights in the learning experience, and be reasonably available to students for consultation concerning course work.

4. **Tenure Perspectives**

- a. **Concept of tenure.** Academic tenure has been developed so that TTUHSC El Paso may have the benefit of the competent and honest judgment of its faculty. Tenure recognizes the professional status of faculty members and assures that employment may be terminated only for cause. The burden of proof rests upon TTUHSC El Paso when it elects to dismiss tenured faculty members.
- b. **Purposes of tenure.** The purposes of tenure are to protect the academic freedom of the faculty member, to ensure faithful observance of the requirements of academic due process, and to retain, encourage, and promote the ablest and most promising faculty members. This policy defines the types of appointments that may lead to tenure and specifies procedures for granting tenure.

- c. **Award of tenure.** Tenure may be awarded at certain ranks only after a period of probationary service. TTUHSC El Paso may award tenure based on excellence of performance in the following areas relevant to faculty members' disciplines:
- (1) teaching;
 - (2) scholarship (includes appropriate research pursuits);
 - (3) clinical service; and
 - (4) academically-related or other public service.

Tenure at TTUHSC El Paso is awarded only by formal action of the TTU System BOR.

- d. **Ranks eligible for tenure.** Members of the faculty with the rank of associate professor and professor alone are eligible for tenure. Tenure does not apply to administrative appointments.

5. **Non-tenure Track Appointments**

- a. **Term appointment.** Non-tenure track term appointments (0.5 to 1 FTE) are for a specific period of time. Faculty appointees in non-tenured positions shall be given a statement in writing of the conditions and period of their appointment. Term appointments may be renewed. However, reappointment shall not create the right to a subsequent term appointment. Time served by persons in non-tenure track series cannot be used as time accrued toward tenure. Each school may select titles from the following non-tenure track appointment positions:

- (1) **Non-tenure track appointments.** Non-tenure track appointments apply to non-tenure track TTUHSC El Paso faculty members who are, at the least, halftime (i.e., 0.5 FTE), and to individuals with the appropriate professional credentials, as determined by TTUHSC El Paso, who are employees of institutions holding formal affiliation agreements with TTUHSC El Paso as follows:
 - (a) assistant instructor;
 - (b) instructor;
 - (c) assistant professor;
 - (d) associate professor; or
 - (e) professor.
- (2) **Faculty associate appointments.** Faculty associate non-tenure track titles may be used for persons who are employees of TTUHSC El Paso and who function in teaching, research, or clinical support roles.
- (3) **Research appointments.** The following non-tenure track appointments are for faculty members engaged primarily in research, with incidental teaching and/or patient care responsibilities:
 - (a) research instructor;
 - (b) research assistant professor;
 - (c) research associate professor; or

(d) research professor.

b. **Other term appointments with qualifying conditions.** Non-tenure track term appointments with qualifying conditions are written for a specific period of time. Faculty appointees in non-tenured positions with qualifying conditions shall be given a statement in writing of the conditions and period of their appointment. Term appointments with qualifying conditions may be renewed. However, reappointment to any such position shall not create the right to a subsequent term appointment. Each school may select titles from the following non-tenure track appointment positions:

(1) **Clinical appointments.** The following non-tenure track appointments are reserved for TTUHSC El Paso appointees with less than half-time appointments (i.e., less than 0.5 FTE; ~~); i.e., less than half-time commitment to~~ and less than half-time compensation) from, TTUHSC El Paso:

- (a) clinical lecturer;
- (b) clinical instructor;
- (c) clinical assistant professor;
- (d) clinical associate professor; or
- (e) clinical professor.

Sections 10 and 12 herein do not apply to clinical appointments.

(2) **Non-clinical appointments.** The following non-tenure track appointments are reserved for TTUHSC El Paso appointees with less than half-time appointments (less than 0.5 FTE; ~~); i.e., less than half-time commitment to~~ and less than half-time compensation) from, TTUHSC El Paso:

- (a) lecturer;
- (b) instructor;
- (c) assistant professor;
- (d) associate professor; or
- (e) professor.

Sections 10 and 12 herein do not apply to non-clinical appointments.

(3) **Adjunct appointments.** The term “adjunct” may be used in conjunction with any appropriate non-tenure track titles, including joint appointments, to indicate that appointees are regularly engaged as employees of another institution or agency. The following “adjunct” series also may be used for TTUHSC El Paso faculty who may be engaged in part-time or full-time teaching and/or patient care activities in a duly authorized TTUHSC El Paso program and whose compensation is not derived from TTUHSC El Paso state-appropriated faculty budgets:

- (a) adjunct instructor;
- (b) adjunct assistant professor;
- (c) adjunct associate professor; or

- (d) adjunct professor.

Sections 10 and 12 herein do not apply to adjunct appointments.

- (4) **Visiting appointments.** The following non-tenure track appointments are reserved for distinguished individuals who meet the criteria for appointment in senior academic ranks. Visiting appointments may be part- or full-time, but are not continuing unless approved by the dean:

- (a) visiting associate professor, or
- (b) visiting professor.

Sections 10 and 12 herein do not apply to visiting appointments.

- c. **Non-reappointment in non-tenure series of appointments.** Faculty appointments in the non-tenure track series shall be reviewed annually by the respective department chairs and deans. Although a reason for the decision not to reappoint is not required, a decision not to reappoint cannot be based on considerations violative of academic freedom or other legally impermissible reasons. TTUHSC El Paso will be compliant in following its established standards or prescribed procedures. A written notice of non-reappointment will be issued by the dean to faculty no less than four months prior to August 31 of each year.

Notice of non-reappointment to clinical, non-clinical, adjunct, and visiting faculty may be issued at any time.

- d. **Notice of non-reappointment following five years of service.** After a period of five years of service in the full-time non-tenure track at the assistant professor, associate professor, or professor level, a written notice of reappointment or non-reappointment will be issued by the dean no less than 12 months prior to the date of separation.

Notice of non-reappointment to clinical, non-clinical, adjunct, and visiting faculty may be issued at any time.

- e. **Transition within non-tenure track appointments.**

- (1) Non-tenured faculty members are subject to adjustments to salary, administrative positions, employment duties, and campus location.
- (2) After a period of five years of service in the non-tenure track at the assistant professor level or three years at the associate professor or professor level, extended appointments not to exceed five years may be offered upon recommendation by department chair and approval of the dean.
- (3) The transition from the non-tenure track series to the tenure track series, or vice versa, may be permitted following review and by mutual agreement of the faculty member, the respective department chair and dean. Absent extraordinary circumstances which are approved by the dean, only one transfer between tracks will be permitted.
- (4) Non-tenure track faculty may be eligible for promotion in accordance with requirements and procedures provided for in the respective schools' tenure and promotion guidelines.

- f. **Conditions of non-reappointment and dismissal**

- (1) Faculty members are entitled to review their personnel files and to obtain a copy of the information contained therein at their expense. The non-reappointment appeal process for an alleged violation of academic freedom, other legally impermissible reasons, or TTUHSC El Paso's non-compliance in following its established standards or prescribed procedures is set out in Section 10.b of this policy.
- (2) Faculty members holding non-tenure appointments may be dismissed for cause as set out in Sections 11 and 12 of this policy.

6. Tenure and Tenure Track Appointments

- a. **Time served.** Time served on the tenure track in the assistant professor, associate professor and professor ranks shall count as probationary time toward the award of tenure. (See Section 7 of this policy.) Tenure may be awarded only at the associate professor and professor ranks.
- b. **Tenure track appointments.** The following tenure track appointments are for full-time faculty members.
 - (1) assistant professor;
 - (2) associate professor; or
 - (3) professor.
- c. **Tenured appointment.** A tenured appointment assures the right of faculty members to a continuing academic position of employment. Tenured faculty members are subject to adjustments to salary, administrative positions, employment duties, and campus location.
- d. **Academic appointment.** Tenure applies only to full-time faculty members including those faculty members with nine month appointments. Although tenure does not apply to administrative positions, faculty members holding administrative positions may be tenured in their respective academic units.
- e. **Leave of absence.** Tenure applies to continuous full-time appointment in the academic units which have the authority to initiate tenure recommendations. The following rules govern the effect of a leave of absence upon the maximum probationary period:
 - (1) Leave for four months or less during an academic year shall be included in the maximum probationary period.
 - (2) Continuous leave for more than four months shall cause that entire academic year to be excluded from the maximum probationary period unless faculty members are on faculty development leave, or the equivalent of an approved fellowship, performing scholarly activities.
- f. **Joint appointment.**
 - (1) Faculty members whose efforts constitute a 50/50 percent joint appointment in two TTUHSC El Paso academic units may be awarded tenure in the joint position. If one of the units refuses to recommend tenure upon expiration of the probationary period and issues timely written notice, tenure shall not be awarded, unless faculty members are given full-time employment in the academic unit that elects to recommend tenure.
 - (2) Faculty members whose efforts do not constitute a 50/50 percent appointment in two TTUHSC El Paso academic units may be awarded tenure only in the unit that absorbs the remainder of the faculty member's appointment if the faculty member relinquishes, or is asked to relinquish, the part of the appointment that is less than 50 percent.

- g. **Restructuring of Academic Units.** If a department or other academic unit is merged or otherwise reorganized, tenured faculty members in the affected academic unit shall not lose their tenure appointment solely because of such reorganization.

7. Probationary period

- a. **Probationary appointment.** Probationary appointees serve in a faculty status leading to the possible award of tenure. Probationary appointees are reappointed after appropriate review each academic year unless otherwise given written notice. (See Section 10.a of this policy.) Such appointees are subject to adjustments to salary, administrative positions employment duties, and campus location.
- b. **Maximum probationary period.** The maximum probationary period for tenure consideration is the same for all tenure-eligible ranks. Before the end of the seven-year probationary period, non-tenured assistant professors, associate professors, or professors must be notified in writing either that tenure has been awarded or that the appointment will not be renewed at the end of the eighth year.
- c. **Early tenure.** Requests for early tenure consideration may be appropriate if faculty members' accomplishments are exceptional. Each school will establish criteria for awarding tenure before the end of the maximum probationary period.
- d. **Previous service.** Previous full-time service at the rank of assistant professor, associate professor, or professor, or comparable status in institutions of higher learning, may be applied toward the award of tenure. The dean's letter of appointment shall state whether, and to what extent, time served at another institution will be applied to the probationary period.
- e. **Tenure with appointment.** The president, at the request of a dean, may recommend that the TTU System BOR award appointment with tenure to accommodate the recruitment of senior faculty who have been granted tenure by universities or institutions of higher learning that are at levels comparable to TTUHSC El Paso, or whose qualifications merit tenure with appointment. The qualifications of candidates for appointment with tenure will be reviewed in accordance with school tenure and promotion policies, standards and guidelines, as well as Section 9 of this policy.
- f. **Extenuating circumstances.** Occasionally, faculty members may experience extenuating circumstances during their appointment resulting in the need to interrupt the probationary period. Consequently, the years considered as part of the probationary period may not be consecutive. Staying the probationary period will not jeopardize or adversely affect faculty members in the tenure review. Guidelines for requests to stay the probationary period are provided in Section 8 of this policy.
- g. **Computing date of service.** In computing probationary periods for tenure, the effective date of each appointment shall be September 1 of the calendar year in which the appointment is made. A common tenure anniversary date of August 31 for all tenure-eligible academic appointments shall apply. See Section 6.f of this policy, for computing periods of leave without pay.

8. Extension of tenure track probationary period

- a. **Adjustment of probationary period.** Faculty members may request an extension of their maximum probationary period in order to accommodate those faculty faced with extenuating circumstances. This period of time is not a leave of absence, but rather is a defined period during which expectations for faculty performance are adjusted to reflect faculty members' past or current circumstances. The expectations and responsibilities during this period will be defined in writing by the respective department chair(s) and

approved by the dean.

- b. **Extension of probationary period.** The maximum extension that may be granted to faculty members is three years, regardless of the combination of circumstances. Faculty members who are granted an extension of the probationary period will be evaluated on the same basis and by the same standards as though there had been no extension.

- (1) **Parenting a new child.** Tenure-track faculty members who become the parent of children by birth or adoption during the probationary period for tenure may request a one-year extension of their maximum probationary period to provide time to adjust to the demands of parenting newborn or adopted children. An application for a second consecutive extension may be submitted, but must be approved by the dean, prior to completion of the first extension.

Requests for extension of the probationary period must be submitted as soon as possible after the birth or adoption. If both parents are employed in an eligible position at TTUHSC El Paso, each of them may request an extension of the probationary period for each birth or adoption that adds a child or children to their family.

- (2) **Other extenuating circumstances.** When faced with extenuating circumstances, tenure-track faculty members may request an extension of up to three years of the maximum probationary period for reasons beyond the faculty members' control that deprive them of reasonable opportunity to demonstrate their ability and potential as faculty members. Examples of extenuating circumstances include, but are not limited to, care for seriously ill children or family members, physical disaster affecting research materials, and exceptional institutional responsibilities.

- (3) **Procedure for requesting an extension.** Individual schools will develop criteria for consideration of requests for extension of the maximum probationary period. School procedural guidelines will require, at a minimum, that such requests be submitted in writing through the department chair to the dean for approval.

9. **Tenure and promotion decision process**

- a. **Criteria and standards.** The criteria and areas of performance to be considered in the tenure and promotion decision processes may consist of teaching, scholarship, clinical service, and academically-related or other public service. Individual schools will develop standards of excellence in each of these areas. These standards should also describe the relative importance of each performance category, along with the related criteria for award of tenure or receipt of promotion.
- b. **Guidelines.** Individual schools will develop and publish written policies that translate tenure and promotion standards into guidelines that are appropriate to their disciplines. It shall be the responsibility of the deans to assure appropriate faculty participation in the development of these standards and guidelines, to approve school tenure and promotion policies, and to monitor their application. Deans shall review these guidelines periodically and consider appropriate recommendations from the faculty, according to the bylaws of each school.
- c. **Information regarding criteria, standards, and guidelines.** It is the responsibility of the respective department chairs and deans, to ensure that all faculty members are provided the written tenure and promotion criteria, standards, and guidelines of the school and the department in which appointment has been made.
- d. **Procedure for review of qualifications for tenure and promotion.** Primary responsibility for evaluation of the academic qualifications of candidates for tenure and /or promotion rests with the faculty.

- (1) Where applicable, six sequential steps in the tenure and/or promotion review process are as follows:
 - (a) peer review by tenured faculty members in the department for consideration of tenure;
 - (b) peer review by faculty members of higher academic rank in the department for consideration of promotion;
 - (c) review by the department chair;
 - (d) review by the school's committee charged with tenure and promotion;
 - (e) review by the dean; and
 - (f) review by the president.
- (2) In conducting reviews at the department level, all tenured faculty in the respective department shall have an opportunity to vote on a tenure recommendation. Likewise, in conducting reviews at the department level, all faculty of higher academic rank in the respective department shall have an opportunity to vote on a promotion recommendation. However, no faculty member currently or previously related by blood or marriage may participate in the tenure and/or promotion evaluation process of any such relative. The department chair is responsible for making an independent tenure or promotion recommendation in writing to the dean. The summary of the vote by appropriate faculty of the department (or of any special review committee) is to be forwarded with the department chair's recommendation to the school tenure and promotion committee, along with appropriate documentation in the tenure or promotion dossier.
- (3) Each school within TTUHSC El Paso will have a committee responsible for tenure and promotion, the composition of which will be outlined in the school's respective bylaws. The school tenure and promotion committee will review recommendations for tenure and/or promotion in terms of department and school standards. Each school's tenure and promotion committee will forward its recommendations to the dean, who will be responsible for reviewing and recommending appropriate action on all tenure and/or promotion recommendations emanating from the school. These recommendations, with accompanying documentation in the tenure and/or promotion dossier, will be forwarded to the president. The final recommendations on tenure and/or promotion will then be made by the president and forwarded to the TTU System BOR.

Faculty members may be awarded tenure and/or promotion only by formal action of the TTU System BOR.

10. **Non-reappointment of faculty**

- a. **Notice of non-reappointment of tenure track faculty.** Although a reason for the decision not to reappoint tenure-track probationary faculty is not required, a decision not to reappoint cannot be based on considerations violative of academic freedom or other legally impermissible reasons. TTUHSC El Paso will be compliant in following its established standards or prescribed procedures. Except under conditions relating to the dismissal of faculty noted in Section 11, deans shall give written notice of non-reappointment of non-tenured faculty members on tenure track probationary appointments in accordance with the following schedule. For computing the period of

employment, the effective date of each appointment shall be September 1 of the calendar year in which the appointment is made.

- (1) at least four months before the end of two years of service;
- (2) at least nine months for those with more than two years of service.

Notwithstanding the above provisions, notice of non-reappointment may be given at any time prior to the notice deadline

- b. **Appeal of non-reappointment for non-tenured faculty (non-tenure track and tenure track).** TTUHSC El Paso is not required to give any non-tenured faculty members a reason for the decision to not reappoint. However, faculty members are entitled to review their personnel files and to obtain a copy of the information contained therein at their expense.

If non-tenured faculty members allege that the decision not to reappoint them is caused by considerations violative of academic freedom, legally impermissible reasons, or for significant noncompliance with TTUHSC El Paso's established standards or prescribed procedures, the allegation shall be given consideration in accordance with the following procedures:

- (1) Faculty members shall submit in writing, and with specificity, allegations of improper non-reappointment, as outlined above, and request a hearing within fifteen (15) TTUHSC El Paso business days of receipt of the notice of non-reappointment. Faculty members shall submit the allegations and request for hearing to the dean, the department chair, and the chair of the School Hearing Committee.
- (2) A hearing will be initiated by the School Hearing Committee as soon as possible after receipt of written, specific allegations. The hearing will be conducted in accordance with guidelines and procedures provided in Section 12.i-k of this policy. Under these procedural guidelines, the panel of the School Hearing Committee will select a chair and may request *pro bono* legal counsel or legal counsel from the Office of General Counsel. Legal counsel may advise the hearing panel but may not vote. The faculty member shall have the right to appear in person with legal counsel retained by the individual. Failure on the part of the faculty member to use an attorney or other representative at the hearing shall not preclude the hearing panel from using legal counsel or other assistance from the Office of General Counsel. An audio recording of the proceedings shall be made and delivered to the dean, and a copy of the audio recording will be made available to the faculty member. The record will be transcribed only on the request of either the faculty member or the dean and at the expense of the requesting party.
- (3) The faculty member shall have the burden of proving to the hearing panel facts that establish the non-reappointment was improper, as outlined above. The procedure shall be investigatory and non-adversarial in nature.
- (4) Within ten (10) TTUHSC El Paso business days of conclusion of the hearing, the chair of the hearing panel shall deliver the findings, recommendations, and minority opinions, if any, to the dean.
- (5) Upon receipt of the hearing panel's findings and recommendations, and within ten (10) TTUHSC El Paso business days thereof, the dean shall submit these documents, along with his or her findings and recommendations, to the president and to the faculty member.
- (6) The president shall review the findings and recommendations and within ten (10) TTUHSC El Paso business days of receipt of the dean's recommendation make a decision. The president's decision will be stated in writing and communicated to the dean and the faculty member. The decision of the president shall be final.

11. **Grounds for dismissal of tenured and non-tenured faculty**

- a. **Dismissal.** Dismissal of all faculty members before the expiration of the stated period of their appointment, except by resignation or retirement, will be for cause only.
- b. **Cause for dismissal.** Examples of cause for dismissal of appointment of faculty members include, but shall not be limited to, the following:
 - (1) professional incompetence;
 - (2) neglect of professional responsibilities;
 - (3) moral turpitude adversely affecting the performance of duties or the meeting of responsibilities to the school, or to students or associates;
 - (4) mental or physical disability of a continuing nature adversely affecting the performance of duties or the meeting of responsibilities to the school, or to students or associates that cannot be reasonably accommodated;
 - (5) unprofessional conduct adversely affecting the performance of duties or the meeting of responsibilities to the school, or to students or associates.
 - (6) failure to pass comprehensive performance evaluation (See HSCEP OP 60.03 Comprehensive Performance Evaluation of Tenured Faculty).

12. **Procedures in dismissal cases.** Due process as set forth in this policy statement embodies a course of proceedings in line with rules and principles generally recognized in the academic community. Among these is the right of a tenured faculty member and a non-tenured faculty member during the term of his or her appointment, to request and be granted a hearing before a panel of the School Hearing Committee when notice of cause and request for dismissal has been received by the faculty member and the dean.

In each case, the procedure for dismissal will be determined by an equitable procedure, affording protection to the rights of the individual and to the interests of TTUHSC El Paso.

- a. **Written notice.** A faculty member shall not be dismissed until he or she has received written notice of the cause for dismissal and, except as specified below, only after a reasonable opportunity for a hearing, which shall meet the established procedures of due process as set forth herein and in which the school shall bear the burden of showing cause for dismissal.
- b. **Salary and duties.** The faculty member will receive his or her salary until conclusion of the dismissal procedures and may continue the performance of his or her duties for that period unless the individual's welfare or that of the school, in the opinion of the dean, requires that a leave of absence be issued. A faculty member's salary, benefits, and duties may be discontinued, on written recommendation of the dean and approval by the president, in cases of job abandonment, loss of professional license/certification to practice, loss of clinical credentials, or similar instances where the faculty member, either by choice or as the result of official actions, becomes prohibited from fulfilling the conditions of his or her employment.
- c. **Resignation.** In cases where the respondent faculty member admits his or her conduct constitutes cause, or does not choose to have a hearing, he or she may resign.
- d. **Lapse of deadline.** Failure to appeal the dismissal, or to submit one's resignation, within fifteen (15) TTUHSC El Paso business days of receipt of written notice as set forth above, will relieve TTUHSC El Paso of any further obligation to pay a faculty member's salary and benefits, effective immediately, and completes the dismissal process. The

dean shall notify the faculty member in writing of this action.

e. **School Hearing Committee and Hearing Panel.** The School Hearing Committee shall be charged with initiating a hearing in cases of dismissal of tenured faculty or non-tenured faculty during their term of appointment. The composition and method of selecting a School Hearing Committee panel will be set forth in the faculty bylaws of each school.

f. **Mediation.** Before the filing of formal dismissal charges by the dean, a reasonable effort shall be made to mediate and conciliate differences, where appropriate. Upon written notification by the dean of a request for dismissal, and within fifteen (15) TTUHSC El Paso business days, the chair of the School Hearing Committee shall appoint a mediation team comprised of two faculty members, neither of whom serves in the same department as the faculty member recommended for dismissal, who are not on the School Hearing Committee, and who are acceptable to both parties. If no mediators are found acceptable within fifteen (15) TTUHSC El Paso business days, mediation will be deemed not feasible, and the matter will be referred back to the dean. In this case, the dean will determine whether formal charges should issue to dismiss the faculty member for cause.

