

THE UNIVERSITY OF TENNESSEE
BOARD OF TRUSTEES
SPRING MEETING

1:00 p.m. EDT
Wednesday
March 29, 2017

Tennessee Room
UTC University Center
Chattanooga, Tennessee

ORDER OF BUSINESS

- I. Call to Order and Invocation
- II. Roll Call
- III. [Honorary Resolutions](#) – Action Tab 1
- IV. President’s Report..... Tab 2
- V. Report and Recommendations of the Executive and Compensation Committee
 - A. [Assessment and Recommendation for Payments under the Performance-Based Variable Compensation Plan for FY 2015-16](#) – Action..... Tab 3
 - 1. [Scoresheets and Recommended Payments, FY 2015-16](#)..... Tab 3.1
 - 2. [Methodology for Calculating Scores](#)..... Tab 3.2
 - 3. [Final FY 2015-16 Quantitative Performance Goals](#) Tab 3.3
 - 4. [Audit Report, FY 2015-16 Scoresheets and Recommended Payments](#)..... Tab 3.4
 - B. [Revisions to the Annual Presidential Performance Review Process](#) – Action Tab 4
- VI. Report and Recommendations of the Academic Affairs and Student Success Committee
 - A. [Proposed UT Knoxville Student Code of Conduct](#) – Action/Roll-Call Vote Tab 5
- VII. Report of the Advancement and Public Affairs Committee on Comments by Members of the Public
- VIII. Report of the Audit and Compliance Committee
- IX. Consent Agenda – Action
 - A. [Minutes of the Last Meeting](#)..... Tab 6
 - B. [Vice Chair’s Recommendation for Committee Appointments](#) Tab 7
 - C. [Resolution Appointing a Managerial Group for U.S. Government Contracts](#) Tab 8
 - D. [Real Estate Transactions Unanimously Approved by the Executive and Compensation Committee on March 3, 2017](#)..... Tab 9
 - E. [Action Items Unanimously Approved by the Advancement and Public Affairs Committee on March 28, 2017](#)..... Tab 10

- F. [Action Items Unanimously Approved by the Executive and Compensation Committee on March 28, 2017](#)..... Tab 11
- G. [Action Items Unanimously Approved by the Academic Affairs and Student Success Committee on March 29, 2017](#) Tab 12
- H. [Action Items Unanimously Approved by the Finance and Administration Committee on March 29, 2017](#) Tab 13

- X. Other Business
Note: Under the Bylaws, items not appearing on the agenda may be considered only upon an affirmative vote representing a majority of the total voting membership of the Board. Other business necessary to come before the Board at this meeting should be brought to the Vice Chair's attention before the meeting.

- XI. [Reminder of Future Board and Committee Meeting Dates – Information](#) Tab 14

- XII. Adjournment

**The University of Tennessee
Board of Trustees**

**Resolution in Honor of Dr. Jimmy G. Cheek
March 29, 2017**

WHEREAS, Dr. Jimmy G. Cheek has served more than seven years as Chancellor of The University of Tennessee, Knoxville, and is preparing to assume duties as a full-time faculty member in the Department of Educational Leadership and Policy Studies in the College of Education, Health, and Human Sciences; and

WHEREAS, he is entering the next phase of a long and successful career in academia, having spent 34 years as a faculty member and administrator at the University of Florida prior to coming to UT Knoxville; and

WHEREAS, Dr. Cheek became the seventh Chancellor of UT Knoxville in 2009 and quickly set the campus on an aggressive journey to become a Top 25 public research university, creating campus-wide momentum for improving all facets of the academic enterprise and dramatically increasing campus resources; and

WHEREAS, his efforts to enhance the student experience, including adding more course sections, professional advisors, the One Stop student service center, and technology to help keep students on track, have helped improve the six-year graduation rate and freshman retention—all of which contributed to UT Knoxville receiving the Trailblazer award for most visible progress from the Association of Public and Land-grant Universities; and

WHEREAS, Dr. Cheek's own journey as a first-generation college student—having earned his bachelor's degree and doctorate from Texas A&M University and a master's degree from Lamar University—fueled his desire to make access to the state's flagship university a high priority by adding more need-based scholarships and proudly helping establish UT Knoxville's track record for serving Pell-eligible students; and

WHEREAS, he has helped to improve faculty and staff salaries, thereby aiding UT Knoxville's efforts to recruit and retain world-class faculty and talented staff; and

WHEREAS, Dr. Cheek helped to dramatically increase UT Knoxville's fundraising success, resulting in fiscal year 2015 being the most lucrative fundraising year in campus history and seeing the campus attain its first two named colleges, the Haslam College of Business and the Tickle College of Engineering; and

WHEREAS, he has encouraged the ongoing physical transformation of the campus throughout his term, with the last three years seeing an unprecedented \$1 billion in construction of state-of-the-art facilities; and

WHEREAS, among the new facilities built during his tenure include the Natalie L. Haslam Music Center, the John D. Tickle Engineering Building, Fred D. Brown Jr.

Residence Hall, Stokely Hall (a new residence hall opened in 2017), Sorority Village, a student recreation field complex, a parking garage, and the new Student Union; and

WHEREAS, Dr. Cheek's leadership has helped to advance the University's research endeavor, resulting in a 50 percent increase in total research expenditures to \$246 million, an increase in the number of jointly appointed scientists to 230, and strengthened relationships with Oak Ridge National Laboratory and other key partners, broadening opportunities for faculty and students; and

WHEREAS, he has helped enhance the University's stature by being a contributing member of our city, state, nation, and world's academic communities through his service with the Association of Public and Land-grant Universities' Council of Presidents and Commission on Food, Environment, and Renewable Resources; the UT-Battelle Board of Governors; the University Health System Board of Directors; the Tennessee Higher Education Commission Master Plan Steering Committee; the International Fertilizer Development Center Advisory Committee; and the Leadership Knoxville Board of Directors; and

WHEREAS, Dr. Cheek will be remembered for his leadership during a time of great change and progress in the University's history and as a dedicated public servant and a leader in public higher education who has demonstrated great passion for helping UT Knoxville meet its full potential and boosting its national profile; and

WHEREAS, we are proud to call him a Tennessee Volunteer and we are pleased that he will continue to share his knowledge and experience as a member of our faculty teaching the next generation of education leaders.

NOW, THEREFORE, BE IT RESOLVED that The University of Tennessee Board of Trustees, meeting in Chattanooga, Tennessee, on March 29, 2017, commends Dr. Jimmy G. Cheek for his outstanding service to the Board, the University, and the State of Tennessee.

**The University of Tennessee
Board of Trustees**

**Resolution in Honor of Dr. Robert M. Smith
March 29, 2017**

WHEREAS, Dr. Robert M. Smith earned a bachelor's degree in communication from Wichita State University, a master's degree in communication from Ohio University, and a doctoral degree in communication theory from Temple University; and

WHEREAS, he began his career in academia as an assistant debate coach at Wichita State University and for 13 years worked his way from debate coach to chair of the Department of Communication to Associate Dean of the College of Continuing Education and Associate Dean of the College of Arts and Sciences; and

WHEREAS, he served as a fellow and special assistant from 1980 to 1981 with the Office of the Secretary for the U.S. Department of Health and Human Services as the only Kansan to be selected for that fellowship; and

WHEREAS, he served as an associate dean in the College of Arts and Sciences at Wichita State University from 1981 to 1987; and

WHEREAS, he spent 10 years as the founder and executive director of WestStar at UT Martin, promoting economic and social development within a 21-county region of West Tennessee; and

WHEREAS, he served as the director of the Tennessee Governor's School for the Humanities from 1996 to 1999 where he had served as a faculty member for the previous five years; and

WHEREAS, he served as the dean of the UT Martin College of Arts and Sciences from 1987 to 1999; and

WHEREAS, Dr. Smith became provost and vice president for academic affairs at Slippery Rock University in Pennsylvania from 1999 to 2002; and

WHEREAS, he served as president of Slippery Rock University for nine years from December 2002 to January 2012, where he oversaw a 22 percent increase in enrollment and a 24 percent increase in graduation rates, a rise in the national rankings academically, the modernization of every academic facility, and the addition of 1.5 million square feet of new instructional and student service space; and

WHEREAS, he became president emeritus of Slippery Rock in 2012 and served as a counsel and member of Education Leadership Council for Witt/Kieffer Executive Search Firm and since 2014 consulted as an associate with the AASCU-Penson Center for Professional Development; and

WHEREAS, he returned to UT Martin to serve as interim chancellor in June 2015 and successfully guided the university past a series of difficult challenges.

NOW, THEREFORE, BE IT RESOLVED that The University of Tennessee Board of Trustees, meeting in Chattanooga, Tennessee, on March 29, 2017, commends Dr. Robert M. Smith for his invaluable service to UT Martin, the University system, and the State of Tennessee and asks that the history of the University now reflect Dr. Smith as the 10th chancellor of The University of Tennessee at Martin; and

BE IT FURTHER RESOLVED that the honorary status of Chancellor Emeritus is bestowed on Dr. Smith.

THE UNIVERSITY OF TENNESSEE
BOARD OF TRUSTEES

ACTION ITEM

DATE: March 29, 2017

COMMITTEE: Executive and Compensation

ITEM: **Assessment and Recommendation for Payments under the Performance-Based Variable Compensation Plan for FY 2015-16**

PRESENTED BY: Raja J. Jubran, Committee Chair/Vice Chair of the Board

On March 3, 2017, the Executive and Compensation Committee considered the recommendations of the Vice Chair and the President for payments under the Performance-Based Variable Compensation Plan (Plan) for University Officers. A scoresheet showing the recommended payment for each participant appears at **Tab 3.1**.

Previous Board Action

On October 9, 2015, the Board of Trustees approved a Performance-Based Variable Compensation Plan (Plan) for University Officers, as defined by the Bylaws. The objectives of the Plan were to:

- Motivate and reward achievement of strategic performance goals aligned with the UT System Strategic Plan, 2012-2017, and the President's Budget Advisory Group Initiatives; and
- Enhance the University's ability to attract and retain outstanding executive officers and other senior officers by providing competitive compensation.

The Board also approved quantitative and additional (non-quantitative) performance goals for FY 2015-16.

The Board's approval of FY 2015-16 performance goals was subject to audit of the base-year data used to establish the quantitative goals. The Executive and Compensation Committee was authorized to approve any revisions resulting from the audit or otherwise deemed necessary by the Committee. The Committee approved revised FY 2015-16 goals on February 23, 2016, and the revised goals were ratified by the Board on April 1, 2016. The

Board also approved the Committee's recommendation of a methodology for calculating scores under the Plan (**Tab 3.2**).

Further Revision of FY 2015-16 Quantitative Goals

Participants in outreach and engagement activities. When final performance data for FY 2015-16 were being reviewed in preparation for calculating scores under the Plan, errors in the number of UTK and UTIA participants in outreach and engagement activities were discovered. The correction of these errors resulted in revised FY16 goals for the System President and VP for Research, increasing from 4,704,058 to 4,756,639, and corrected FY16 UTIA goals, increasing from 4,320,120 to 4,392,372. These revised goals were used in calculation of payments for the System President, VP for Research, and UTIA Chancellor.

Clients served by UTHSC. In reviewing the final data for clients served by UTHSC, it was discovered that Relative Value Units (RVUs) are no longer tracked and reported by two of the core teaching hospitals. Instead, Work RVUs are tracked and reported. Work RVU data have been substituted and used to recalculate the FY16 goal, resulting in a decrease from 3,940,641 (RVUs) to 2,199,335 (w-RVUs). This revised goal was used in calculation of the payment for the UTHSC Chancellor.

Final FY 2015-16 Quantitative Goals. A spreadsheet showing all FY 2015-16 goals, with the revisions described above, appears at **Tab 3.3**. The Vice Chair and the President presented these revised goals to the Executive and Compensation Committee on March 3, 2017.

Calculation of Scores and Recommended Payments

The Plan provides that the Vice Chair will evaluate the President's performance, and the President will evaluate the other University Officers' performance. The Vice Chair and President then make a recommendation to the Executive and Compensation Committee as to whether a participant should receive the maximum payment allowable under the Plan or some portion of it. The maximum payment for the President is 25% of his base salary. For other participants, the maximum payment is 15% of base salary. The scoresheet for each participant (appearing at **Tab 3.1**) applies the methodology approved by the Board (except as noted below with respect to Deferred Maintenance Expenditures) and calculates the recommended payment.

Audit of Scoresheets

As required by the Plan, the Office of Audit and Compliance reviewed the quantitative performance data shown on the scoresheets. The audit report from Executive Director Sandy Jansen to Trustee Gallimore, Chair of the Audit and Compliance Committee,

appears at **Tab 3.4**. With respect to the quantitative data used to calculate the participants' scores, the report includes the following observation:

Certain values presented by IR [Institutional Research] did not correspond to source data received from campus or system officials. *We worked with IR to correct discrepancies before the final documents are presented for approval at the March 3, 2017 meeting* (emphasis added). [Report, page 2.]

The report also includes the following observations related to scoring:

Because salary gaps are not measured in the same manner by each campus, individuals participating in the variable compensation plan may be unfairly over-awarded or under-awarded based on a particular campus' methodology. [Report, page 3.]

...

The deferred maintenance expenditure goal includes a two-year allocation/reallocation plan established by the UT Budget Advisory Group. *These values are challenging to validate because of the ability to separate them from other maintenance expenditures.* Our office reviewed information presented by the campuses for reasonableness; however, we could not validate all costs (emphasis added). [Report, page 3].

Based on these observations, the Vice Chair and President recommended the following to the Executive and Compensation Committee on March 3, 2017:

1. The metric "Reduce Faculty and Staff Salary Gaps with Peers" should be deleted as a performance goal until the process and methodology for calculation has been revised to ensure consistency across the System, and therefore this metric should not be used in scoring performance for FY 2015-16.
2. With respect to Deferred Maintenance Expenditures, the scoring methodology approved by the Board should be modified to award 0% credit if the goal is not met, 100% if met, and no extra credit for exceeding the goal.

Committee Recommendation

On March 3, 2017, the Executive and Compensation Committee recommended adoption of a resolution approving the proposed payments and approving the other recommendations of the Vice Chair and the President. Subsequently, however, it was discovered that the payment for David Millhorn was inadvertently and incorrectly calculated on his base salary plus the \$50,000 administrative supplement he receives as

President of UT Research Foundation. Calculation of the payment on Dr. Millhorn's base salary reduces the payment from \$53,508 to \$46,701. The corrected payment has been inserted in the Resolution, which otherwise reads as it was approved by the Executive and Compensation Committee on March 3, 2017.

Therefore, on behalf of the Committee, I move adoption of the following Resolution:

RESOLVED:

- 1. The revised FY16 goals for participants in outreach and engagement activities for System President, VP for Research, and UTIA are approved as presented in the meeting materials.**
- 2. The revised FY16 goal for clients served by UTHSC is approved as presented in the meeting materials.**
- 3. The metric "Reduce Faculty and Staff Salary Gaps with Peers" is deleted as a performance goal until the process and methodology for calculation has been revised to ensure consistency across the System; exclusion of this metric in scoring performance for FY 2015-16 is approved;**
- 4. Modification of the scoring methodology for Deferred Maintenance Expenditures to award 0% credit if the goal is not met, 100% if met, and no extra credit for exceeding the goal is approved; and**
- 5. The following payments under the Performance-Based Variable Compensation Plan for FY 2015-16 are approved, subject to all provisions and conditions of the Plan:**

| | |
|----------------------------|------------------|
| Joseph A. DiPietro | \$101,816 |
| Steven R. Angle | \$36,428 |
| Larry R. Arrington | \$40,973 |
| Jimmy G. Cheek | \$41,563 |
| David E. Millhorn | \$46,701 |
| Catherine S. Mizell | \$32,222 |
| Steve J. Schwab | \$68,097 |

FY2015-16 Variable Compensation Plan: Assessment and Recommended Payment for President DiPietro

Red are BAG metrics -- Blue are Strategic Plan metrics

Score = Straight % of goal achieved

Data subject to Audit review

| a | b | c | % Goal Achieved | Actual > | Scores | | | | | Weights for Obj/ Subj/ Adv/Lead | Overall Scores % * |
|---|---|---|-----------------|----------|--------|----------|------|-----|------|---------------------------------|--------------------|
| | | | | | Base | Actual * | Goal | b/c | Base | | |

Weights: High =3, Intermediate=2, Normal =1

Below base = 0 score

Adj % score x weight

Above base but below target

Adj Score =
1% - 33% of goal = 25%
34% - 66% of goal = 50%
67% - 99% of goal = 75%

1. Enhancing Educational Excellence

| (3) Annual goal setting will be done for growth in enrollment | | | | | | | | | | | |
|--|--|--------|--------|--------|--------|------|--------|-------|---|------|---|
| 1 | Fall Headcount, Undergraduate | 38,647 | 38,875 | 39,535 | 98.3% | TRUE | 25.7% | 25.0% | 3 | 0.75 | 3 |
| 2 | Fall Headcount, Graduate/ Professional | 10,489 | 10,512 | 10,695 | 98.3% | TRUE | 11.2% | 25.0% | 3 | 0.75 | 3 |
| 3 | % UG Out-State Enrollment should be < 25% of total | 10.4% | 10.7% | 11.2% | 95.8% | TRUE | 41.2% | 50.0% | 1 | 0.50 | 1 |
| 4 | Graduation Rates | 56.9% | 59.2% | 58.6% | 101.0% | TRUE | 101.0% | | 3 | 3.03 | 3 |
| 5 | Freshman Retention | 79.6% | 81.7% | 82.1% | 99.6% | TRUE | 85.1% | 75.0% | 3 | 2.25 | 3 |
| 6 | Total Degrees Awarded | 11,698 | 11,975 | 11,897 | 100.7% | TRUE | 100.7% | | 3 | 3.02 | 3 |

2. Expanding Research Capacities

| | | | | | | | | | | | |
|----|--|----------|----------|----------|--------|------|--------|-------|---|------|---|
| 7 | (10) Research expenditures increase 6% annually (5 yr. avg) | \$418.11 | \$458.35 | \$443.20 | 103.4% | TRUE | 103.4% | | 3 | 3.10 | 3 |
| 8 | Research Expenditures (5 yr avg) (reported to NSF less ARRA funding) | \$316.6 | \$330.1 | \$326.1 | 101.2% | TRUE | 101.2% | | 3 | 3.04 | 3 |
| 9 | Research Award \$ (5 Yr Avg in \$ Millions) | \$316.27 | \$328.98 | \$335.24 | 98.1% | TRUE | 67.0% | 75.0% | 3 | 2.25 | 3 |
| 10 | Inventions (Disclosures) (5Yr Avg) | 129 | 140 | 139 | 100.9% | TRUE | 100.9% | | 2 | 2.02 | 2 |

3. Fostering Outreach and Engagement

| (12) # of customers served should grow >FY15 (4 yr. avg) | | | | | | | | | | | |
|--|--|-----------|-----------|-----------|--------|------|--------|-------|---|------|---|
| 11 | Number of Outreach Participants > 4-year avg | 4,405,850 | 5,265,601 | 4,756,639 | 110.7% | TRUE | 110.7% | | 2 | 2.21 | 2 |
| 12 | Work RVUs 3 | 2,066,097 | 2,150,499 | 2,199,335 | 97.8% | TRUE | 63.3% | 50.0% | 3 | 1.50 | 3 |

4. Improving Effectiveness & Efficiency

| Change in tuition rates (UG, Grad, Professional) excluding programs that move to 15/4 plan and or differential tuition | | | | | | | | | | | |
|---|--|-----------|-----------|-----------|--------|------|--------|--|---|-------|------|
| 13 | (4) UG Tuition no more than HEPI rate change ¹ | \$8,078 | \$8,184 | \$8,255 | 100.9% | TRUE | 100.9% | | 3 | 3.03 | 3 |
| 14 | (13) Gifts, pledges, bequests grow >15% (5 yr. avg) | \$185.064 | \$240.261 | \$222.173 | 108.1% | TRUE | 108.1% | | 3 | 3.24 | 3 |
| 15 | (17) Deferred Maintenance Expenditures (2-Yr Plan) ² | | \$23.9 | \$12.50 | 191.5% | TRUE | 100.0% | | 3 | 3.00 | 3 |
| Totals | | | | | | | | | | 33.69 | 41.0 |

Total Objective Score

82%

60%

49%

1 = % Goal achieved is based target/goal, as desired outcome is to have actual tuition to be less than the goal.