If a mediation team is acceptable, it shall attempt to reach a mutually acceptable resolution between the dean and faculty member in a thorough, confidential, equitable, and expeditious manner. The mediation team shall report the outcome of the mediation to the president within fifteen (15) TTUHSC El Paso business days of the first day of the mediation. If conciliation is not achieved, the dean shall determine whether formal charges should issue to dismiss the faculty member for cause.

g. **Formal dismissal charges.** In all cases where formal dismissal charges issue, the faculty member will be informed in writing of the charges. The charges will be considered by the panel of the School Hearing Committee unless the faculty member resigns, as set out in Section 12.c. of this policy, or the faculty member fails to cooperate in advancing the appeal, per Section 12.d. of this policy.

h. **Right to hearing.** Upon receipt of formal dismissal charges, the faculty member shall also be notified in writing of his or her right to a hearing and shall be given fifteen (15) TTUHSC El Paso business days from the date of receipt of such notice to submit to the dean and the chair of the School Hearing Committee a request for a hearing before the panel of the School Hearing Committee. Upon receipt of the request, the chair of the School Hearing Committee, will take the necessary measures to address the formal charges as soon as possible.

i. **Hearing panel.** The panel of the School Hearing Committee will select a chair and may, if it chooses, request *pro bono* legal counsel from the Office of General Counsel. Legal counsel will advise the School Hearing Committee, but may not vote. If the panel of the School Hearing Committee retains *pro bono* legal counsel from outside the Office of the General Counsel, it may consult with the Office of General Counsel regarding technical questions not directly bearing on the merits of the case.

j. **Representatives at hearing.** In a dismissal hearing, the faculty member shall have the right to appear in person with legal counsel retained by the individual, or representative of his or her choice, and to confront and cross-examine witnesses. The faculty member shall have the right to testify, but may not be required to do so, and may introduce in his or her behalf all evidence, written or oral, which he or she considers to be relevant or material to the case. TTUHSC El Paso shall also have the right to legal counsel from the Office of General Counsel in the preparation and presentation of charges and have the same rights in the hearing as those accorded the faculty member. Failure on the part of the faculty member to utilize an attorney or other representative at the hearing shall not preclude the panel of the School Hearing Committee from utilizing *pro bono* legal counsel or other assistance from the Office of General Counsel.

- k. **Procedural aspects.** The parties shall make any objections, substantive or procedural, deemed relevant during the course of the hearing, although neither the Texas Rules of Civil Procedure nor the Texas Rules of Evidence shall apply to the hearing.
- l. **Recording.** An audio recording of the proceedings shall be made and delivered by the dean to the president of TTUHSC El Paso, and a copy of the audio recording shall be made available to the faculty member. The record will be transcribed only on the request of either the faculty member or the president at the expense of the requesting party.
- m. **Findings of hearing panel.** The nature of the hearing or review of the formal dismissal charges shall be investigatory and non-adversarial. The panel of the School Hearing Committee, by majority of its membership, shall make written findings on the material facts on each charge and make specific recommendations with regard to each of the charges, as well as general recommendations concerning dismissal. The panel of the School Hearing Committee, by majority of its membership, may make any supplementary suggestions it deems proper concerning disposition of the case. If minority findings, recommendations, or suggestions are made, they shall be similarly treated.
- n. **Dean's review.** The chair of the panel of the School Hearing Committee shall deliver the written findings, recommendations, and suggestions to the dean within seven (7) TTUHSC El Paso business days of the hearing. The dean shall review the committee's findings and recommendations and, within seven (7) TTUHSC El Paso business days, shall transmit them along with his or her own recommendations to the president.
- o. **President's review in dismissal of non-tenured faculty.** In the case of dismissal of a non-tenured faculty member, the president shall review the School Hearing Committee's findings and recommendations and the dean's recommendations and make a decision. The president's decision will be stated in writing and communicated to the faculty member and the dean within ten (10) TTUHSC El Paso business days of receipt of the recommendations of the School Hearing Committee and the dean. The decision of the president shall be final.
- p. **President's review in dismissal of tenured faculty.** In the case of a dismissal of a tenured faculty member, the president shall transmit the findings and recommendations of the panel of the School Hearing Committee and the dean's recommendations, along with his or her recommendations, to the faculty member, dean and to the TTU System BOR for its consideration. The TTU System BOR, by a majority of its total membership, shall take final action. The decision of the TTU System BOR will be stated in writing and communicated to the president, who will communicate it to the dean. The president shall also notify the faculty member in writing of the TTU System BOR's decision. The decision of the TTU System BOR shall be final. Once the TTU System BOR acts to dismiss, salary and benefits shall cease, unless such has been discontinued previously for any reason referenced hereinabove.
- q. **President's right to extend time periods or intervene.** The president shall have the prerogative of extending any of the time periods specified above if, in his or her opinion, it is in the best interest of TTUHSC El Paso or the faculty member. The president shall have the right to intervene when, in his or her judgment, the proceedings are not progressing in a timely manner.
- r. **Suspension of faculty.** The procedures for dismissal described in the foregoing paragraphs of this section do not negate the right of the president to suspend the faculty member from all or some duties when the president reasonably believes it to be in the best interest of the institution. The suspension with pay shall be without appeal and shall continue until such time as the suspended faculty member has been accorded the procedural rights described in this section.

13. **Financial exigency, phasing out, or reorganization of programs**

- a. Financial exigency: The TTU System BOR has sole authority to declare financial exigency. When faculty dismissals are contemplated on grounds of financial exigency, there should be timely notice as reasonably early as possible. In cases of financial exigency, the faculty members involved shall be given opportunities for appointment in related areas of the school or TTUHSC El Paso, provided they are qualified professionally to serve in such areas, and provided such positions are available.
- b. Phasing out, or reorganization of programs: When faculty dismissals are contemplated on grounds of program termination or reduction, or reorganization of academic units, there should be timely notice as reasonably early as possible, with affected faculty having an opportunity to address the matter with the dean. Recommendations from the faculty will be sought by the dean regarding alternatives available to the school to ensure continuation of a strong academic program and to minimize the losses sustained by affected students and faculty members. In cases of the phasing out of programs requiring reduction in the number of faculty, the faculty members involved shall be given opportunities for appointment in related areas of the school or TTUHSC El Paso, provided they are qualified professionally to serve in such areas, and provided such positions are available.

14. **Implementation**

- a. This policy, as amended, applies to all faculty members and is to be implemented immediately upon approval by the TTU System BOR. Faculty members in tenure track probationary status at the time of an amendment will have the option of electing the tenure and promotion decision process of either the tenure policy that was in effect when they were appointed or that was in effect at the time of application for tenure. All faculty members are subject to all other provisions and procedures of this tenure policy, as amended, upon its approval by the TTU System BOR. Faculty members who have been awarded tenure at TTUHSC El Paso shall continue under this policy, as amended. This policy shall not be applied in derogation of any faculty members' contract rights. It is not the intent of this policy to operate in derogation of any substantive benefit earned by tenured faculty members under a previous TTUHSC El Paso tenure policy.

ATTACHMENT

2

**TTUHSC El Paso OP 60.03, Comprehensive Performance
Evaluation of Tenured Faculty, with proposed revisions**



TEXAS TECH UNIVERSITY HEALTH SCIENCES CENTER EL PASO

Operating Policy and Procedure

HSCEP OP: 60.03, Comprehensive Performance Evaluation of Tenured Faculty

PURPOSE: The purpose of this Texas Tech University Health Sciences Center (TTUHSC) El Paso Operating Policy and Procedure (HSCEP OP) is to provide for the comprehensive performance evaluation of tenured faculty at TTUHSC El Paso consistent with the current Texas Tech University (TTU) System Board of Regents' (BOR) [gG](#)Guidelines.

REVIEW: This HSCEP OP and its attachments will be reviewed by February 15 every even-numbered year (ENY) by the deans and assistant vice president for faculty affairs or designee, with any recommendations for revision forwarded to the president for approval. Any changes in this HSCEP OP must be approved by the TTU System BOR.

POLICY/PROCEDURE:

1. General Considerations.

- a. As used in this HSCEP OP, the term "faculty" applies to tenured faculty.
- b. Each academic dean or designated representative will review with the respective impaneled peer review committee the process used for determining the merit of each faculty member's performance in order to ensure that performance evaluations are conducted without regard to a faculty member's race, color, religion, sex, age, disability, national origin, Vietnam era or special disability veteran status, genetic information, or refusal to submit to genetic testing.
- c. The comprehensive performance evaluation is intended to enhance and protect, rather than diminish, the important guarantees of tenure and academic freedom. The purpose of comprehensive evaluation of faculty is to provide guidance for continuing and meaningful faculty professional development; to enable faculty to enhance professional skills and achieve professional goals; to refocus academic and professional efforts, when appropriate; to ascertain that faculty members are meeting their responsibilities to the university and the State of Texas; and to comply with Texas Education Code, 51.942, as amended or modified, and policies of the TTU System BOR.
- d. The acceptance and success of comprehensive performance evaluation for faculty are dependent upon a well-executed, critical process and an institutional commitment to assist and support faculty development. Thus, remediation and follow-up review for faculty who would benefit from such support are essential to the success of this policy.
- e. Each school within TTUHSC El Paso shall develop and implement a review procedure for faculty that, at a minimum, results in a comprehensive performance evaluation [r](#)Report and meets the requirements set forth in Section 2 below. Each school's procedure is to be developed with appropriate faculty input, including consultation with and guidance from faculty governance organizations. Upon approval by the president of TTUHSC El Paso, each school's procedure shall be incorporated as an attachment to this HSCEP OP.
- f. While distinct from the annual evaluation process required of all TTUHSC El Paso employees, comprehensive performance evaluations of faculty may be integrated with the annual evaluation process to form a single comprehensive faculty development and evaluation [_](#)process.

- g. Nothing in this HSCEP OP or in the application of this evaluation procedure shall (i) negate the provisions of HSCEP OP 60.01, Tenure and Promotion Policy, currently in effect; (ii) be interpreted or applied to infringe on the tenure system, academic freedom, due process, or other protected faculty rights; (iii) establish new term-tenure systems; or (iv) require faculty to reestablish their credentials for tenure.
- h. Each academic dean or designated representative will review each faculty performance evaluation performed in the school to ensure that appraisals were properly conducted utilizing only lawful, job-related and non-discriminatory criteria.

2. **Requirements of Comprehensive Performance Evaluation of Tenured Faculty.** Consistent with Texas Education Code, §51.942, as amended or modified, and HSCEP OP 60.01, requirements established for comprehensive performance evaluation of tenured faculty and faculty receiving academic promotions at TTUHSC El Paso are as follows:

- a. **Evaluation Focus:** The evaluation process will be directed toward the professional development of the faculty member and is to include a comprehensive review of the faculty member's duties and responsibilities including teaching, research, service, administration, when applicable and, for faculty with clinical responsibilities, clinical service. The comprehensive performance evaluation shall include consideration of the faculty member's annual employment evaluation(s), the results of the peer review described below, and any other materials submitted by the faculty member.
- b. **Evaluation Schedule:** Evaluations under this policy shall be conducted not more often than once every year but no less than once every six (6) years after the date the faculty member is granted tenure. Periods when a faculty member is on leave are not counted in calculating when the evaluation is required. The evaluation may not be waived for any faculty member, but may be deferred when the evaluation coincides with comprehensive review for granting of promotion, or appointment to an endowed position. No deferral of the evaluation of an active faculty member may extend beyond six (6) years. Administrators with academic appointments who are subject to review under other policies or customary faculty duties are subject to comprehensive evaluation within six (6) years of the date of return to active faculty service.

Comprehensive evaluation under this policy does not preclude other evaluations of faculty and appropriate actions as may be necessary or authorized under applicable policies.

- c. **Materials Submitted by Faculty Member:** The faculty member being evaluated shall submit or arrange for the submission of a resume or curriculum vitae, a summary statement of professional accomplishments, annual reports, and teaching evaluations. The faculty member may submit additional materials that the faculty member deems appropriate.
- d. **Evaluation Procedure:** The evaluation report required under this policy shall be completed not more than one year from the date that written notice of intent to review is provided to the individual faculty member.

(1) **Notice:** Notice shall be given at least six (6) months prior to the date of commencement of the evaluation and shall include:

- (a) Date by which the faculty member must submit all materials and to whom;
- (b) Time period covered by the evaluation;
- (c) Expected time period after submission of materials by which a meeting shall be scheduled with the peer review committee (i.e., within_months/weeks); and
- (d) Anticipated date by which the final evaluation report with recommendations

shall be completed.

- (2) **Peer Review:** The faculty member shall have an opportunity to meet with a peer review committee made up of TTUHSC El Paso tenured faculty as impaneled by each respective school. Committee members shall consider all materials submitted by the faculty member and may make observation visits, as the committee deems appropriate. The committee's written findings and recommendations shall be contained in the evaluation report.
- (3) **Evaluation Report:** The evaluation report shall be compiled in writing and distributed for review and appropriate action to the faculty member, department chair, dean or dean's designee, and the president.

3. **Actions Based on Evaluation Report.**

- a. The faculty member may challenge the evaluation report according to each school's review procedure, as defined in Section 1.e. of this policy, and incorporated as attachments to this policy.
- b. The evaluation report may be used:
 - (1) To determine salary recommendations, award nominations, or other forms of recognition commensurate with exceptional performance;
 - (2) To design remediation and follow-up review for individuals in need of institutional assistance, such as mentoring and counseling for ineffective teaching, research, service, and/or, as applicable, administrative or clinical responsibilities;
 - (3) To undertake appropriate disciplinary action if ~~incompetency~~incompetence, neglect of duty or other cause is determined to be present; and/or
 - (4) For termination in accordance with the following section.

4. **Dismissal Proceedings.** All proceedings for dismissal of tenured faculty on the basis of the comprehensive performance evaluation of the Tenured Faculty Evaluation Report shall be conducted in accordance with:

- a. Current HSCEP OP 60.01, affording protection to the rights of the individual and the interests of TTUHSC El Paso, and under which requirements include that the faculty member will be informed in writing of the charges, the faculty member may submit a request for a hearing before a school hearing committee, and the school shall bear the burden of showing cause for dismissal;

or

- b. Texas Education Code §51.942(d) as may be amended, which allows an option for referral of the matter to a nonbinding alternative dispute resolution process as described in Chapter 154, Civil Practice and Remedies Code, or if both parties agree within a reasonable time period not to exceed 20 business days, another type of alternative dispute resolution method. Mediation is a forum in which an impartial person, the mediator, facilitates communication between parties to promote reconciliation, settlement, or understanding among them. (§154.023.)

ATTACHMENT

3

**TTUHSC El Paso PLFSOM Procedure for Comprehensive
Performance Evaluation of Tenured Faculty**

**TEXAS TECH UNIVERSITY HEALTH SCIENCES CENTER EL PASO
PAUL L. FOSTER SCHOOL OF MEDICINE**

**PROCEDURE FOR COMPREHENSIVE PERFORMANCE EVALUATION
OF TENURED FACULTY**

SUBJECT

Peer Review of Tenured Faculty

PURPOSE

The purpose of this Paul L. Foster School of Medicine (PLFSOM) Attachment to HSCEP OP 60.03 is to establish uniform guidelines and procedures leading to a comprehensive performance evaluation of tenured faculty. It will describe also an institutional commitment to assist and support faculty development as part of this peer review, as well as other actions, which may arise as part of this evaluative process.

The procedures are to be consistent with:

1. Texas Education Code Sec. §51.942 Performance Evaluation of Tenured Faculty; and
2. HSCEP OP 60.03, Comprehensive Performance Evaluation of Tenured Faculty.
3. Texas Tech [University System](#) Board of Regents' Guidelines for Comprehensive Performance Evaluation of Tenured Faculty (Regents Rules 04.03)

REVIEW:

This PLFSOM Policy will be reviewed by February 15 of every even-numbered year by the Dean in consultation with the Committee on Faculty Appointment, Promotion, Tenure, and Comprehensive Performance Evaluation (CFAPTA) and the Academic Council, with recommendations for revision presented to the assistant vice president for faculty affairs or designee for review prior to final approval by the President.

Upon approval by the president, these procedures shall be incorporated as an attachment to HSCEP OP 60.03.

POLICY/PROCEDURE

1. Preamble.

- a. This Peer Review Policy/Procedure is intended to enhance and protect, rather than diminish, the important guarantees of tenure and academic freedom. The objectives are to: provide guidance for continuing and meaningful faculty professional development; enable faculty to enhance professional skills and achieve professional goals; refocus academic and professional efforts, when appropriate; ascertain that faculty members are meeting their responsibilities to the University and the State of Texas; and comply with the laws of the State of Texas as well as the Rules and Regulations of the Board of Regents of the Texas Tech University System and the policies of the Texas Tech University Health Sciences Center El Paso ([TTUHSC El Paso](#)).
- b. The acceptance and success of the periodic peer review of the tenured faculty will be dependent upon a well-executed, critical process and an institutional commitment to assist and support faculty development. Thus, remediation and follow-up review for faculty who would benefit from such support, as well as the designation of academic administrators with primary responsibility for monitoring such needed follow-up activities, are essential.
- c. Nothing in this peer review evaluation process shall be interpreted or applied to infringe on

the tenure system, academic freedom, due process, or other protected rights, nor to establish new term tenure systems or require faculty to re-establish their credentials for tenure.

2. Evaluation Focus.

- a. The pPeer rReview pPerformance eEvaluation process will be directed toward the professional development of the faculty member. It will include a comprehensive review of the faculty member's performance of duties and responsibilities as assigned by the departmental chair or the direct supervisor consistent with institutional policy, including, where applicable, an appropriate balance of areas including teaching, scholarship (research), clinical service, and academically-related public service. The criteria for this review shall be consistent with the *PLFSOM Guidelines for Faculty Appointment, Tenure and Promotion*.
- b. The appropriateness of expectations for assigned duties and responsibilities will be reviewed together with the performance. The faculty member will submit additional supporting documentation as is deemed relevant for the pPeer rReview process, including, but not restricted to, the Comprehensive Performance Evaluation Application, appendices, and a minimum of three external letters of reference.

Letters of Reference: The candidate furnishes the Office of Faculty Affairs and their dDepartment cChair with the names of five academic clinicians, educators and/or investigators (not employed by ~~Paul L. Foster School of Medicine~~PLFSOM who are tenured and at the rank or higher than the candidate), or an equivalent nationally recognized expert, (e.g., NIH Director), who can be contacted for letters of reference. It is the responsibility of the dDepartment cChair to obtain letters of reference from at least three scholarly/academic peers and confirm that the referees meet the criteria stated above. In the instance that the applicant is a department chair, the aAssociate dDean for fFaculty aAffairs will assume responsibility for requesting letters of reference. The letters must be submitted to the Office of Faculty Affairs no later than the deadline specified on the timeline. The Office of Faculty Affairs will provide dDepartment cChairs with a template to be used at each cChair's discretion. Referees will be requested to evaluate the candidate's Comprehensive Performance Evaluation Application using the appropriate criteria as specified in the *PLFSOM Guidelines for Faculty Appointment, Tenure and Promotion*.

3. Evaluation Schedule.

- a. Evaluation of part-time administrators who are tenured faculty under this pPolicy will not be waived. Evaluations will be conducted no less than once every six (6) years after the date the faculty member is granted tenure, unless the faculty member is on a leave of absence or assumes a full-time administrative position during this period. Evaluations for persons on leave or serving as full-time aAdministrators with academic appointments will be deferred by the length of time absent or in service, but no deferral of an evaluation of an active faculty member may extend beyond six (6) years from the due date. Full-time aAdministrators with academic appointments will be subject to evaluation within six (6) years of return to full-time, active faculty status. A tenured faculty member shall be considered a full-time administrator if the individual spends 50% or greater time on administrative duties as a chancellor, vice chancellor, president, provost, vice president, associate vice president, assistant vice president, dean, associate dean, or assistant dean, as defined by the dean of the school where the faculty member is appointed.
- b. The promotion of a tenured faculty member from associate professor to full professor is based on a comprehensive performance evaluation equivalent to the pPeer rReview pPerformance eEvaluation described under this Policy. Therefore, the effective date of the promotion will start a new six (6)-year cycle for peer review under this pPolicy.
- c. Except as provided in 3.a. and 3.b. above, all tenured faculty members will be evaluated no less than in six (6)-year intervals.

4. **Peer Review Committee.**

- a. The Peer Review Committee shall be composed of all tenured faculty members of ~~the Committee on Faculty Appointment, Tenure and Promotion, and Comprehensive Performance Evaluation (CFAPTA)~~ of the ~~Paul L. Foster School of Medicine~~PLFSOM.
- b. The ~~a~~A~~d~~Associate ~~d~~Dean for ~~f~~Faculty ~~a~~Affairs and ~~d~~Development shall serve as the ~~c~~Chair of the Peer Review Committee, according to the ~~f~~Faculty ~~b~~Bylaws of the ~~Paul L. Foster School of Medicine~~PLFSOM.
- c. A quorum shall be considered to be 50% or more of all members.

5. **Evaluation Procedure.**

- a. All tenured faculty members to be evaluated in any year will receive a notice of the upcoming review from the Peer Review Committee at least six months in advance of the year in which the evaluation will take place. Faculty members are responsible for submitting their documentation to the Peer Review Committee within six months from the date of notification.
- b. The initial evaluation by the Peer Review Committee of material submitted to it will commence according to the timeline published for each year. Each evaluation will be performed by at least two ~~c~~Committee members, one of whom must be in the same category (clinician, basic scientist, or medical educator) as the faculty member being evaluated. The reviewers, through the ~~c~~Chair of the Peer Review Committee, may request additional material as deemed necessary. A written report of this initial evaluation will be presented to the Peer Review Committee for consideration and a recorded vote.
- c. Committee members will recuse themselves in considerations involving themselves, members of their own department, faculty to whom they are related, or in other instances of possible conflict of interest.
- d. The ~~c~~Chair of the Peer Review Committee will develop and approve a ~~p~~Preliminary Comprehensive Performance Evaluation Report for each faculty member ~~evaluated~~. The ~~c~~Chair of the Peer Review Committee will deliver the preliminary reports in the review year.

6. **Comprehensive Performance Evaluation Reports.**

- a. The Comprehensive Performance Evaluation Reports will be in a standard form. They will state:
 - 1) The specific areas reviewed;
 - 2) The conclusions reached;
 - 3) The basis for the conclusions;
 - 4) Summary findings, i.e., that the faculty member:
 - a) Exceeds ~~e~~Expectations;
 - b) Meets ~~e~~Expectations;
 - c) Needs rRemediation-~~Needed~~.
- b. This ~~p~~Preliminary Comprehensive Performance Evaluation Report will be distributed to the faculty member for review.
 - 1) If the faculty member does not indicate any disagreement with this report, it shall become the final report.
 - 2) If the faculty member disagrees with the evaluation, he/she shall have ten (10)

working days from receipt of the rReport within which to notify the cChair of the Peer Review Committee in writing:

a) _____ That he/she is giving official notice of an appeal; and
a)b) _____ b) Stating the basis for the appeal, by:

i) submittingSubmitting additional documentation to support the appeal, and ii) Rrequesting, if desired, to meet in person with the Peer Review Committee.

- 3) If so requested in writing by the faculty member, the Peer Review Committee shall meet with the faculty member to consider the appeal within ten (10) working days of receiving the notice of appeal. The committee will then formulate a final report including any revisions resulting from this meeting.
- 4) The final written Comprehensive Performance Evaluation Report shall be distributed to the faculty member, the cChair of the dDepartment, the dDean of the Paul L. Foster School of MedicinePLFSOM, the assistant vice president for faculty affairs or designee, and the president. If the report indicates a need for remediation, the areas must be clearly identified and specific recommendations made.

7. **Actions based on the Comprehensive Performance Evaluation Report.**

- a. No development procedures will be initiated for any faculty member receiving an evaluation of "Exceeds Expectations" or "Meets Expectations".
- b. The dDean of the PLFSOM may consider rewarding any faculty member whose performance is evaluated as meritorious but has been deemed by the Peer Review Committee to have not been appropriately recognized.
- c. A dDevelopment pProgram as described below (Section 8: Professional Development Procedures) will be initiated when the report from the Peer Review Committee recommends that remediation would be is appropriate. Periodic reviews will monitor the progress in a development program.

8. **Professional Development Procedures.**

- a. The individual professional development plan is a document indicating how specific deficiencies in a faculty member's performance will be remedied. The plan will grow out of collaboration between the faculty member, the Peer Review Committee, the dDepartmental cChair, the dDean, and the aAssociate dDean for fFaculty aAffairs, and should reflect the shared goals of the faculty member, the department, and the Paul L. Foster School of MedicinePLFSOM. The plan will be formulated with the assistance of, and in consultation with, the faculty member. It is the faculty member's obligation to assist in the development of a meaningful and effective plan and to make a good faith effort to implement the plan adopted.
- b. Development Procedures will be standardized, although specific activities designed to improve performance will vary according to the deficits identified. These dDevelopment pProcedures are as follows:
 - 1) A specific plan of development, covering a period of time not to exceed two (2) years and based on the recommendations of the Peer Review Committee, will be established by the cChair in consultation with the faculty member and the aAssociate dDean for fFaculty aAffairs. This program will be submitted to the Peer Review Committee and the dDean of the Paul L. Foster School of MedicinePLFSOM for final

approval.

- 2) The plan will (1) identify specific deficiencies to be addressed as indicated in the Comprehensive Performance Evaluation Report; (2) define specific goals or outcomes necessary to remedy the deficiencies; (3) outline the activities to be undertaken to achieve the necessary outcome; (4) set timelines for accomplishing the activities and achieving intermediate and ultimate outcomes; (5) indicate the criteria for assessment; (6) schedule times for review of progress at six-month intervals or more often as may be needed; and (7) identify institutional resources to be committed in support of the plan.
- 3) The plan should include mechanisms to provide additional institutional support such as mentoring in teaching and research, counseling, financial support, relief time to devote to areas of deficiency and developmental leave for course work or research training.
- 4) Progress in the development program will be monitored semi-annually, or more often as may be needed, through reports submitted to the Peer Review Committee, and the Office of Faculty Affairs by the faculty member and the ~~d~~Departmental ~~c~~Chair. Two members of the Peer Review Committee will meet with the faculty member, the ~~c~~Chair and the ~~a~~Associate ~~d~~Dean for ~~f~~Faculty ~~a~~Affairs annually to review and report on the progress. If the review of progress at the end of the first year shows a clear lack of effort by the faculty member, the ~~d~~Department ~~c~~Chair, on approval by the Peer Review Committee, may file a report to the ~~d~~Dean of the ~~Paul L. Foster School of Medicine~~PLFSOM suggesting that actions appropriate to an unsatisfactory performance be taken at that time (see 5b). Upon completion of the plan, the ~~d~~Departmental ~~c~~Chair will prepare a final report to the ~~d~~Dean of the ~~Paul L. Foster School of Medicine~~PLFSOM, the faculty member, the Peer Review Committee, ~~the Committee on Faculty Appointment Tenure and Promotion and Comprehensive Performance Evaluation~~CFAPTA, the assistant vice president for faculty affairs or designee, and the president.
- 5) Consideration by the Peer Review Committee at the end of the ~~d~~Development Program will result in one of the following recommendations to the ~~d~~Dean of the ~~Paul L. Foster School of Medicine~~PLFSOM:
 - a) Determination that satisfactory progress has been made and that no further action is necessary. The faculty member's performance would, thus, be considered satisfactory.
 - b) Determination that progress has been unsatisfactory and that appropriate actions should be taken.
- 6) If, at the end of the ~~d~~Development ~~p~~Program, an adverse action is taken by the Chair, then, if so desired, the faculty member may use the Faculty Grievance Policy to complain regarding the decision of the ~~d~~Departmental ~~c~~Chair.

9. Disciplinary Actions.

- a. A faculty member may be subject to revocation of tenure or other disciplinary actions as described below if incompetence, neglect of duty (meaning continued or repeated substantial neglect of professional responsibilities), or other good cause is determined to exist at the completion of, or at any time during, the above process.
- b. For faculty found to be performing unsatisfactorily, these guidelines are intended to recognize and distinguish that dismissal, revocation or other disciplinary action taken pursuant to

existing institutional disciplinary procedures or required annual evaluations, are distinct from ~~d~~Dismissal or ~~r~~Revocation of ~~t~~Tenure or other appropriate disciplinary action taken pursuant to a Comprehensive Periodic Evaluation process under the Texas Education Code §51.942, as amended or modified, the procedures for which are set forth below:

1) Revocation of Tenure

A faculty member is subject to revocation of tenure if either incompetence, neglect of duty or other good cause is determined to exist. A faculty member subject to revocation of tenure on the basis of a Comprehensive Performance Evaluation, conducted pursuant to Texas Education Code §51.942, as amended or modified, may apply for a non-tenure track term appointment under ~~TTUHSCEP-HSCEP~~ OP 60.01, Tenure and Promotion Policy. In effect, the transition from the non-tenure track series to the tenure track, or vice versa, may be allowed following review and mutual agreement by the faculty member, the head of the academic unit, and the ~~d~~Dean. Absent extraordinary circumstances which are approved by the ~~d~~Dean, only one transfer between tracks will be allowed.

2) Dismissal of Employees

If good cause exists for dismissal under ~~TTUHSCEP-HSCEP~~ OP 60.01, Tenure and Promotion Policy, a faculty member subject to dismissal on the basis of a comprehensive performance evaluation, pursuant to Texas Education Code §51.942, as amended, shall be given:

- a) An opportunity for referral of the matter to an external, non-binding alternative dispute resolution process ("ADR") as described in Chapter 154 of the Texas Civil Practices and Remedies Code. All mediators, arbitrators or other persons conducting the ADR must meet the qualifications set forth in Chapter 154 and must be selected by agreement of all parties.
- b) Alternatively, if both parties agree, the matter may be referred to the internal mediation procedure set forth in ~~TTUHSCEP-HSCEP~~ OP 60.01, Tenure and Promotion Policy.
- c) Regardless of whether an internal or external dispute resolution is utilized, a faculty member who is subject to dismissal under this policy shall be provided the charges against him or her. In all such cases, the burden of proof shall be on the institution, and the rights of the faculty member to due process and academic freedom shall be protected.

3) Other Disciplinary Actions:

- a) Other disciplinary action is appropriate under existing *Regents' Rules* or institutional policies on the basis of the comprehensive performance evaluation conducted pursuant to Texas Education Code §51.942, as amended or modified.
- b) Such action does not preclude other disciplinary action based on annual evaluations, or as may be commensurate with events.

ATTACHMENT

4

**ASU OP 16.03, Sexual Harassment, Sexual Assault,
Sexual Misconduct, and Title IX Policy and Complaint Procedure**



Angelo State University
Operating Policy and Procedure

OP 16.03: Sexual Harassment, Sexual Assault, Sexual Misconduct, and Title IX Policy and Complaint Procedure

DATE: September 18, 2017

PURPOSE: The purpose of this Operating Policy/Procedure is to provide information regarding the University's prevention and education efforts related to sex discrimination, sexual harassment, nonconsensual sexual contact, nonconsensual sexual intercourse, sexual assault, sexual exploitation, public indecency, Sexual Misconduct, interpersonal violence, and stalking. The policy provides students and employees with their rights and options and also explains how the University will proceed once it is made aware of allegations of prohibited conduct in keeping with the University's values and in order to meet the legal obligations of Title VII, Title IX, the Violence Against Women Act (VAWA), the Campus Sexual Violence Elimination Act (SaVE), Texas Education Code, Section 51.9363, and other applicable law.

REVIEW: This Operating Policy/Procedure (OP) will be reviewed in October of odd-numbered years by the TTUS Office of Equal Opportunity (EO), the Director of Title IX/ Title IX Coordinator, the Executive Director of Student Affairs, and the Director of Angelo State University Office of Human Resources, with substantive revisions forwarded through the Senior Executive Assistant to the President and General Counsel to the President by December 1 of the same year. Any substantive changes to this policy must be approved by the Board of Regents.

POLICY/PROCEDURE

The University is committed to providing and strengthening an educational, working, and living environment where students, faculty, staff, and visitors are free from sex discrimination of any kind. In accordance with Title VII, Title IX, the Violence Against Women Act (VAWA), the Campus Sexual Violence Elimination Act (SaVE), and other federal and state law, the University prohibits discrimination based on sex, which includes pregnancy, and other types of Sexual Misconduct. Sexual Misconduct is a broad term encompassing all forms of gender-based harassment or discrimination and unwelcome behavior of a sexual nature. The term includes sexual harassment, nonconsensual sexual contact, nonconsensual sexual intercourse, sexual assault, sexual exploitation, stalking, public indecency, interpersonal violence, sexual violence, and any other misconduct based on sex. Any acts that fall within the scope of this policy hereinafter are referred to as Sexual Misconduct.

While sexual orientation and gender identity are not explicitly protected categories under state or federal law, it is the University's policy not to discriminate in employment, admission, or use of

[Minor revision: July 12, 2017]

programs, activities, facilities, or services on this basis. Discriminatory behavior is prohibited regardless of the manner in which it is exhibited, whether verbally, in writing, by actions, or electronically displayed or conveyed.

This policy applies to all University students and employees, visitors, applicants for admission to or employment with the University, as well as University affiliates and others conducting business on campus. This policy will apply to on-campus and off-campus conduct of which the University is made aware and which adversely impacts the educational and employment environments of the University. The University will take all reasonable steps to prevent recurrence of any Sexual Misconduct and remedy discriminatory effects on the Reporting Party and others, if appropriate.

All complaint investigations and procedures will be non-adversarial in nature and will be conducted in a prompt, fair, and impartial manner. Investigations conducted under this policy are not criminal investigations. For all complaints under this policy, the burden of proof shall be a preponderance of the evidence, which means more likely than not.

The University expects all members of the University Community to comply with the law. Members of the University Community who violate these policies and laws may be subject to disciplinary action, up to and including termination of employment, expulsion from the University, or being barred from University premises and events.

For complaints relating to any form of discrimination not covered by this policy, see OP 16.02: Non-Discrimination and Anti-Harassment Policy and Complaint Procedure for Violations of Employment and Other Laws.

1. Definitions

For purposes of this policy, the definitions below apply. However, some of these terms are also defined under state law. If a person would like to file criminal charges for any alleged violations of criminal law, the definitions as set forth in state law may apply.

- a. **Consent** – Mutually understandable words or actions, actively communicated both knowingly and voluntarily, that clearly conveys permission for a specific activity.

Consent is not effective if it results from: (a) the use of physical force, (b) a threat of physical force, (c) intimidation, (d) coercion, (e) incapacitation, or (f) any other factor that would eliminate an individual's ability to exercise his or her own free will to choose whether or not to engage in sexual activity.

- b. **Employee** – Any person who receives a W-2 or 1042-S from the University, including full and part-time faculty, staff, and students.
- c. **Incapacitation** – A state of being that prevents an individual from having capacity to give consent. For example, incapacitation could result from the use of drugs or alcohol, a person being asleep or unconscious, or because of an intellectual or other disability.
- d. **Interpersonal Violence** – For the purposes of this policy, Interpersonal Violence is:
- **Domestic or Family Violence** – Abuse or violence committed by a current or former spouse or intimate partner of the Reporting Party, by a person with whom

the Reporting Party shares a child in common, by a person with whom the Reporting Party is cohabiting (or has cohabited) with a spouse or intimate partner, by a person similarly situated to a spouse of the Reporting Party under the domestic or family violence laws of the State of Texas, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the State of Texas.

- **Dating Violence** – Abuse or violence, or a threat of abuse or violence, committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Reporting Party. The existence of such a relationship will be determined based on the type and length of the relationship and the frequency of interaction between the persons involved in the relationship. A casual acquaintanceship or ordinary socializing between two individuals does not constitute a romantic or intimate relationship. This definition does not include acts covered under Domestic or Family Violence.
- e. **Public Indecency** – Engaging in private or sexual acts in a publicly viewable location, such that it is offensive to accepted standards of decency including, but not limited to:
 - Exposing one's genitals or private areas;
 - Public urination;
 - Defecation; and/or
 - Public sex acts.
- f. **Reporting Party** – A person or entity (in the case of the University) who submits a complaint alleging a violation of this policy.
- g. **Responding Party** – Generally, the Responding Party is the person who is alleged to be responsible for the prohibited conduct alleged in a complaint.
- h. **Responsible Employee** – A University employee who has the authority to take action to redress an alleged violation of this policy; who has been given the duty of reporting such allegations to the University Title IX Coordinator; or whom an individual could reasonably believe has this authority or duty.

Responsible Employees include, but are not limited to:

- Administrators;
- Academic advisors;
- Coaches, and other athletic staff who interact directly with students;
- Faculty members, including professors, adjuncts, lecturers, instructors, and teaching assistants;
- Student services personnel;
- Graduate research assistants;
- Residence life or community advisors;
- Student organization advisors;
- All supervisory personnel;
- Human Resources personnel; and
- The Angelo State University Police Department.

- i. **Sex Discrimination** – An act that deprives a member of the University Community of his or her rights of access to campuses and facilities and of participation in education, services, programs, operations, employment, benefits or opportunities with the University on the basis of the person’s sex.
- j. **Sexual Misconduct** – A broad term encompassing all forms of gender-based harassment or discrimination and unwelcome behavior of a sexual nature. The term includes sexual harassment, nonconsensual sexual contact, nonconsensual sexual intercourse, sexual assault, sexual exploitation, stalking, public indecency, interpersonal violence, sexual violence, and other misconduct based on sex.
- k. **Sexual Assault** – Sexual contact or intercourse with a person without the person’s consent, including sexual contact or intercourse against the person’s will or in a circumstance in which the person is incapable of consenting to the contact or intercourse. Sexual Assault includes:

(1) **Non-Consensual Sexual Contact** – Intentional sexual touching, however slight, with any object or part of one’s body of another’s private areas without consent. Sexual Contact includes:

- Intentional contact with the breasts, buttock, groin, or genitals;
- Touching another with any of these body parts;
- Making another touch you or themselves with or on any of these body parts; or
- Any other intentional bodily contact in a sexual manner.

(2) **Non-Consensual Sexual Intercourse** – Sexual penetration or intercourse, however slight, with a penis, tongue, finger, or any object, and without consent. Penetration can be oral, anal, or vaginal.

The following offenses are examples of sexual assault: rape, incest, fondling, and statutory rape.

- **Rape** – The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the Reporting Party.
 - **Incest** – Non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
 - **Fondling** – The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the Reporting Party, including instances where the Reporting Party is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity
 - **Statutory Rape** – Non-forcible sexual intercourse with a person who is under the statutory age of consent.
- l. **Sexual Exploitation** – Taking nonconsensual or abusive sexual advantage of another for the benefit of oneself or a third party. Prohibited behavior includes, but is not limited to:
 - Purposeful recording, distribution, or dissemination of sexual or intimate images or recordings of another person without that person’s full knowledge or consent;

- Sexual voyeurism;
- Inducing another to expose one's genitals or private areas;
- Prostituting another; or
- Knowingly exposing someone to or transmitting a sexually transmitted disease.

m. **Sexual Harassment** – Unwelcome sex-based verbal, written, or physical conduct when:

- (1) Submission to such conduct is made either explicitly or implicitly a term or condition of employment or education;
- (2) Submission to or rejection of such conduct is used as a basis for decisions affecting employment or education; or
- (3) Such conduct has the purpose or effect of interfering with the individual's work or educational performance or of creating an intimidating, hostile, or offensive working or educational environment. To constitute an intimidating, hostile, or offensive working or educational environment, the complained of conduct must be either severe, persistent, or pervasive.

Examples of inappropriate behavior that may constitute Sexual Harassment or Sexual Misconduct include, but are not limited to:

- Sexual teasing, jokes, remarks, or questions;
- Sexual looks and gestures;
- Sexual innuendoes or stories;
- Communicating in a manner with sexual overtones;
- Inappropriate comments about dress or physical appearance;
- Inappropriate discussion of private sexual behavior;
- Gifts, letters, calls, emails, online posts, or materials of a sexual nature;
- Sexually explicit visual material (calendars, posters, cards, software, internet, or other multimedia materials);
- Sexual favoritism;
- Pressure for dates or sexual favors;
- Unwelcome physical contact (touching, patting, stroking, rubbing);
- Non-consensual video or audio-taping of sexual activity;
- Exposing one's genitals or inducing another to expose his/her genitals;
- Stalking;
- Domestic or dating violence;
- Non-consensual sexual intercourse, sexual assault, or rape; or
- Other gender-based threats, discrimination, intimidation, hazing, bullying, stalking, or violence.

n. **Stalking** – A course of conduct directed at a specific person that would cause a reasonable person to fear for his/her own safety or the safety of others or would cause that person to suffer substantial emotional distress. A "course of conduct" means two or more acts in which a person directly, indirectly or through third parties, by any action, method, device or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person or interferes with a person's property. "Reasonable person" means a reasonable person under similar circumstances and similarly situated to the Reporting Party. "Substantial emotional distress" means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional

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treatment or counseling.

- o. **University Community** – All faculty, staff, and students of and visitors to any University premises or University-affiliated activity.

For acts of gender/sex discrimination, such as denial of employment, wages, or benefits based on gender/sex, that are not sexual in nature and do not constitute Sexual Misconduct as defined in this policy, please see OP 16.02, Non-Discrimination and Anti-Harassment Policy and Complaint Procedure for Violations of Employment and Other Laws.

2. Director of Title IX/Title IX Coordinator, Angelo State University Office of Human Resources and Texas Tech University System Equal Opportunity Office

The University has a Director of Title IX/Title IX Coordinator who oversees the University's compliance with Title IX, which prohibits discrimination based on sex. The University has also designated Title IX Deputy Coordinators that work alongside the Director of Title IX/Title IX Coordinator.

The Director of Title IX/Title IX Coordinator will conduct the investigations of complaints of Sexual Misconduct by or between students. The Texas Tech University System Office of Equal Opportunity (Office of EO) in conjunction with the Angelo State University Office of Human Resources will investigate complaints of Sexual Misconduct by or between employees.

Any investigations regarding Sexual Misconduct complaints by a student against an employee will be conducted jointly by the Director of Title IX/Title IX Coordinator and the Angelo State Office of Human Resources (Title IX Deputy Coordinator for Employees) in conjunction with the Office of Equal Opportunity.