2 = Deferred maintenance % score = 0% if not met or 100% if met

Additional Goals for President

Partial = 1/2 credit

Met /
Partially
Met / Not
Met

| Weights for | Overall Scores |
|--------------|----------------|
| Obj/Subj/Oth | % * Weights |

3.1

1. Enhancing Educational Excellence

Raja to provide ratings

| | | |
|---|---|---------|
| 1 | (14) Conduct program realignment to assess low performing programs | Met |
| 2 | (15) Perform feasibility analysis & develop a plan for program consolidation(s) | Partial |
| 3 | (22) Conduct review of the tenure & post-tenure review processes & implement a new policy | Met |

Met = 100%
Partial = 50%
Not Met = 0%

2. Expanding Research Capacities

| | | |
|---|--|-----|
| 4 | (11) Review direct and indirect cost sharing on grants and contracts which are not locked at a given rate and implement necessary incentives for departments to minimize the level of cost sharing | Met |
|---|--|-----|

4. Improving Effectiveness & Efficiency

| | | |
|----|---|---------|
| 5 | (16) Develop 2-yr allocation/reallocation plan based upon 6% of FY15 unrestricted E&G | Met |
| 7 | (7) Review out-of-state tuition based on regional need | Met |
| 8 | (18) Using workforce development programs, identify amounts that can be redeployed to address strategic initiatives, compensation gaps, and deferred maintenance. | Partial |
| 9 | (19) Conduct a tuition structure review to include differential tuition, out-of-state tuition, and 15/4 plan. | Met |
| 10 | (20) Review of Non-Formula fee structure | Met |
| 11 | (21) Conduct study on unfunded mandates for student tuition waivers/discounts (UT system) and tuition waivers/discounts for UT employees | Partial |

Total Subjective Score (% Met)

85%

| | |
|-----|-----|
| 20% | 17% |
|-----|-----|

Advocacy and Leadership (% Attained)

85%

| | |
|-----|-----|
| 20% | 17% |
|-----|-----|

Overall Score = (Sum of Objective, Subjective, Advocacy and Leadership)

83%

Recommended Retention Payment = (Overall score * Max Retention Amount)

Max Variable Comp Amount

\$122,225

Recommended Amount

\$ 101,816

FY2015-16 Variable Compensation Plan: Assessment and Recommended Payment for UTC Chancellor Angle

Red are BAG metrics -- Blue are Strategic Plan metrics

Score = Straight % of goal achieved

Data subject to Audit review

| a | b | c | % Goal Achieved b/c | Actual > Base | Scores | | | | |
|---|---|---|------------------------|------------------|------------------------|-----------------|-----------------|-------------------|--------------|
| | | | | | % score (b-a)/(c-a) | Adj. % score | (1-3) weight | score * weight | Max Score |

Weights: High =3, Intermediate=2, Normal =1

| | |
|---------------------------------------|----------------------------------|
| Weights for Obj/ Subj/ Adv/Lead | Overall Scores % * Weights |
|---------------------------------------|----------------------------------|

Below base
= 0 score

Above base but below
target

Adj Score =

1% - 33% of goal = 25%
34% - 66% of goal = 50%
67% - 99% of goal = 75%

1. Enhancing Educational Excellence

| (3) Annual goal setting will be done for growth in enrollment | | | | | | | | | | | |
|--|--|--------|--------|--------|--------|------|--------|-------|---|------|---|
| 1 | Fall Headcount, Undergraduate | 10,084 | 10,170 | 10,315 | 98.6% | TRUE | 37.2% | 50.0% | 3 | 1.50 | 3 |
| 2 | Fall Headcount, Graduate/ Professional | 1,304 | 1,363 | 1,355 | 100.6% | TRUE | 100.6% | | 3 | 3.02 | 3 |
| 3 | % UG Out-State Enrollment should be < 25% of total | 6.2% | 6.7% | 6.4% | 105.1% | TRUE | 105.1% | | 1 | 1.05 | 1 |
| 4 | Graduation Rates | 43.6% | 44.2% | 45.1% | 98.0% | TRUE | 40.0% | 50.0% | 3 | 1.50 | 3 |
| 5 | Freshman Retention | 71.4% | 73.5% | 72.8% | 100.9% | TRUE | 100.9% | | 3 | 3.03 | 3 |
| 6 | Total Degrees Awarded | 2,375 | 2,494 | 2,423 | 103.0% | TRUE | 103.0% | | 3 | 3.09 | 3 |

2. Expanding Research Capacities

| | | | | | | | | | | | |
|----|--|--------|--------|---------|--------|-------|--------|--|---|------|---|
| 7 | (10) Research expenditures increase 6% annually (5 yr. avg) | \$9.59 | \$8.06 | \$10.16 | 79.3% | FALSE | 0.0% | | 3 | 0.00 | 3 |
| 8 | Research Expenditures (5 yr avg) (reported to NSF less ARRA funding) | \$8.04 | \$5.60 | \$8.30 | 67.5% | FALSE | 0.0% | | 3 | 0.00 | 3 |
| 9 | Research Award \$ (5 Yr Avg in \$ Millions) | \$10.6 | \$8.8 | \$11.3 | 78.4% | FALSE | 0.0% | | 3 | 0.00 | 3 |
| 10 | Inventions (Disclosures) (5Yr Avg) | 3 | 5 | 3 | 175.1% | TRUE | 175.1% | | 2 | 3.50 | 2 |

3. Fostering Outreach and Engagement

| (12) # of customers served should grow >FY15 (4 yr. avg) | | | | | | | | | | | |
|--|--|-------|-------|-------|--------|------|--------|--|---|------|---|
| 11 | Number of Outreach Participants > 4-year avg | 6,173 | 6,783 | 6,672 | 101.7% | TRUE | 101.7% | | 2 | 2.03 | 2 |

4. Improving Effectiveness & Efficiency

| Change in tuition rates (UG, Grad, Professional) excluding programs that move to 15/4 plan and or differential tuition | | | | | | | | | | | |
|---|--|----------|----------|----------|--------|------|--------|--|---|-------|------|
| 12 | (4) UG Tuition no more than HEPI rate change ¹ | \$6,624 | \$6,768 | \$6,768 | 100.0% | TRUE | 100.0% | | 3 | 3.00 | 3 |
| 13 | (13) Gifts, pledges, bequests grow >15% (5 yr. avg) | \$10,090 | \$15,059 | \$12,108 | 124.4% | TRUE | 124.4% | | 3 | 3.73 | 3 |
| 14 | (17) Deferred Maintenance Expenditures (2-Yr Plan) ² | | \$3.42 | \$1.25 | 273.4% | TRUE | 100.0% | | 3 | 3.00 | 3 |
| Totals | | | | | | | | | | 28.45 | 38.0 |

Total Objective Score

75%

60%

45%

1 = % Goal achieved is based target/goal, as desired outcome is to have actual tuition to be less than the goal.

2 = Deferred maintenance % score = 0% if not met or 100% if met

Additional Goals for UTC Chancellor

Partial = 1/2 credit

Partially
Met / Not
Met

| Weights for Obj/Subj/Oth | Overall Scores % * Weights |
|-----------------------------|----------------------------------|
|-----------------------------|----------------------------------|

1. Enhancing Educational Excellence

| | | |
|---|---|---------|
| 1 | (14) Conduct program realignment to assess low performing programs | Met |
| 2 | (15) Perform feasibility analysis & develop a plan for program consolidation(s) | Partial |

2. Expanding Research Capacities

| | | |
|---|--|-----|
| 3 | (11) Review direct and indirect cost sharing on grants and contracts which are not locked at a given rate and implement necessary incentives for departments to minimize the level of cost sharing | Met |
|---|--|-----|

4. Improving Effectiveness & Efficiency

| | | |
|---|---|---------|
| 4 | (16) Develop 2-yr allocation/reallocation plan based upon 6% of FY15 unrestricted E&G | Met |
| 5 | (6) Executive grad program tuition based on demand & peer costs | Met |
| 6 | (7) Review out-of-state tuition based on regional need | Met |
| 7 | (18) Using workforce development programs, identify amounts that can be redeployed to address strategic initiatives, compensation gaps, and deferred maintenance. | Partial |
| 8 | (19) Conduct a tuition structure review to include differential tuition, out-of-state tuition, and 15/4 plan. | Met |

Met = 100%
Partial = 50%
Not Met = 0%

Total Subjective Score (% Met)

88%

| | |
|-----|-----|
| 20% | 18% |
|-----|-----|

Advocacy and Leadership (% Attained)

93%

| | |
|-----|-----|
| 20% | 19% |
|-----|-----|

Overall Score = (Sum of Objective, Subjective, Advocacy and Leadership)

81%

Recommended Retention Payment = (Overall score * Max Retention Amount)

Max Variable Comp Amount

\$44,960

Recommended Amount

\$ 36,428

3.1

FY2015-16 Variable Compensation Plan: Assessment and Recommended Payment for UTIA Chancellor Arrington

Red are BAG metrics -- Blue are Strategic Plan metrics

Score = Straight % of goal achieved

Data subject to Audit review

| a | b | c | % Goal Achieved | Actual > Base | Scores | | | | |
|------|----------|------|-----------------|---------------|---------------------|--------------|--------------|----------------|-----------|
| | | | | | % score (b-a)/(c-a) | Adj. % score | (1-3) weight | score * weight | Max Score |
| Base | Actual * | Goal | b/c | Base | | | | | |

Weights: High =3, Intermediate=2, Normal =1

| Weights for Obj/ Subj/ Adv/Lead | Overall Scores % * Weights |
|---------------------------------|----------------------------|
|---------------------------------|----------------------------|

Below base = 0 score

| Above base but below target |
|-----------------------------|
| Adj Score = |
| 1% - 33% of goal = 25% |
| 34% - 66% of goal = 50% |
| 67% - 99% of goal = 75% |

1. Enhancing Educational Excellence

| | | | | | | | | | | | |
|---|-----------------------|-----|-----|-----|--------|------|--------|--|---|------|---|
| 1 | Total Degrees Awarded | 449 | 485 | 458 | 105.9% | TRUE | 105.9% | | 3 | 3.18 | 3 |
|---|-----------------------|-----|-----|-----|--------|------|--------|--|---|------|---|

2. Expanding Research Capacities

| | | | | | | | | | | | |
|---|--|---------|---------|---------|--------|-------|--------|--|---|------|---|
| 2 | (10) Research expenditures increase 6% annually (5 yr. avg) | \$42.24 | \$45.80 | \$44.78 | 102.3% | TRUE | 102.3% | | 3 | 3.07 | 3 |
| 3 | Research Expenditures (5 yr avg) (reported to NSF less ARRA) | \$66.22 | \$69.14 | \$68.21 | 101.4% | TRUE | 101.4% | | 3 | 3.04 | 3 |
| 4 | Research Award \$ (5 Yr Avg in \$ Millions) | \$52.7 | \$73.3 | \$55.9 | 131.2% | TRUE | 131.2% | | 3 | 3.94 | 3 |
| 5 | Inventions (Disclosures) (5Yr Avg) | 35 | 22 | 36 | 61.1% | FALSE | 0.0% | | 2 | 0.00 | 2 |

3. Fostering Outreach and Engagement

| | | | | | | | | | | | |
|---|--|-----------|-----------|-----------|--------|------|--------|--|---|------|---|
| 6 | (12) # of customers served should grow >FY15 (4 yr. avg) | | | | | | | | | | |
| | Number of Outreach Participants > 4-year avg | 4,144,991 | 4,910,501 | 4,392,372 | 111.8% | TRUE | 111.8% | | 2 | 2.24 | 2 |

4. Improving Effectiveness & Efficiency

| | | | | | | | | | | | |
|--------|---|----------|----------|----------|--------|------|--------|-------|---|-------|------|
| 7 | (13) Gifts, pledges, bequests grow >15% (5 yr. avg) | \$12.900 | \$14.228 | \$15.480 | 91.9% | TRUE | 51.5% | 50.0% | 3 | 1.50 | 3 |
| 8 | (17) Deferred Maintenance Expenditures (2-Yr Plan) ² | | \$2.26 | \$0.50 | 451.2% | TRUE | 100.0% | | 3 | 3.00 | 3 |
| Totals | | | | | | | | | | 19.96 | 22.0 |

Total Objective Score

91%

60% 54%

2 = Deferred maintenance % score = 0% if not met or 100% if met

3.1

Additional Goals for UTIA Chancellor

Partial = 1/2 credit

Partially
Met / Not
Met

| Weights for Obj/Subj/Oth | Overall Scores % * Weights |
|-----------------------------|----------------------------------|
|-----------------------------|----------------------------------|

1. Enhancing Educational Excellence

| | | |
|---|---|---------|
| 1 | (14) Conduct program realignment to assess low performing programs | Met |
| 2 | (15) Perform feasibility analysis & develop a plan for program consolidation(s) | Partial |

2. Expanding Research Capacities

| | | |
|---|--|-----|
| 3 | (11) Review direct and indirect cost sharing on grants and contracts which are not locked at a given rate and implement necessary incentives for departments to minimize the level of cost sharing | Met |
|---|--|-----|

4. Improving Effectiveness & Efficiency

| | | |
|---|---|---------|
| 4 | (16) Develop 2-yr allocation/reallocation plan based upon 6% of FY15 unrestricted E&G | Met |
| 5 | (7) Review out-of-state tuition based on regional need | Met |
| 6 | (18) Using workforce development programs, identify amounts that can be redeployed to address strategic initiatives, compensation gaps, and deferred maintenance. | Partial |
| 7 | (20) Review of Non-Formula fee structure | Met |

Met = 100%
Partial = 50%
Not Met = 0%

Total Subjective Score (% Met)

86%

| | |
|-----|-----|
| 20% | 17% |
|-----|-----|

Advocacy and Leadership (% Attained)

93%

| | |
|-----|-----|
| 20% | 19% |
|-----|-----|

Overall Score = (Sum of Objective, Subjective, Advocacy and Leadership)

90%

Recommended Retention Payment = (Overall score * Max Retention Amount)

Max Variable Comp Amount

\$45,437

Recommended Amount

\$ 40,973

3.1

FY2015-16 Variable Compensation Plan: Assessment and Recommended Payment for UTK Chancellor Cheek

Red are BAG metrics -- Blue are Strategic Plan metrics

Score = Straight % of goal achieved

Data subject to Audit review

| a | b | c | % Goal Achieved | Actual > | Scores | | | | |
|---|---|---|-----------------|----------|--------|----------|------|-----|------|
| | | | | | Base | Actual * | Goal | b/c | Base |

Weights: High =3, Intermediate=2, Normal =1

| Weights for Obj/ Subj/ Adv/Lead | Overall Scores % * |
|---------------------------------|--------------------|
|---------------------------------|--------------------|

Below base = 0 score

| Above base but below target |
|-----------------------------|
| Adj Score = |
| 1% - 33% of goal = 25% |
| 34% - 66% of goal = 50% |
| 67% - 99% of goal = 75% |

1. Enhancing Educational Excellence

(3) Annual goal setting will be done for growth in enrollment

| | | | | | | | | | | | |
|---|--|--------|--------|--------|-------|-------|-------|-------|---|------|---|
| 1 | Fall Headcount, Undergraduate | 21,863 | 22,139 | 22,366 | 99.0% | TRUE | 54.9% | 50.0% | 3 | 1.50 | 3 |
| 2 | Fall Headcount, Graduate/ Professional | 5,982 | 5,913 | 6,101 | 96.9% | FALSE | 0.0% | | 3 | 0.00 | 3 |
| 3 | % UG Out-State Enrollment should be < 25% of total | 12.9% | 13.0% | 14.0% | 93.0% | TRUE | 9.2% | 25.0% | 1 | 0.25 | 1 |
| 4 | Graduation Rates | 70.3% | 68.8% | 70.5% | 97.6% | FALSE | 0.0% | | 3 | 0.00 | 3 |
| 5 | Freshman Retention | 84.6% | 86.3% | 87.5% | 98.7% | TRUE | 59.3% | 50.0% | 3 | 1.50 | 3 |
| 6 | Total Degrees Awarded | 6,758 | 6,741 | 6,865 | 98.2% | FALSE | 0.0% | | 3 | 0.00 | 3 |

2. Expanding Research Capacities

| | | | | | | | | | | | |
|----|--|----------|----------|----------|--------|-------|--------|-------|---|------|---|
| 7 | (10) Research expenditures increase 6% annually (5 yr. avg) | \$157.31 | \$158.04 | \$166.75 | 94.8% | TRUE | 7.7% | 25.0% | 3 | 0.75 | 3 |
| 8 | Research Expenditures (5 yr avg) (reported to NSF less ARRA funding) | \$171.37 | \$183.27 | \$176.92 | 103.6% | TRUE | 103.6% | | 3 | 3.11 | 3 |
| 9 | Research Award \$ (5 Yr Avg in \$ Millions) | \$154.6 | \$153.4 | \$163.9 | 93.6% | FALSE | 0.0% | | 3 | 0.00 | 3 |
| 10 | Inventions (Disclosures) (5Yr Avg) | 62 | 74 | 71 | 104.2% | TRUE | 104.2% | | 2 | 2.08 | 2 |

3. Fostering Outreach and Engagement

(12) # of customers served should grow >FY15 (4 yr. avg)

| | | | | | | | | | | | |
|----|--|--------|--------|--------|-------|------|-------|-------|---|------|---|
| 11 | Number of Outreach Participants > 4-year avg | 11,038 | 11,613 | 14,893 | 78.0% | TRUE | 14.9% | 25.0% | 2 | 0.50 | 2 |
|----|--|--------|--------|--------|-------|------|-------|-------|---|------|---|

4. Improving Effectiveness & Efficiency

Change in tuition rates (UG, Grad, Professional) excluding programs that move to 15/4 plan and or differential tuition

| | | | | | | | | | | | |
|--------|---|-----------|-----------|-----------|--------|------|--------|--|---|-------|------|
| 12 | (4) UG Tuition no more than HEPI rate change ¹ | \$10,678 | \$10,914 | \$10,914 | 100.0% | TRUE | 100.0% | | 3 | 3.00 | 3 |
| 13 | (13) Gifts, pledges, bequests grow >15% (5 yr. avg) | \$132.012 | \$167.211 | \$158.415 | 105.6% | TRUE | 105.6% | | 3 | 3.17 | 3 |
| 15 | (17) Deferred Maintenance Expenditures (2-Yr Plan) ² | | \$14.1 | \$7.88 | 179.6% | TRUE | 100.0% | | 3 | 3.00 | 3 |
| Totals | | | | | | | | | | 18.86 | 38.0 |

Total Objective Score

50%

60% 30%

1 = % Goal achieved is based target/goal, as desired outcome is to have actual tuition to be less than the goal.

2 = Deferred maintenance % score = 0% if not met or 100% if met

Additional Goals for UTK Chancellor

Partial = 1/2 credit

Met /
Partially
Met / Not
Met

| Weights for Obj/Subj/Oth | Overall Scores % * Weights |
|-----------------------------|----------------------------------|
|-----------------------------|----------------------------------|

1. Enhancing Educational Excellence

| | | |
|---|---|---------|
| 1 | (14) Conduct program realignment to assess low performing programs | Met |
| 2 | (15) Perform feasibility analysis & develop a plan for program consolidation(s) | Partial |

Met = 100%
Partial = 50%
Not Met = 0%

2. Expanding Research Capacities

| | | |
|---|--|-----|
| 3 | (11) Review direct and indirect cost sharing on grants and contracts which are not locked at a given rate and implement necessary incentives for departments to minimize the level of cost sharing | Met |
|---|--|-----|

4. Improving Effectiveness & Efficiency

| | | |
|---|---|---------|
| 4 | (16) Develop 2-yr allocation/reallocation plan based upon 6% of FY15 unrestricted E&G | Met |
| 5 | (6) Executive grad program tuition based on demand & peer costs | Met |
| 6 | (18) Using workforce development programs, identify amounts that can be redeployed to address strategic initiatives, compensation gaps, and deferred maintenance. | Partial |
| 7 | (19) Conduct a tuition structure review to include differential tuition, out-of-state tuition, and 15/4 plan. | Met |

Total Subjective Score (% Met)

86%

| | |
|-----|-----|
| 20% | 17% |
|-----|-----|

Advocacy and Leadership (% Attained)

75%

| | |
|-----|-----|
| 20% | 15% |
|-----|-----|

Overall Score = (Sum of Objective, Subjective, Advocacy and Leadership)

62%

Recommended Retention Payment = (Overall score * Max Retention Amount)

Max Variable Comp Amount

\$67,124

Recommended Amount

\$ 41,563

FY2015-16 Variable Compensation Plan: Assessment and Recommended Payment for Executive Vice President Millhorn

Red are BAG metrics -- Blue are Strategic Plan metrics

Score = Straight % of goal achieved

Data subject to Audit review

| a | b | c | % Goal Achieved | Actual > Base | Scores | | | | |
|---|---|---|-----------------|---------------|---------------------|--------------|--------------|----------------|-----------|
| | | | | | % score (b-a)/(c-a) | Adj. % score | (1-3) weight | score * weight | Max Score |

| Weights for Obj/ Subj/ Adv/Lead | Overall Scores % * Weights |
|---------------------------------|----------------------------|
|---------------------------------|----------------------------|

Weights: High =3, Intermediate=2, Normal =1

Below base = 0 score

Above base but below target
 1% - 33% of goal = 25%
 34% - 66% of goal = 50%
 67% - 99% of goal = 75%

2. Expanding Research Capacities

| | | | | | | | | | | | |
|---|--|----------|----------|----------|--------|------|--------|-------|---|------|---|
| 1 | (10) Research expenditures increase 6% annually (5 yr. avg) | \$418.11 | \$458.35 | \$443.20 | 103.4% | TRUE | 103.4% | | 3 | 3.10 | 3 |
| 2 | Research Expenditures (5 yr avg) (reported to NSF less ARRA) | \$316.17 | \$330.15 | \$326.07 | 101.2% | TRUE | 101.2% | | 3 | 3.04 | 3 |
| 3 | Research Award \$ (5 Yr Avg in \$ Millions) | \$316.3 | \$329.0 | \$335.2 | 98.1% | TRUE | 67.0% | 75.0% | 3 | 2.25 | 3 |
| 4 | Inventions (Disclosures) (5Yr Avg) | 129 | 140 | 139 | 100.9% | TRUE | 100.9% | | 2 | 2.02 | 2 |

3. Fostering Outreach and Engagement

| | | | | | | | | | | | |
|---|--|-----------|-----------|-----------|--------|------|--------|--|---|------|---|
| 5 | (12) # of customers served should grow >FY15 (4 yr. avg) | | | | | | | | | | |
| | Number of Outreach Participants > 4-year avg | 4,405,850 | 5,265,601 | 4,756,639 | 110.7% | TRUE | 110.7% | | 2 | 2.21 | 2 |

Totals

12.62 | 13.0

Total Objective Score

97%

60% | 58%

Additional Goals for Executive Vice President

Partially Met / Not Met

| Weights for Obj/Subj/Oth | Overall Scores % * Weights |
|--------------------------|----------------------------|
|--------------------------|----------------------------|

1. Enhancing Educational Excellence

2. Expanding Research Capacities

| | | |
|---|--|-----|
| 1 | (11) Review direct and indirect cost sharing on grants and contracts which are not locked at a given rate and implement necessary incentives for departments to minimize the level of cost sharing | Met |
|---|--|-----|

Met = 100%
 Partial = 50%
 Not Met = 0%

4. Improving Effectiveness & Efficiency

| | | |
|---|--|-----|
| 2 | (20) Review of Non-Formula fee structure | Met |
|---|--|-----|

Other

| | | |
|---|---|---------|
| 3 | Achieve an ORNL performance score of 94 or higher for FY 2016. | Met |
| 4 | Develop a business plan and obtain a signed contract to purchase the Pro2serve building for \$17.5 million or less and lease 25% or more of space to a third party customer before September 1, 2016. | Partial |

Total Subjective Score (% Met)

88%

20% | 18%

Advocacy and Leadership (% Attained)

75%

20% | 15%

Overall Score = (Sum of Objective, Subjective, Advocacy and Leadership)

91%

Recommended Retention Payment = (Overall score * Max Retention Amount)

Max Variable Comp Amount

\$51,460

Recommended Amount

\$ 46,701

FY2015-16 Variable Compensation Plan: Assessment and Recommended Payment for General Counsel and Secretary Mizell

Red are BAG metrics -- Blue are Strategic Plan metrics

Score = Straight % of goal achieved

| a | b | c | Actual > Base | Scores | | | Weights for Obj/ Subj/ Adv/Lead | Overall Scores % * Weights |
|------|----------|------|------------------|------------------------|-----------------|-------------------|---------------------------------------|----------------------------------|
| | | | | % score (b-a)/(c-a) | (1-3) weight | score * weight | | |
| Base | Actual * | Goal | | | | | | |

| | |
|--|----|
| <u>1. Enhancing Educational Excellence</u> | NA |
| <u>2. Expanding Research Capacities</u> | NA |
| <u>3. Fostering Outreach and Engagement</u> | NA |
| <u>4. Improving Effectiveness & Efficiency</u> | NA |
| Totals | |
| Total Objective Score | NA |

Additional Goals

Partial = 1/2 credit

Met / Partially
Met / Not Met

Weights for
Obj/Subj/Oth

Overall Scores
% * Weights

1. Enhancing Educational Excellence

| | | |
|---|---|---------|
| 1 | (14) Conduct program realignment to assess low performing programs | Met |
| 2 | (15) Perform feasibility analysis & develop a plan for program consolidation(s) | Partial |
| 3 | (22) Conduct review of the tenure & post-tenure review processes & implement a new policy | Met |

Met = 100%
Partial = 50%
Not Met = 0%

2. Expanding Research Capacities

4. Improving Effectiveness & Efficiency

| | | |
|---|--|-----|
| 4 | (21) Conduct study on unfunded mandates for student tuition waivers/discounts (UT system) and tuition waivers/discounts for UT employees | Met |
|---|--|-----|

Other

| | | |
|---|---|-----|
| 5 | Review best practices for policy development and maintenance and draft a policy to improve the process for developing systemwide and campus policies | Met |
| 6 | Lead the Trusteeship Committee in reviewing the Board's oversight role in light of the Association of Governing Boards' Statement on Trust, Accountability, and Integrity | Met |
| 7 | Review current best practices for orientation of new Trustees and propose implementation to the Trusteeship Committee | Met |
| 8 | Develop a continuing professional education program for Trustees and propose implementation to the Trusteeship Committee | Met |

Total Subjective Score (% Met)

94%

80% 75%

Advocacy and Leadership (% Attained)

100%

20% 20%

Overall Score = (Sum of Objective, Subjective, Advocacy and Leadership)

95%

Recommended Retention Payment = (Overall score * Max Retention Amount)

Max Variable Comp Amount

\$33,917

Recommended Amount

\$ 32,222

FY2015-16 Variable Compensation Plan: Assessment and Recommended Payment for UTHSC Chancellor Schwab

Red are BAG metrics -- Blue are Strategic Plan metrics

Score = Straight % of goal achieved

Data subject to Audit review

| a | b | c | % Goal Achieved | Actual > | Scores | | | | |
|---|---|---|-----------------|----------|--------|----------|------|-----|------|
| | | | | | Base | Actual * | Goal | b/c | Base |

Weights: High =3, Intermediate=2, Normal =1

Below base = 0 score

| Weights for Obj/ Subj/ Adv/Lead | Overall Scores % * |
|---------------------------------|--------------------|
|---------------------------------|--------------------|

| |
|-----------------------------|
| Above base but below target |
| Adj Score = |
| 1% - 33% of goal = 25% |
| 34% - 66% of goal = 50% |
| 67% - 99% of goal = 75% |

1. Enhancing Educational Excellence

| | | | | | | | | | | | |
|--|--|-------|-------|-------|--------|-------|--------|--|---|------|---|
| (3) Annual goal setting will be done for growth in enrollment | | | | | | | | | | | |
| 1 | Fall Headcount, Undergraduate | 265 | 287 | 271 | 105.9% | TRUE | 105.9% | | 3 | 3.18 | 3 |
| 2 | Fall Headcount, Graduate/ Professional | 2,811 | 2,810 | 2,839 | 99.0% | FALSE | 0.0% | | 3 | 0.00 | 3 |
| 3 | Graduation Rates | 96.1% | 95.3% | 96.1% | 99.2% | FALSE | 0.0% | | 3 | 0.00 | 3 |
| 4 | Total Degrees Awarded | 1,236 | 1,370 | 1,261 | 108.7% | TRUE | 108.7% | | 3 | 3.26 | 3 |

2. Expanding Research Capacities

| | | | | | | | | | | | |
|---|--|----------|----------|----------|--------|-------|--------|-------|---|------|---|
| 5 | (10) Research expenditures increase 6% annually (5 yr. avg) | \$201.84 | \$240.49 | \$213.95 | 112.4% | TRUE | 112.4% | | 3 | 3.37 | 3 |
| 6 | Research Expenditures (5 yr avg) (reported to NSF less ARRA) | \$69.87 | \$71.55 | \$71.97 | 99.4% | TRUE | 79.8% | 75.0% | 3 | 2.25 | 3 |
| 7 | Research Award \$ (5 Yr Avg in \$ Millions) | \$89.0 | \$84.3 | \$94.3 | 89.3% | FALSE | 0.0% | | 3 | 0.00 | 3 |
| 8 | Inventions (Disclosures) (5Yr Avg) | 27 | 38 | 28 | 136.0% | TRUE | 136.0% | | 2 | 2.72 | 2 |

3

| | | | | | | | | | | | |
|--|--|-----------|-----------|-----------|-------|------|-------|-------|---|------|---|
| (12) # of customers served should grow >FY15 (4 yr. avg) | | | | | | | | | | | |
| 9 | Number of Outreach Participants > 4-year avg | 47,480 | 57,100 | 62,468 | 91.4% | TRUE | 64.2% | 50.0% | 2 | 1.00 | 2 |
| 10 | Number of clients served should grow >FY15 (4 yr. avg) | | | | | | | | | | |
| 10 | Work RVUs 3 | 2,066,097 | 2,150,499 | 2,199,335 | 97.8% | TRUE | 63.3% | 50.0% | 3 | 1.50 | 3 |

4. Improving Effectiveness & Efficiency

| | | | | | | | | | | | |
|---|---|----------|----------|----------|--------|----------|--------|--|---|-------|------|
| Change in tuition rates (UG, Grad, Professional) excluding programs that move to 15/4 plan and or differential tuition | | | | | | | | | | | |
| 11 | (4) UG Tuition no more than HEPI rate change ¹ | | | | | Average: | 102.2% | | 3 | 3.07 | 3 |
| | UTHSC (Dental Hygiene) | \$7,848 | \$7,848 | \$8,021 | 102.2% | TRUE | 102.2% | | 3 | | |
| | UTHSC (Nursing) | \$8,320 | \$8,320 | \$8,503 | 102.2% | TRUE | 102.2% | | 3 | | |
| 12 | (13) Gifts, pledges, bequests grow >15% (5 yr. avg) | \$25.186 | \$38.948 | \$30.223 | 128.9% | TRUE | 128.9% | | 3 | 3.87 | 3 |
| 13 | (17) Deferred Maintenance Expenditures (2-Yr Plan)² | | \$4.0 | \$1.88 | 213.3% | TRUE | 100.0% | | 3 | 3.00 | 3 |
| Totals | | | | | | | | | | 27.21 | 37.0 |

Total Objective Score

74%

60% 44%

- 1 = As there were two undergraduate tuition rates for UTHSC, the score was based on the average of the two tuition rates.
- = % Goal achieved is based target/goal, as desired outcome is to have actual tuition to be less than the goal.
- 2 = Deferred maintenance % score = 0% if not met or 100% if met

Additional Goals for UTHSC Chancellor

Partial = 1/2 credit

Partially
Met / Not

| Weights for Obj/Subj/Oth | Scores % * Weights |
|-----------------------------|-----------------------|
|-----------------------------|-----------------------|

1. Enhancing Educational Excellence

| | | |
|---|---|---------|
| 1 | (14) Conduct program realignment to assess low performing programs | Met |
| 2 | (15) Perform feasibility analysis & develop a plan for program consolidation(s) | Partial |

Met = 100%
Partial = 50%
Not Met = 0%

2. Expanding Research Capacities

| | | |
|---|--|-----|
| 3 | (11) Review direct and indirect cost sharing on grants and contracts which are not locked at a given rate and implement necessary incentives for departments to minimize the level of cost sharing | Met |
|---|--|-----|

4. Improving Effectiveness & Efficiency

| | | |
|---|---|---------|
| 4 | (16) Develop 2-yr allocation/reallocation plan based upon 6% of FY15 unrestricted E&G | Met |
| 5 | (7) Review out-of-state tuition based on regional need | Met |
| 6 | (18) Using workforce development programs, identify amounts that can be redeployed to address strategic initiatives, compensation gaps, and deferred maintenance. | Not Met |
| 7 | (19) Conduct a tuition structure review to include differential tuition, out-of-state tuition, and 15/4 plan. | Met |
| 8 | (20) Review of Non-Formula fee structure | Met |

Total Subjective Score (% Met)

81%

| | |
|-----|-----|
| 20% | 16% |
|-----|-----|

Advocacy and Leadership (% Attained)

90%

| | |
|-----|-----|
| 20% | 18% |
|-----|-----|

Overall Score = (Sum of Objective, Subjective, Advocacy and Leadership)

78%

Recommended Retention Payment = (Overall score * Max Retention Amount)

Max Variable Comp Amount

\$86,888

Recommended Amount

\$ 68,097

**METHODOLOGY FOR CALCULATING A PARTICIPANT'S SCORE
UNDER THE
PERFORMANCE-BASED VARIABLE COMPENSATION PLAN**

1. No points will be awarded when the actual is less than the base.
2. If the actual exceeds the goal, the percent above the goal will be multiplied by the weight of the metric.
3. If the actual is greater than the base but lower than the goal, partial credit will be awarded based on the % from the base where:

$$\% \text{ from base} = (\text{Actual} - \text{Base}) / (\text{Goal} - \text{Base})$$

- 1% - 33% from Base = 25% credit
- 34% - 66% from Base = 50% credit
- 67% - 99% from Base = 75% credit

4. Advocacy and Leadership will be increased from 10% to 20% of the total score.
5. Additional Goals (subjective) will be scored as Met (100%), Partial (50%), or Not Met (0%).
6. Self-evaluation and evaluation narratives may include contextual information, such as a discussion of circumstances beyond the participant's control that prevented achieving the goal, but significant improvements were made toward the spirit of the goal.

FY2015-16 Quantitative Goals Under the Variable Compensation Plan for University Officers

Red = BAG metrics
Blue = Strategic Plan metrics

Pink = revisions to what Board approved on April 1, 2016.

All data subject to final audit before any payments are made under the plan

| Base Yr | Goal | Actual | Weight |
|---------|------|--------|--------|
|---------|------|--------|--------|

3.3

1. Enhancing Educational Excellence

| (3) Annual goal setting will be done for growth in enrollment | | | | | | | | | |
|--|----------------|-----------------------|---------------|---------------|---------|---------|---------|---------|---------|
| Fall Headcount, Undergraduate | Fall 15 | Goal (Fall 16) | Actual | Weight | Fall 12 | Fall 13 | Fall 14 | Fall 15 | Fall 16 |
| System | 38,647 | 39,535 | 38,875 | High | 38,401 | 38,504 | 38,656 | 38,647 | 38,875 |
| UTK | 21,863 | 22,366 | 22,139 | High | 20,829 | 21,033 | 21,451 | 21,863 | 22,139 |
| UTC | 10,084 | 10,315 | 10,170 | High | 10,159 | 10,297 | 10,315 | 10,084 | 10,170 |
| UTM | 6,435 | 6,583 | 6,279 | High | 7,326 | 7,025 | 6,677 | 6,435 | 6,279 |
| UTHSC | 265 | 271 | 287 | Normal | 87 | 149 | 213 | 265 | 287 |

| Fall Headcount, Graduate/ Professional | Fall 15 | Goal (Fall 16) | Actual | Weight | Fall 12 | Fall 13 | Fall 14 | Fall 15 | Fall 16 |
|---|----------------|-----------------------|---------------|---------------|---------|---------|---------|---------|---------|
| System | 10,489 | 10,695 | 10,512 | High | 10,843 | 10,623 | 10,442 | 10,489 | 10,512 |
| UTK | 5,982 | 6,101 | 5,913 | High | 6,189 | 6,138 | 5,959 | 5,982 | 5,913 |
| UTC | 1,304 | 1,355 | 1,363 | Intermed. | 1,501 | 1,377 | 1,355 | 1,304 | 1,363 |
| UTM | 392 | 400 | 426 | Normal | 425 | 398 | 365 | 392 | 426 |
| UTHSC | 2,811 | 2,839 | 2,810 | High | 2,728 | 2,710 | 2,763 | 2,811 | 2,810 |

| (2) % UG Out-State Enrollment should be < 25% of total | Fall 15 | Goal (Fall 16) | Actual | Weight | Fall 12 | Fall 13 | Fall 14 | Fall 15 | Fall 16 |
|--|----------------|-----------------------|---------------|---------------|---------|---------|---------|---------|---------|
| System | 10.4% | 11.2% | 10.7% | Normal | 8.1% | 8.9% | 9.6% | 10.4% | 10.7% |
| UTK | 12.9% | 14.0% | 13.0% | Normal | 10.1% | 11.2% | 12.0% | 12.9% | 13.0% |
| UTC | 6.2% | 6.4% | 6.7% | Normal | 5.7% | 5.6% | 5.8% | 6.2% | 6.7% |
| UTM | 7.9% | 8.8% | 8.9% | Normal | 5.7% | 6.5% | 7.4% | 7.9% | 8.9% |

| Graduation Rates | Fall 15 | Goal (Fall 16) | Actual | Weight | Fall 12 | Fall 13 | Fall 14 | Fall 15 | Fall 16 |
|-------------------------|----------------|-----------------------|---------------|---------------|---------|---------|---------|---------|---------|
| System | 56.9% | 58.6% | 59.2% | High | 56.3% | 56.1% | 57.3% | 56.9% | 59.2% |
| UTK | 70.3% | 70.5% | 68.8% | High | 66.1% | 67.5% | 69.3% | 70.3% | 68.8% |
| UTC | 43.6% | 45.1% | 44.2% | High | 38.2% | 37.1% | 39.8% | 43.6% | 44.2% |
| UTM | 45.7% | 49.0% | 50.2% | High | 48.9% | 46.6% | 47.0% | 45.7% | 50.2% |
| UTHSC | 96.1% | 96.1% | 95.3% | Normal | 96.6% | 94.8% | 95.5% | 96.1% | 95.3% |

| Freshman Retention | Fall 15 | Goal (Fall 16) | Actual | Weight | Fall 12 | Fall 13 | Fall 14 | Fall 15 | Fall 16 |
|---------------------------|----------------|-----------------------|---------------|---------------|---------|---------|---------|---------|---------|
| System | 79.6% | 82.1% | 81.7% | High | 77.4% | 78.1% | 79.3% | 79.6% | 81.7% |
| UTK | 84.6% | 87.5% | 86.3% | High | 84.6% | 85.6% | 86.6% | 84.6% | 86.3% |
| UTC | 71.4% | 72.8% | 73.5% | High | 67.4% | 69.1% | 70.0% | 71.4% | 73.5% |
| UTM | 74.5% | 76.0% | 75.2% | High | 70.7% | 69.9% | 70.8% | 74.5% | 75.2% |

| Total Degrees Awarded | FY15 | FY16 Goal | Actual | Weight | FY12 | FY13 | FY14 | FY15 | FY16 |
|-----------------------------------|-------------|------------------|---------------|---------------|--------|--------|--------|--------|--------|
| System | 11,698 | 11,897 | 11,975 | High | 11,058 | 11,182 | 11,152 | 11,698 | 11,975 |
| UTK (includes Vet Med & CASNR) | 6,758 | 6,865 | 6,741 | High | 6,885 | 6,793 | 6,689 | 6,758 | 6,741 |
| UTC | 2,375 | 2,423 | 2,494 | High | 2,140 | 2,232 | 2,350 | 2,375 | 2,494 |
| UTM | 1,329 | 1,349 | 1,370 | High | 1,265 | 1,372 | 1,346 | 1,329 | 1,370 |
| UTHSC (incl Residency Completers) | 1,236 | 1,261 | 1,370 | Normal | 1,072 | 1,189 | 1,225 | 1,236 | 1,370 |
| UTIA (Vet Med & CASNR) | 449 | 458 | 485 | Normal | 447 | 409 | 420 | 449 | 485 |

FY2015-16 Quantitative Goals Under the Variable Compensation Plan for University Officers

Red = BAG metrics
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Pink = revisions to what Board approved on April 1, 2016.