CONTACT	PHONE	ADDRESS	EMAIL
ASU Director of Title IX/Title IX Coordinator Student Affairs and Enrollment Management Michelle Boone Office of the President	325-486-6357	Meyer Administration Building, Room 204 Office of the President ASU station #11007 San Angelo, TX 76909	michelle.boone@angelo.edu
ASU Title IX Deputy Coordinator for Employees Kurtis Neal Director of Human Resources	325-942-2168	East Office Annex Office of Human Resources ASU Station #11009 San Angelo, TX 76909	Kurtis.neal@angelo.edu
ASU Title IX Deputy Coordinator, Athletic Equity	325-486-6072	Junell Center/Stephens Arena, 109 Angelo State University	christina.whetsel@angelo.edu

Christina Whetsel Assistant Athletic Director of Compliance		2235 S. Jackson Street San Angelo, TX 76904	
Charlotte Bingham Assistant Vice Chancellor of Administration Office of Equal Opportunity	806-742-3627	TTU System Administration Building, 1508 Knoxville Ave., Suite 208 Office of Equal Opportunity Texas Tech University System Box 41073 Lubbock, TX 79409	eeo@ttu.edu

3. Reporting Sexual Misconduct

- a. All students, employees, and third parties are strongly encouraged to promptly report any incidents of Sexual Misconduct to the University Director of Title IX/Title IX Coordinator, ASU Office of Human Resources, or the TTU System Office of Equal Opportunity.
- b. Mediation will not be used to resolve complaints of Sexual Assault and Interpersonal Violence, as defined in this policy.
- c. All students, employees, and third parties may also report incidents of Sexual Misconduct to law enforcement, including on-campus and local police. Reporting Parties may choose to notify law enforcement and will be provided the assistance of the Director of Title IX/Title IX Coordinator, one of the Title IX Deputy Coordinators, ASU Office of Human Resources or the TTU System Office of Equal Opportunity in contacting these authorities if the individual wishes. For a list of Law Enforcement Agencies, please see Section 13 of this policy. Reporting Parties may also decline to notify law enforcement of incidents of Sexual Misconduct.
- d. An individual who experiences any form of sexual, domestic, or dating violence is encouraged to seek immediate medical care. Also, preserving DNA evidence can be key to identifying the perpetrator in a sexual violence case. Victims can undergo a Sexual Assault Forensic Exam (SAFE) performed by a Sexual Assault Nurse Examiner (SANE) to preserve physical evidence with or without police involvement. If possible, this should be done immediately. If an immediate medical exam is not possible, a SANE may still collect evidence up to 4 days following a sexual assault. With the examinee’s consent, the physical evidence collected during this medical exam can be used in a criminal investigation. To undergo a SAFE, go directly to the nearest emergency department that provides SAFE services. For more information about the SAFE, see <http://hopelaws.org/> or <https://www.texasattorneygeneral.gov/victims/sapcs.shtml#survivors>.
- e. An individual who experiences any form of Sexual Misconduct should also preserve

other evidence relevant to the complained of activity, such as items of clothing, photographs, phone records, text messages, computer records, and other documents.

- f. If an employee is a Responsible Employee and receives information about Sexual Misconduct, reporting is required. Responsible Employees have a duty to promptly report all known details of incidents of sex discrimination, sexual harassment, nonconsensual sexual contact, nonconsensual sexual intercourse, sexual assault, Sexual Misconduct, sexual exploitation, public indecency, interpersonal violence, and stalking to the University Director of Title IX/Title IX Coordinator, ASU Office of Human Resources or the TTU System Office of Equal Opportunity. Responsible Employees are not confidential reporting resources.
- g. Disclosures to licensed clinical and/or mental health professionals acting in their professional role in the provision of services are not subject to the foregoing mandatory reporting requirements. These employees include physicians, psychologists, nurses, counselors, clergy, and those performing services under their supervision. These employees are encouraged to provide students or employees with information and guidance regarding University reporting options and available resources but will not report or otherwise refer instances of sexual harassment/misconduct to University administrators without the student or employee's express permission.

4. Complaints by or against Students

- a. If a student has a complaint of Sexual Misconduct by another student, see Part I, Section C: Conduct Procedures for Students in the ASU Student Handbook. <http://www.angelo.edu/student-handbook/>.
- b. If a student has a complaint regarding Sexual Misconduct involving a student organization, see Part I, Section D: Conduct Procedures for Student Organizations in the ASU Student Handbook. <http://www.angelo.edu/student-handbook/>.
- c. If a student has a non-employment based complaint of Sexual Misconduct by an employee, see Part II, Section C: Anti-Discrimination Policy in the ASU Student Handbook. www.angelo.edu/student-handbook. Alternatively, the student may contact the Director of Title IX/Title IX Coordinator, ASU Office of Human Resources, or the TTU System Office of Equal Opportunity. Student complaints of Sexual Misconduct by an employee will be investigated jointly by the Director of Title IX/Title IX Coordinator and the ASU Office of Human Resources in conjunction with the Office of Equal Opportunity. If the Office of Equal Opportunity does not conduct the investigation, all reports of the investigation will be submitted to and reviewed by the Office of Equal Opportunity prior to finalization.
- d. If a student enrolled at the university reports Sexual Misconduct in good faith, the university may not take disciplinary action against the student for violation(s) of the Code of Student Conduct in accordance with the amnesty provisions set forth in Part I, Section A (12). <http://www.angelo.edu/student-handbook/code-of-student-conduct/Student-conduct-mission-policies.php>.
- e. If a student employee has a complaint of Sexual Misconduct, which occurs during the course and scope of employment with the University, against an employee, the student should follow the procedure set forth for employees in this policy.

- f. If an employee has a complaint of Sexual Misconduct against a student, the employee should contact the Director of Title IX/Title IX Coordinator and/or file an incident report form, found at the Title IX website: www.angelo.edu/titleix.

5. Employee Complaint Procedures, Including Student Employees

- a. If an employee has a complaint of Sexual Misconduct against another employee, the general provisions relating to employees and the employee complaint procedures set forth in OP 16.02 shall apply.
- b. In addition, in complaints of Sexual Misconduct the following provisions shall control.
 - (1) While there is no deadline to file a complaint, to promote timely and effective review, the University strongly encourages individuals who believe they have experienced Sexual Misconduct to come forward promptly with their complaints and to seek assistance from the University. Delays in reporting can greatly limit the University's ability to stop the Sexual Misconduct, collect evidence, and/or take effective action against individuals or organizations accused of violating the policy.
 - (2) Individuals wishing to remain anonymous can file a complaint in any manner, including by telephone or written communication, with the Director of Title IX/Title IX Coordinator, ASU Office of Human Resources, or the TTU System Office of Equal Opportunity. However, electing to remain anonymous may greatly limit the University's ability to investigate an alleged incident, collect evidence, and/or take effective action against individuals or organizations accused of violating this policy.
 - (3) Both parties have the right to be accompanied by an advisor of the individual's choosing during all meetings, proceedings, and/or disciplinary hearings at which the individual is present. The role of the advisor will be limited to being present only; advisors are not allowed to actively participate in the process.
 - (4) After the investigation is complete, the ASU Office of Human Resources and/or the TTU System Office of Equal Opportunity will simultaneously provide notice in writing to the Reporting Party, to the Responding Party, and to the appropriate administrators of the following:
 - Determination of the outcome;
 - The finding of the ASU Office of Human Resources and/or the TTU System Office of Equal Opportunity is final and not appealable by either party;
 - In the event a finding of a violation of this policy is made, appropriate disciplinary action will be taken as determined by the appropriate administrator; and
 - If either party disagrees with the imposed disciplinary action or lack thereof because the disciplinary action imposed substantially varies from the range of disciplinary actions normally imposed for similar infractions, he or she may appeal within 5 business days to the Director of Title IX/Title IX Coordinator. However, if the disciplinary action recommended is tenure revocation, proceedings will be pursuant to OP 06.23.

- (5) The Reporting Party and Responding Party will be simultaneously notified in writing of any changes to the results that occur prior to the time such results become final, and when such results become final.

6. Complaints Involving Non-University Individuals

- a. If a non-University individual has a complaint of Sexual Misconduct by a student or University employee acting in the scope of his or her employment, the individual involved may file a report with either the Director of Title IX/Title IX Coordinator, the ASU Office of Human Resources, or the TTU System Office of Equal Opportunity, and the University may investigate and take steps to address the situation.
- b. If a University employee or student has a complaint of Sexual Misconduct by a non-University party that affects the employee's work environment or student's educational program or activity, the employee or student may make a report to the Director of Title IX/ Title IX Coordinator, ASU Office of Human Resources, the TTU System Office of Equal Opportunity, or Executive Director of Student Affairs' office. The University may conduct an inquiry and take action, if possible, to prevent further misconduct. However, the University's response may differ for complaints regarding third parties based on the level of control the University has over the third party. Even though the University's ability to take direct action against a third party may be limited, the University may take steps to provide appropriate remedies for the employee or student and, where appropriate, the broader University Community.

7. Retaliation

Retaliation against a person who reports a potential violation under this policy, assists someone with a report of a violation, or participates in any manner in an investigation or in the resolution of a complaint made under this policy is strictly prohibited and will not be tolerated. Retaliation includes, but is not limited to threats, intimidation, reprisals and/or adverse actions related to an individual's employment or education. The University will take appropriate steps to assure that a person who in good faith reports, complains about, or participates in an investigation pursuant to this policy will not be subjected to retaliation. Individuals who believe they are experiencing retaliation are strongly encouraged to lodge a complaint with the University using the same procedure outlined in this policy.

Individuals who are found to have retaliated under this policy will be subject to disciplinary action, up to and including termination of employment, expulsion from the University, or being barred from University premises and events.

8. Interim Measures

The Reporting Parties may request and the University may implement interim measures, as may be necessary to assure the safety and well-being of the participants in the complaint process, to maintain an environment free from harassment, discrimination, or retaliation, and to protect the safety and well-being of the University Community. Appropriate University officials will decide if and what interim measures are necessary. Such interim measures may include, but are not limited to:

- Separating the Reporting Party's and Responding Party's academic or working situations;

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- Forbidding contact between parties involved in a complaint;
- Suspending the right of the Responding Party to be present on campus or otherwise altering the University status of the Responding Party.

The Reporting or Responding Party who are the subjects of an alleged sexual assault will be allowed to drop a course in which they are both enrolled without any academic penalty.

Other interim measures may be implemented depending upon the Responding Party's relationship with the University. These interim measures may be kept in place through the conclusion of any review, investigation, or appeal process. Interim measures can be implemented regardless of whether or not the Reporting Party pursues formal University or criminal action.

9. Confidentiality

The confidentiality of both the Reporting Party and the Responding Party will be honored by the University to the extent possible without compromising the University's commitment and obligation to investigate allegations of Sexual Misconduct, to protect the University Community, and to the extent allowed by law. However, because the University also has an obligation to maintain an environment free of Sex Discrimination and Sexual Misconduct, many University employees have mandatory reporting and response obligations and may not be able to honor a Reporting Party's request for confidentiality. The Director of Title IX/Title IX Coordinator will evaluate requests for confidentiality.

The willful and unnecessary disclosure of confidential information by anyone, including the Reporting Party or Responding Party, may affect the integrity of the investigation.

Students may make confidential reports to the University Counseling Center. All Reporting Parties may also make confidential reports to local rape crisis centers, clergy, or to other licensed clinical and/or mental health professionals acting in their professional role of providing those services.

10. Interference with an Investigation

Any person who knowingly and intentionally interferes with an investigation conducted under this policy is subject to disciplinary action up to and including dismissal or separation from the University. Interference with an investigation may include, but is not limited to:

- Attempting to coerce, compel, influence, or prevent an individual from providing testimony or relevant information;
- Divulging confidential information;
- Removing, destroying, or altering documentation relevant to the investigation; or
- Providing false or misleading information to the investigator, or encouraging others to do so.

11. Training and Education

The University's commitment to preventing and raising awareness of the harm resulting from the conduct prohibited in this policy includes providing primary prevention and awareness programs for all incoming students and new employees ongoing education to both employees and students, and emailing the information regarding this policy to students at the beginning of each academic semester. This policy is published on the University's website and information regarding this policy and related policies is included in orientation materials for new students, faculty, and staff. All employees must attend Equal Opportunity non-discrimination and sex/gender discrimination training including sexual assault, sexual harassment, and campus crime mandated reporter training within the first 30 days of employment and receive supplemental training every two years. Other appropriate compliance training sessions will also be conducted on an ongoing basis. Training sessions will include information on how and where to report incidents of prohibited conduct, resources available, as well as, risk reduction and safe and positive options for bystander intervention. In addition, University employees and administrators responsible for implementing this policy, including the Director of Title IX/ Title IX Coordinator, Title IX Deputy Coordinators, investigators, and hearing officers, receive annual training about offenses, investigatory procedures, due process requirements, and University policies related to or described in this policy.

12. Websites and Other Resources

The University maintains websites which provide comprehensive information about this policy, its procedures, Title IX, available resources, remedial support options, local support services, and illustrative examples of definitions contained herein.

- Title IX compliance– www.angelo.edu/titleix
- Title IX complaint form – <http://www.angelo.edu/services/title-ix/file-a-complaint.php>
- Title IX directory – <http://www.angelo.edu/services/title-ix/contacts.php>
- Title IX employee help guide – <http://www.angelo.edu/services/title-ix/help-guide-faculty-and-staff.php>
- Student Affairs and Enrollment Management - <http://www.angelo.edu/services/saem/>
- ASU Office of Human Resources - http://www.angelo.edu/dept/human_resources/
- TTU System Office of Equal Opportunity - <http://www.texastech.edu/offices/equal-employment/>
- University Counseling Center – http://www.angelo.edu/services/health_clinic_counseling/
- ASU Operating Policies & Procedures - <http://www.angelo.edu/opmanual/>
- ASU Employee Assistance Program - http://www.angelo.edu/dept/human_resources/benefits/

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The following additional resources are available:

CONTACT	PHONE	ADDRESS
Director of Title IX Compliance/ Title IX Coordinator	325-486-6357	Meyer Administration Building, Room 204 ASU station #11007 San Angelo, Texas 76909
Executive Director of Student Affairs	325-942-2047	112D Houston Harte University Center ASU Station #11047 San Angelo, Texas 76909
Office of Equal Opportunity	806-742-3627	1508 Knoxville Ave. TTU System Administration Building Suite 208 Box 41073 Lubbock, Texas 79409
Human Resources	325-942-2168	East Office Annex ASU Station # 11009 San Angelo, Texas 76909
University Counseling Center	325-942-2171	ASU Station #11019 San Angelo, Texas 76909
Concho Valley Rape Crisis Center	325-655-2000	36 W. Beauregard, Ste. B-100 San Angelo, Texas 76903
Legal Aid of NorthWest Texas	325-653-6982	17 S. Chadbourne St. #403 San Angelo, Texas 76903
Shannon Medical Center	325-653-6741	120 E. Harris Ave San Angelo, Texas 76903
San Angelo Community Medical Center	325-949-9511	3501 Knickerbocker Road San Angelo, Texas 76904

13. Outside Agencies

Nothing in this policy shall limit a person from seeking assistance or filing a complaint with an outside agency.

Administrative Agencies:

CONTACT	PHONE	ADDRESS
U.S. Equal Employment Opportunity Commission	1-800-669-4000	300 E. Main Dr. Suite 500 El Paso, Texas 79901
Texas Workforce Commission	512-463-2222	101 E. 15 th Street Austin, Texas 78778

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U.S. Department of Education, Office of Civil Rights	214-611-9600	1999 Bryan Street, Suite 1620 Dallas, Texas 75201
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Law Enforcement Agencies:

CONTACT	PHONE	ADDRESS
ASU Police Department	325-942-2071	1702 W. Ave. N San Angelo, Texas 76909
San Angelo Police Department	325-481-2696	401 E. Beauregard Ave. San Angelo, Texas 76903
Tom Green County Sheriff's Department	325-655-8111	222 W. Harris Ave. San Angelo, Texas 76903
Texas Department of Public Safety	512-424-2000	5805 North Lamar Blvd. Austin, Texas 78752

14. Authoritative References

- Title VII of the Civil Rights Act of 1964
- Title IX of the Education Amendments of 1972
- Texas Labor Code Chapter 21
- Violence Against Women Act (VAWA)
- Campus Sexual Violence Elimination Act of 2013 (Campus SaVE)
- Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act
- Texas Education Code, Section 51.9363
- Texas Family Code Sections 71.004 and 71.0021
- Texas Penal Code Section 42.072

15. Right to Change Policy

The University reserves the right to interpret, change, modify, amend, or rescind this policy, in whole or in part, at any time without notice to or consent of its employees.

ATTACHMENT

5

**TTU OP 40.03, Sexual Harassment, Sexual Assault,
Sexual Misconduct, and Title IX Policy and Complaint Procedure**

[Minor revision–posted 5/26/16 (replaces 12/22/15 edition)]

[2/20/17–updated Dean of Students contact information (no additional change to 5/26/16 edition)]



TEXAS TECH UNIVERSITY™

Operating Policy and Procedure

OP 40.03: Sexual Harassment, Sexual Assault, Sexual Misconduct, and Title IX Policy and Complaint Procedure

DATE: May 26, 2016

PURPOSE: This policy provides information regarding the university’s prevention and education efforts related to sex discrimination, sexual harassment, nonconsensual sexual contact, nonconsensual sexual intercourse, sexual assault, sexual exploitation, public indecency, Sexual Misconduct, interpersonal violence, and stalking. The policy provides students and employees with their rights and options and also explains how the university will proceed once it is made aware of allegations of prohibited conduct in keeping with the university’s values and in order to meet the legal obligations of Title VII, Title IX, the Violence Against Women Act (VAWA), the Campus Sexual Violence Elimination Act (SaVE), Texas Education Code, Section 51.9363, and other applicable law.

REVIEW: This Operating Policy/Procedure (OP) will be reviewed in August of odd-numbered years by the TTUS Office of Equal Opportunity (EO), the Title IX administrator, the Dean of Students, and the Assistant Vice President for Human Resources, with substantive revisions forwarded to the Associate Vice President for Administration and Chief of Staff to the President. Any substantive changes to this policy must be approved by the Board of Regents.

POLICY/PROCEDURE

The university is committed to providing and strengthening an educational, working, and living environment where students, faculty, staff, and visitors are free from sex discrimination of any kind. In accordance with Title VII, Title IX, the Violence Against Women Act (VAWA), the Campus Sexual Violence Elimination Act (SaVE), and other federal and state law, the university prohibits discrimination based on sex, which includes pregnancy, and other types of Sexual Misconduct. Sexual Misconduct is a broad term encompassing all forms of gender-based harassment or discrimination and unwelcome behavior of a sexual nature. The term includes sexual harassment, nonconsensual sexual contact, nonconsensual sexual intercourse, sexual assault, sexual exploitation, stalking, public indecency, interpersonal violence, sexual violence, and any other misconduct based on sex. Any acts that fall within the scope of this policy hereinafter are referred to as Sexual Misconduct.

While sexual orientation and gender identity are not explicitly protected categories under state or federal law, it is the university’s policy not to discriminate in employment, admission, or use of programs, activities, facilities, or services on this basis. Discriminatory behavior is prohibited regardless of the manner in which it is exhibited, whether verbally, in writing, by actions, or electronically displayed or conveyed.

This policy applies to all university students and employees, visitors, applicants for admission to or employment with the university, as well as university affiliates and others conducting business on campus. This policy will apply to on-campus and off-campus conduct of which the university is made aware and which adversely impacts the educational and employment environments of the university. The university will take all reasonable steps to prevent recurrence of any Sexual Misconduct and remedy discriminatory effects on the Reporting Party and others, if appropriate.

All complaint investigations and procedures will be non-adversarial in nature and will be conducted in a prompt, fair, and impartial manner. Investigations conducted under this policy are not criminal investigations. For all complaints under this policy, the burden of proof shall be a preponderance of the evidence, which means more likely than not.

The university expects all members of the University Community to comply with the law. Members of the University Community who violate these policies and laws may be subject to disciplinary action, up to and including termination of employment, expulsion from the university, or being barred from university premises and events.

For complaints relating to any form of discrimination not covered by this policy, see OP 40.02, Non-Discrimination and Anti-Harassment Policy and Complaint Procedure for Violations of Employment and Other Laws.

1. Definitions

For purposes of this policy, the definitions below apply. However, some of these terms are also defined under state law. If a person would like to file criminal charges for any alleged violations of criminal law, the definitions as set forth in state law may apply.

- a. Consent – Mutually understandable words or actions, actively communicated both knowingly and voluntarily, that clearly conveys permission for a specific activity.

Consent is not effective if it results from: (a) the use of physical force, (b) a threat of physical force, (c) intimidation, (d) coercion, (e) incapacitation, or (f) any other factor that would eliminate an individual's ability to exercise his or her own free will to choose whether or not to engage in sexual activity.

- b. Employee – Any person who receives a W-2 or 1042-S from the university, including full- and part-time faculty, staff, and students.
- c. Incapacitation – A state of being that prevents an individual from having capacity to give consent. For example, incapacitation could result from the use of drugs or alcohol, a person being asleep or unconscious, or because of an intellectual or other disability.
- d. Interpersonal Violence – For purposes of this policy, Interpersonal Violence is:
 - Domestic or Family Violence – Abuse or violence committed by a current or former spouse or intimate partner of the Reporting Party, by a person with whom the Reporting Party shares a child in common, by a person with whom the Reporting Party is cohabiting (or has cohabited) with a spouse or intimate partner, by a person similarly situated to a spouse of the Reporting Party under the domestic or family violence laws of the state of Texas, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence

laws of the state of Texas.

- Dating Violence – Abuse or violence, or a threat of abuse or violence, committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Reporting Party. The existence of such a relationship will be determined based on the type and length of the relationship and the frequency of interaction between the persons involved in the relationship. A casual acquaintanceship or ordinary socializing between two individuals does not constitute a romantic or intimate relationship. This definition does not include acts covered under Domestic or Family Violence.
- e. Public Indecency – Engaging in private or sexual acts in a publicly viewable location, such that it is offensive to accepted standards of decency including, but not limited to:
- Exposing one’s genitals or private areas;
 - Public urination;
 - Defecation; and/or
 - Public sex acts.
- f. Reporting Party – A person or entity (in the case of the university) who submits a complaint alleging a violation of this policy.
- g. Responding Party – Generally, the Responding Party is the person who is alleged to be responsible for the prohibited conduct alleged in a complaint.
- h. Responsible Employee – A university employee who has the authority to take action to redress an alleged violation of this policy; who has been given the duty of reporting such allegations to the university Title IX administrator or Title IX deputy administrators; or whom an individual could reasonably believe has this authority or duty.

Responsible Employees include, but are not limited to:

- Administrators;
 - Academic advisors;
 - Coaches and other athletic staff who interact directly with students;
 - Faculty members, including professors, adjuncts, lecturers, instructors, and teaching assistants;
 - Student services personnel;
 - Graduate research assistants;
 - Residence life or community advisors;
 - Student organization advisors;
 - All supervisory personnel;
 - Human Resources personnel; and
 - The Texas Tech Police Department.
- i. Sex Discrimination – An act that deprives a member of the university community of his or her rights of access to campuses and facilities and of participation in education, services, programs, operations, employment, benefits, or opportunities with the university on the basis of the person’s sex.
- j. Sexual Misconduct – A broad term encompassing all forms of gender-based harassment or

discrimination and unwelcome behavior of a sexual nature. The term includes sexual harassment, nonconsensual sexual contact, nonconsensual sexual intercourse, sexual assault, sexual exploitation, stalking, public indecency, interpersonal violence, sexual violence, and other misconduct based on sex.