All data subject to final audit before any payments are made under the plan

| Base Yr | Goal | Actual | Weight |
|---------|------|--------|--------|
|---------|------|--------|--------|

2. Expanding Research Capacities

| (10) Research /sponsored projects increase 6% annually (5 yr. avg) (reported to THEC less ARRA funding) | FY11-15 | FY16 Goal | Actual | Weight | FY12 | FY13 | FY14 | FY15 | FY16 |
|---|------------------|-----------|----------|--------|------------------------------|----------|----------|----------|----------|
| | (\$ in millions) | | | | (Annual Data \$ in Millions) | | | | |
| System (President) ¹ | \$418.11 | \$443.20 | \$458.35 | High | \$413.40 | \$425.20 | \$414.83 | \$433.52 | \$458.35 |
| System (VP Research) ¹ | \$418.11 | \$443.20 | \$458.35 | High | \$413.40 | \$425.20 | \$414.83 | \$433.52 | \$458.35 |
| UTK (with Vet Med) | \$157.31 | \$166.75 | \$158.04 | High | \$156.35 | \$160.53 | \$156.56 | \$153.83 | \$158.04 |
| UTC | \$9.59 | \$10.16 | \$8.06 | Normal | \$10.43 | \$9.70 | \$8.83 | \$9.34 | \$8.06 |
| UTM | \$2.90 | \$3.07 | \$3.52 | Normal | \$3.30 | \$2.21 | \$2.52 | \$2.63 | \$3.52 |
| UTHSC | \$201.84 | \$213.95 | \$240.49 | High | \$196.53 | \$202.05 | \$203.09 | \$222.67 | \$240.49 |
| UTIA | \$42.24 | \$44.78 | \$45.80 | High | \$42.47 | \$43.83 | \$40.66 | \$42.84 | \$45.80 |

5- Year Average

| Research /sponsored projects expenditures (THEC) | 5-Year Average | | | | |
|--|------------------|----------|----------|----------|----------|
| | (\$ in Millions) | | | | |
| System (President) ¹ | \$381.35 | \$398.23 | \$405.71 | \$418.11 | \$429.06 |
| System (VP Research) ¹ | \$291.27 | \$353.02 | \$405.71 | \$418.11 | \$429.06 |
| UTK (with Vet Med) | \$95.51 | \$125.22 | \$154.52 | \$157.31 | \$157.06 |
| UTC | \$8.20 | \$9.17 | \$9.99 | \$9.59 | \$9.27 |
| UTM | \$4.24 | \$3.71 | \$3.28 | \$2.90 | \$2.83 |
| UTHSC | \$123.88 | \$157.87 | \$191.27 | \$201.84 | \$212.96 |
| UTIA | \$40.97 | \$41.69 | \$41.48 | \$42.24 | \$43.12 |

| Research Expenditures (5 yr avg) (reported to NSF less ARRA funding) | FY11-15 | FY16 Goal | Actual | Weight | FY12 | FY13 | FY14 | FY15 | FY16 |
|--|----------|-----------|----------|--------|------------------------------|----------|----------|----------|----------|
| | | | | | (Annual Data \$ in Millions) | | | | |
| System (President) | \$316.17 | \$326.07 | \$330.15 | High | \$322.00 | \$331.13 | \$315.77 | \$311.66 | \$330.15 |
| System (VP Research) | \$316.17 | \$326.07 | \$330.15 | High | \$322.00 | \$331.13 | \$315.77 | \$311.66 | \$330.15 |
| UTK (no Vet med) | \$171.37 | \$176.92 | \$183.27 | High | \$170.50 | \$184.07 | \$174.16 | \$171.59 | \$183.27 |
| UTC | \$8.04 | \$8.30 | \$5.60 | Normal | \$10.72 | \$7.67 | \$6.18 | \$6.74 | \$5.60 |
| UTM | \$0.66 | \$0.68 | \$0.60 | Normal | \$0.58 | \$0.42 | \$0.55 | \$0.51 | \$0.60 |
| UTHSC | \$69.87 | \$71.97 | \$71.55 | High | \$72.46 | \$71.35 | \$67.81 | \$65.77 | \$71.55 |
| UTIA | \$66.22 | \$68.21 | \$69.14 | High | \$67.74 | \$67.61 | \$67.09 | \$67.06 | \$69.14 |

5- Year Average

| NSF Annual Research /sponsored projects expenditures | 5-Year Average | | | | |
|--|------------------|----------|----------|----------|----------|
| | (\$ in Millions) | | | | |
| System (President) | \$322.00 | \$331.13 | \$315.77 | \$316.17 | \$322.14 |
| System (VP Research) | \$322.00 | \$331.13 | \$315.77 | \$316.17 | \$322.14 |
| UTK (with Vet Med) | \$170.50 | \$184.07 | \$174.16 | \$171.37 | \$176.72 |
| UTC | \$10.72 | \$7.67 | \$6.18 | \$8.04 | \$7.38 |
| UTM | \$0.58 | \$0.42 | \$0.55 | \$0.66 | \$0.53 |
| UTHSC | \$72.46 | \$71.35 | \$67.81 | \$69.87 | \$69.79 |
| UTIA | \$67.74 | \$67.61 | \$67.09 | \$66.22 | \$67.73 |

FY2015-16 Quantitative Goals Under the Variable Compensation Plan for University Officers

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All data subject to final audit before any payments are made under the plan

| | Base Yr | Goal | Actual | Weight | FY12 | FY13 | FY14 | FY15 | FY16 |
|--------------------------------------|----------------|------------------|---------------|---------------|-------------------------------------|---------|---------|---------|---------|
| Research Award \$s (5 Yr Avg) | FY11-15 | FY16 Goal | Actual | Weight | (Annual Data \$ in Millions) | | | | |
| System (President) | \$316.3 | \$335.2 | \$329.0 | High | \$323.0 | \$321.7 | \$290.6 | \$317.4 | \$329.0 |
| System (VP Research) | \$316.3 | \$335.2 | \$329.0 | High | \$323.0 | \$321.7 | \$290.6 | \$317.4 | \$329.0 |
| UTK (no vet med) | \$154.6 | \$163.9 | \$153.4 | High | \$167.4 | \$163.0 | \$139.2 | \$148.3 | \$153.4 |
| UTC | \$10.6 | \$11.3 | \$8.8 | Normal | \$10.2 | \$10.2 | \$9.3 | \$8.1 | \$8.8 |
| UTM | \$4.3 | \$4.5 | \$5.6 | Normal | \$4.1 | \$2.4 | \$3.0 | \$4.1 | \$5.6 |
| UTHSC | \$89.0 | \$94.3 | \$84.3 | High | \$89.9 | \$87.6 | \$79.7 | \$93.1 | \$84.3 |
| UTIA | \$52.7 | \$55.9 | \$73.3 | High | \$46.6 | \$52.4 | \$56.3 | \$61.8 | \$73.3 |

5- Year Average

| Research Award \$s | 5-Year Average (\$ in Millions) | | | | |
|---------------------------|--|---------|---------|---------|---------|
| System (President) | \$324.5 | \$346.0 | \$335.9 | \$316.3 | \$316.3 |
| System (VP Research) | \$333.3 | \$346.0 | \$335.9 | \$316.3 | \$316.3 |
| UTK (no Vet Med) | \$184.4 | \$179.1 | \$171.1 | \$154.6 | \$154.3 |
| UTC | \$13.6 | \$12.6 | \$11.7 | \$10.6 | \$9.3 |
| UTM | \$5.7 | \$5.2 | \$4.7 | \$4.3 | \$3.8 |
| UTHSC | \$97.8 | \$96.0 | \$93.0 | \$89.0 | \$86.9 |
| UTIA | \$44.8 | \$46.6 | \$49.9 | \$52.7 | \$58.1 |

| Inventions (Disclosures) (5Yr Avg) | FY11-15 | FY16 Goal | Actual | Weight | FY12 | FY13 | FY14 | FY15 | FY16 |
|---|---------|-----------|--------|-----------|----------------------|------|------|------|------|
| | | | | | (Annual Data) | | | | |
| System (President) | 129 | 139 | 140.0 | Intermed. | 144 | 145 | 152 | 116 | 140 |
| System (VP Research) | 129 | 139 | 140.0 | High | 144 | 145 | 152 | 116 | 140 |
| UTK | 62 | 71 | 74.0 | High | 48 | 71 | 82 | 71 | 74 |
| UTC | 3 | 3 | 5.0 | Normal | 8 | 2 | 1 | 3 | 5 |
| UTM | 1 | 1 | 1.0 | NA | 1 | 2 | 2 | 0 | 1 |
| UTHSC | 27 | 28 | 38.0 | High | 27 | 30 | 29 | 25 | 38 |
| UTIA | 35 | 36 | 22.0 | High | 60 | 40 | 38 | 15 | 22 |

5- Year Average

| Annual Inventions (Disclosures) | 5-Year Average | | | | |
|--|-----------------------|-----|-----|-----|-----|
| System (President) | 107 | 116 | 123 | 129 | 139 |
| System (VP Research) | 97 | 109 | 123 | 129 | 139 |
| UTK (with Vet Med) | 33 | 42 | 54 | 62 | 69 |
| UTC | 4.1 | 3.5 | 2.8 | 2.8 | 3.8 |
| UTM | 1 | 1 | 1 | 1 | 1 |
| UTHSC | 29 | 29 | 29 | 27 | 30 |
| UTIA | 33 | 35 | 37 | 35 | 35 |

FY2015-16 Quantitative Goals Under the Variable Compensation Plan for University Officers

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| Base Yr | Goal | Actual | Weight |
|---------|------|--------|--------|
|---------|------|--------|--------|

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3. Fostering Outreach and Engagement

| (12) # of customers served should grow >FY15 (4 yr. avg) | | | | | | | | | |
|---|----------------|-------------------|---------------|---------------|-------------|-------------|-------------|-------------|-------------|
| Number of Participants in Outreach and Engagement Activities Greater than 4-year avg | FY12-15 | FY 16 Goal | Actual | Weight | FY12 | FY13 | FY14 | FY15 | FY16 |
| System (President) ² | 4,405,850 | 4,756,639 | 5,265,601 | Intermed. | 4,061,562 | 4,264,608 | 4,540,591 | 4,756,639 | 5,265,601 |
| System (VP Research) ² | 4,405,850 | 4,756,639 | 5,265,601 | Intermed. | 4,061,562 | 4,264,608 | 4,540,591 | 4,756,639 | 5,265,601 |
| UTK ² | 11,038 | 14,893 | 11,613 | Normal | 12,216 | 9,464 | 7,579 | 14,893 | 11,613 |
| UTC | 6,173 | 6,672 | 6,783 | Intermed. | 6,334 | 5,159 | 6,525 | 6,672 | 6,783 |
| UTM | 3,300 | 3,713 | 2,817 | Intermed. | 2,906 | 3,438 | 3,143 | 3,713 | 2,817 |
| UTHSC | 47,480 | 62,468 | 57,100 | High | 41,157 | 42,483 | 43,813 | 62,468 | 57,100 |
| UTIA ² | 4,144,991 | 4,392,372 | 4,910,501 | High | 3,873,160 | 4,067,968 | 4,246,463 | 4,392,372 | 4,910,501 |

| (12) # of clients served should grow >FY15 | FY12-15 | FY 16 Goal | Actual | Weight | FY12 | FY13 | FY14 | FY15 | FY16 |
|--|----------------|-------------------|---------------|---------------|-------------|-------------|-------------|-------------|-------------|
| Work RVUs ³ | 2,066,097 | 2,199,335 | 2,150,499 | High | 1,981,199 | 2,087,732 | 1,996,120 | 2,199,335 | 2,150,499 |

4. Improving Effectiveness & Efficiency

| Change in tuition rates (UG, Grad, Professional) excluding programs that move to 15/4 plan and or differential tuition | | | | | | | | | |
|---|------------------------------|-----------------------|---------------|---------------|--------------------------|----------------|----------------|----------------|----------------|
| (4) UG Tuition no more than HEPI rate change | FY16 (Fall 15- Sp 16) | Goal (Fall 16) | Actual | Weight | Fall 12 | Fall 13 | Fall 14 | Fall 15 | Fall 16 |
| | | HEPI @ 2.2 | | | HEPI Adjusted in FY15 \$ | | | | |
| UT System (simple avg of UG tuition) | \$8,078 | \$8,255 | \$8,184 | High | \$7,119 | \$7,930 | \$7,812 | \$8,078 | \$8,184 |
| UTK | \$10,678 | \$10,914 | \$10,914 | High | \$8,325 | \$10,279 | \$10,366 | \$10,678 | \$10,914 |
| UTC | \$6,624 | \$6,768 | \$6,768 | High | \$6,105 | \$6,373 | \$6,430 | \$6,624 | \$6,768 |
| UTM | \$6,918 | \$7,070 | \$7,070 | High | \$6,379 | \$6,659 | \$6,716 | \$6,918 | \$7,070 |
| UTHSC (Dental Hygiene) | \$7,848 | \$8,021 | \$7,848 | High | \$7,667 | \$7,931 | \$7,546 | \$7,848 | \$7,848 |
| UTHSC (Nursing) | \$8,320 | \$8,503 | \$8,320 | High | | \$8,408 | \$8,000 | \$8,320 | \$8,320 |

FY2015-16 Quantitative Goals Under the Variable Compensation Plan for University Officers

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All data subject to final audit before any payments are made under the plan

| | Base Yr | Goal | Actual | Weight | FY12 | FY13 | FY14 | FY15 | FY16 Est |
|---|----------------|-------------------|---------------|---------------|------------------------------|-----------|-----------|-----------|-----------|
| (13) Gifts, pledges, bequests grow >15% (5 yr. avg) | FY11-15 | FY 16 Goal | Actual | Weight | | | | | |
| | | | | | (Annual Data \$ in Millions) | | | | |
| UT System | \$185.144 | \$222.173 | \$240.261 | High | \$148.998 | \$149.134 | \$179.788 | \$303.747 | \$240.261 |
| UTK | \$132.012 | \$158.415 | \$167.211 | High | \$104.782 | \$92.690 | \$130.871 | \$234.528 | \$167.211 |
| UTC | \$10.090 | \$12.108 | \$15.059 | High | \$8.657 | \$10.046 | \$6.375 | \$14.484 | \$15.059 |
| UTM | \$3.568 | \$4.282 | \$4.248 | High | \$3.045 | \$3.285 | \$3.111 | \$3.880 | \$4.248 |
| UTHSC | \$25.186 | \$30.223 | \$38.948 | High | \$12.879 | \$30.877 | \$22.499 | \$39.248 | \$38.948 |
| UTIA | \$12.900 | \$15.480 | \$14.228 | High | \$18.800 | \$10.954 | \$16.035 | \$10.416 | \$14.228 |

5- Year Average

| | Annual Gifts, pledges, bequests | | | | | 5-Year Average | | | | |
|-----------|---------------------------------|--|--|--|--|----------------|-----------|-----------|-----------|-----------|
| UT System | | | | | | \$155.342 | \$149.290 | \$159.738 | \$185.144 | \$204.386 |
| UTK | | | | | | \$98.934 | \$96.112 | \$107.969 | \$132.012 | \$146.016 |
| UTC | | | | | | \$10.468 | \$10.510 | \$9.320 | \$10.090 | \$10.924 |
| UTM | | | | | | \$6.620 | \$5.002 | \$4.563 | \$3.568 | \$3.514 |
| UTHSC | | | | | | \$24.474 | \$23.583 | \$24.264 | \$25.186 | \$28.890 |
| UTIA | | | | | | \$13.094 | \$12.462 | \$12.105 | \$12.900 | \$14.087 |

| (17) Deferred Maintenance Expenditures (Develop 2-yr allocation/reallocation plan based upon \$25m deferred maintenance) | FY 16 Goal (\$M) | Actual | Weight | FY12 | FY13 | FY14 | FY15 | FY16 |
|---|------------------|---------|--------|------|------|------|------|--------|
| * (System = \$25.0 million) over 2 yrs | \$12.50 | \$23.94 | High | | | | | 23.94 |
| * (UTK/UTSI = \$15.75m) | \$7.88 | \$14.14 | High | | | | | 14.14 |
| * (UTC = \$2.5m) | \$1.25 | \$3.42 | High | | | | | 3.42 |
| * (UTM = \$2.0m) | \$1.00 | \$0.13 | High | | | | | \$0.13 |
| * (UTHSC = \$3.75m) | \$1.88 | \$4.00 | High | | | | | \$4.00 |
| * (UTIA = \$1.0m) | \$0.50 | \$2.26 | High | | | | | \$2.26 |

UT System

Performance-Based Variable Compensation Plan
for University Officers

February 20, 2017

Christopher A. Medeiros
Auditor-in-charge

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Senior Auditor

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Editor

February 20, 2017

Mr. D. Crawford Gallimore
Chair
Audit and Compliance Committee
PO Box 1068
Martin, TN 38237

Dear Mr. Gallimore:

We have completed our audit of the Performance-Based Variable Compensation Plan for University Officers for the UT System. This audit was requested by the UT Board of Trustees and included an examination of the plan values for the fiscal year ended June 30, 2016, as well as the spreadsheet created by the Office of Institutional Research to establish the compensation.

The objectives of the audit were to verify that the values used for each goal corresponded to supporting data and to determine whether the spreadsheet contained data entry or calculation errors. We provided findings to be addressed by Institutional Research, the Office of the President, and the Board before this report was issued. The report provides additional observations for further consideration and implementation.

Thank you for asking our office to provide assurance in this important process. We appreciate the cooperation and courtesy extended by everyone involved. If you have any questions about this report, or if we can assist further, please call.

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UT SYSTEM PERFORMANCE-BASED VARIABLE COMPENSATION PLAN FOR UNIVERSITY OFFICERS

OBJECTIVES

The objectives of the audit were to verify that the quantitative values in the Performance-Based Variable Compensation Plan for University Officers corresponded to supporting data and to determine whether the spreadsheet used to establish the values contained data entry or calculation errors.

This examination was conducted in conformance with the *International Standards for the Professional Practice of Internal Auditing*, published by The Institute of Internal Auditors, Inc. The audit staff performed auditing procedures necessary to accomplish the objectives.

BACKGROUND

The Performance-Based Variable Compensation Plan for University Officers was established to motivate and reward the achievement of performance goals and to enhance the University's ability to attract and retain outstanding executive officers. The plan was in effect for fiscal year 2016 and is only the second of its type. The first plan, known as the Performance and Retention Plan, covered the three-year period ended June 30, 2015. As with the first plan, the UT Board of Trustees requested our office to review the quantitative goals before final approval.

A consultant has been engaged to review the variable compensation plan. He will present his recommendations to redesign the plan at the Board's March 3, 2017, Executive and Compensation Committee meeting.

SCOPE AND METHODOLOGY

The scope included the quantitative values of the Performance-Based Variable Compensation Plan that will be presented to the Board for approval. The period for these values was fall 2016, fiscal year 2016, or an average of previous fiscal years, depending on the goal. We collected data from campus and system officials and compared it to the values presented by the Office of Institutional Research (IR).

We completed our fieldwork on February 13, 2017. Subsequent changes to the spreadsheets or goals were not reviewed by our office.

OPINION

The goals and processes of the variable compensation plan continue to be refined. The process to collect data for the goals remains cumbersome and inconsistent. Because the process is still immature, we provided findings to be addressed by IR, the Office of the President, and the Board before this report was issued. Additional observations are included for further consideration and implementation.

OBSERVATIONS

1. Values Presented to the Board

Certain values presented by IR did not correspond to source data received from campus or system officials. We worked with IR to correct discrepancies before the final documents are presented for approval at the March 3, 2017, meeting.

2. Spreadsheets, Data Management, and Calculations

Inconsistent goal achievement calculation: Formulas used for goal achievement differed depending on whether the participant achieved greater than 100 percent of the goal. The formula used to calculate goal achievement for participants achieving greater than 100 percent of the goal could result in under-awarding the participant for the achievement.

| | |
|---|---|
| Formula used (participant achieved less than 100 percent) | $\frac{Actual - Base Year}{Goal - Base Year}$ |
| Formula used (participant achieved greater than 100 percent) | $\frac{Actual}{Goal}$ |

Timing and method of data collection: As noted in last year’s report, there are no cutoff dates for many of these values and adjustments continue to be made even after the Board’s preliminary approval. Numerous discrepancies had to be addressed based on timing issues. We recommend establishing and adhering to firm cutoff dates.

Sources: At the beginning of this year’s data collection process for the established goals, our office requested specific campus liaisons be appointed to assist with the efforts. Several liaisons expressed concern when IR requested data from other sources after the liaisons had already provided the data. While IR should work with officials as needed to collect appropriate information, consideration should be given to selecting a liaison to assist with efforts to reduce redundancy and confusion. Additionally, in one instance a chancellor provided data directly to IR. Under no circumstances should a plan participant provide data to be used in the compensation calculations.

Unnecessary/inaccurate columns: The information prepared for Board presentation contains unnecessary and inaccurate columns. For example, the “% Goal Achieved” column on the individual plan participant spreadsheets contains inaccurate calculations and may create confusion. In addition, the unnecessary columns result in information that can be difficult to process and understand. For simplicity and clarity, data included on the spreadsheet should be limited to essential information and reviewed for accuracy for future presentations to the Board.

Data dictionary and sources: IR collects data in numerous ways, including emails from campus or system officials and database queries. In addition, several of the goals include calculations to arrive at base values. Because consistency is critical to goal measurement, as noted in last year’s report, the data source and collection method should be documented centrally (e.g., spreadsheet). Also as noted last year, a documented description of any formulas used to calculate goals should be maintained.

Spreadsheet version controls: As noted in last year’s report, we observed several versions of similar spreadsheets used for calculations. Having multiple versions could

PERFORMANCE-BASED VARIABLE COMPENSATION PLAN

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result in confusion and/or errors if a previous version is mistakenly used for modification or presentation.

3. Inconsistent Data

As noted in our previous reports, immature data collection and reporting processes across the UT System result in inconsistent data among campuses.

Salary Gaps: Salary gaps are compiled by each campus and are used to guide the campuses as they work on market competitiveness and adjustments to salaries. The University's original salary gap was calculated in 2011 after a nationally recognized human resources consulting firm conducted a market assessment. Each campus and institute formulated an entity-specific, multi-year compensation plan to address market gaps, as well as compression and pay inequities. Over the last six years, several campuses have conducted additional market analyses while others have aged the 2011 data to calculate new gaps. While this information is an important part of UT's work to address compensation gaps, the calculations were not designed to be used as a metric for variable compensation. Because salary gaps are not measured in the same manner by each campus, individuals participating in the variable compensation plan may be unfairly over-awarded or under-awarded based on a particular campus' methodology.

Examples of differences in methodologies include:

- Different aging factors
- Inconsistent inclusion of senior officers to calculate the gap
- Inconsistent inclusion/exclusion of positions when market cannot be identified
- Various processes to age gaps (e.g., some campuses calculate the salary gap position by position while others perform calculations on the gap itself)

This metric has been removed from the calculation for variable compensation. In addition, we have reviewed the information with the human resources officers (HROs) from each campus and with the vice president for human resources. All HROs support updating the process and methodology to ensure consistency across the UT System. The vice president for human resources plans to provide training and assist with these efforts.

Deferred maintenance: The deferred maintenance expenditure goal includes a two-year allocation/reallocation plan established by the UT Budget Advisory Group. These values are challenging to validate because of the inability to separate them from other maintenance expenditures. Our office reviewed information presented by the campuses for reasonableness; however, we could not validate all costs.

Number of participants in outreach and engagement activities: As noted in last year's report, other than the UT Institute of Agriculture, the campuses have an immature data collection process for outreach and engagement activities.

Percentage of undergraduate out-of-state enrollment should be less than 25 percent of total: As noted in last year's report, this goal is not clearly stated and should be clarified to indicate whether an expectation of growth exists as long as the total remains under 25 percent, or if the goal will be achieved even if out-of-state enrollment decreases.

UT Health Science Center graduation rates: As noted in last year's report, UT Health Science Center (UTHSC) program lengths and graduation rates are not consistent with the other campuses' rates (e.g., four-year programs, six-year graduation rates). This calculation involves weighting of the UTHSC programs and may not be comparable with

PERFORMANCE-BASED VARIABLE COMPENSATION PLAN

3.4

other campuses. Additionally, UTHSC's calculated graduation rate affects the UT System value since the system value is based on a six-year graduation rate for all campuses.

UT Health Science Center wRVUs: Although the base-year value was approved using relative value units (RVU), clinical activity is measured in work RVUs. Since UTHSC is unable to collect RVUs for this measure, the values, including base-year values, were updated to represent wRVUs.

THE UNIVERSITY OF TENNESSEE
BOARD OF TRUSTEES

ACTION ITEM

DATE: March 29, 2017

COMMITTEE: Executive and Compensation

ITEM: **Revision of the Annual Presidential Performance Review Process**

RECOMMENDATION: Approval

PRESENTED BY: Raja J. Jubran, Committee Chair/Vice Chair of the Board

At its meeting on March 3, 2017, the Executive and Compensation Committee considered revisions to the annual presidential performance review process and recommended approval of the revisions. The revisions are redlined in the following version of the Policy on Presidential Performance Reviews. The cumulative performance review process was revised in 2014 in preparation for President DiPietro's cumulative review. The annual performance review process has not been revised since 2007.

Some revisions are only technical or clarifying in nature (e.g., codifying that the Chair of Trusteeship and the Chair of Audit and Compliance are the designated members of the Executive and Compensation Committee to participate in the annual review process). Other revisions are designed to provide flexibility in how the views of constituency groups are obtained. For example, rather than requiring that every member of the senior administrative staff be interviewed every year, the revised policy would allow use of an electronic survey but still provide the opportunity for any senior administrator to request an interview to address the President's performance. Soliciting the views of the Speakers of the Tennessee State Senate and House of Representatives and of Trustees has been added to the review process.

Committee Recommendation

On March 3, 2017, the Executive and Compensation Committee recommended approval of the proposed revisions to the Policy on Presidential Performance Reviews. Therefore, on the recommendation of the Committee, I move adoption of the following Resolution (no second required):

RESOLVED: Revision of the Policy on Presidential Performance Reviews is approved as presented in the meeting materials.

**BOARD OF TRUSTEES
THE UNIVERSITY OF TENNESSEE**

POLICY ON PRESIDENTIAL PERFORMANCE REVIEWS

Adopted by the Board of Trustees March 4, 2004

Revised March 7, 2007

Revised February 27, 2014

Revised March 29, 2017

PURPOSES

The purposes of the annual performance review are: (1) to enable the President to enhance his or her performance and leadership; (2) to promote good communications and strong working relationships between the President, the Board, and University constituencies; (3) to enable the President and Board to set mutually agreeable goals; and (4) to inform board decisions on compensation and other terms of employment for the President.

Periodic comprehensive performance reviews have the following additional purposes: (1) to solicit the informed perceptions of the Trustees and members of the University's major stakeholder groups on broader aspects of institutional health, management, and governance; (2) to engage and inform a wide range of University constituencies; (3) to enable the President to develop plans for his or her professional development; and (4) to enable the President and the Board to determine whether they have the basis for an extended commitment to each other.

RESPONSIBILITY

The Board of Trustees is responsible for assessing the President's performance and, in doing so, to solicit the views of other leaders within and outside the University.

The Board delegates to the Vice Chair of the Board the responsibility for organizing and conducting an annual performance review of the President. This delegation of authority to the Vice Chair is subject to the provisions of this policy and to the Board's ultimate authority to approve or modify the Vice Chair's evaluation of the President's performance. The Chair of the Trusteeship Committee and Chair of the Audit and Compliance Committee (hereinafter "Committee Chairs") shall participate in the annual review process as outlined below.

Every third or fourth year, or earlier as the Board in its sole discretion may determine, the Vice Chair shall conduct a comprehensive review of the President's performance with the assistance of at least one external advisor.

PROCESS FOR THE ANNUAL PERFORMANCE REVIEW

The President shall prepare a written self-assessment statement in a format and according to a timetable mutually agreed-upon by the President and the Vice Chair. In addition to a retrospective review of goals previously agreed upon by the President and the Board and of other achievements, disappointments, or problems of the preceding year, the self-assessment statement shall include a prospective statement of challenges and opportunities facing the University and the President's proposed goals for the coming year.

~~The Executive and Compensation Committee of the Board, which is composed of Vice Chair of the Board and the chairs of the other standing committees, shall designate two of its members to participate in the annual review process as outlined hereinafter. After receipt of the President's self-assessment statement, the Vice Chair and the two standing committee chairs shall interview the senior administrative staff concerning the President's performance. The Vice Chair and the two standing committee chairs shall also solicit views of the President's performance from faculty, student, staff, and alumni leadership. The Vice Chair and the Committee Chairs shall solicit views of the President's performance from various groups, including the senior administrative staff; faculty, student, staff, and alumni leadership; Speakers of the Tennessee Senate and House of Representatives; and Trustees. Members of the senior administrative will be informed that they may request an interview with the Vice Chair and Committee Chairs in person or by telephone to address the President's performance.~~

The Vice Chair shall then interview the President concerning the President's self-assessment statement and ~~the President's~~ proposed goals for the coming year. The ~~two standing e~~Committee ~~e~~Chairs shall be present during the Vice Chair's interview of the President only as observers and not as participants. The Vice Chair shall prepare a written assessment of the President's performance, including an aggregate summary of the views of the senior administrative staff and of faculty, student, staff, ~~and~~ alumni, and legislative leadership, and Trustees.

The Vice Chair shall then submit the following materials to the Executive and Compensation Committee: (1) the President's self-assessment statement and any additional information the Vice Chair may have requested of the President; (2) the Vice Chair's written assessment of the President's performance; (3) the President's proposed goals for the coming year and the Vice Chair's recommendation concerning those goals; and (4) any recommendation of the Vice Chair concerning the President's compensation or other terms of employment. After reviewing the Vice Chair's written assessment and

recommended goals, the ~~two-standing~~ eCommittee eChairs ~~designated by the Executive and Compensation Committee~~ may submit a separate written assessment of the President's performance to the Executive and Compensation Committee.

In a previously scheduled or a called meeting, the Executive and Compensation Committee shall approve or modify the Vice Chair's assessment of the President's performance and recommendations concerning goals, compensation, and other terms of employment. The Committee's action shall then be submitted to the full Board of Trustees for approval or modification. The President shall be present at the meetings of the Executive and Compensation Committee and the Board of Trustees to answer questions about his or her performance and the proposed goals for the coming year. The President shall be excused from the meetings prior to discussion and voting on the President's performance, goals, and compensation or other terms of employment.

PROCESS FOR THE COMPREHENSIVE PERFORMANCE REVIEW

Every third or fourth year of the President's employment, or earlier as the Board in its sole discretion may determine, the Vice Chair shall conduct a comprehensive review of the President's performance with the assistance of one or more external advisors. The Vice Chair shall select the external advisor(s) in consultation with the President and one or two members of the Executive and Compensation Committee. If feasible, at least one external advisor should be a former chief executive with experience as head of an enterprise similar in scope and mission outside the State of Tennessee.

Early in the year of the comprehensive performance review, the Vice Chair, in consultation with the President and the external advisor(s), shall develop a written plan and timetable for the comprehensive review and present it to the Executive and Compensation Committee or the full Board for approval. The plan shall include at least the elements outlined below.

The President shall prepare a comprehensive self-assessment covering the period of service under review. This self-assessment should present a clear picture of the state of the University in relation to strategic goals approved by the Board and should highlight the President's view of his or her major achievements and concerns.

The external advisor(s) shall conduct personal interviews with the President, members of the Board, and a broad array of individuals or groups internal and external to the University, including but not limited to the University's senior

administrative staff, faculty, students, staff, alumni, and other major stakeholder groups. At his or discretion, the Vice Chair may participate in these interviews.

The external advisor(s) shall prepare a draft written report of findings and recommendations including, but not limited to, the following: (1) a summary of the views of the various internal and external constituencies interviewed by the external advisor(s); (2) specific recommendations for enhancing the President's performance, professional development, and relationships with the Board, University constituent groups, and other major stakeholder groups; and (3) any recommendations concerning institutional or governance issues or other matters relevant to the President's future leadership performance. The external advisor(s) shall present the draft report to the President for review and comment.

After receiving the President's comments, the external advisor(s) shall present a draft report to the Vice Chair. The Vice Chair and the external advisor(s) shall review the report and the President's self-assessment with the President and work with the President to develop a set of goals for recommendation to the Executive and Compensation Committee and the Board. The external advisor(s) shall then prepare a final written report, which shall include the recommended goals in addition to the matters outlined in the immediately preceding paragraph of this policy.

The Vice Chair shall submit the external advisor(s) final written report to the Executive and Compensation Committee. The Vice Chair shall also submit to the Executive and Compensation Committee any recommendation concerning the President's compensation or other terms of employment. The Executive and Compensation Committee shall receive copies of the President's self-assessment and any other information the Vice Chair or external advisor(s) may have requested of the President.

In a previously scheduled or a called meeting, the Executive and Compensation Committee shall approve or modify the Vice Chair's recommendations concerning goals, compensation, and other terms of employment. The Committee's action shall then be submitted to the full Board of Trustees for approval or modification. The President shall be present at the meetings of the Executive and Compensation Committee and the Board of Trustees to answer questions about his or her performance and the proposed goals. The President shall be excused from the meeting prior to discussion and vote on the President's performance, goals, and compensation or other terms of employment.

THE UNIVERSITY OF TENNESSEE
BOARD OF TRUSTEES

ACTION ITEM

5

DATE: March 29, 2017

COMMITTEE: Academic Affairs and Student Success

CAMPUS/INSTITUTE: UT Knoxville

ITEM: **Proposed Student Code of Conduct for UT Knoxville**

RECOMMENDATION: Approval

PRESENTED BY: Vicky B. Gregg, Committee Chair

In 2013, UT Knoxville (UTK) initiated a comprehensive review of the Office of Student Judicial Affairs, the unit directly responsible for investigating and resolving issues concerning student conduct. The purpose of the review was to offer recommendations that would model best practices within the field of student conduct administration. The review team consisted of two external reviewers and three internal reviewers. The review team met with UTK faculty, staff, and students over the course of three days in July 2013. In August 2013, the review team presented UTK with a report containing findings and recommendations.

As a result of the review team's findings and recommendations, UTK has implemented a number of changes to its student conduct administration over the past three and a half years. UTK changed the name of the student conduct office to "Office of Student Conduct and Community Standards" (SCCS), and the office adopted a new philosophy, a new mission statement, and new learning outcomes.

In 2015, UTK's Division of Student Life solicited and received feedback from students and faculty regarding a new student Code of Conduct. At the fall 2015 Board meeting, the Board approved a new student Code of Conduct for UTK, which addressed other recommendations of the review team. The proposed Code was approved for legality by the Office of the General Counsel and the State Attorney General and was filed with the Tennessee Secretary of State. Before the proposed Code went into effect, however, UTK withdrew the proposed Code in order to make revisions that would comply with a provision in the Settlement Agreement in the Jane Doe Title IX lawsuit.

The relevant provision of the Settlement Agreement states:

UTK will initiate a change to its student conduct rules to provide that current students will not be appointed to serve on student disciplinary boards in cases involving allegations of sexual misconduct unless both the respondent and the complainant consent to having students appointed to serve on the board hearing their case. Plaintiffs recognize that UTK is required to promulgate certain proposed policy changes, including this change, in accordance with the rulemaking provisions of the Uniform Administrative Procedures Act (UAPA), the last step of which involves review by the Tennessee General Assembly's Joint Operations Committee. Provided that UTK initiates the rule change, non-implementation of the rule change will not be deemed a breach of this Agreement.

In compliance with the Settlement Agreement, the University has revised the proposed Code by incorporating proposed Section 8.2.2(2) and Section 8.6.7 for the Board's consideration.

In addition, since the fall 2015 Board meeting, the University took advantage of the opportunity to gather additional feedback on the proposed Code.

- In December 2015, University officials met with legislators and Greek alumni to discuss the proposed Code.
- The University held a public rulemaking hearing on October 13, 2016 at the first meeting of the Board's Subcommittee on Student Conduct, Rights, and Responsibilities. At the rulemaking hearing, the University received oral comments from three UTK students. The University also received written comments from 82 people.
- Additional vetting with the campus community in Spring 2017 included:
 - The Student Government Association Undergraduate Student Senate (voted to support the proposed Code)
 - The Student Government Association Graduate Student Senate (voted to support the proposed Code)
 - Faculty Senate (voted to support the proposed Code)
 - Student Life Leadership Team (endorsed the proposed Code)
 - Chancellor's Cabinet (endorsed the proposed Code)
 - Council of Deans (endorsed the proposed Code)
 - Presentation, discussion, and Q&A with students - all student organization presidents were invited
 - An email was sent to all students inviting any questions and feedback on the proposed Code

Based on feedback received, additional evaluation, and continued research, the University has made the following substantive changes to the proposed Code since the fall 2015 Board meeting:

- Added a specific reference to UTK's Policy on Sexual Misconduct, Relationship Violence, Stalking, and Retaliation in the Standards of Conduct (Section 4.7)
- Incorporated language to provide flexibility for potential legislative changes related to weapons (Section 4.17)
- Moved the definition of retaliation from Article IX (Definitions of Terms Used in the Code) to Article IV, Section 4.30 (Standards of Conduct) to improve clarity
- Added a requirement that SCCS provide written notification to students of their right to have an advisor assist them with the student conduct process (Section 5.3.3)
- Added language to provide further explanation of interim actions and restrictions (Section 6.4)
- Added process information related to research misconduct (Section 6.2, Section 8.2.2, Section 8.6.7, and Section 10.10)
- Established personal prejudice or bias of a Student Conduct Board member as a ground for appeal (Section 8.6.3)
- Consolidated the sections concerning a student's and a student organization's right to a formal hearing (Section 7.2.2)

Key aspects of the Student Code of Conduct being proposed today include:

Philosophy

- The proposed Code establishes a more clearly stated philosophy of conduct that affirms a developmental and educational process, not just one that is punitive.
- The proposed Code is less adversarial and legalistic. The proposed Code is more detailed in order to ensure transparency and limit the discretion of student conduct officials.

Jurisdiction

- The University's jurisdiction related to off-campus conduct has been narrowed and clarified (Section 2.1).

Process

- SCCS will conduct an Educational Conference with the student alleged to have committed misconduct (Respondent). During the Educational Conference, the Respondent will learn about the allegations and have the opportunity to respond to the allegations and ask questions about the allegations, possible sanctions, and the student conduct process. SCCS will not determine sanctions prior to the Educational Conference (Section 6.6).
- The proposed process establishes a uniform board composed of students, faculty, and staff (rather than only students) in an effort to provide a consistent and fair process for all students and student organizations (Section 8.2). However, there are exceptions providing for boards composed of only faculty in staff for certain cases involving sexual misconduct and research misconduct.
- SCCS may propose an alternative resolution process, such as mediation, to resolve misconduct issues (Section 7.3).
- Students have the right to be assisted by an advisor throughout the student conduct process (Section 5.3).
- An additional hearing option before a Student Life Hearing Officer is available (Section 7.2.4).
- The process for appealing a decision of the Student Life Hearing Officer and/or Student Conduct Board is simplified.
- The appeal process for students is less intimidating by eliminating the Student Life Council as an appellate body.

Sanctions: Administrative & Developmental

- The sanction of indefinite suspension has been removed due to the confusion surrounding the sanction.
- The addition of the deferred suspension sanction allows students an opportunity to remain enrolled at the University, while providing an opportunity for the student to abide by the Code of Conduct (Section 9.2.3).
- Developmental/educational sanction options are included (Section 9.3).

Records Retention and Disclosure

- The proposed Code adds a policy on the retention and expungement of student disciplinary records. After a student is no longer enrolled, SCCS will

disclose a student's disciplinary records to persons outside of SCCS only if one of the following sanctions was imposed on the student while the student was enrolled: suspension; expulsion; withholding of degree; or revocation of degree (Section 13.3).

- Additionally, SCCS will expunge the disciplinary records of a student seven (7) years after the student's graduation or last date of enrollment if the student did not receive a sanction of suspension or greater (Section 13.4).

Good Samaritan/Amnesty Policy

- The proposed Code establishes a Good Samaritan/Amnesty policy to encourage students to notify appropriate officials in the event of a health or safety emergency (e.g., situation involving the abuse of alcohol or other drugs) (Article XI).

The proposed UTK Student Code of Conduct appears in its entirety in the following pages. A public rulemaking hearing on the proposed Code was held in the Board's Subcommittee on Student Conduct, Rights, and Responsibilities on October 13, 2016 in accordance with the Uniform Administrative Procedures Act (UAPA). The University's response to oral and written comments received in connection with the public rulemaking hearing appear after the proposed Code.