- k. Sexual Assault – Sexual contact or intercourse with a person without the person’s consent, including sexual contact or intercourse against the person’s will or in a circumstance in which the person is incapable of consenting to the contact or intercourse. Sexual Assault includes:
- (1) Nonconsensual Sexual Contact – Intentional sexual touching, however slight, with any object or part of one’s body of another’s private areas without consent. Sexual Contact includes:
 - Intentional contact with the breasts, buttock, groin, or genitals;
 - Touching another with any of these body parts;
 - Making another touch you or themselves with or on any of these body parts; or
 - Any other intentional bodily contact in a sexual manner.
 - (2) Nonconsensual Sexual Intercourse – Sexual penetration or intercourse, however slight, with a penis, tongue, finger, or any object, and without consent. Penetration can be oral, anal, or vaginal.

The following offenses are examples of sexual assault: rape, incest, fondling, and statutory rape.

- Rape – The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the Reporting Party.
 - Incest – Non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
 - Fondling – The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the Reporting Party, including instances where the Reporting Party is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.
 - Statutory Rape – Non-forcible sexual intercourse with a person who is under the statutory age of consent.
- l. Sexual Exploitation – Taking nonconsensual or abusive sexual advantage of another for the benefit of oneself or a third party. Prohibited behavior includes, but is not limited to:
- Purposeful recording, distribution, or dissemination of sexual or intimate images or recordings of another person without that person’s full knowledge or consent;
 - Sexual voyeurism;
 - Inducing another to expose one’s genitals or private areas;
 - Prostituting another; or
 - Knowingly exposing someone to or transmitting a sexually transmitted disease.
- m. Sexual Harassment – Unwelcome sex-based verbal, written, or physical conduct when:

- (1) Submission to such conduct is made either explicitly or implicitly a term or condition of employment or education;
- (2) Submission to or rejection of such conduct is used as a basis for decisions affecting employment or education; or
- (3) Such conduct has the purpose or effect of interfering with the individual's work or educational performance or of creating an intimidating, hostile, or offensive working or educational environment. To constitute an intimidating, hostile, or offensive working or educational environment, the complained of conduct must be either severe, persistent, or pervasive.

Examples of inappropriate behavior that may constitute Sexual Harassment or Sexual Misconduct include, but are not limited to:

- Sexual teasing, jokes, remarks, or questions;
 - Sexual looks and gestures;
 - Sexual innuendoes or stories;
 - Communicating in a manner with sexual overtones;
 - Inappropriate comments about dress or physical appearance;
 - Inappropriate discussion of private sexual behavior;
 - Gifts, letters, calls, emails, online posts, or materials of a sexual nature;
 - Sexually explicit visual material (calendars, posters, cards, software, internet, or other multimedia materials);
 - Sexual favoritism;
 - Pressure for dates or sexual favors;
 - Unwelcome physical contact (touching, patting, stroking, rubbing);
 - Nonconsensual video or audio-taping of sexual activity;
 - Exposing one's genitals or inducing another to expose his/her genitals;
 - Stalking;
 - Domestic or dating violence;
 - Nonconsensual sexual intercourse, sexual assault, or rape; or
 - Other gender-based threats, discrimination, intimidation, hazing, bullying, stalking, or violence.
- n. Stalking – A course of conduct directed at a specific person that would cause a reasonable person to fear for his/her own safety or the safety of others or would cause that person to suffer substantial emotional distress. A “course of conduct” means two or more acts in which a person directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person or interferes with a person's property. “Reasonable person” means a reasonable person under similar circumstances and similarly situated to the Reporting Party. “Substantial emotional distress” means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.
- o. University Community – All faculty, staff, and students of and visitors to any university premises or university-affiliated activity.

For acts of gender/sex discrimination, such as denial of employment, wages, or benefits based on gender/sex, that are not sexual in nature and do not constitute Sexual Misconduct as defined in this policy, please see OP 40.02, Non-Discrimination and Anti-Harassment Policy and

Complaint Procedure for Violations of Employment and Other Laws.

2. Title IX Administrator and Equal Opportunity Office

The university has a Title IX administrator who oversees the university’s compliance with Title IX, which prohibits discrimination based on sex. The university has also designated Title IX deputy administrators for students and employees.

The Office for Student Rights & Resolution will investigate complaints of Sexual Misconduct by or between students. The Texas Tech University System Office of Equal Opportunity (Office of EO) will investigate complaints of sexual misconduct by or between employees.

CONTACT	PHONE	ADDRESS	EMAIL
TTU Title IX Administrator Kim Simón Texas Tech Office of the President	806.742.2121	TTU Administration Building, Room 163 Office of the President Texas Tech University Box 42005 Lubbock, TX 79409	kimberly.simon@ttu.edu
TTU Title IX Deputy Administrator for Students Matthew Gregory Dean of Students	806.742.2984	Suite 201 AA, Student Union Building Office of the Dean of Students Texas Tech University Lubbock, TX 79409	deanofstudents@ttu.edu
TTU Title IX Deputy Administrator for Employees Jodie Billingsley Assistant Vice President for Human Resources	806.742.3851	160 Doak Conference Center Office of Human Resources Texas Tech University 2518 15 th Street Lubbock, TX 79409	jodie.billingsley@ttu.edu

<p>TTU Title IX Deputy Coordinator for Athletics</p> <p>Judi Henry Senior Associate Athletics Director and Senior Woman Administrator</p>	<p>806.834.0976</p>	<p>Athletic Office, Room 109</p> <p>Texas Tech University 2526 6th Street Lubbock, TX 79409</p>	<p>judi.henry@ttu.edu</p>
<p>Charlotte Bingham Assistant Vice Chancellor of Administration, Office of Equal Opportunity</p>	<p>806.742.3627</p>	<p>Office of Equal Opportunity</p> <p>TTU System Administration Building, 1508 Knoxville Ave., Suite 208 Box 1073 Lubbock, TX 79409</p>	<p>eeo@ttu.edu</p>

3. Reporting Sexual Misconduct

- a. All students, employees, and third parties are strongly encouraged to promptly report any incidents of Sexual Misconduct to the university Title IX administrator, Title IX deputy administrators, or Office of Equal Opportunity.
- b. Mediation will not be used to resolve complaints of Sexual Assault and Interpersonal Violence, as defined in this policy.
- c. All students, employees, and third parties may also report incidents of Sexual Misconduct to law enforcement, including on-campus and local police. Reporting parties may choose to notify law enforcement and will be provided the assistance of a Title IX administrator, Title IX deputy administrator, or Office of Equal Opportunity in contacting these authorities if the individual wishes. For a list of law enforcement agencies, please see section 13 of this policy. Reporting Parties may also decline to notify law enforcement of incidents of Sexual Misconduct.
- d. An individual who experiences any form of sexual, domestic, or dating violence is encouraged to seek immediate medical care. Also, preserving DNA evidence can be key to identifying the perpetrator in a sexual violence case. Victims can undergo a sexual assault forensic exam (SAFE) performed by a sexual assault nurse examiner (SANE) to preserve physical evidence with or without police involvement. If possible, this should be done immediately. If an immediate medical exam is not possible, a SANE may still collect evidence up to 4 days following a sexual assault. With the examinee's consent, the physical evidence collected during this medical exam can be used in a criminal investigation. To undergo a SAFE, go directly to the nearest emergency department that provides SAFE services. For more information about the SAFE, see <http://hopelaws.org/> or <https://www.texasattorneygeneral.gov/victims/sapcs.shtml#survivors>.

- e. An individual who experiences any form of Sexual Misconduct should also preserve other evidence relevant to the complained of activity, such as items of clothing, photographs, phone records, text messages, computer records, and other documents.
- f. If an employee is a Responsible Employee and receives information about Sexual Misconduct, reporting is **required**. Responsible Employees have a duty to promptly report all known details of incidents of sex discrimination, sexual harassment, nonconsensual sexual contact, nonconsensual sexual intercourse, sexual assault, Sexual Misconduct, sexual exploitation, public indecency, interpersonal violence, and stalking to the university Title IX administrator, Title IX deputy administrators, or Office of Equal Opportunity. Responsible Employees are not confidential reporting resources.
- g. Disclosures to licensed clinical and/or mental health professionals acting in their professional role in the provision of services are not subject to the foregoing mandatory reporting requirements. These employees include physicians, psychologists, nurses, counselors, and those performing services under their supervision. These employees are encouraged to provide students or employees with information and guidance regarding university reporting options and available resources but will not report or otherwise refer instances of sexual harassment/misconduct to university administrators without the student or employee's express permission.

4. Complaints by or against Students

- a. If a student has a complaint of Sexual Misconduct by another student, see Part I, Section C: Conduct Procedures for Students in the *TTU Student Handbook*. www.ttu.edu/studenthandbook.
- b. If a student has a complaint regarding Sexual Misconduct involving a student organization, see Part I, Section D: Conduct Procedures for Student Organizations in the *TTU Student Handbook*. www.ttu.edu/studenthandbook.
- c. If a student has a non-employment based complaint of Sexual Misconduct by an employee, see Part II, Section C: Anti-Discrimination Policy in the *TTU Student Handbook*. www.ttu.edu/studenthandbook. Alternatively, the student may contact the Office for Student Rights & Resolution or the Office of Equal Opportunity. Student complaints of Sexual Misconduct by an employee will be investigated jointly by the Office for Student Rights & Resolution and the Office of Equal Opportunity.
- d. If a student enrolled at the university reports Sexual Misconduct in good faith, the university may not take disciplinary action against the student for violation(s) of the Code of Student Conduct in accordance with the amnesty provisions set forth in Part 1, Section A (12) in the Code of Student Conduct. http://www.depts.ttu.edu/dos/docs/StudentHandbook_2017-2018.pdf
- e. If a student employee has a complaint of Sexual Misconduct, which occurs during the course and scope of employment with the university, against an employee, the student should follow the procedure set forth for employees in this policy.
- f. If an employee has a complaint of Sexual Misconduct against a student, the employee should contact the Office for Student Rights & Resolution or Title IX administrator and/or

file an incident report form, found at the Title IX website: <http://titleix.ttu.edu>.

5. **Employee Complaint Procedures, Including Student Employees**

- a. If an employee has a complaint of Sexual Misconduct against another employee, the general provisions relating to employees and the employee complaint procedures set forth in OP 40.02 shall apply. An employee having a complaint under this policy (OP 40.03) should submit a completed *Complaint of Sexual Harassment, Sexual Assault, or Sexual Misconduct* form, which is available on the university's Human Resources website at the following link: <http://www.depts.ttu.edu/hr/formsPolProc/forms.php>.
- b. In addition, in complaints of Sexual Misconduct, the following provisions shall control.
 - (1) While there is no deadline to file a complaint, to promote timely and effective review, the university strongly encourages individuals who believe they have experienced Sexual Misconduct to come forward promptly with their complaints and to seek assistance from the university. Delays in reporting can greatly limit the university's ability to stop the Sexual Misconduct, collect evidence, and/or take effective action against individuals or organizations accused of violating the policy.
 - (2) Individuals wishing to remain anonymous can file a complaint in any manner, including by telephone or written communication, with the university Title IX administrator, a Title IX deputy administrator or the Office of Equal Opportunity. However, electing to remain anonymous may greatly limit the university's ability to investigate an alleged incident, collect evidence, and/or take effective action against individuals or organizations accused of violating this policy.
 - (3) Both parties have the right to be accompanied by an advisor of the individual's choosing during all meetings, proceedings, and/or disciplinary hearings at which the individual is present. The role of the advisor will be limited to being present only; advisors are not allowed to actively participate in the process.
 - (4) After the investigation is complete, the Office of Equal Opportunity will simultaneously provide notice in writing to the Reporting Party, to the Responding Party, and to the appropriate administrators of the following:
 - Determination of the outcome;
 - The finding of the Office of Equal Opportunity is final and not appealable by either party;
 - In the event a finding of a violation of this policy is made, appropriate disciplinary action will be taken as determined by the appropriate administrator; and
 - If either party disagrees with the imposed disciplinary action or lack thereof because the disciplinary action imposed substantially varies from the range of disciplinary actions normally imposed for similar infractions, he or she may appeal within five business days to the Title IX administrator. However, if the disciplinary action recommended is tenure revocation, proceedings will be pursuant to OP 32.02.
 - (5) The Reporting Party and Responding Party will be simultaneously notified in writing of any changes to the results that occur prior to the time such results become final

and when such results become final.

6. **Complaints Involving Non-University Individuals**

- a. If a non-university individual has a complaint of Sexual Misconduct by a student or university employee acting in the scope of his or her employment, the individual involved may file a report with either the Office for Student Rights & Resolution or the Office of Equal Opportunity, and the university may investigate and take steps to address the situation.
- b. If a university employee or student has a complaint of Sexual Misconduct by a non-university party that affects the employee's work environment or student's educational program or activity, the employee or student may make a report to the Title IX administrator, Title IX deputy administrators, Office of Equal Opportunity, or Office for Student Rights & Resolution. The university may conduct an inquiry and take action, if possible, to prevent further misconduct. However, the university's response may differ for complaints regarding third parties based on the level of control the university has over the third party. Even though the university's ability to take direct action against a third party may be limited, the university may take steps to provide appropriate remedies for the employee or student and, where appropriate, the broader University Community.

7. **Retaliation**

Retaliation against a person who reports a potential violation under this policy, assists someone with a report of a violation, or participates in any manner in an investigation or in the resolution of a complaint made under this policy is strictly prohibited and will not be tolerated. Retaliation includes, but is not limited to threats, intimidation, reprisals, and/or adverse actions related to an individual's employment or education. The university will take appropriate steps to assure that a person who, in good faith, reports, complains about, or participates in an investigation pursuant to this policy will not be subjected to retaliation. Individuals who believe they are experiencing retaliation are strongly encouraged to lodge a complaint with the university using the same procedure outlined in this policy.

Individuals who are found to have retaliated under this policy will be subject to disciplinary action, up to and including termination of employment, expulsion from the university, or being barred from university premises and events.

8. **Interim Measures**

The Reporting Parties may request and the university may implement interim measures, as may be necessary to assure the safety and well-being of the participants in the complaint process, to maintain an environment free from harassment, discrimination, or retaliation, and to protect the safety and well-being of the University Community. Appropriate university officials will decide if and what interim measures are necessary. Such interim measures may include, but are not limited to:

- Separating the Reporting Party's and Responding Party's academic or working situations;
- Forbidding contact between parties involved in a complaint;
- Suspending the right of the Responding Party to be present on campus or otherwise altering the university status of the Responding Party.

The Reporting or Responding Party who are the subjects of an alleged sexual assault will be allowed to drop a course in which they are both enrolled without any academic penalty.

Other interim measures may be implemented depending upon the Responding Party's relationship with the university. These interim measures may be kept in place through the conclusion of any review, investigation, or appeal process. Interim measures can be implemented regardless of whether or not the Reporting Party pursues formal university or criminal action.

9. Confidentiality

The confidentiality of both the Reporting Party and the Responding Party will be honored by the university to the extent possible without compromising the university's commitment and obligation to investigate allegations of Sexual Misconduct, to protect the University Community, and to the extent allowed by law. However, because the university also has an obligation to maintain an environment free of Sex Discrimination and Sexual Misconduct, many university employees have mandatory reporting and response obligations and may not be able to honor a Reporting Party's request for confidentiality. The Title IX administrator will evaluate requests for confidentiality.

The willful and unnecessary disclosure of confidential information by anyone, including the Reporting Party or Responding Party, may affect the integrity of the investigation.

Students may make confidential reports to the university Student Counseling Center. Likewise, employees may make confidential reports through the Employee Assistance Program. All Reporting Parties may also make confidential reports to local rape crisis centers or to other licensed clinical and/or mental health professionals acting in their professional role of providing those services.

10. Interference with an Investigation

Any person who knowingly and intentionally interferes with an investigation conducted under this policy is subject to disciplinary action up to and including dismissal or separation from the university. Interference with an investigation may include, but is not limited to:

- Attempting to coerce, compel, influence, or prevent an individual from providing testimony or relevant information;
- Divulging confidential information;
- Removing, destroying, or altering documentation relevant to the investigation; or
- Providing false or misleading information to the investigator, or encouraging others to do so.

11. Training and Education

The university's commitment to preventing and raising awareness of the harm resulting from the conduct prohibited in this policy includes providing primary prevention and awareness programs for all incoming students and new employees, ongoing education to both employees and students, and emailing information regarding this policy to students at the beginning of each academic semester. This policy is published on the university's website and information regarding this policy and related policies is included in orientation materials for new students, faculty, and staff. All employees must attend Equal Opportunity non-discrimination and sex/gender discrimination training including sexual assault, sexual harassment, and campus crime mandated reporter training within the first 30 days of employment and receive

supplemental training every two years. Other appropriate compliance training sessions will also be conducted on an ongoing basis. Training sessions will include information on how and where to report incidents of prohibited conduct, resources available, as well as risk reduction and safe and positive options for bystander intervention. In addition, university employees and administrators responsible for implementing this policy, including the Title IX administrator, Title IX deputy administrator, investigators, and hearing officers, receive annual training about offenses, investigatory procedures, due process requirements, and university policies related to or described in this policy.

12. Websites and Other Resources

The university maintains websites that provide comprehensive information about this policy, its procedures, Title IX, available resources, remedial support options, local support services, and illustrative examples of definitions contained herein.

- Title IX compliance and directory – titleix.ttu.edu
- Title IX for students – titleix.ttu.edu/students
- Title IX for faculty/staff – <http://www.depts.ttu.edu/hr/TitleIX>
- Title IX for athletics – <http://texastech.com/sports/2016/6/8/school-bio-title-ix-html.aspx>
- Office of the Dean of Students - <http://www.depts.ttu.edu/dos/>
- Office of Equal Opportunity - <http://www.texastech.edu/offices/equal-employment/>
- Risk Intervention & Safety Education (RISE) - <http://www.depts.ttu.edu/rise/>
- TTU Student Counseling Center – <http://www.depts.ttu.edu/scc/>
- TTU Operating Policies & Procedures - <http://www.depts.ttu.edu/opmanual/>
- TTU Employee Assistance Program - <http://www.depts.ttu.edu/hr/benefits/health.php>

The following additional resources are available:

CONTACT	PHONE	ADDRESS
Title IX Administrator	806.742.2121	163 Administration Building Box 2005 Lubbock, Texas 79409
Office for Student Rights & Resolutions	806.742.7233	Suite 232-E Student Union Building Lubbock, TX 79409

Office of the Dean of Students	806.742.2984	Suite 201 AA Student Union Building Lubbock, TX 79409
Equal Opportunity Office	806.742.3627	TTU System Administration Building 1508 Knoxville Ave. Suite 208 Box 41073 Lubbock, TX 79409
Human Resources	806.742.3851	160 Doak Conference Center 2518 15 th Street Lubbock, TX 79409
Student Counseling Center	806.742.3674	Room 201 Student Wellness Center Lubbock, Texas 79409
Employee Assistance Program	806.743.1327	3601 4 th Street Lubbock, Texas 79430
TTU RISE Office	806.742.2110	Drane Hall, Rom 247 Lubbock, Texas 79409
Psychology Clinic	806.742.3799	TTU Psychology Building, Room 111A Lubbock, Texas 79409
Marriage and Family Therapy Clinic	806.742.3060	TTU Human Sciences Building, Room 165 Lubbock, Texas 79409
Lubbock Voice of Hope	806.763.7273	P.O. Box 2000 Lubbock, Texas 79457
Legal Aid of NorthWest Texas	800.733.4557	1711 Avenue J Lubbock, Texas 79401
Legal Aid Society of Lubbock	806.762.2325	906 Main St. # 103 Lubbock, Texas 79401
University Medical Center	806.775.8200	602 Indiana Ave Lubbock, Texas 79415
Covenant Medical Center	806.725.0000	3615 19 th Street Lubbock, Texas 79410

13. Outside Agencies

Nothing in this policy shall limit a person from seeking assistance or filing a complaint with an outside agency.

Administrative Agencies

CONTACT	PHONE	ADDRESS
U.S. Equal Employment Opportunity Commission	1.800.669.4000	300 E. Main Dr. Suite 500 El Paso, Texas 79901
Texas Workforce Commission	512.463.2222	101 E. 15 th Street Austin, Texas 78778
U.S. Department of Education, Office of Civil Rights	214.611.9600	1999 Bryan Street, Suite 1620 Dallas, Texas 75201

Law Enforcement Agencies

CONTACT	PHONE	ADDRESS
TTU Police Department	806.742.3931	413 Flint Avenue Lubbock, Texas 79409
Lubbock Police Department	806.775.2865	916 Texas Avenue Lubbock, Texas 79401
Lubbock County Sheriff's Department	806.775.1400	811 Main Street P.O. Box 10536 Lubbock, Texas 79407
Texas Department of Public Safety	512.424.2000	5805 North Lamar Blvd. Austin, Texas 78752

14. **Authoritative References**

- Title VII of the Civil Rights Act of 1964
- Title IX of the Education Amendments of 1972
- Texas Labor Code Chapter 21
- Violence Against Women Act (VAWA)
- Campus Sexual Violence Elimination Act of 2013 (Campus SaVE)
- Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act
- Texas Education Code Section 51.9363
- Texas Family Code Sections 71.004 and 71.0021
- Texas Penal Code Section 42.072

15. **Right to Change Policy**

The university reserves the right to interpret, change, modify, amend, or rescind this policy, in whole or in part, at any time without notice to or consent of its employees.

ATTACHMENT

6

**TTUHSC OP 51.03, Sexual Harassment, Sexual Assault,
Sexual Misconduct, and Title IX Policy and Complaint Procedure**



TEXAS TECH UNIVERSITY HEALTH SCIENCES CENTER

Operating Policy and Procedure

HSC OP: 51.03, **Sexual Harassment, Sexual Assault, Sexual Misconduct, and Title IX Policy and Complaint Procedure**

PURPOSE: This policy provides information regarding the University's prevention and education efforts related to sex discrimination, sexual harassment, nonconsensual sexual contact, nonconsensual sexual intercourse, sexual assault, sexual exploitation, public indecency, Sexual Misconduct, interpersonal violence, and stalking. The policy provides students and employees with their rights and options and also explains how the University will proceed once it is made aware of allegations of prohibited conduct in keeping with the University's values and in order to meet the legal obligations of [Title VII](#), [Title IX](#), the [Violence Against Women Act \(VAWA\)](#), the [Campus Sexual Violence Elimination Act \(SaVE\)](#), Texas Education Code, Section 51.9363, and other applicable law.