In accordance with the UAPA rulemaking procedures, the proposed Code will be presented for adoption by a roll-call vote in the full Board meeting. Upon adoption by the Board, the Code will be submitted to the Attorney General for approval and, if approved, filed with the Secretary of State and published for the statutorily required period prior to becoming effective.

Committee Recommendation

The Academic Affairs and Student Success Committee, meeting on March 29, 2017, approved a motion recommending the following Resolution for adoption by the Board of Trustees. Therefore, on the Committee's recommendation, I move adoption of the Resolution by roll-call vote(no second required):

RESOLVED: The Student Code of Conduct for The University of Tennessee, Knoxville, is approved as presented in the meeting materials and will supersede the current Chapter 1720-04-03 of the Rules of The University of Tennessee after completion of the rulemaking procedures under the Uniform Administrative Procedures Act.

PROPOSED STUDENT CODE OF CONDUCT



THE UNIVERSITY OF
TENNESSEE
KNOXVILLE

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PROPOSED STUDENT CODE OF CONDUCT

I. PREAMBLE

Students at the University of Tennessee are members of both the University community and the larger community of which the University is a part. Accordingly, students are responsible for conducting themselves in a lawful manner as well as in compliance with University rules and policies. In addition, the University has developed a set of aspirational goals titled, Principles of Civility and Community, which encourages all members of the University community to foster a learning environment where diversity is valued, respected, and celebrated.

The University has established the Student Code of Conduct (“Code”) in order to advance the mission of the University and sustain a culture of excellence by: maintaining a safe learning environment; requiring students to conduct themselves in ways that allow for their personal growth and development as well as others, in the most positive manner possible; protecting the rights and privileges of all members of the University community; providing a basis for orderly conduct of the affairs of the University; promoting a positive relationship between the University and its surrounding community; preserving the University’s reputation and property; encouraging students to engage in conduct that brings credit to themselves and the University; and ensuring that each student who matriculates at the University graduates ready to contribute to society as an ethical and law-abiding citizen.

The University’s behavioral standards are set forth in the Code’s Standards of Conduct (Article IV). Students who engage in conduct that is inconsistent with the Standards of Conduct are subject to University disciplinary action. The process by which the University investigates and resolves alleged violations of the Standards of Conduct is called the student conduct process. The student conduct process resolves allegations of misconduct but also is an educational process designed to promote learning and development as it relates to appropriate decision making. The student conduct process is consistent, fair, and provides means of resolution that are commensurate with the skills and abilities of the participants in the process.

The effectiveness of the student conduct process rests partially upon the participation of all members of the University community. Active participation in the process by students, faculty, and staff reflects a willingness to address the difficult issues brought before them for the betterment of individual students and the University community. This involvement is vital to the establishment of true community standards.

Authority and responsibility relating to the Code are delegated to the Vice Chancellor for Student Life, who has delegated certain authority and responsibility to the Office of Student Conduct and Community Standards (“SCCS”).

The University is committed to respecting students’ constitutional rights. The Code shall be interpreted in a way that does not violate students’ constitutional rights including, without limitation, the rights protected by the First Amendment to the United States Constitution.

Students are responsible for being fully acquainted with and for complying with the Code, the applicable undergraduate or graduate catalog, the student handbook (Hilltopics), and other rules and policies relating to students.

II. JURISDICTION

SECTION 2.1 GEOGRAPHICAL LIMITS. The Code applies to conduct that occurs on University-controlled property. However, with respect to conduct that occurs off of University-controlled property, the University has the discretion under the Code to discipline a student for conduct that violates the Standards of Conduct only if the student’s conduct: (1) occurs in connection with a University-affiliated activity including, without limitation, an overseas study program or a clinical, field, internship, or in-service experience; (2) consists of academic dishonesty or research misconduct; (3) is prohibited by local, state, or federal law, and the conduct was committed within the Knoxville Area (or, for UTSI students, the conduct was committed within Coffee County or Franklin County); (4) is fairly attributable to a student organization based on

a consideration of the criteria in Section 2.4; (5) is committed against another member of the University community; or (6) threatens, or indicates that the student poses a threat to, the health, safety, or welfare of others or the security of any person's property including, without limitation, drug-related offenses, arson, assault, fraud, hazing, participation in group violence, sexual misconduct, relationship violence, stalking, and theft.

SECTION 2.2 PROFESSIONAL AND ETHICAL STANDARDS. Graduate or professional programs within the University may take separate and independent academic action against students for alleged violations of professional and/or ethical standards using procedures other than those contained in the Code.

SECTION 2.3 RESPONSIBILITY FOR CONDUCT. Each student shall be responsible for his/her conduct from the time of application for admission through the actual awarding of a degree, even though conduct may occur before classes begin or after classes end, as well as during the academic year and during periods between terms of actual enrollment (and even if his/her conduct is not discovered until after a degree is awarded).

SECTION 2.4 STUDENT ORGANIZATIONS' RESPONSIBILITY FOR VIOLATIONS OF THE STANDARDS OF CONDUCT. Notwithstanding anything in the Code to the contrary, a student organization may be found responsible for conduct that violates the Standards of Conduct only if the conduct is fairly attributable to the student organization. Whether conduct is fairly attributable to the student organization will be determined by SCCS based on a totality of the following criteria:

(1) Whether the misconduct was endorsed by one (1) or more officers of the student organization ("endorsed by" means: having prior knowledge that the misconduct was reasonably likely to occur and failing to take reasonable preventative or corrective action; failing to attempt to stop known misconduct while it is occurring; and/or helping to plan, promote, or carry out the misconduct);

(2) Whether the misconduct occurred in connection with an activity:

(a) Financed by the student organization and/or one (1) or more members or alumni of the student organization who contributed personal funds in lieu of organizational funds;

(b) Related to initiation into, admission into, affiliation with, or as a condition for continued membership in the student organization; and/or

(c) Advertised, promoted, or publicized in such a way that a reasonable student viewing or hearing the advertisement, promotion, or publication would believe that the activity was affiliated with the student organization.

(3) Whether the misconduct occurred on property owned, controlled, rented, leased, and/or used by the student organization and/or any of its members/alumni acting on the student organization's behalf; and/or

(4) Whether a member of the student organization attempted to conceal the activity connected with the misconduct or conceal the misconduct of another member of the student organization.

III. RELATIONSHIP BETWEEN THE CODE AND CRIMINAL LAW

SECTION 3.1 INDEPENDENT ACTION. The Code has been adopted in furtherance of the University's interests and serves to supplement, rather than substitute for, the enforcement of civil and criminal law. Accordingly, University disciplinary action may be instituted against a student whose conduct potentially violates both criminal law and the Standards of Conduct without regard to the pending status of criminal charges or civil litigation. At the discretion of SCCS, disciplinary action relating to a violation of the Standards of Conduct may be carried out prior to, simultaneously with, or following criminal proceedings. Students alleged to have violated the Standards of Conduct may not challenge any aspect of the University's student conduct process on the grounds that criminal charges, civil litigation, or other University proceedings regarding the same incident are pending or have been terminated, dismissed, reduced, or have not yet been adjudicated.

SECTION 3.2 UNIVERSITY'S INTERACTION WITH OTHER ENTITIES. The University will cooperate with law enforcement and other government agencies in the enforcement of criminal law on University controlled property and in the conditions imposed by criminal courts for the rehabilitation of students who have violated the criminal law.

SECTION 3.3 WITHDRAWALS. If a Respondent voluntarily withdraws from the University before the conclusion of the student conduct process, SCCS retains the right to investigate and resolve the allegations made against the Respondent as a condition of the Respondent being allowed to re-enroll in the University. A disciplinary hold may remain in place or be implemented after the student withdraws in order to enforce this Section 3.3.

SECTION 3.4 TIME EXTENSIONS AND RESCHEDULING. Any time period described in the Code may be extended for good cause at the discretion of SCCS. Any meeting or hearing described in the Code may be rescheduled for good cause at the discretion of SCCS.

SECTION 3.5 VOLUNTARY IMPAIRMENT. A student's voluntary impairment to themselves resulting from the use and/or consumption of alcohol, drugs, chemicals, and/or other substances does not excuse or diminish a violation of the Code, except as provided in Article XI (Policy on Amnesty for Individual Good Samaritans and Students in Need of Emergency Medical Attention).

SECTION 3.6 OTHER RIGHTS—SEXUAL MISCONDUCT, RELATIONSHIP VIOLENCE, STALKING, OR RETALIATION. In addition to rights granted in the Code, in cases involving an allegation of sexual misconduct, relationship violence, stalking, or retaliation, the Complainant and the Respondent shall have the rights outlined in the University's policies and procedures for investigating and resolving complaints of sexual misconduct, relationship violence, stalking, or retaliation in accordance with Title IX of the Education Amendments of 1972, the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, and other applicable law.

IV. STANDARDS OF CONDUCT

Students are prohibited from engaging in the following types of misconduct:

SECTION 4.1 ACADEMIC DISHONESTY. Cheating, plagiarism, or any other act of academic dishonesty, including, without limitation, an act in violation of the Honor Statement.

SECTION 4.2 FALSE INFORMATION. Providing false information to a University official.

SECTION 4.3 MISUSE OF INFORMATION IN CONNECTION WITH UNIVERSITY INVESTIGATION OR HEARING. Falsifying, distorting, misrepresenting, or withholding information in connection with a University investigation or hearing, except as provided in Section 5.1(9).

SECTION 4.4 MISCONDUCT RELATING TO RECORDS OR IDENTIFICATION. Forging, altering, destroying, falsifying, or misusing records or identification, whether in print or electronic form.

SECTION 4.5 HARM TO OTHERS. Causing physical harm to any person; endangering the health, safety, or

welfare of any person; engaging in conduct that causes a reasonable person to fear harm to his/her health, safety, or welfare; or making an oral or written statement that an objectively reasonable person hearing or reading the statement would interpret as a serious expression of an intent to commit an act of unlawful violence to a particular individual or group of individuals.

SECTION 4.6 HARASSMENT. Unwelcome conduct that is so severe or pervasive, and objectively offensive, that it substantially interferes with the ability of a person to work, learn, live, or participate in or benefit from the services, activities, or privileges provided by the University. In no event shall this rule be construed to discipline a student for speech protected by the First Amendment to the United States Constitution (e.g., mere insulting or offensive speech).

SECTION 4.7 SEXUAL MISCONDUCT, RELATIONSHIP VIOLENCE, STALKING AND/OR RETALIATION. Violating the University's Policy on Sexual Misconduct, Relationship Violence, Stalking, and Retaliation (http://sexualassault.utk.edu/wp-content/uploads/sites/34/2015/08/sexual_misconduct_policy.pdf).

SECTION 4.8 INVASION OF PRIVACY. Invasion of another person's privacy when that person has a reasonable expectation of privacy including, without limitation, using electronic or other means to make a video or photographic record of any person in a location in which the person has a reasonable expectation of privacy, without the person's knowledge or consent. This includes, but is not limited to, making a video or photographic record of a person in shower/locker rooms or restrooms. The storing, sharing, and/or distributing of such nonconsensual recordings by any means is also prohibited.

SECTION 4.9 PRIVATE OR PUBLIC PROPERTY. Any of the following conduct with respect to private or public property including, without limitation, University-controlled property: theft; misappropriation; unauthorized possession, use, sale, duplication, or entry; vandalism; destruction; damage; or conduct that is reasonably likely to cause damage.

SECTION 4.10 HAZING. Any intentional or reckless act, on or off University-controlled property, by one (1) student, acting alone or with others, which is directed against any other student, which endangers the mental or physical health, safety, or welfare of that student, or which induces or coerces a student to endanger his or her mental or physical health, safety, or welfare. "Hazing" does not include customary athletic events or similar contests or competitions and is limited to those actions taken and situations created in connection with initiation into or affiliation with any organization.

SECTION 4.11 DISORDERLY CONDUCT.

Fighting or other physically violent or physically threatening conduct; creating a hazardous or physically offensive condition by any act that serves no legitimate purpose; making noise that could unreasonably disturb others who are carrying on lawful activities; or conduct that breaches the peace.

SECTION 4.12 LEWD, INDECENT, OR OBSCENE CONDUCT. Engaging in lewd, indecent, or obscene conduct, including, without limitation, public exposure of one's sexual organs, public urinating, and public sexual acts.

SECTION 4.13 IMMINENT LAWLESS ACTION.

Engaging in speech either orally or in writing that is directed to inciting or producing imminent lawless action and is likely to incite or produce such action.

SECTION 4.14 FIRE SAFETY. Any act of arson; falsely reporting a fire, the presence of an explosive or incendiary device, or other emergency; setting off a false fire alarm; or tampering with, removing, or damaging fire alarms, fire extinguishers or any other safety or emergency equipment from its proper location except when removed in a situation in which there is a reasonable belief of the need for such equipment.

SECTION 4.15 UNIVERSITY KEYS, ACCESS CARDS, AND IDENTIFICATION. Possessing, using, or duplicating University keys, University access cards, or University identification cards without authorization from the University.

SECTION 4.16 INFORMATION TECHNOLOGY. Theft, misuse, or unauthorized use of information technology facilities, resources, or access codes, including, without limitation: unauthorized entry into or transfer of a file; using another person's identification and/or password without that person's consent; using information technology facilities or resources to interfere with the work of another student, faculty member, staff member, or other member of the University community; using information technology facilities or resources to interfere with normal operation of a University information technology system or network; circumventing University information technology system or network security; using information technology facilities or resources in violation of copyright laws; falsifying an email header; and conduct that violates the University's policy on the acceptable use of information technology resources.

SECTION 4.17 WEAPONS. Possessing, carrying, using, storing, or manufacturing any weapon on University controlled property or in connection with a University affiliated activity, unless authorized in

writing by the Chief of Police or his/her designee or unless federal or state law affirmatively gives a student a right, irrespective of the Code, to possess or carry a weapon on University-controlled property or in connection with a University-affiliated activity.

SECTION 4.18 ALCOHOL RELATED CONDUCT– UNIVERSITY PROPERTY OR UNIVERSITY ACTIVITIES. Consuming, manufacturing, possessing, distributing, dispensing, selling, or being under the influence of alcoholic beverages on University-controlled property or in connection with a University-affiliated activity unless expressly permitted by University policy.

SECTION 4.19 ALCOHOL RELATED CONDUCT PROHIBITED BY LAW. Consuming, manufacturing, possessing, distributing, dispensing, selling, or being under the influence of alcoholic beverages, if prohibited by federal, state, or local law.

SECTION 4.20 PROVIDING ALCOHOL TO UNDERAGE PERSON. Providing an alcoholic beverage to a person younger than twenty-one (21) years of age, unless permitted by law.

SECTION 4.21 DRUGS AND DRUG PARAPHERNALIA. Using, manufacturing, possessing, distributing, selling, dispensing, or being under the influence of drugs, if prohibited by federal, state, or local law; using, manufacturing, possessing, distributing, or selling drug paraphernalia, if prohibited by federal, state, or local law; using or possessing a prescription drug if the prescription was not issued to the student; or distributing or selling a prescription drug to a person to whom the prescription was not originally issued.

SECTION 4.22 FAILURE TO FULFILL A UNIVERSITY FINANCIAL OBLIGATION. Failing to timely fulfill a University bill, account, or other financial obligation owed to the University.

SECTION 4.23 FAILURE TO RESPOND, COMPLY, OR IDENTIFY. Failing to respond to a request to report to a University administrative office; failing to comply with a lawful directive of a University employee or other public official acting within the scope of his/her duties, except as provided in Section 5.1(9); or failing to identify oneself to a University employee or other public official acting within the scope of his/her duties when requested to do so.

SECTION 4.24 FAILURE TO APPEAR. Failing to appear at a University hearing, including, without limitation, a hearing of a University conduct board, following a request to appear either as a party or as a witness.

SECTION 4.25 VIOLATION OF INTERIM ADMINISTRATIVE ACTIONS, DISCIPLINARY SANCTIONS, OR CONDITIONS OF RE-ENROLLMENT. Violating the terms of a no-contact directive, an interim restriction, a disciplinary sanction, or a condition of re-enrollment imposed by the University.

SECTION 4.26 OBSTRUCTION OR DISRUPTION OF UNIVERSITY ACTIVITY.

Obstructing or disrupting teaching, learning, studying, research, public service, administration, disciplinary proceedings, emergency services, or any other University-affiliated activity, or the free flow of pedestrian or vehicular traffic on University-controlled property. In no event shall this rule be construed to discipline a student for speech protected by the First Amendment to the United States Constitution.

SECTION 4.27 VIOLATION OF UNIVERSITY POLICY OR RULE. Violating a University policy or rule including, without limitation, University policies or rules relating to facilities' use, smoking, the acceptable use of information technology resources, research misconduct, finder's fees relating to clinical investigations involving human subjects or access to University data or materials, University libraries, dining services, parking or transportation, University identification card use, sexual harassment, residence halls, and registered student organizations.

SECTION 4.28 ACT PROHIBITED BY LAW.

Committing an act that is prohibited by local, state, or federal law.

SECTION 4.29 ATTEMPTED VIOLATION; ACCESSORY TO VIOLATION. Attempting to commit a violation of a Standard of Conduct or being an accessory to the commission of an act or attempted act in violation of a Standard of Conduct.

SECTION 4.30 RETALIATION. Engaging in retaliation. Retaliation is an act or omission committed by a student because of another person's participation in a protected activity that would discourage a reasonable person from engaging in protected activity. Retaliation violates the Standards of Conduct regardless of whether the underlying allegation of a violation of the Standards of Conduct is ultimately found to have merit. Retaliation can include, without limitation: (1) an act or omission committed against a person's family, friends, advisors, and/or other persons reasonably expected to provide information in connection with a University investigation or hearing; and (2) an act or omission committed by a student through a third party.

V. FUNDAMENTAL RIGHTS

SECTION 5.1 RIGHTS OF THE RESPONDENT.

The following summarizes the rights granted to a Respondent in the student conduct process:

- (1) Right to be assisted by an Advisor during all stages of the student conduct process, in accordance with Section 5.3;
- (2) Right to an opportunity for an Educational Conference, in accordance with Section 6.6;
- (3) Right to resolve allegations of misconduct and/or sanctions through a Formal Hearing, in accordance with Section 7.2;
- (4) Right to receive notice of meetings and hearings at which the Respondent may be present and receive access to records used during those meetings and hearings, as provided in the Code;
- (5) Right to the presumption of innocence (i.e., the Conduct Officer bears the burden of presenting information demonstrating that it is more likely than not that the Respondent violated a Standard of Conduct, as alleged in the Notice of Allegations);
- (6) Right to not be directly questioned in a hearing by anyone other than the Student Life Hearing Officer or the Chairperson of the Student Conduct Board ("SCB");
- (7) Right to challenge the fairness and/or impartiality of a Student Life Hearing Officer, a member of the SCB, or a member of the Appellate Board;
- (8) Right to have a SCB Hearing conducted in accordance with Article VIII including, without limitation, the right to present information to the SCB, the right to propose questions for the Chairperson to ask witnesses, the right to request that information be excluded from the SCB's consideration, and the right to make a closing statement;
- (9) Right to refrain from presenting information and witnesses during a hearing before the Student Life Hearing Officer or the SCB, and the right to not have the Student Life Hearing Officer or SCB draw an inference adverse to the Respondent if the Respondent chooses not to present information or witnesses;
- (10) Right to Notice of Decision of the SCB, in accordance with Section 8.5;
- (11) Right to appeal the decisions of the SCB that are contained in the Notice of Decision, in accordance with Section 8.6;

(12) Right to receive a copy of a notice of an initial, interim, or final decision, or a change in such a decision, issued by the Vice Chancellor for Student Life, SCCS, a Student Life Hearing Officer, the SCB, and/or the Appellate Board (e.g., Notice of Allegations, Notice of Decision, Notice of Final Decision), simultaneously with the Complainant's receipt of a copy of the notice of the decision; and

(13) Right to appeal a decision issued by SCCS, a Student Life Hearing Officer, and/or the SCB, and receive a notice containing information about the right to appeal simultaneously with the Complainant's receipt of a notice of such information, in accordance with Articles VII and VIII.

SECTION 5.2 RIGHTS OF THE COMPLAINANT.

A Complainant shall be granted equivalent rights to the rights granted to a Respondent under the Code including, without limitation:

(1) Right to meet with SCCS to ask questions and receive information about the student conduct process including, without limitation, the status of an investigation;

(2) Right to receive notice of meetings and hearings at which the Complainant may be present and receive access to records used during those meetings and hearings, as provided in the Code;

(3) Right to be assisted by an Advisor during all stages of the student conduct process, in accordance with Section 5.3;

(4) Right to present information and witnesses during meetings and hearings including, without limitation, investigations, or hearings before a Student Life Hearing Officer, and SCB Hearings;

(5) Right to not be directly questioned in a hearing by anyone other than the Student Life Hearing Officer or the Chairperson of the SCB;

(6) Right to challenge the fairness and/or impartiality of a Student Life Hearing Officer, a member of the SCB, or a member of the Appellate Board;

(7) Right to receive a copy of a notice of an initial, interim, or final decision, or a change in such a decision, issued by the Vice Chancellor for Student Life, SCCS, a Student Life Hearing Officer, the SCB, and/or the Appellate Board (e.g., Notice of Allegations, Notice of Decision, Notice of Final Decision), simultaneously with the Respondent's receipt of a copy of the notice of the decision;

(8) Right to appeal a decision issued by SCCS, a Student Life Hearing Officer, and/or the SCB, and receive a notice containing information about the right to appeal simultaneously with the Respondent's receipt of a notice of such information, in accordance with Articles VII and VIII; and/or

(9) Right to otherwise participate in the student conduct process.

Notwithstanding any provision of the Code to the contrary, including, without limitation, this Section 5.2, a Complainant shall not have the right to attend a meeting or hearing, receive information concerning, or otherwise participate in the student conduct process if such attendance, receipt of information, or participation would violate state or federal law.

SECTION 5.3 RIGHT TO AN ADVISOR. The Complainant and the Respondent may choose to be assisted by one (1) Advisor during all stages of the student conduct process.

Section 5.3.1 Selection of an Advisor. SCCS encourages a Complainant or a Respondent who chooses to be assisted by an Advisor to consider selecting a University employee who has received training from SCCS about the student conduct process. The Complainant and the Respondent may obtain the names of trained advisors from SCCS. At their own expense, the Complainant and the Respondent may choose a person who is not employed by the University to serve as an Advisor (e.g., friend, attorney). The Complainant and the Respondent should select as an Advisor a person whose schedule allows attendance at the scheduled date, time, and place for meetings and hearings scheduled by SCCS because meeting and hearing delays generally will not be granted due to the scheduling conflicts of an Advisor.

Section 5.3.2 Role of an Advisor. The role of an Advisor is limited to assisting, advising, and/or supporting a Complainant or Respondent during the student conduct process. An Advisor is not permitted to speak for or on behalf of a Complainant or Respondent, appear in lieu of a Complainant or Respondent, participate as a witness, or participate directly in any other manner during any phase of the student conduct process including, without limitation, a SCB Hearing. However, in a UAPA Hearing, the Complainant and the Respondent are entitled to have an attorney advocate on their behalf.

Section 5.3.3 Notification of the Right to Have an Advisor. SCCS shall provide written notice to the Complainant and the Respondent of their rights to an Advisor. The notice shall contain an explanation of the role of an Advisor during the student conduct process.

VI. STUDENT CONDUCT PROCESS: INITIAL STAGES

SECTION 6.1 RECEIPT AND REVIEW OF ALLEGATIONS OF MISCONDUCT.

SCCS may initiate the student conduct process on the basis of written allegations received from any source including, without limitation, a student, a faculty member, a University housing employee, or a law enforcement agency. SCCS also may initiate the student conduct process in the absence of written allegations if SCCS becomes aware, through other means, of potential misconduct committed by a student. Upon receipt of written allegations or other information concerning potential student misconduct, SCCS will review the information and determine whether to initiate the student conduct process. SCCS's determination of whether to initiate the student conduct process generally will be based on: the preliminary investigation by SCCS or other University official(s), if any, into the allegations received by SCCS; SCCS's determination of whether the alleged conduct falls within the jurisdiction of the Code; and SCCS's determination of whether the alleged conduct, if true, violated the Standards of Conduct.

SECTION 6.2 INVESTIGATION OF ALLEGATIONS OF MISCONDUCT. SCCS may investigate the allegations against the Respondent by interviewing witnesses and obtaining other information. SCCS is not obligated to interview a witness identified by the Respondent or the Complainant if SCCS believes the witness is not likely to possess relevant information, is not likely to lead SCCS to the discovery of relevant information, or the information the witness is likely to possess is cumulative of other information gathered by SCCS. SCCS may re-interview the Complainant, the Respondent, and/or any other person at any time during the investigation in order to obtain additional and/or clarifying information.

Investigations conducted by SCCS will be prompt, thorough, and equitable. In conducting an investigation, SCCS will act as a fair and impartial party rather than a representative of the person, office, unit, organization, or entity that submitted the allegations to SCCS. Parts of SCCS's investigation may occur before, during, and/or after the Educational Conference (Section 6.6) and/or any other part of the student conduct process. At the conclusion of its investigation, SCCS may prepare a written report of the findings of the investigation. The report may include an assessment of the credibility of persons interviewed during the investigation and an assessment of whether it is more likely than not that the Respondent violated the Standards of Conduct.

SCCS may delegate the investigation of certain types of allegations to other University offices in accordance

with University policy (e.g., research misconduct; sexual misconduct, relationship violence, stalking, and retaliation).

SECTION 6.3 FAIRNESS AND IMPARTIALITY.

A University employee shall not act on behalf of SCCS in the student conduct process in any case in which: (1) the employee is a Complainant or a witness; or (2) the employee determines, for any reason (e.g. personal prejudice or bias) that they cannot be fair or impartial.

SECTION 6.4 INTERIM ADMINISTRATIVE ACTIONS.

Section 6.4.1 General. In certain situations, the University may impose interim administrative actions prior to the conclusion of the student conduct process. The University shall determine the appropriate interim administrative actions based on the totality of the circumstances. Examples of interim administrative actions include, without limitation, a no-contact directive (Section 6.4.2), a disciplinary hold (Section 6.4.3), and interim restrictions (Section 6.4.4).

Section 6.4.2 No-Contact Directive. In cases involving allegations of assault, injury, sexual misconduct, relationship violence, stalking, retaliation, or in other cases where there is reason to believe continued contact between a student and specific persons may interfere with those persons' security, safety or ability to participate effectively in work or studies, the University may issue a written instruction to a student, called a no-contact directive, that prohibits a student from having verbal, physical, written, and/or electronic contact with specific other persons for a definite or indefinite period of time. A no contact directive also may prohibit a student from being present on designated University-controlled property. Any student, faculty or staff member or other person with a reasonable justification may request that a no-contact directive be issued to a student.

Section 6.4.3 Disciplinary Hold. The Respondent's academic record (including, without limitation, the release of the Respondent's official or unofficial transcript), degree, ability to register for classes, and/or ability to reenroll may be placed on disciplinary hold by SCCS or by another appropriate University office at the request of SCCS for the following reasons: (1) to require the Respondent to participate in the student conduct process (SCCS will release the hold after the Respondent attends the Educational Conference but may reinstate the hold in order to require the Respondent to participate in other parts of the student conduct process); or (2) to require the Respondent to satisfy the terms and conditions of disciplinary sanctions received (the hold shall be released after

the terms and conditions have been satisfied). No diploma shall be given and no grades, academic credit, or degree shall be awarded to a student who has been placed on disciplinary hold.

Section 6.4.4 Interim Restrictions. Generally, the status of a student alleged to have violated the Standards of Conduct is not affected until the conclusion of the student conduct process (Section 7.4). However, the Vice Chancellor for Student Life may impose interim restrictions prior to the conclusion of the student conduct process related to the alleged misconduct when the Vice Chancellor for Student Life has reasonable cause to believe that (1) a Respondent's continued presence on University-controlled property or at University-affiliated activities poses a significant risk of substantial harm to the health, safety, or welfare of others or to property or (2) poses an imminent or ongoing threat to the disruption of, or interference with, the normal operations of the University. Interim restrictions shall be confirmed by notice to the Respondent that explains the basis for the interim restrictions and shall remain in effect until the conclusion of the student conduct process, which should be completed without undue delay. Within three (3) days of the imposition of the interim restrictions, the Respondent shall be offered an opportunity to appear before the Vice Chancellor for Student Life in order to discuss the following issues only: (1) the reliability of the information concerning the Respondent's conduct; and (2) whether the conduct and surrounding circumstances reasonably indicate that the Respondent's continued presence on University controlled property or at University-affiliated activities poses a significant risk of substantial harm to the health, safety, or welfare of others or to property or poses an imminent or ongoing threat of disruption of or interference with the normal operations of the University. Examples of interim restrictions include, without limitation, restricting the student's privileges to participate in University affiliated activities, restricting the student's privileges to access University-controlled property, University owned housing removal and/or reassignment, and/or interim suspension. Restrictions contained within no-contact directives (Section 6.4.2) are not interim restrictions.

An interim suspension is an official separation of the student from the University until the conclusion of the student conduct process or the interim suspension is lifted, whichever occurs first. While on interim suspension, the student loses all University rights and privileges (e.g., enrollment privileges) except for the rights and privileges to contest the allegations pursuant to the Code, shall not represent the University in any official manner, and shall not be present on University-controlled property or participate in University-affiliated activities without the prior approval of the

Vice Chancellor for Student Life. When placed on interim suspension, the Respondent may be assigned a grade of "W" or "I," whichever is deemed appropriate by the faculty member involved.

A Respondent who violates the terms of an interim restriction shall be subject to further disciplinary action and may be treated as a trespasser.

SECTION 6.5 COURSEWORK. Coursework performed during the student conduct process shall be considered conditional. Credit for such coursework may be affected, delayed, denied, and/or revoked based on a final finding of misconduct and/or a sanction imposed under the Code. In addition, subject to the other provisions of the Code, a delay in the granting of a degree or diploma may be imposed and/or a degree that was awarded prior to a final decision under the Code may be revoked.

SECTION 6.6 EDUCATIONAL CONFERENCE.

Section 6.6.1 Scope of the Educational Conference. The Educational Conference is a meeting between SCCS and the Respondent in which the following generally occurs:

- (1) SCCS orally informs the Respondent about the allegations made against the Respondent and, if requested by the Respondent, provides the Respondent with a reasonable opportunity to review the written allegations, if any, received by SCCS.
- (2) SCCS provides the Respondent with an opportunity to respond to the allegations including, without limitation, an opportunity to present information to SCCS concerning the allegations and identify witnesses whom the Respondent believes SCCS should interview to obtain additional information.
- (3) Both SCCS and the Respondent may ask questions to each other and seek clarifying information about the allegations, the possible sanction(s), and the student conduct process.
- (4) Based on information provided by the Respondent during the Educational Conference, SCCS may issue a no-action determination (Section 7.4.1) or continue its investigation in order to determine whether it is more likely than not that the Respondent violated the Standards of Conduct.

Section 6.6.2 Notice of Educational Conference. A Notice of Educational Conference is a written notice through which SCCS notifies the Respondent that SCCS has received allegations that the Respondent has engaged in misconduct; instructs the Respondent

to attend or schedule an Educational Conference; and provides the Respondent with other information about the student conduct process. A Notice of Educational Conference generally will include the following information: (1) notice that SCCS has begun or will begin an investigation of allegations SCCS received concerning the Respondent's conduct; (2) notice of a disciplinary hold, if any, that the University has implemented or will implement with respect to the Respondent; (3) a brief description of the Respondent's alleged conduct; (4) a preliminary list of potential violations of the Standards of Conduct, based on the Respondent's alleged conduct; (5) notice of the Respondent's right to be assisted and/or supported by an Advisor throughout the student conduct process, in accordance with Section 5.3; (6) the internet address where the Respondent can review a copy of the Code; (7) a date, time, and place for an Educational Conference with SCCS to discuss the incident, or, in the alternative, an instruction that the Respondent contact SCCS to schedule an Educational Conference within the time frame designated in the Notice of Educational Conference; and (8) notice of the consequences of failing to comply with SCCS's instruction to attend or schedule an Educational Conference.

Section 6.6.3 Consequences of Failing to Attend or Schedule an Educational Conference. If the Respondent fails to attend or schedule an Educational Conference after SCCS has sent the Respondent a Notice of Educational Conference, then the Respondent waives all rights to a Formal Hearing, and SCCS has the discretion to deem the Respondent to have accepted SCCS's determination of responsibility for misconduct and may impose appropriate sanction(s) for the misconduct (unless the Respondent's absence is excused by SCCS for good cause). SCCS also may determine that the Respondent's failure to attend the Educational Conference constitutes a separate violation of the Standards of Conduct.

SECTION 6.7 NOTICE OF ALLEGATIONS. A Notice of Allegations is a written notice that informs the Respondent that SCCS has concluded that it is more likely than not that the Respondent violated the Standards of Conduct. A Notice of Allegations generally includes, without limitation, the following information: (1) a brief summary of the facts of Respondent's alleged misconduct; (2) notice that SCCS has determined that it is more likely than not that Respondent violated the Standards of Conduct; (3) notice of the specific Standard(s) of Conduct that SCCS has determined the Respondent more likely than not violated; (4) the Respondent's option(s) to elect a Formal Hearing to contest SCCS's determination of responsibility for misconduct and/or the sanction(s); and (5) the names of witnesses likely to present information concerning

the alleged misconduct if the Respondent elects to contest the allegations through a Formal Hearing. SCCS may provide the Respondent with a Notice of Allegations during the Educational Conference.

VII. STUDENT CONDUCT PROCESS: RESOLUTIONS

SECTION 7.1 RESOLUTION BY AGREEMENT.

Section 7.1.1 Purpose and Effects of a Resolution Agreement. At any time during the student conduct process, a Respondent may resolve allegations of misconduct by signing a Resolution Agreement. By signing a Resolution Agreement, the Respondent: (1) accepts responsibility for violating the Standards of Conduct, as alleged by SCCS; (2) agrees to the imposition of the sanction(s) proposed by SCCS; and (3) waives all rights the Respondent may have to resolve the allegations through a Formal Hearing. A Resolution Agreement is not valid until it is signed by both the Respondent and SCCS.

Section 7.1.2 Revocation or Appeal of a Resolution Agreement. The Respondent may not revoke or appeal a Resolution Agreement signed by the Respondent.

Section 7.1.3 Resolution Agreement—Sexual Misconduct. After SCCS receives a Resolution Agreement signed by the Respondent in a case involving sexual misconduct, SCCS will notify the Complainant about the proposed Resolution Agreement in writing and provide the Complainant with the opportunity to object to the sanction proposed by SCCS in the Resolution Agreement. A Complainant must notify SCCS of his/her objection in writing within five (5) business days from the date that SCCS informs the Complainant about the proposed Resolution Agreement. If the Complainant timely informs SCCS of his/her objection, then SCCS may address the Complainant's objection by modifying the sanction in a way that is agreeable to both the Respondent and the Complainant and having the Respondent sign the modified Resolution Agreement. Otherwise, SCCS will continue the student conduct process and resolve the allegations against the Respondent in accordance with the Code. Nothing in this Section 7.1 shall be construed to permit SCCS to conduct an alternative resolution process (e.g., mediation) in a case involving allegations of sexual assault.

Section 7.1.4 Resolution Agreement—Academic Dishonesty. In order to resolve an allegation that the Respondent violated Section 4.1 (academic dishonesty) through a Resolution Agreement, the Respondent shall agree to the imposition of the instructor's

academic penalty in addition to agreeing to the other requirements contained in Section 7.1.1.

SECTION 7.2 RESOLUTION BY FORMAL HEARING.

Section 7.2.1 Types of Formal Hearings.

A Formal Hearing is a process through which a Respondent has a right to contest allegations of misconduct and/or the sanctions proposed by SCCS by presenting information (including, without limitation, witnesses) to a decision maker other than the University employee(s) who conducted the investigation and/or Educational Conference. The Code provides for three types of Formal Hearings, depending on the gravity of the disciplinary sanctions that have been proposed by SCCS:

- (1) A hearing before a Student Life Hearing Officer, which is described in Section 7.2.4;
- (2) A hearing before the SCB (“SCB Hearing”), which is described in Article VIII; and
- (3) A contested case hearing under the Uniform Administrative Procedures Act (“UAPA Hearing”), which is conducted in accordance with the University’s procedures for conducting contested case proceedings under the UAPA, Chapter 1720-01-05.

Section 7.2.2 Rights to a Formal Hearing. In every case, the Respondent has the right to resolve allegations of misconduct and/or proposed sanctions through a hearing before a Student Life Hearing Officer. A Respondent also has the right to resolve allegations of misconduct and/or the proposed sanctions through a SCB Hearing or a UAPA Hearing when SCCS proposes one (1) or more of the following sanctions: (1) deferred suspension; (2) suspension; (3) expulsion; (4) University housing removal; (5) withholding of degree; (6) revocation of degree; or (7) revocation or suspension of the student organization’s University registration.

Section 7.2.3 How to Request a Formal Hearing. A Formal Hearing may be requested by the Respondent only in writing using the form(s) approved by SCCS. Orally requesting a Formal Hearing shall not constitute a valid request for a Formal Hearing. If a Respondent timely requests a Formal Hearing and has a right to have either a UAPA Hearing or a SCB Hearing, then the University will conduct a UAPA Hearing unless the Respondent executes a written waiver of the right to a UAPA Hearing.

Section 7.2.4 Hearing before a Student Life Hearing Officer. A Student Life Hearing Officer is a

University employee designated and trained by SCCS to conduct a Formal Hearing consistently with the procedures outlined in the Code for SCB Hearings (e.g., Article VIII), except as provided in this Section 7.2.4. In conducting a Formal Hearing, a Student Life Hearing Officer has the same authority of the Chairperson of the SCB except that, unlike the Chairperson of the SCB, but like the voting members of the SCB, the Student Life Hearing Officer is the decision maker concerning whether the Respondent violated the Standards of Conduct, and, if so, what sanction(s) to impose. The decision of a Student Life Hearing Officer may be appealed to the Appellate Board using procedures consistent with the procedures outlined in the Code for appeals of decisions of the SCB.

Section 7.2.5 Consequences of Failing to Timely Elect a Formal Hearing. If the Respondent fails to elect a Formal Hearing within five (5) business days of SCCS transmitting a Notice of Allegations in writing to the Respondent, then the Respondent waives all rights to a Formal Hearing, and SCCS has the discretion to deem the Respondent to have accepted SCCS’s determination of responsibility for misconduct and may impose sanction(s) deemed appropriate by SCCS (unless SCCS extends the time for the Respondent to request a Formal Hearing for good cause). If SCCS extends the time for the Respondent to request a Formal Hearing and the Respondent fails to elect a Formal Hearing within the additional time granted by SCCS, then the Respondent waives all rights to a Formal Hearing, and SCCS has the discretion to deem the Respondent to have accepted SCCS’s determination of responsibility for misconduct and may impose sanction(s) deemed appropriate by SCCS.

SECTION 7.3 RESOLUTION THROUGH AN ALTERNATIVE RESOLUTION PROCESS.

Section 7.3.1 Proposal of an Alternative Resolution Process. At any time during the student conduct process, SCCS may propose to the Respondent and the Complainant that they attempt to resolve the allegations against the Respondent through an alternative resolution process. Before proposing that the allegations be resolved through an alternative resolution process, SCCS shall determine whether an alternative resolution process would be an appropriate method of resolution based on the facts and circumstances of the case, and, if so, what type of alternative resolution process should be used. Examples of alternative resolution processes that may be proposed by SCCS include mediation, facilitated dialogue, conflict coaching, and restorative justice. An alternative resolution process is a voluntary process that may or may not result in an Alternative Resolution Agreement. If an Alternative Resolution Agreement

is not reached, then the student conduct process will proceed, and the allegations against the Respondent will be resolved through one of the other resolution methods in the Code.

Section 7.3.2 Unavailability of an Alternative Resolution Process. SCCS shall not use an alternative resolution process to resolve allegations against a Respondent: (1) in a case in which the Complainant and the Respondent have not mutually agreed, in writing, to the alternative resolution process; or (2) in a case involving allegations of sexual assault.

Section 7.3.3 Alternative Resolution Agreement. An Alternative Resolution Agreement is a written agreement that confirms an agreement reached during an alternative resolution process to resolve the allegations against the Respondent. To be valid, an Alternative Resolution Agreement shall be signed by SCCS, the Respondent, and the Complainant and shall include a waiver of the Respondent's right, if any, to have a Formal Hearing on the allegations. Neither the Respondent nor the Complainant may revoke or appeal an Alternative Resolution Agreement.