REVIEW: This HSC OP will be reviewed in October of odd-numbered years (ONY) by the TTUS Office of Equal Opportunity (EO), the Title IX Coordinator, the Assistant Vice President of Student Services, and the Vice President of Human Resources, with substantive revisions forwarded to the Chief of Staff to the President. Any substantive changes to this policy must be approved by the Board of Regents.

POLICY/PROCEDURE:

The University is committed to providing and strengthening an educational, working, and living environment where students, faculty, staff, and visitors are free from sex discrimination of any kind. In accordance with [Title VII](#), [Title IX](#), the [Violence Against Women Act \(VAWA\)](#), the [Campus Sexual Violence Elimination Act \(SaVE\)](#), and other federal and state law, the University prohibits discrimination based on sex, which includes pregnancy, and other types of Sexual Misconduct. Sexual Misconduct is a broad term encompassing all forms of gender-based harassment or discrimination and unwelcome behavior of a sexual nature. The term includes sexual harassment, nonconsensual sexual contact, nonconsensual sexual intercourse, sexual assault, sexual exploitation, stalking, public indecency, interpersonal violence, sexual violence, and any other misconduct based on sex. Any acts that fall within the scope of this policy hereinafter are referred to as Sexual Misconduct.

While sexual orientation and gender identity are not explicitly protected categories under state or federal law, it is the University's policy not to discriminate in employment, admission, or use of programs, activities, facilities, or services on this basis. Discriminatory behavior is prohibited regardless of the manner in which it is exhibited, whether verbally, in writing, by actions, or electronically displayed or conveyed.

This policy applies to all University students and employees, visitors, applicants for admission to or employment with the University, as well as University affiliates and others conducting business on campus. This policy will apply to on-campus and off-campus conduct of which the University is made aware and which adversely impacts the educational and employment environments of the University. The University will take all reasonable steps to prevent recurrence of any Sexual Misconduct and remedy discriminatory effects on the Reporting Party and others, if appropriate.

All complaint investigations and procedures will be non-adversarial in nature and will be conducted in a prompt, fair, and impartial manner. Investigations conducted under this policy are not criminal investigations. For all complaints under this policy, the burden of proof shall be a preponderance of the evidence, which means more likely than not.

The University expects all members of the University Community to comply with the law. Members of the University Community who violate these policies and laws may be subject to disciplinary action, up to and including termination of employment, expulsion from the University, or being barred from University premises and events.

For complaints relating to any form of discrimination not covered by this policy, see [HSC OP 51.02 Non-Discrimination and Anti-Harassment Policy and Complaint Procedure for Violations of Employment and Other Laws](#).

1. Definitions

For purposes of this policy, the definitions below apply. However, some of these terms are also defined under state law. If a person would like to file criminal charges for any alleged violations of criminal law, the definitions as set forth in state law may apply.

- a. **Consent** – Mutually understandable words or actions, actively communicated both knowingly and voluntarily, that clearly conveys permission for a specific activity.

Consent is not effective if it results from: (a) the use of physical force, (b) a threat of physical force, (c) intimidation, (d) coercion, (e) incapacitation, or (f) any other factor that would eliminate an individual's ability to exercise his or her own free will to choose whether or not to engage in sexual activity.

- b. **Employee** – Any person who receives a W-2 or 1042-S from the University, including full and part-time faculty, staff, and students.

- c. **Incapacitation** – A state of being that prevents an individual from having capacity to give consent. For example, incapacitation could result from the use of drugs or alcohol, a person being asleep or unconscious, or because of an intellectual or other disability.

- d. **Interpersonal Violence** – For purposes of this policy, Interpersonal Violence is:

- **Domestic or Family Violence** – Abuse or violence committed by a current or former spouse or intimate partner of the Reporting Party, by a person with whom the Reporting Party shares a child in common, by a person with whom the Reporting Party is cohabiting (or has cohabited) with a spouse or intimate partner, by a person similarly situated to a spouse of the Reporting Party under the domestic or family violence laws of the State of Texas, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the State of Texas.
- **Dating Violence** – Abuse or violence, or a threat of abuse or violence, committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Reporting Party. The existence of such a relationship will be determined based on the type and length of the relationship and the frequency of interaction between the persons involved in the relationship. A casual acquaintanceship or ordinary socializing between two individuals does not constitute a romantic or intimate relationship. This definition does not include acts covered under Domestic or Family Violence.

- e. **Public Indecency** – Engaging in private or sexual acts in a publicly viewable location, such that it is offensive to accepted standards of decency including, but not limited to:

- Exposing one's genitals or private areas;
- Public urination;
- Defecation; and/or
- Public sex acts.

- f. **Reporting Party** – A person or entity (in the case of the University) who submits a complaint

alleging a violation of this policy.

- g. **Responding Party** – Generally, the Responding Party is the person who is alleged to be responsible for the prohibited conduct alleged in a complaint.
- h. **Responsible Employee** – A University employee who has the authority to take action to redress an alleged violation of this policy; who has been given the duty of reporting such allegations to the University Title IX Coordinator, Title IX Deputy Coordinator, or Office of Equal Opportunity; or whom an individual could reasonably believe has this authority or duty.

Responsible Employees include, but are not limited to:

- Administrators;
 - Academic advisors;
 - Coaches, and other athletic staff who interact directly with students;
 - Faculty members, including professors, adjuncts, lecturers, instructors, and teaching assistants;
 - Student services personnel;
 - Graduate research assistants;
 - Residence life or community advisors;
 - Student organization advisors;
 - All supervisory personnel;
 - Human Resources personnel; and
 - The Texas Tech Police Department.
- i. **Sex Discrimination** – An act that deprives a member of the University Community of his or her rights of access to campuses and facilities and of participation in education, services, programs, operations, employment, benefits or opportunities with the University on the basis of the person's sex.
 - j. **Sexual Misconduct** – A broad term encompassing all forms of gender-based harassment or discrimination and unwelcome behavior of a sexual nature. The term includes sexual harassment, nonconsensual sexual contact, nonconsensual sexual intercourse, sexual assault, sexual exploitation, stalking, public indecency, interpersonal violence, sexual violence, and other misconduct based on sex.
 - k. **Sexual Assault** – Sexual contact or intercourse with a person without the person's consent, including sexual contact or intercourse against the person's will or in a circumstance in which the person is incapable of consenting to the contact or intercourse. Sexual Assault includes:
 - (1) **Non-Consensual Sexual Contact** – Intentional sexual touching, however slight, with any object or part of one's body of another's private areas without consent. Sexual Contact includes:
 - Intentional contact with the breasts, buttock, groin, or genitals;
 - Touching another with any of these body parts;
 - Making another touch you or themselves with or on any of these body parts; or
 - Any other intentional bodily contact in a sexual manner.
 - (2) **Non-Consensual Sexual Intercourse** – Sexual penetration or intercourse, however slight, with a penis, tongue, finger, or any object, and without consent. Penetration can be oral, anal, or vaginal.

The following offenses are examples of sexual assault: rape, incest, fondling, and statutory rape.

- **Rape** – The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the

Reporting Party.

- **Incest** – Non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- **Fondling** – The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the Reporting Party, including instances where the Reporting Party is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity
- **Statutory Rape** – Non-forcible sexual intercourse with a person who is under the statutory age of consent.

l. **Sexual Exploitation** – Taking nonconsensual or abusive sexual advantage of another for the benefit of oneself or a third party. Prohibited behavior includes, but is not limited to:

- Purposeful recording, distribution, or dissemination of sexual or intimate images or recordings of another person without that person's full knowledge or consent;
- Sexual voyeurism;
- Inducing another to expose one's genitals or private areas;
- Prostituting another; or
- Knowingly exposing someone to or transmitting a sexually transmitted disease.

m. **Sexual Harassment** – Unwelcome sex-based verbal, written, or physical conduct when:

- (1) Submission to such conduct is made either explicitly or implicitly a term or condition of employment or education;
- (2) Submission to or rejection of such conduct is used as a basis for decisions affecting employment or education; or
- (3) Such conduct has the purpose or effect of interfering with the individual's work or educational performance or of creating an intimidating, hostile, or offensive working or educational environment. To constitute an intimidating, hostile, or offensive working or educational environment, the complained of conduct must be either severe, persistent, or pervasive.

Examples of inappropriate behavior that may constitute Sexual Harassment or Sexual Misconduct include, but are not limited to:

- Sexual teasing, jokes, remarks, or questions;
- Sexual looks and gestures;
- Sexual innuendoes or stories;
- Communicating in a manner with sexual overtones;
- Inappropriate comments about dress or physical appearance;
- Inappropriate discussion of private sexual behavior;
- Gifts, letters, calls, emails, online posts, or materials of a sexual nature;
- Sexually explicit visual material (calendars, posters, cards, software, internet, or other multimedia materials);
- Sexual favoritism;
- Pressure for dates or sexual favors;
- Unwelcome physical contact (touching, patting, stroking, rubbing);
- Non-consensual video or audio-taping of sexual activity;
- Exposing one's genitals or inducing another to expose his/her genitals;
- Stalking;
- Domestic or dating violence;
- Non-consensual sexual intercourse, sexual assault, or rape; or
- Other gender-based threats, discrimination, intimidation, hazing, bullying, stalking, or violence.

- n. **Stalking** – A course of conduct directed at a specific person that would cause a reasonable person to fear for his/her own safety or the safety of others or would cause that person to suffer substantial emotional distress. A “course of conduct” means two or more acts in which a person directly, indirectly or through third parties, by any action, method, device or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person or interferes with a person’s property. “Reasonable person” means a reasonable person under similar circumstances and similarly situated to the Reporting Party. “Substantial emotional distress” means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.
- o. **University Community** – All faculty, staff, and students of and visitors to any University premises or University-affiliated activity.

For acts of gender/sex discrimination, such as denial of employment, wages, or benefits based on gender/sex, that are not sexual in nature and do not constitute Sexual Misconduct as defined in this policy, please see [HSC OP 51.02](#), Non-Discrimination and Anti-Harassment Policy and Complaint Procedure for Violations of Employment and Other Laws.

2. Title IX Coordinator and Equal Opportunity Office

The University has a Title IX Coordinator who oversees the University’s compliance with Title IX, which prohibits discrimination based on sex. The University has also designated a Title IX Deputy Coordinator for employees.

The Title IX Coordinator will investigate complaints of Sexual Misconduct by or between students. The Texas Tech University System Office of Equal Opportunity (Office of EO) will investigate complaints of Sexual Misconduct by or between employees. Student complaints of Sexual Misconduct by an employee will be investigated jointly by the Title IX Coordinator and the Office of Equal Opportunity.

CONTACT	PHONE	ADDRESS	EMAIL
TTUHSC Title IX Coordinator Coleman Johnson, Assistant to the President	806-743-2900	TTUHSC Office of the President, Room 2B410B Office of the President Texas Tech University Health Sciences Center	TitleIXCoordinator@ttuhsc.edu
TTUHSC Title IX Deputy Coordinator for Employees Charlotte Bingham Assistant Vice Chancellor of Administration Office of Equal Opportunity	806-742-3627	Office of Equal Opportunity TTU System Administration Building 1508 Knoxville Ave., Suite 208 Box 41073 Lubbock, TX 79409	TitleIXCoordinator@ttuhsc.edu eeo@ttu.edu

3. Reporting Sexual Misconduct

- a. All students, employees, and third parties are strongly encouraged to promptly report any incidents of Sexual Misconduct to the University [Title IX Coordinator, Title IX Deputy Coordinator, or Office of Equal Opportunity](#).
- b. Mediation will not be used to resolve complaints of Sexual Assault and Interpersonal Violence, as defined in this policy.

- c. All students, employees, and third parties may also report incidents of Sexual Misconduct to law enforcement, including on-campus and local police. Reporting Parties may choose to notify law enforcement and will be provided the assistance of the [Title IX Coordinator, Title IX Deputy Coordinator, or Office of Equal Opportunity](#) in contacting these authorities if the individual wishes. For a list of Law Enforcement Agencies, please see Section 13 of this policy. Reporting Parties may also decline to notify law enforcement of incidents of Sexual Misconduct.
- d. An individual who experiences any form of sexual, domestic, or dating violence is encouraged to seek immediate medical care. Also, preserving DNA evidence can be key to identifying the perpetrator in a sexual violence case. Victims can undergo a Sexual Assault Forensic Exam (SAFE) performed by a Sexual Assault Nurse Examiner (SANE) to preserve physical evidence with or without police involvement. If possible, this should be done immediately. If an immediate medical exam is not possible, a SANE may still collect evidence up to 4 days following a sexual assault. With the examinee's consent, the physical evidence collected during this medical exam can be used in a criminal investigation. To undergo a SAFE, go directly to the nearest emergency department that provides SAFE services. For more information about the SAFE, see <http://hopelaws.org/>, https://www.texasattorneygeneral.gov/files/cvs/sexual_assault_examination.pdf, or <https://www.texasattorneygeneral.gov/cvs/sexual-assault-prevention-and-crisis-services>.
- e. An individual who experiences any form of Sexual Misconduct should also preserve other evidence relevant to the complained of activity, such as items of clothing, photographs, phone records, text messages, computer records, and other documents.
- f. If an employee is a Responsible Employee and receives information about Sexual Misconduct, reporting is required. Responsible Employees have a duty to promptly report all known details of incidents of sex discrimination, sexual harassment, nonconsensual sexual contact, nonconsensual sexual intercourse, sexual assault, Sexual Misconduct, sexual exploitation, public indecency, interpersonal violence, and stalking to the University [Title IX Coordinator, Title IX Deputy Coordinator, or Office of Equal Opportunity](#). Responsible Employees are not confidential reporting resources.
- g. Disclosures to licensed clinical and/or mental health professionals acting in their professional role in the provision of services are not subject to the foregoing mandatory reporting requirements. These employees include physicians, psychologists, nurses, counselors, and those performing services under their supervision. These employees are encouraged to provide students or employees with information and guidance regarding University reporting options and available resources but will not report or otherwise refer instances of sexual harassment/misconduct to University administrators without the student or employee's express permission.

4. **Complaints by or against Students**

- a. If a student has a complaint of Sexual Misconduct by an employee, whether faculty, staff, or student employee, the provisions relating to the complaint process set forth in this policy and HSC OP 51.02 shall apply. Students with complaints of Sexual Misconduct by an employee should contact the Title IX Coordinator, Deputy Title IX Coordinator, or Office of Equal Opportunity and/or utilize the online reporting tool available on the University's Title IX website at www.ttuhs.edu/title-ix/.
- b. If a student has a complaint of Sexual Misconduct by a student or student organization, the provisions relating to the complaint process involving students and student organizations set forth in Part IV, Section E of the [TTUHSC Student Handbook](#) shall apply. Students with complaints of Sexual Misconduct by a student or student organization should contact the Title IX Coordinator or Deputy Title IX Coordinator, and/or utilize the online reporting tool available on the University's Title IX website at www.ttuhs.edu/title-ix/.

- c. If a student enrolled at the University reports Sexual Misconduct in good faith, the University may not take disciplinary action against the student for violation(s) of the TTUHSC Student Handbook, Code of Professional Conduct, in accordance with the amnesty provisions set forth in Part IV, Section C(9), of the [TTUHSC Student Handbook](#).
- d. If an employee has a complaint of Sexual Misconduct by a student, the employee should contact the Title IX Coordinator, Deputy Title IX Coordinator, or Office of Equal Opportunity and/or utilize the online reporting tool available on the University's Title IX website at www.ttuhs.edu/title-ix/. The provisions set forth in Part IV, Section E of the [TTUHSC Student Handbook](#) shall apply to the student.

5. Employee Complaint Procedures, Including Student Employees

- a. If an employee has a complaint of Sexual Misconduct against another employee, the general provisions relating to employees and the employee complaint procedures set forth in [HSC OP 51.02](#) shall apply. An employee having a complaint under this policy (HSC OP 51.03) should contact the Title IX Coordinator, Title IX Deputy Coordinator, or Office of Equal Opportunity, and/or utilize the online reporting tool available on the University's Title IX website at www.ttuhs.edu/title-ix/.
- b. In addition, in complaints of Sexual Misconduct the following provisions shall control.
 - (1) While there is no deadline to file a complaint, to promote timely and effective review, the University strongly encourages individuals who believe they have experienced Sexual Misconduct to come forward promptly with their complaints and to seek assistance from the University. Delays in reporting can greatly limit the University's ability to stop the Sexual Misconduct, collect evidence, and/or take effective action against individuals or organizations accused of violating the policy.
 - (2) Individuals wishing to remain anonymous can file a complaint in any manner, including by telephone or written communication, with the University [Title IX Coordinator, Title IX Deputy Coordinator, or Office of Equal Opportunity](#). However, electing to remain anonymous may greatly limit the University's ability to investigate an alleged incident, collect evidence, and/or take effective action against individuals or organizations accused of violating this policy.
 - (3) Both parties have the right to be accompanied by an advisor of the individual's choosing during all meetings, proceedings, and/or disciplinary hearings at which the individual is present. The role of the advisor will be limited to being present only; advisors are not allowed to actively participate in the process.
 - (4) After the investigation is complete, the [Office of Equal Opportunity](#) will simultaneously provide notice in writing to the Reporting Party, to the Responding Party, and to the appropriate administrators of the following:
 - Determination of the outcome;
 - The finding of the [Office of Equal Opportunity](#) is final and not appealable by either party;
 - In the event a finding of a violation of this policy is made, appropriate disciplinary action will be taken as determined by the appropriate administrator; and
 - If either party disagrees with the imposed disciplinary action or lack thereof because the disciplinary action imposed substantially varies from the range of disciplinary actions normally imposed for similar infractions, he or she may appeal within five (5) business days to the [Title IX Coordinator](#). However, if the disciplinary action recommended is tenure revocation, proceedings will be pursuant to [HSC OP 60.01](#).

- (5) The Reporting Party and Responding Party will be simultaneously notified in writing of any changes to the results that occur prior to the time such results become final, and when such results become final.

6. Complaints Involving Non-University Individuals

- a. If a non-University individual has a complaint of Sexual Misconduct by a student or University employee acting in the scope of his or her employment, the individual involved may file a report with either the [Title IX Coordinator, Title IX Deputy Coordinator, or Office of Equal Opportunity](#) and/or utilize the online reporting tool available on the University's Title IX website at www.ttuhs.edu/title-ix/. The University may investigate and take steps to address the situation.
- b. If a University employee or student has a complaint of Sexual Misconduct by a non-University party that affects the employee's work environment or student's educational program or activity, the employee or student may make a report to the [Title IX Coordinator, Title IX Deputy Coordinator, or Office of Equal Opportunity](#). The University may conduct an inquiry and take action, if possible, to prevent further misconduct. However, the University's response may differ for complaints regarding third parties based on the level of control the University has over the third party. Even though the University's ability to take direct action against a third party may be limited, the University may take steps to provide appropriate remedies for the employee or student and, where appropriate, the broader University Community.

7. Retaliation

Retaliation against a person who reports a potential violation under this policy, assists someone with a report of a violation, or participates in any manner in an investigation or in the resolution of a complaint made under this policy is strictly prohibited and will not be tolerated. Retaliation includes, but is not limited to threats, intimidation, reprisals and/or adverse actions related to an individual's employment or education. The University will take appropriate steps to assure that a person who in good faith reports, complains about, or participates in an investigation pursuant to this policy will not be subjected to retaliation. Individuals who believe they are experiencing retaliation are strongly encouraged to lodge a complaint with the University using the same procedure outlined in this policy.

Individuals who are found to have retaliated under this policy will be subject to disciplinary action, up to and including termination of employment, expulsion from the University, or being barred from University premises and events.

8. Interim Measures

The Reporting Parties may request and the University may implement interim measures, as may be necessary to assure the safety and well-being of the participants in the complaint process, to maintain an environment free from harassment, discrimination, or retaliation, and to protect the safety and well-being of the University Community. Appropriate University officials will decide if and what interim measures are necessary. Such interim measures may include, but are not limited to:

- Separating the Reporting Party's and Responding Party's academic or working situations;
- Forbidding contact between parties involved in a complaint;
- Suspending the right of the Responding Party to be present on campus or otherwise altering the University status of the Responding Party.

The Reporting or Responding Party who are the subjects of an alleged Sexual Assault will be allowed to drop a course in which they are both enrolled without any academic penalty.

Other interim measures may be implemented depending upon the Responding Party's relationship with the University. These interim measures may be kept in place through the

conclusion of any review, investigation, or appeal process. Interim measures can be implemented regardless of whether or not the Reporting Party pursues formal University or criminal action.

9. Confidentiality

The confidentiality of both the Reporting Party and the Responding Party will be honored by the University to the extent possible without compromising the University's commitment and obligation to investigate allegations of Sexual Misconduct, to protect the University Community, and to the extent allowed by law. However, because the University also has an obligation to maintain an environment free of Sex Discrimination and Sexual Misconduct, many University employees have mandatory reporting and response obligations and may not be able to honor a Reporting Party's request for confidentiality. The [Title IX Coordinator](#) will evaluate requests for confidentiality.

The willful and unnecessary disclosure of confidential information by anyone, including the Reporting Party or Responding Party, may affect the integrity of the investigation.

Students may make confidential reports to the Program of Assistance for Students or the Texas Tech University Student Counseling Center. Likewise, employees may make confidential reports through the Employee Assistance Program. All Reporting Parties may also make confidential reports to local rape crisis centers or to other licensed clinical and/or mental health professionals acting in their professional role of providing those services.

10. Interference with an Investigation

Any person who knowingly and intentionally interferes with an investigation conducted under this policy is subject to disciplinary action up to and including dismissal or separation from the University. Interference with an investigation may include, but is not limited to:

- Attempting to coerce, compel, influence, or prevent an individual from providing testimony or relevant information;
- Divulging confidential information;
- Removing, destroying, or altering documentation relevant to the investigation; or
- Providing false or misleading information to the investigator, or encouraging others to do so.

11. Training and Education

The University's commitment to preventing and raising awareness of the harm resulting from the conduct prohibited in this policy includes providing primary prevention and awareness programs for all incoming students and new employees, ongoing education to both employees and students, and emailing information regarding this policy to students at the beginning of each academic semester. This policy is published on the University's website and information regarding this policy and related policies is included in orientation materials for new students, faculty, and staff. All employees must attend Equal Opportunity non-discrimination and sex/gender discrimination training including sexual assault, sexual harassment, and campus crime mandated reporter training within the first 30 days of employment and receive supplemental training every two years. Other appropriate compliance training sessions will also be conducted on an ongoing basis. Training sessions will include information on how and where to report incidents of prohibited conduct, resources available, as well as, risk reduction and safe and positive options for bystander intervention. In addition, University employees and administrators responsible for implementing this policy, including the [Title IX Coordinator, Title IX Deputy Coordinator, or Office of Equal Opportunity](#), investigators, and hearing officers, receive annual training about offenses, investigatory procedures, due process requirements, and University policies related to or described in this policy.

12. Websites and Other Resources

The University maintains websites which provide comprehensive information about this policy, its procedures, Title IX, available resources, remedial support options, local support services, and illustrative examples of definitions contained herein.

- Title IX Compliance - <https://www.ttuhs.edu/title-ix/default.aspx>
- Office of Student Services - <https://www.ttuhs.edu/student-services/>
- Office of Equal Opportunity - <http://www.texastech.edu/offices/equal-employment/>
- TTUHSC Operating Policies & Procedures - <https://www.ttuhs.edu/hsc/op/>
- Program of Assistance for Students - <https://www.ttuhs.edu/centers/swiad/eap/>
- TTUHSC Employee Assistance Program - <https://www.ttuhs.edu/centers/swiad/eap/>

The following additional resources are available:

CONTACT	PHONE	ADDRESS
Title IX Coordinator TitleIXCoordinator@ttuhs.edu	806-743-2900	TTUHSC Office of the President, Room 2B410B Office of the President TTUHSC 3601 4 th Street, Stop 6258 Lubbock, TX 79430
Office of Student Services student.services@ttuhs.edu	806-743-3027	3601 4 th Street, Stop 8310 Lubbock, Texas 79430
Equal Opportunity Office	806-742-3627	TTU System Administration Building 1508 Knoxville, Suite 208 Box 41073 Lubbock, Texas 79409
Human Resources TTUHSC	806-743-2865	3601 4 th Street, Stop 8100 Lubbock, Texas 79430
Program of Assistance for Students (Counseling Services)	806-743-1327	3601 4 th Street, Room 1A122 Lubbock, Texas 79430
Employee Assistance Program	806-743-1327	3601 4 th Street Lubbock, Texas 79430
Legal Aid of NorthWest Texas	800.733.4557	1711 Avenue J Lubbock, Texas 79401
Legal Aid Society of Lubbock	806.762.2325	906 Main St. # 103 Lubbock, Texas 79401

University Medical Center	806.775.8200	602 Indiana Ave Lubbock, Texas 79415
Covenant Medical Center	806.725.0000	3615 19 th Street Lubbock, Texas 79410
Lubbock Voice of Hope	806-763-7273	P.O. Box 2000 Lubbock, Texas 79457

13. Outside Agencies

Nothing in this policy shall limit a person from seeking assistance or filing a complaint with an outside agency.

Administrative Agencies:

CONTACT	PHONE	ADDRESS
U.S. Equal Employment Opportunity Commission	1-800-669-4000	300 E. Main Dr. Suite 500 El Paso, Texas 79901
Texas Workforce Commission	512-463-2222	101 E. 15 th Street Austin, Texas 78778
U.S. Department of Education, Office of Civil Rights	214-611-9600	1999 Bryan Street, Suite 1620 Dallas, Texas 75201

Law Enforcement Agencies:

CONTACT	PHONE	ADDRESS
TTU Police Department	806-742-3931	413 Flint Avenue Lubbock, Texas 79409
Lubbock Police Department	806-775-2865	916 Texas Avenue Lubbock, Texas 79401
Lubbock County Sheriff's Department	806-775-1400	811 Main Street P.O. Box 10536 Lubbock, Texas 79407
Texas Department of Public Safety	512-424-2000	5805 North Lamar Blvd. Austin, Texas 78752

14. Authoritative References

- Title VII of the Civil Rights Act of 1964
- Title IX of the Education Amendments of 1972
- Texas Labor Code Chapter 21
- Violence Against Women Act (VAWA)
- Campus Sexual Violence Elimination Act of 2013 (Campus SaVE)
- Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act
- Texas Education Code, Section 51.9363
- Texas Family Code Sections 71.004 and 71.0021

- Texas Penal Code Section 42.072

15. **Right to Change Policy**

The University reserves the right to interpret, change, modify, amend, or rescind this policy, in whole or in part, at any time without notice to or consent of its employees.

ATTACHMENT

7

**TTUHSC El Paso OP 51.03, Sexual Harassment, Sexual Assault,
Sexual Misconduct, and Title IX Policy and Complaint Procedure**



TEXAS TECH UNIVERSITY HEALTH SCIENCES CENTER EL PASO

Operating Policy and Procedure

HSCEP OP: 51.03, Sexual Harassment, Sexual Assault, Sexual Misconduct, and Title IX Policy and Complaint Procedure

PURPOSE: This policy provides information regarding the University's prevention and education efforts related to sex discrimination, sexual harassment, nonconsensual sexual contact, nonconsensual sexual intercourse, sexual assault, sexual exploitation, public indecency, Sexual Misconduct, interpersonal violence, and stalking. The policy provides students and employees with their rights and options and also explains how the University will proceed once it is made aware of allegations of prohibited conduct in keeping with the University's values and in order to meet the legal obligations of [Title VII](#), [Title IX](#), the [Violence Against Women Act \(VAWA\)](#), the [Campus Sexual Violence Elimination Act \(SaVE\)](#), Texas Education Code, Section 51.9363, and other applicable law.

REVIEW: This HSCEP OP will be reviewed in October of odd-numbered years (ONY) by the TTUS Office of Equal Opportunity (EO), the Title IX Coordinator, the Assistant Vice President of Student Services, and the Assistant Vice President of Human Resources, with substantive revisions submitted to the Chief Financial Officer. Any substantive changes to this policy must be approved by the Board of Regents.

POLICY/PROCEDURE:

The University is committed to providing and strengthening an educational, working, and living environment where students, faculty, staff, and visitors are free from sex discrimination of any kind. In accordance with [Title VII](#), [Title IX](#), the [Violence Against Women Act \(VAWA\)](#), the [Campus Sexual Violence Elimination Act \(SaVE\)](#), and other federal and state law, the University prohibits discrimination based on sex, which includes pregnancy, and other types of Sexual Misconduct. Sexual Misconduct is a broad term encompassing all forms of gender-based harassment or discrimination and unwelcome behavior of a sexual nature. The term includes sexual harassment, nonconsensual sexual contact, nonconsensual sexual intercourse, sexual assault, sexual exploitation, stalking, public indecency, interpersonal violence, sexual violence, and any other misconduct based on sex. Any acts that fall within the scope of this policy hereinafter are referred to as Sexual Misconduct.

While sexual orientation and gender identity are not explicitly protected categories under state or federal law, it is the University's policy not to discriminate in employment, admission, or use of programs, activities, facilities, or services on this basis. Discriminatory behavior is prohibited regardless of the manner in which it is exhibited, whether verbally, in writing, by actions, or electronically displayed or conveyed.

This policy applies to all University students and employees, visitors, applicants for admission to or employment with the University, as well as University affiliates and others conducting business on campus. This policy will apply to on-campus and off-campus conduct of which the University is made aware and which adversely impacts the educational and employment environments of the University. The University will take all reasonable steps to prevent recurrence of any Sexual Misconduct and remedy discriminatory effects on the Reporting Party and others, if appropriate.

All complaint investigations and procedures will be non-adversarial in nature and will be conducted in a prompt, fair, and impartial manner. Investigations conducted under this policy are not criminal investigations. For all complaints under this policy, the burden of proof shall be a preponderance of the

evidence, which means more likely than not.

The University expects all members of the University Community to comply with the law. Members of the University Community who violate these policies and laws may be subject to disciplinary action, up to and including termination of employment, expulsion from the University, or being barred from University premises and events.

For complaints relating to any form of discrimination not covered by this policy, see [HSCEP OP 51.02](#) Non-Discrimination and Anti-Harassment Policy and Complaint Procedure for Violations of Employment and Other Laws.

1. Definitions

For purposes of this policy, the definitions below apply. However, some of these terms are also defined under state law. If a person would like to file criminal charges for any alleged violations of criminal law, the definitions as set forth in state law may apply.

- a. **Consent** – Mutually understandable words or actions, actively communicated both knowingly and voluntarily, that clearly conveys permission for a specific activity.

Consent is not effective if it results from: (a) the use of physical force, (b) a threat of physical force, (c) intimidation, (d) coercion, (e) incapacitation, or (f) any other factor that would eliminate an individual's ability to exercise his or her own free will to choose whether or not to engage in sexual activity.

- b. **Employee** – Any person who receives a W-2 or 1042-S from the University, including full and part-time faculty, staff, and students.

- c. **Incapacitation** – A state of being that prevents an individual from having capacity to give consent. For example, incapacitation could result from the use of drugs or alcohol, a person being asleep or unconscious, or because of an intellectual or other disability.

- d. **Interpersonal Violence** – For purposes of this policy, Interpersonal Violence is:

- **Domestic or Family Violence** – Abuse or violence committed by a current or former spouse or intimate partner of the Reporting Party, by a person with whom the Reporting Party shares a child in common, by a person with whom the Reporting Party is cohabiting (or has cohabited) with a spouse or intimate partner, by a person similarly situated to a spouse of the Reporting Party under the domestic or family violence laws of the State of Texas, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the State of Texas.

- **Dating Violence** – Abuse or violence, or a threat of abuse or violence, committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Reporting Party. The existence of such a relationship will be determined based on the type and length of the relationship and the frequency of interaction between the persons involved in the relationship. A casual acquaintanceship or ordinary socializing between two individuals does not constitute a romantic or intimate relationship. This definition does not include acts covered under Domestic or Family Violence.

- e. **Public Indecency** – Engaging in private or sexual acts in a publicly viewable location, such that it is offensive to accepted standards of decency including, but not limited to:

- Exposing one's genitals or private areas;

- Public urination;
 - Defecation; and/or
 - Public sex acts.
- f. **Reporting Party** – A person or entity (in the case of the University) who submits a complaint alleging a violation of this policy.
- g. **Responding Party** – Generally, the Responding Party is the person who is alleged to be responsible for the prohibited conduct alleged in a complaint.
- h. **Responsible Employee** – A University employee who has the authority to take action to redress an alleged violation of this policy; who has been given the duty of reporting such allegations to the University [Title IX Coordinator or Title IX Deputy Coordinators](#); or whom an individual could reasonably believe has this authority or duty.

Responsible Employees include, but are not limited to:

- Administrators;
 - Academic advisors;
 - Coaches, and other athletic staff who interact directly with students;
 - Faculty members, including professors, adjuncts, lecturers, instructors, and teaching assistants;
 - Student services personnel;
 - Graduate research assistants;
 - Residence life or community advisors;
 - Student organization advisors;
 - All supervisory personnel;
 - Human Resources personnel; and
 - The Texas Tech Police Department.
- i. **Sex Discrimination** – An act that deprives a member of the University Community of his or her rights of access to campuses and facilities and of participation in education, services, programs, operations, employment, benefits or opportunities with the University on the basis of the person's sex.
- j. **Sexual Misconduct** – A broad term encompassing all forms of gender-based harassment or discrimination and unwelcome behavior of a sexual nature. The term includes sexual harassment, nonconsensual sexual contact, nonconsensual sexual intercourse, sexual assault, sexual exploitation, stalking, public indecency, interpersonal violence, sexual violence, and other misconduct based on sex.
- k. **Sexual Assault** – Sexual contact or intercourse with a person without the person's consent, including sexual contact or intercourse against the person's will or in a circumstance in which the person is incapable of consenting to the contact or intercourse. Sexual Assault includes:
- (1) **Non-Consensual Sexual Contact** – Intentional sexual touching, however slight, with any object or part of one's body of another's private areas without consent. Sexual Contact includes:
 - Intentional contact with the breasts, buttock, groin, or genitals;
 - Touching another with any of these body parts;
 - Making another touch you or themselves with or on any of these body parts; or
 - Any other intentional bodily contact in a sexual manner.
 - (2) **Non-Consensual Sexual Intercourse** – Sexual penetration or intercourse, however slight, with a penis, tongue, finger, or any object, and without consent. Penetration

can be oral, anal, or vaginal.

The following offenses are examples of sexual assault: rape, incest, fondling, and statutory rape.

- **Rape** – The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the Reporting Party.
- **Incest** – Non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- **Fondling** – The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the Reporting Party, including instances where the Reporting Party is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity
- **Statutory Rape** – Non-forcible sexual intercourse with a person who is under the statutory age of consent.

i. **Sexual Exploitation** – Taking nonconsensual or abusive sexual advantage of another for the benefit of oneself or a third party. Prohibited behavior includes, but is not limited to:

- Purposeful recording, distribution, or dissemination of sexual or intimate images or recordings of another person without that person's full knowledge or consent;
- Sexual voyeurism;
- Inducing another to expose one's genitals or private areas;
- Prostituting another; or
- Knowingly exposing someone to or transmitting a sexually transmitted disease.

m. **Sexual Harassment** – Unwelcome sex-based verbal, written, or physical conduct when:

- (1) Submission to such conduct is made either explicitly or implicitly a term or condition of employment or education;
- (2) Submission to or rejection of such conduct is used as a basis for decisions affecting employment or education; or
- (3) Such conduct has the purpose or effect of interfering with the individual's work or educational performance or of creating an intimidating, hostile, or offensive working or educational environment. To constitute an intimidating, hostile, or offensive working or educational environment, the complained of conduct must be either severe, persistent, or pervasive.

Examples of inappropriate behavior that may constitute Sexual Harassment or Sexual Misconduct include, but are not limited to:

- Sexual teasing, jokes, remarks, or questions;
- Sexual looks and gestures;
- Sexual innuendoes or stories;
- Communicating in a manner with sexual overtones;
- Inappropriate comments about dress or physical appearance;
- Inappropriate discussion of private sexual behavior;
- Gifts, letters, calls, emails, online posts, or materials of a sexual nature;
- Sexually explicit visual material (calendars, posters, cards, software, internet, or other multimedia materials);
- Sexual favoritism;
- Pressure for dates or sexual favors;
- Unwelcome physical contact (touching, patting, stroking, rubbing);
- Non-consensual video or audio-taping of sexual activity;

- Exposing one’s genitals or inducing another to expose his/her genitals;
 - Stalking;
 - Domestic or dating violence;
 - Non-consensual sexual intercourse, sexual assault, or rape; or
 - Other gender-based threats, discrimination, intimidation, hazing, bullying, stalking, or violence.
- n. **Stalking** – A course of conduct directed at a specific person that would cause a reasonable person to fear for his/her own safety or the safety of others or would cause that person to suffer substantial emotional distress. A “course of conduct” means two or more acts in which a person directly, indirectly or through third parties, by any action, method, device or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person or interferes with a person’s property. “Reasonable person” means a reasonable person under similar circumstances and similarly situated to the Reporting Party. “Substantial emotional distress” means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.
- o. **University Community** – All faculty, staff, and students of and visitors to any University premises or University-affiliated activity.

For acts of gender/sex discrimination, such as denial of employment, wages, or benefits based on gender/sex, that are not sexual in nature and do not constitute Sexual Misconduct as defined in this policy, please see [HSCEP OP 51.02](#), Non-Discrimination and Anti-Harassment Policy and Complaint Procedure for Violations of Employment and Other Laws.

2. Title IX Coordinator and Equal Opportunity Office

The University has a Title IX Coordinator who oversees the University’s compliance with Title IX, which prohibits discrimination based on sex. The University has also designated Title IX Deputy Coordinators for students and employees.

The Office of Student Affairs will investigate complaints of Sexual Misconduct by or between students. The Texas Tech University System Office of Equal Opportunity (Office of EO) will investigate complaints of Sexual Misconduct by or between employees.

CONTACT	PHONE	ADDRESS	EMAIL
TTUHSCEP Title IX Coordinator Rebecca Salcido Assistant Vice President of Human Resources	915-215-4140	Human Resources Department Texas Tech University Health Sciences Center El Paso Administrative Support Building 200 N. Concepcion El Paso, TX 79905	Rebecca.salcido@ttuhsc.edu

<p>TTUHSCEP Title IX Deputy Coordinator for Students</p> <p>Kathryn V. Horn, MD Assistant Vice President for Student Services</p>	915-215-4786	<p>Office of Student Services Texas Tech University Health Sciences Center El Paso 5001 El Paso Drive, MEB 2140E El Paso, TX 79905</p>	<p>kathryn.horn@ttuhsc.edu</p>
<p>TTUHSC Title IX Deputy Coordinator for Employees</p> <p>Charlotte Bingham Assistant Vice Chancellor of Administration Office of Equal Opportunity</p>	806-742-3627	<p>Office of Equal Opportunity</p> <p>TTU System Administration Building 1508 Knoxville Ave., Suite 208 Box 41073 Lubbock, TX 79409</p>	<p>TitleIXCoordinator@ttuhsc.edu</p> <p>eeo@ttu.edu</p>

3. Reporting Sexual Misconduct

- a. All students, employees, and third parties are strongly encouraged to promptly report any incidents of Sexual Misconduct to the University [Title IX Coordinator, Title IX Deputy Coordinators, or Office of Equal Opportunity](#).
- b. Mediation will not be used to resolve complaints of Sexual Assault an Interpersonal Violence as defined in this policy.
- c. All students, employees, and third parties may also report incidents of Sexual Misconduct to law enforcement, including on-campus and local police. Reporting Parties may choose to notify law enforcement and will be provided the assistance of a [Title IX Coordinator, Title IX Deputy Coordinators, or Office of Equal Opportunity](#) in contacting these authorities if the individual wishes. For a list of Law Enforcement Agencies, please see Section 13 of this policy. Reporting Parties may also decline to notify law enforcement of incidents of Sexual Misconduct.
- d. An individual who experiences any form of sexual, domestic, or dating violence is encouraged to seek immediate medical care. Also, preserving DNA evidence can be key to identifying the perpetrator in a sexual violence case. Victims can undergo a Sexual Assault Forensic Exam (SAFE) performed by a Sexual Assault Nurse Examiner (SANE) to preserve physical evidence with or without police involvement. If possible, this should be done immediately. If an immediate medical exam is not possible, a SANE may still collect evidence up to 4 days following a sexual assault. With the examinee's consent, the physical evidence collected during this medical exam can be used in a criminal investigation. To undergo a SAFE, go directly to the nearest emergency department that provides SAFE services. For more information about the SAFE, see <http://hopelaws.org/> or <https://www.texasattorneygeneral.gov/cvs/sexual-assault-prevention-and-crisis-services>.
- e. An individual who experiences any form of Sexual Misconduct should also preserve other evidence relevant to the complained of activity, such as items of clothing, photographs, phone records, text messages, computer records, and other documents.
- f. If an employee is a Responsible Employee and receives information about Sexual Misconduct, reporting is required. Responsible Employees have a duty to promptly

report all known details of incidents of sex discrimination, sexual harassment, nonconsensual sexual contact, nonconsensual sexual intercourse, sexual assault, Sexual Misconduct, sexual exploitation, public indecency, interpersonal violence, and stalking to the University [Title IX Coordinator, Title IX Deputy Coordinators, or Office of Equal Opportunity](#). Responsible Employees are not confidential reporting resources.

- g. Disclosures to licensed clinical and/or mental health professionals acting in their professional role in the provision of services are not subject to the foregoing mandatory reporting requirements. These employees include physicians, psychologists, nurses, counselors, and those performing services under their supervision. These employees are encouraged to provide students or employees with information and guidance regarding University reporting options and available resources but will not report or otherwise refer instances of sexual harassment/misconduct to University administrators without the student or employee's express permission.

4. Complaints by or against Students

- a. If a student has a complaint of Sexual Misconduct by another student, see Part IV, [TTUHSCEP Institutional Student Handbook Student Code](#).
- b. If a student has a complaint regarding Sexual Misconduct involving a student organization, see Part IV, [TTUHSCEP Institutional Student Handbook Student Code](#).
- c. If a student has a non-employment based complaint of Sexual Misconduct by an employee, see Part IV, [TTUHSCEP Institutional Student Handbook Student Code](#). Alternatively, the student may contact the Office of Student Affairs or the Office of Equal Opportunity. Student complaints of Sexual Misconduct by an employee will be investigated jointly by the Office of Student Services and the Office of Equal Opportunity.
- d. If a student enrolled at the university reports Sexual Misconduct in good faith, the university may not take disciplinary action against the student for violation(s) of the Code of Student Conduct in accordance with the amnesty provisions set forth in Part IV, Section C (11) in the TTUHSCEP Institutional Student Handbook Student Code. <http://el Paso.ttuhsce.edu/student services/ documents/TTUHSCEP-Institutional-Handbook.pdf>
- e. If a student employee has a complaint of Sexual Misconduct, which occurs during the course and scope of employment with the University, against an employee, the student should follow the procedure set forth for employees in this policy.
- f. If an employee has a complaint of Sexual Misconduct against a student, the employee should contact the Office of Student Services and/or file an incident report form, found at the Office of [Student Affairs website](#).

5. Employee Complaint Procedures, Including Student Employees

- a. If an employee has a complaint of Sexual Misconduct against another employee, the general provisions relating to employees and the employee complaint procedures set forth in [HSCEP OP 51.02](#) shall apply. An employee having a complaint under this policy ([HSCEP OP 51.03](#)) should submit a completed *Complaint of Sexual Harassment, Sexual Assault, or Sexual Misconduct* form, which is available on the University's Human Resources website.
- b. In addition, in complaints of Sexual Misconduct the following provisions shall control.

- (1) While there is no deadline to file a complaint, to promote timely and effective review, the University strongly encourages individuals who believe they have experienced Sexual Misconduct to come forward promptly with their complaints and to seek assistance from the University. Delays in reporting can greatly limit the University's ability to stop the Sexual Misconduct, collect evidence, and/or take effective action against individuals or organizations accused of violating the policy.
- (2) Individuals wishing to remain anonymous can file a complaint in any manner, including by telephone or written communication, with the University [Title IX Coordinator, a Title IX Deputy Coordinator, or the Office of Equal Opportunity](#). However, electing to remain anonymous may greatly limit the University's ability to investigate an alleged incident, collect evidence, and/or take effective action against individuals or organizations accused of violating this policy.
- (3) Both parties have the right to be accompanied by an advisor of the individual's choosing during all meetings, proceedings, and/or disciplinary hearings at which the individual is present. The role of the advisor will be limited to being present only; advisors are not allowed to actively participate in the process.
- (4) After the investigation is complete, the [Office of Equal Opportunity](#) will simultaneously provide notice in writing to the Reporting Party, to the Responding Party, and to the appropriate administrators of the following:
 - Determination of the outcome;
 - The finding of the [Office of Equal Opportunity](#) is final and not appealable by either party;
 - In the event a finding of a violation of this policy is made, appropriate disciplinary action will be taken as determined by the appropriate administrator; and
 - If either party disagrees with the imposed disciplinary action or lack thereof because the disciplinary action imposed substantially varies from the range of disciplinary actions normally imposed for similar infractions, he or she may appeal within 5 business days to the [Title IX Coordinator](#). However, if the disciplinary action recommended is tenure revocation, proceedings will be pursuant to [HSCEP OP 60.01](#).
- (5) The Reporting Party and Responding Party will be simultaneously notified in writing of any changes to the results that occur prior to the time such results become final, and when such results become final.

6. Complaints Involving Non-University Individuals

- a. If a non-University individual has a complaint of Sexual Misconduct by a student or University employee acting in the scope of his or her employment, the individual involved may file a report with either the [Office of Student Affairs](#) or the [Office of Equal Opportunity](#), and the University may investigate and take steps to address the situation.
- b. If a University employee or student has a complaint of Sexual Misconduct by a non-University party that affects the employee's work environment or student's educational program or activity, the employee or student may make a report to the [Title IX Coordinator](#), [Title IX Deputy Coordinators](#), [Office of Equal Opportunity](#), or Office of Student Services. The University may conduct an inquiry and take action, if possible, to prevent further misconduct. However, the University's response may differ for complaints regarding third parties based on the level of control the University has over the third party. Even though the University's ability to take direct action against a third party may be limited, the

University may take steps to provide appropriate remedies for the employee or student and, where appropriate, the broader University Community.

7. Retaliation

Retaliation against a person who reports a potential violation under this policy, assists someone with a report of a violation, or participates in any manner in an investigation or in the resolution of a complaint made under this policy is strictly prohibited and will not be tolerated. Retaliation includes, but is not limited to threats, intimidation, reprisals and/or adverse actions related to an individual's employment or education. The University will take appropriate steps to assure that a person who in good faith reports, complains about, or participates in an investigation pursuant to this policy will not be subjected to retaliation. Individuals who believe they are experiencing retaliation are strongly encouraged to lodge a complaint with the University using the same procedure outlined in this policy.

Individuals who are found to have retaliated under this policy will be subject to disciplinary action, up to and including termination of employment, expulsion from the University, or being barred from University premises and events.

8. Interim Measures

The Reporting Parties may request and the University may implement interim measures, as may be necessary to assure the safety and well-being of the participants in the complaint process, to maintain an environment free from harassment, discrimination, or retaliation, and to protect the safety and well-being of the University Community. Appropriate University officials will decide if and what interim measures are necessary. Such interim measures may include, but are not limited to:

- Separating the Reporting Party's and Responding Party's academic or working situations;
- Forbidding contact between parties involved in a complaint;
- Suspending the right of the Responding Party to be present on campus or otherwise altering the University status of the Responding Party.

The Reporting or Responding Party who are the subjects of an alleged sexual assault will be allowed to drop a course in which they are both enrolled without any academic penalty.

Other interim measures may be implemented depending upon the Responding Party's relationship with the University. These interim measures may be kept in place through the conclusion of any review, investigation, or appeal process. Interim measures can be implemented regardless of whether or not the Reporting Party pursues formal University or criminal action.

9. Confidentiality

The confidentiality of both the Reporting Party and the Responding Party will be honored by the University to the extent possible without compromising the University's commitment and obligation to investigate allegations of Sexual Misconduct, to protect the University Community, and to the extent allowed by law. However, because the University also has an obligation to maintain an environment free of Sex Discrimination and Sexual Misconduct, many University employees have mandatory reporting and response obligations and may not be able to honor a Reporting Party's request for confidentiality. The [Title IX Coordinator](#) will evaluate requests for confidentiality.

The willful and unnecessary disclosure of confidential information by anyone, including the Reporting Party or Responding Party, may affect the integrity of the investigation.

Students may make confidential reports to the Program of Assistance for Students (PAS) at 1-800-327-0328. Likewise, employees may make confidential reports through the Employee Assistance Program. All Reporting Parties may also make confidential reports to local rape crisis centers or to other licensed clinical and/or mental health professionals acting in their professional role of providing those services.

10. Interference with an Investigation

Any person who knowingly and intentionally interferes with an investigation conducted under this policy is subject to disciplinary action up to and including dismissal or separation from the University. Interference with an investigation may include, but is not limited to:

- Attempting to coerce, compel, influence, or prevent an individual from providing testimony or relevant information;
- Divulging confidential information;
- Removing, destroying, or altering documentation relevant to the investigation; or
- Providing false or misleading information to the investigator, or encouraging others to do so.

11. Training and Education

The University's commitment to preventing and raising awareness of the harm resulting from the conduct prohibited in this policy includes providing primary prevention and awareness programs for all incoming students and new employees, ongoing education to both employees and students, and emailing information regarding this policy to students at the beginning of each academic semester. This policy is published on the University's website and information regarding this policy and related policies is included in orientation materials for new students, faculty, and staff. All employees must attend Equal Opportunity non-discrimination and sex/gender discrimination training including sexual assault, sexual harassment, and campus crime mandated reporter training within the first 30 days of employment and receive supplemental training every two years. Other appropriate compliance training sessions will also be conducted on an ongoing basis. Training sessions will include information on how and where to report incidents of prohibited conduct, resources available, as well as risk reduction and safe and positive options for bystander intervention. In addition, University employees and administrators responsible for implementing this policy, including the [Title IX Coordinator](#), [Title IX Deputy Coordinators](#), investigators, and hearing officers, receive annual training about offenses, investigatory procedures, due process requirements, and University policies related to or described in this policy.

12. Websites and Other Resources

The University maintains websites which provide comprehensive information about this policy, its procedures, Title IX, available resources, remedial support options, local support services, and illustrative examples of definitions contained herein.

- Title IX Compliance <http://el Paso.ttuhs.c.edu/hr/>
- Office of Student Services <http://el Paso.ttuhs.c.edu/el Paso/student services/>
- Office of Equal Opportunity <http://www.texastech.edu/offices/equal-employment/>
- TTUHSCEP Operating Policies & Procedures <http://el Paso.ttuhs.c.edu/el Paso/opp/>
- TTUHSCEP Employee Assistance Program 915-215-5865 or 915-215-

5861

The following additional resources are available:

CONTACT	PHONE	ADDRESS
Title IX Coordinator Rebecca.salcido@ttuhsc.edu	915-215-4140	TTUHSCEP Human Resources Department Administrative Support Building 200 N. Concepcion El Paso, TX 79905
Office of Student Services	915-215-4786	5001 El Paso Drive MEB, Room 2140E El Paso, TX 79905
Equal Opportunity Office	806-742-3627	TTU System Administration Building 1508 Knoxville, Suite 208 Box 41073 Lubbock, Texas 79409
Human Resources TTUHSCEP	915-215-4151	Administrative Support Building 200 N. Concepcion El Paso, TX 79905
Counseling Services (for students)	1-800-327-0328	TTUHSCEP Department of Psychiatry
Employee Assistance Program	915-215-5865	
Center Against Sexual & Family Violence	915-593-7300 or 1-800-727-0511	www.casfv.org
STARS-Sexual Trauma and Assault Response Services	915-593-7300	www.stars-el Paso.org

13. Outside Agencies

Nothing in this policy shall limit a person from seeking assistance or filing a complaint with an outside agency.

Administrative Agencies:

CONTACT	PHONE	ADDRESS
U.S. Equal Employment Opportunity Commission	1-800-669-4000	300 E. Main Dr. Suite 500 El Paso, Texas 79901
Texas Workforce Commission	512-463-2222	101 E. 15th Street Austin, Texas 78778
U.S. Department of Education, Office of Civil Rights	214-611-9600	1999 Bryan Street, Suite 1620 Dallas, Texas 75201

Law Enforcement Agencies:

CONTACT	PHONE	ADDRESS
TTUHSCEP Police Department	915-215-7111	Administrative Support Building El Paso, TX 79905
El Paso Police Department	915-832-4400	911 N. Raynor Street El Paso, TX 79905
El Paso County Sheriff's Department	915-546-2280	1250 Montana Ave. El Paso, TX 79905

14. Authoritative References

- Title VII of the Civil Rights Act of 1964

- Title IX of the Education Amendments of 1972
- Texas Labor Code Chapter 21
- Violence Against Women Act (VAWA)
- Campus Sexual Violence Elimination Act of 2013 (Campus SaVE)
- Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act
- Texas Education Code, Section 51.9363
- Texas Family Code Sections 71.004 and 71.0021
- Texas Penal Code Section 42.072

15. Right to Change Policy

The University reserves the right to interpret, change, modify, amend, or rescind this policy, in whole or in part, at any time without notice to or consent of its employees.

ATTACHMENT

8

**TTUS Proposed Amendments to
Regents' Rules, Sections 08.01.2 and 08.01.3 and 08.01.7
(Item #8 of Facilities Committee)**

ATTACHMENT FOR FACILITIES COMMITTEE ITEM #8

(1) Amend Sections 08.01.2 and 08.01.3, *Regents' Rules*, as follows:

08.01 Construction program

••••

08.01.2 Authorization. ~~[The chancellor or the chancellor's designated representative, upon the recommendation of the president, is authorized to initiate a construction project, select a design professional, select a construction manager agent, establish a planning budget, develop a schematic design for the project, and select the construction delivery method from Section 08.01.1, *Regents' Rules*. If appropriate for the construction delivery method selected, the chancellor or the chancellor's designated representative also may select the project design-build team for design services only or select the project construction manager at-risk for pre-construction services only.]~~ Construction projects are either new construction projects or repair and renovation projects, and each category of construction projects shall be governed as follows:

The current language of S08.01.2 applies to both major and minor projects, but as written, it is aimed mainly at major projects.

*The proposed amendment replaces the current text of S08.01.2 with a general statement regarding the thresholds for major and minor projects and the *Regents' Rules* section that governs each.*

- a. Major projects are construction projects with a total budget of \$2,000,000 or more. These projects are governed by Section 08.01.3, *Regents' Rules*.
- b. Minor projects are construction projects with a total budget of less than \$2,000,000. These projects are governed by Section 08.01.4, *Regents' Rules*.

08.01.3 Major construction projects. Major construction projects include: new construction projects and repair and renovation projects with a total project budget of \$2,000,000 or more.

§08.01.3.a = preliminary approval for pre-construction phase of a project

a. For major construction projects ~~[]~~:

§08.01.3.a(1) governs work that can be done before the Board grants preliminary approval for a project.

(1) ~~[the]~~ The chancellor, or the chancellor’s designated representative, upon the recommendation of the president if the project is being constructed for a component institution, ~~[shall]~~ may proceed with the following pre-construction activities before ~~[any]~~ a project ~~[is submitted to]~~ has received preliminary approval the board:

Board will approve a project planning budget when it grants preliminary approval for a project.

~~[(+)]~~ (a) ~~[obtain]~~ identify funding from the entity for which the project is being constructed so that planning activities for the project may begin, ~~[with the funding not to exceed \$1,000,000 and]~~ with a preliminary estimate of the project budget (a budget goal) being provided along with the funding request;

~~[(2)]~~ (b) work with facility user representatives, as designated by the president if the project is being constructed for a component institution, to develop a preliminary scope of the project, which shall be known as an Owner’s Project Requirements (OPR) document; and

Assistance from certain external partners may be needed on a limited basis in order to get a proposed project ready for presentation to the Board for preliminary project approval.

(c) engage in other preliminary pre-construction planning activities through the use of pre-qualified service providers (such as surveyors, civil engineers, asbestos consultants, and so forth), with the commitments to such service providers not to exceed a cumulative total of \$100,000.

§08.01.3.a(2) governs the Board's preliminary approval to proceed with the pre-construction phase of a project.

(2) Preliminary approval by the board, to include a project planning budget, is required before an architect/engineer team, a construction manager-agent, or a construction manager-at-risk may be engaged for pre-construction services. When such preliminary project approval is requested, the board shall be presented information that includes a summary of the project concept, the proposed project planning budget, an estimated total project budget, and an overview of the selection process for each proposed external partner that includes the following information:

Although FP&C could start the selection process for and identify the architect/engineer team, construction manager-agent, and/or construction manager-at-risk that FP&C proposes to use on a project, FP&C could not enter into a contract with these external partners for any work (including for pre-construction planning) until the Board grants preliminary approval for the project.

(a) Initial Submittal Phase:

- i. weighted grading criteria used in the initial selection phase;
- ii. names of all submitting firms;
- iii. grading of the initial submittals by the members of the selection committee; and
- iv. a summary of the scores.

(b) Interview Phase:

- i. weighted grading criteria for this phase;
- ii. names of firms selected to interview for this phase;
- iii. scoring of each firm by the members of the selection committee; and
- iv. summary of final scores from the Interview Phase.

- ~~[(3) retain the services of a design professional to begin preliminary programming based upon the OPR;~~
- ~~(4) retain the services of a construction or construction estimating firm to develop a preliminary construction and project budget based upon the OPR and preliminary programming;~~
- ~~(5) obtain approval from the president and/or chancellor, as appropriate, to submit the project for board approval].~~

§08.01.3.b = construction
phase approval

- b. For major construction projects, when approval to proceed with the construction phase of a project is requested, the board shall be presented information that includes the project design, the proposed project budget, and a detailed summary of proposed fees, cost, included and excluded consultants (for design professionals), proposed bonding, and general conditions (for construction managers) for each selected external partner. ~~[the]~~ The chancellor or the chancellor's designated representative, upon the recommendation of the president, shall obtain the approval of the board prior to proceeding with the following actions as applicable to the project:
- (1) approve a total project budget;
 - (2) proceed with design development and construction documents;
 - (3) submit required reports to the Texas Higher Education Coordinating Board;
 - (4) solicit and accept construction bids or proposals; ~~[and]~~
 - (5) award a construction contract or execute a Guaranteed Maximum Price contract amendment; and

- (6) [amend any associated existing contracts to reflect the remaining scope of the project as well as construction management services for the project.](#)
- c. Board approval: combining steps in the process; dividing projects.
- (1) Any of the steps listed in Section 08.01.3.b may be combined in the board approval process. The board, however, may choose to retain control over any or all of the steps listed above in the board approval process.
 - (2) Projects shall not be divided for the purpose of falling within a lower level of approval.
- d. The chancellor's designated representative for major construction projects shall be the FP&C Office. All major construction projects shall be managed by the FP&C Office.
- e. The board may choose to employ an outside entity that supplies Construction Manager-Agent Services to assist the FP&C Office.
- f. All major construction projects that have a construction cost of more than \$10,000,000 shall be conducted under the auspices of the FP&C Office but with the assistance of a Construction Manager-Agent unless the board approves an exception.
- g. The following changes to a major construction project require re-approval by the board and may require re-submission of a report to the Texas Higher Education Coordinating Board:
- (1) the total cost of a project exceeds the board-approved budget;
 - (2) the TTU system administration or the component institution has not contracted for the project within 18 months of the date of final approval by the board; or
 - (3) any funding source of an approved project is changed.

§08.01.3.g thru §08.01.3.i
= **post-Board approval**

- h. Even though the overall amount of a project budget may not increase, any amount for an architect/engineer team, a construction manager-agent, or a construction manager-at-risk that will exceed the budgeted amount approved by the board shall be reported to the board prior to execution of the related amendment to that contract.
- i. At each regular meeting of the board, a summary of each major construction project in progress shall be provided to the board that includes photos of the project and the status of the project's schedule and budget.

(2) Amend Section 08.01.7, *Regents' Rules*, as follows:

08.01.7 Emergency actions.

NOTE: This simply conforms the language on emergency approvals for construction projects to the current language in Ch. 07 on emergency approvals for contracts (see §07.12.3.g).

- a. If the chancellor, on the recommendation of the president, declares a major construction project to be an emergency or that exigent circumstances exist and it is not feasible or practical to convene a quorum of the board within the time in which action is needed, the board authorizes the chair of the board or the chair of the Facilities Committee to approve all necessary actions. Any emergency actions taken must be reported to the board at its next meeting.
- b. Notwithstanding Section 08.01.3.h(2), *Regents' Rules*, when an emergency or exigent circumstances exist such that immediate action to address life, health or safety risks is required for a major project that is under construction, the board authorizes the chancellor to approve the use of any contingency funds designated for the project for activities necessary to address the risks. Subsequently, approval of the use of such contingency funds shall be documented in writing and reported to the board.

When quick action is needed to address a life/health/safety emergency situation, allowing the Chancellor to authorize the use of all available contingency funds could move that process forward more quickly.

ATTACHMENT

9

**TTUS Proposed Amendments to
Regents' Rules, Section 07.12.4
(Item #1 of Finance and Administration Committee)**

ATTACHMENT FOR FINANCE & ADMINISTRATION COMMITTEE ITEM # 1

Amend Section 07.12.4 as follows:

07.12.3 Board approval.

- a. Upon recommendation of the chancellor, board approval is required for contracts that involve a stated or implied consideration that totals in excess of \$1,000,000 over the entire term of the contract, unless a different consideration is specified by this policy. This requirement is applicable to both cash and non-cash considerations. The board may delegate the approval and signature authority for such contracts to the chancellor or component president.
- b. The board must approve any amendment, extension, or renewal of a contract with a value that exceeds 25% of the value of the original contract approved by the board or that increases the value of the original contract to more than \$1,000,000 unless the authority to exceed the approved amount is expressly delegated by the board or an exception is expressly adopted by the board for that contract.

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07.12.4 Board delegation of authority.

- a. Notwithstanding Section 07.12.3.a, *Regents' Rules*, contracts that involve a stated or implied consideration that total in excess of \$1,000,000 over the entire term of the contract but the per annum amount is less than \$1,000,000 shall be approved by the chancellor or president, as appropriate. This requirement is applicable to both cash and non-cash considerations.
- b. Notwithstanding Section 07.12.3.a, *Regents' Rules*, the board delegates to the presidents the authority to approve the proposals and execute and sign contracts for sponsored program projects in excess of \$1,000,000 per annum. Sponsored program projects are those grants, contracts, and cooperative agreements from either the public or private sectors that support research, instructional, and service projects. A list of such contracts for sponsored program projects in excess of \$1,000,000 per annum shall be provided to the board as an information item at the next regular board meeting.

- c. Notwithstanding Section 07.12.3.a or Section 07.12.3.b, Regents' Rules, the board delegates to the presidents of health-related institutions the authority to approve the proposals and execute and sign contracts for health related services, as specified herein. This delegation is limited to contracts with entities for which the institution has an ongoing and continuing contractual relationship, to include: revenue contracts from which the institution receives payment for health related services; participation in health provider networks; resident or faculty support; and expense contracts with healthcare providers or suppliers necessary to fulfill the obligation to provide health related services as part of a revenue contract. Before such a contract may be executed, the president shall obtain the prior review of the TTUS Office of General Counsel and the TTUS vice chancellor and chief financial officer, or their designees. A list of health related services contracts that have been executed under this delegation of authority since the previous regular board meeting shall be provided to the board as an information item at the next regular board meeting.
- d. [e.] The board delegates to the chancellor and the presidents the authority to execute and sign contracts related to construction projects for TTUSA and the component institutions, respectively, as provided by Chapter 08, *Regents' Rules*.

This provision is deleted as it conflicts with another existing provision — §07.12.3.b.

- ~~[d. The board delegates to the chancellor and the presidents the authority to execute and sign any amendment, extension, or renewal of a contract for their respective institution that increases the value of the original contract to more than \$1,000,000. A list of such amendments, extensions, and renewals shall be provided to the board as an information item at the next regular board meeting.]~~

- e. Contracts that provide for the services of a consultant.
 - (1) Consulting contracts with an initial consideration in excess of \$25,000:
 - (a) Upon recommendation of the chancellor, board approval is required prior to the execution of a consulting contract with an initial consideration in excess of \$25,000 and prior to the execution of all modifications that increase the consideration of such a contract.
 - (b) A consulting contract with an initial consideration in excess of \$25,000 may be executed prior to approval by the board if:
 - i. the contract includes a provision that limits the total amount to be paid to the consultant to no more than \$25,000 unless and until such time as the board has approved the agreement; and
 - ii. the chair or chair of the Finance and Administration Committee authorize a proposal submitted to them by the chancellor, or the chancellor's designee, regarding execution of the agreement in advance of approval by the board.
 - (2) Consulting contracts with an initial consideration of \$25,000 or less:
 - (a) Board approval is not required, but the vice chancellor and chief financial officer, in consultation with the chancellor, presidents, and chief financial officers of the institutions, shall review consulting contracts of \$25,000 or less prior to execution of the contract by the chancellor or president, as appropriate.
 - (b) A report of the contract shall be provided as an Information Agenda item at the next board meeting.
 - (c) Approval of the board is required prior to execution for any modification to a consulting contract where the initial

consideration was \$25,000 or less and the modification will cause the total consideration to exceed \$25,000.

- (3) For the purposes of Section 07.12.4.e, *Regents' Rules*, a search firm is a service provider and is not deemed to be a consultant.