SECTION 7.4 CONCLUSION OF THE STUDENT CONDUCT PROCESS. This section 7.4 summarizes the different ways in which the student conduct process may be concluded. If more than one of the following events occur, then the student conduct process concludes on the date of the last event to occur. SCCS generally will provide the Respondent with written notice about the conclusion of the student conduct process within a reasonable time after the conclusion of the process. If permitted or required by law, SCCS also will provide the Complainant with written notice about the conclusion of the student conduct process within a reasonable time after the conclusion of the process.

Section 7.4.1 No Action Determination. The student conduct process concludes when SCCS makes a final determination at any point in the process that no action will be taken (e.g., SCCS determines that it is not more likely than not that the Respondent violated the Standards of Conduct; a Complainant declines to participate in the student conduct process, and SCCS does not have sufficient information or witnesses to move forward with the student conduct process). SCCS may reinstate the student conduct process upon receipt of new information; however, after SCCS has determined to take no action, SCCS may reinstate the student conduct process after a student has graduated only in cases involving Section 4.1 (academic dishonesty) or a violation of the University's policy on research misconduct. A Complainant who is informed by SCCS of a no action determination may appeal

the decision to the SCCS, in writing, within five (5) business days of the date that SCCS transmitted notice of the no action determination to the Complainant. The decision of SCCS is final and may not be appealed.

Section 7.4.2 Failure to Attend or Schedule an Educational Conference. In accordance with Section 6.6.3, the student conduct process concludes when: SCCS has issued a Notice of Educational Conference; the Respondent either fails to attend an Educational Conference or fails to comply with SCCS's instruction to contact SCCS to schedule an Educational Conference within the time frame designated in the Notice of Inquiry; and SCCS does not exercise its discretion to excuse the Respondent's failure for good cause.

Section 7.4.3 Failure to Request a Formal Hearing after Notice of Allegations. In accordance with Section 7.2.5, the student conduct process concludes when the Respondent fails to elect a Formal Hearing within five (5) business days of SCCS sending or delivering a Notice of Allegations to the Respondent, and SCCS does not exercise its discretion to excuse the Respondent's failure for good cause.

Section 7.4.4 Resolution Agreement. The student conduct process concludes when a Resolution Agreement is executed in accordance with Section 7.1.

Section 7.4.5 Alternative Resolution Agreement. The student conduct process concludes when an Alternative Resolution Agreement is executed in accordance with Section 7.3.

Section 7.4.6 Notice of Decision of a Student Life Hearing Officer—No Valid Appeal. The student conduct process concludes when a Student Life Hearing Officer has issued a Notice of Decision and neither the Respondent nor the Complainant has submitted a valid Notice of Appeal.

Section 7.4.7 Notice of Decision of a Student Conduct Board—No Valid Appeal. The student conduct process concludes when a Student Conduct Board has issued and transmitted a Notice of Decision under Section 8.5 and neither the Respondent nor the Complainant has submitted a valid Notice of Appeal under Section 8.6.

Section 7.4.8 Notice of Final Decision. The student conduct process concludes when the Appellate Board has issued a Notice of Final Decision.

Section 7.4.9 UAPA. The student conduct process concludes when a Formal Hearing has concluded under the University's rules for conducting contested case proceedings under the UAPA, Chapter 1720-01-05.

Section 7.4.10 Expiration and Satisfaction of All Sanctions. The student conduct process concludes when SCCS determines that the time periods for all sanctions given to the Respondent have expired (except for the sanction of expulsion, which does not expire), and the Respondent has satisfied all other terms and conditions of all sanctions that the Respondent received.

VIII. STUDENT CONDUCT BOARD: HEARINGS AND APPEALS

SECTION 8.1 NOTICE OF SCB HEARING.

Section 8.1.1 When a Notice of SCB Hearing is Sent. If the Respondent requests a SCB Hearing in accordance with Section 7.2, then SCCS will send the Respondent and the Complainant a Notice of SCB Hearing at least seven (7) business days in advance of the date of the hearing.

Section 8.1.2 Information in the Notice of SCB Hearing. The Notice of SCB Hearing generally will contain, or be accompanied by, the following information: (1) the date, time, and place of the SCB Hearing (SCCS may reschedule the SCB Hearing for good cause and issue a revised Notice of SCB Hearing that contains a new date, time, and place of the SCB Hearing); (2) a copy of the Notice of Allegations; (3) the sanction(s) that the Conduct Officer will request the SCB impose on the Respondent; (4) the names of all witnesses through whom the Conduct Officer is likely to present information during the SCB Hearing; (5) a notice of the right to the assistance and/or support of an Advisor during the SCB Hearing; and (6) a description of all tangible or electronic information that the Conduct Officer is likely to present to the SCB, such as an investigative report, police report, incident report, witness statements, video or audio recordings, photographs, text messages, or phone records.

Section 8.1.3 More than One Respondent. In cases involving more than one (1) Respondent, SCB Hearings concerning each Respondent's conduct may be conducted separately upon written request of a Respondent submitted at the time of the Respondent's request for a Formal Hearing. SCCS has the discretion to make the final determination of whether to grant such a request and will notify the Respondents of the decision.

Section 8.1.4 Consequences of Failing to Attend a SCB Hearing. If the Respondent fails to attend a SCB Hearing, then the Respondent waives all rights to a SCB Hearing. The SCB may: proceed with the SCB Hearing without the Respondent's participation; hold the Respondent accountable for all decisions made in the Respondent's absence including, without

limitation, decisions concerning responsibility for alleged violations of the Standards of Conduct; and may determine that the Respondent's failure to attend the hearing constitutes a separate violation of the Standards of Conduct. If the SCB determines, in the Respondent's absence, that it is more likely than not that the Respondent violated the Standards of Conduct, then SCCS may implement the sanctions imposed by the SCB and conclude the student conduct process.

SECTION 8.2 COMPOSITION OF THE STUDENT CONDUCT BOARD.

Section 8.2.1 Eligible Pool. The University shall annually appoint a pool of persons who are eligible to serve on a SCB. The University may appoint University students, University faculty members, or University staff employees; however, an employee who works in SCCS is ineligible to serve on a SCB. Persons appointed by the University will be trained by SCCS to serve on a SCB.

Section 8.2.2 Appointment of the SCB.

(1) General. The SCB is appointed ad hoc for each hearing by SCCS from the pool described in Section 8.2.1. SCCS shall appoint a SCB consisting of one (1) nonvoting Chairperson and seven (7) voting members. SCCS shall not appoint persons on the basis of how SCCS anticipates that they will vote. The Chairperson shall be a University faculty member or staff employee who has received training from SCCS on how to conduct a SCB Hearing. Five (5) voting members and one (1) nonvoting Chairperson constitute a quorum of the SCB that was appointed by SCCS; however, SCCS will make reasonable efforts to seat a SCB consisting of seven (7) voting members. In seating any SCB, except as provided in Section 8.2.2(2) or Section 8.2.2(3), the student composition of the voting members of the SCB must be equal to or greater than the sum of the faculty and staff voting members. Regardless of the number of voting members present, all classifications of the University community (students, faculty, and staff) must be represented by at least one (1) voting member, except as provided in Section 8.2.2(2) or Section 8.2.2(3).

(2) Exception for Cases Involving Allegations of Sexual Misconduct. Notwithstanding anything to the contrary in Section 8.2.2(1), SCCS shall not appoint students to serve on the SCB in a case involving an allegation of sexual misconduct unless both the Respondent and the Complainant consent to having students appointed to serve on the SCB hearing their case.

(3) Exception for Cases Involving Allegations of Research Misconduct. Notwithstanding anything to the contrary in Section 8.2.2(1), SCCS shall not appoint students to serve on the SCB in a case involving an allegation of research misconduct.

Section 8.2.3 Fairness and Impartiality of SCB Members. Any member of the SCB who determines that they cannot decide a case fairly and impartially for any reason (e.g., having a personal prejudice or bias) shall excuse themselves from serving on the SCB, in which case SCCS shall appoint a substitute member of the panel in accordance with the rules in Section 8.2.2.

SECTION 8.3. GENERAL RULES GOVERNING SCB HEARINGS.

Section 8.3.1 Required Pre-Hearing Information and Copies—Complainant and Respondent. At least five (5) business days prior to the SCB Hearing, the Complainant and the Respondent must provide the following to SCCS in writing:

- (1) The name of their Advisor, if any, who will attend the SCB Hearing;
- (2) The names of all witnesses through whom they plan to present information to the SCB and a brief summary of the information that they reasonably anticipate that each witness will provide to the SCB;
- (3) A copy of all tangible or electronic information that they plan to present to the SCB (e.g., witness statements, video or audio recordings, photographs, text messages, phone records, medical bills, diagrams). However, they are not required to provide copies of information that is not in a form that allows copying (e.g., weapon; piece of clothing), in which case they should describe the information in writing; and
- (4) A copy of a statement, if any, that they want the SCB to consider in determining the appropriate sanction to impose on the Respondent if the SCB finds that the Respondent violated a Standard of Conduct. The Complainant's statement may include a description of the impact of the Respondent's alleged conduct on the Complainant. The Respondent's statement may include a description of any factors the Respondent believes mitigates the alleged misconduct.

During the SCB Hearing, the Complainant and the Respondent may present witnesses who were not identified in the Notice of Formal Hearing only if they comply with this Section 8.3.1 (i.e., other witnesses not identified to SCCS in writing at least five (5) business days prior to the SCB Hearing will not be allowed). The Complainant and the Respondent are responsible for contacting witnesses who were not identified in the Notice of Formal Hearing, informing them about the date, time, and place of the SCB Hearing, and securing their attendance at the SCB Hearing.

Section 8.3.2 Pre-Hearing Review of Information. Individuals involved with the hearing are responsible for contacting SCCS to arrange a time to review the information prior to the hearing if such review is desired and the information has not been made available electronically. No less than three (3) business days prior to the hearing, SCCS will make copies of information submitted by the Complainant, the Respondent, and the Conduct Officer available for review by the Complainant, Respondent, their respective Advisors, and members of the SCB. Those individuals will be notified by SCCS when materials are available for review. SCCS may make the information available electronically. In their sole discretion, SCCS may redact irrelevant information prior to making information available.

Section 8.3.3 Recording of the SCB Hearing. The University shall be responsible for making a verbatim record (e.g., digital recording) of a SCB Hearing. Deliberations of the SCB shall not be recorded. The record of the SCB Hearing shall be the property of the University. The Complainant and the Respondent may take notes during a SCB Hearing, which shall be their own property, but neither the Complainant nor the Respondent may record the hearing using any other method of recording. However, the University will provide a copy of the verbatim record to the Complainant and the Respondent upon request.

Section 8.3.4 Attendance and Participation. Attendance during a SCB generally is limited to members of the SCB, the Conduct Officer, the Complainant and the Complainant's Advisor, the Respondent and the Respondent's Advisor, and witnesses. The Conduct Officer, the Complainant, the Respondent, Advisors, and witnesses may not be present during the deliberations of the SCB. Witnesses may attend the SCB Hearing only while they are presenting information to the SCB, unless the witness is the Complainant or the Respondent. The Chairperson and SCCS have the discretion to allow other persons to attend the SCB Hearing, in accordance with state and federal law. The Complainant and the Complainant's Advisor may attend any part of the SCB Hearing (excluding the deliberations of the SCB), but the Complainant and the Complainant's Advisor shall be excused from the hearing room when the Respondent's Education Records or information obtained from the Respondent's Education Records are disclosed unless the information is also part of the Complainant's Education Records. However, the previous sentence shall not apply, and the Complainant and the Complainant's Advisor shall have the right to attend the entire SCB Hearing, in cases of sexual misconduct, relationship violence, and stalking. The Chairperson may accommodate concerns for the personal safety,

wellbeing, and/or fears of confrontations of the Complainant, the Respondent, and/or witnesses by permitting attendance or participation by closed circuit television, video conferencing, or other appropriate means, as determined in the discretion of the Chairperson. However, the identity of all persons who present information to the SCB must be made known to the Respondent and the Complainant. The Respondent and the Complainant must be allowed to view and hear a person who is attending or participating by closed circuit television, video conferencing, or other similar means.

SECTION 8.4 PROCEDURAL RULES FOR SCB HEARINGS.

Section 8.4.1 Right to Challenge the Selection of a SCB Member. At the beginning of the SCB Hearing, the Chairperson shall allow the Complainant and the Respondent to request the removal of a member of the SCB on the grounds that the person cannot be fair and impartial in deciding the case. If the Chairperson determines that the person cannot be fair and impartial, then SCCS may appoint a substitute member of the SCB in accordance with Section 8.2.2 or, if a quorum of the SCB still exists, remove the SCB member and allow the SCB Hearing to continue without appointing a substitute member.

Section 8.4.2 Authority of the Chairperson. The Chairperson has the authority to maintain order and make all decisions necessary for the fair, orderly, and expeditious conduct of the SCB Hearing. The Chairperson shall be the final decision maker concerning what, how, and in what order information and witnesses are presented to the SCB.

Section 8.4.3 Exclusion of Information. Upon the Chairperson's initiation or upon request by the Conduct Officer, the Complainant, the Respondent, or a member of the SCB, the Chairperson may exclude the following information from the SCB's consideration: (1) irrelevant information; (2) information that unreasonably repeats information already provided to the SCB; (3) information that was not provided in advance of the hearing in accordance with Section 8.3.1, or information from witnesses who were not disclosed in advance of the hearing in accordance with Section 8.3.1; (4) information that is protected from disclosure under federal or Tennessee law; and/or (5) information about a person's character or character trait, if the information is being presented to show that on a particular occasion the person acted in accordance with the character or character trait. Generally, in cases involving an allegation of sexual misconduct, neither the Complainant's nor the Respondent's prior sexual history is relevant to the issue of whether sexual

misconduct occurred and will not be considered by the SCB. However, when the Respondent contends that the Complainant gave consent for a particular sexual act, the prior sexual history between the Complainant and the Respondent may be relevant to assess the manner and nature of communications between the parties, although the mere existence of a current or previous dating, romantic, intimate, or sexual relationship with the other person does not allow a Respondent to imply or infer consent. The Complainant's and the Respondent's prior sexual history may also be relevant in other limited circumstances, such as to show intent, motive, absence of mistake, or to explain an injury or physical finding.

Section 8.4.4 Persons Who May Present Information. The only persons who may present information and/or witnesses during a SCB Hearing are the Conduct Officer, the Complainant, and the Respondent. The Complainant and the Respondent are responsible for presenting their own information and/or witnesses, if any, to the SCB (an Advisor shall not present information and/or witnesses to the SCB).

Section 8.4.5 Formal Rules. Formal rules of process, procedure, and/or technical rules of evidence, such as those applied in criminal or civil court, are not used in SCB Hearings. The Chairperson shall decide all procedural questions that arise during a SCB Hearing. The Chairperson may consult with SCCS for assistance in resolving procedural questions fairly and in accordance with the Code.

Section 8.4.6 Questioning of Witnesses. Witnesses will provide information to the SCB and answer questions from the Chairperson. The Chairperson may ask questions and/or submit a request for additional information to the Respondent, the Complainant, the Conduct Officer, and/or witnesses. The Conduct Officer, the Respondent and/or the Complainant shall not directly ask questions to each other or other witnesses. The Conduct Officer, the Respondent, the Complainant, and/or members of the SCB may propose questions for the Chairperson to ask witnesses by submitting the proposed questions to the Chairperson in writing during the hearing. The Chairperson has the discretion whether to ask a witness a question proposed by the Conduct Officer, the Respondent, the Complainant, and/or members of the SCB. The method of questioning witnesses outlined in this Section 8.4.6 is used to preserve the educational tone of the SCB Hearing and to avoid the creation of an adversarial environment.

Section 8.4.7 Closing Statements. At the close of the SCB Hearing, the Chairperson may allow the Conduct Officer, the Complainant, and the Respondent equal opportunities to make statements to the SCB summarizing the information presented to the SCB

and/or advocating the decision that the SCB should reach. The Conduct Officer and the Complainant may advocate that the SCB impose a specific sanction(s), and the Respondent may respond; however, the Respondent's record of student conduct maintained by SCCS shall not be disclosed to the SCB by the Conduct Officer or the Complainant during the hearing except in accordance with Section 8.5.3.

Section 8.4.8 Burden of Presenting Information Demonstrating Misconduct.

The Conduct Officer bears the burden of presenting information demonstrating that it is more likely than not that the Respondent violated a Standard of Conduct, as alleged in the Notice of Allegations. Neither the Complainant nor the Respondent is required to present information or witnesses concerning the Respondent's alleged misconduct. The SCB shall not draw an inference adverse to the Conduct Officer, the Complainant, or the Respondent if the Complainant or the Respondent chooses not to present information or witnesses to the SCB.

SECTION 8.5 NOTICE OF DECISION OF THE STUDENT CONDUCT BOARD.

Section 8.5.1 Deliberation of the SCB. After the Chairperson determines that all relevant information has been received by the SCB, the SCB will deliberate in private and decide, for each Standard of Conduct alleged in the Notice of Allegations to have been violated, whether it is more likely than not that the Respondent violated the Standard of Conduct. The SCB will decide by majority vote whether the Respondent violated the Standards of Conduct. The Chairperson shall not vote on the decision of whether the Respondent is responsible for violating the Standards of Conduct or what sanctions should be imposed unless there is a tie vote of the SCB.

Section 8.5.2 Basis of Decision. The SCB shall not base its decision on information not presented during the SCB Hearing. However, if the SCB requests that additional information be provided after the SCB Hearing, the SCB may consider and base its decision on the additional information, as long as the Conduct Officer, the Respondent, and the Complainant have had a chance to review and respond to the additional information either in a resumption of the SCB Hearing or in writing.

Section 8.5.3 Determination of Sanction(s). If the SCB decides that the Respondent violated the Standards of Conduct, then the SCB will decide the appropriate sanction(s) by majority vote. In deciding the appropriate sanctions for a Respondent's misconduct, the SCB may consider: (1) statements

submitted by the Complainant and/or the Respondent to the SCB concerning the appropriate sanctions; and (2) a statement about the Respondent's conduct history, which shall be provided to the Chairperson by SCCS in a sealed envelope prior to the SCB Hearing.

Section 8.5.4 Issuance of Notice of Decision.

Within three (3) business days of the conclusion of the SCB Hearing, the Chairperson shall issue a Notice of Decision and transmit a copy of the Notice of Decision to SCCS. SCCS shall notify the Respondent about the Notice of Decision and provide a copy of the Notice of Decision. If permitted or required under law, SCCS shall notify the Complainant about the Notice of Decision (simultaneously with the notification to the Respondent) and provide a copy of the Notice of Decision to the Complainant.

Section 8.5.5 Information in Notice of Decision.

The following information shall be included in the Notice of Decision: (1) for each Standard of Conduct identified in the Notice of Allegations, the SCB's decision concerning whether it is more likely than not that the Respondent violated the Standard of Conduct and the SCB's rationale for the decision concerning the alleged violation of the Standard of Conduct including, without limitation, a brief summary of the information upon which the SCB relied in making its decision; (2) the sanction(s), if any, that the SCB has imposed on the Respondent; and (3) information about the Respondent's and the Complainant's options, if any, to appeal the decision of the SCB.

SECTION 8.6 APPEALING DECISIONS OF THE STUDENT CONDUCT BOARD.

Section 8.6.1 Appealable Decisions. The Conduct Officer, the Complainant and/or the Respondent may appeal the decisions of the SCB that are contained in the Notice of Decision, but the grounds for appeal are limited to those described in Section 8.6.3.

Section 8.6.2 Notice of Appeal. An appeal is procedurally valid only if all of the following requirements are met: (1) an appeal shall be submitted in writing by fully completing a form approved by SCCS called a "Notice of Appeal;" (2) the Notice of Appeal shall be received by SCCS within five (5) business days of the date that SCCS transmitted the Notice of Decision; and (3) the Notice of Appeal shall not include information that is not included in the record of the SCB Hearing, except the Notice of Appeal may contain a summary of the new information described in Section 8.6.3(3).

Section 8.6.3 Grounds for Appeal. The Notice of Appeal shall explain the grounds for the appeal, which

shall be limited to one (1) or more of the following grounds:

- (1) Clearly Unreasonable Sanction. The sanction(s) imposed by the SCB is clearly unreasonable (i.e., has no sound basis or justification in reason).
- (2) Material Procedural Error. A procedural error occurred prior to or during the SCB Hearing, and the procedural error reasonably could have had a material impact on the SCB in reaching its decision. Neither the failure of the Respondent or the Complainant to secure the attendance of an Advisor or witness nor the failure of an Advisor or witness to attend or otherwise participate in any phase of the student conduct process constitutes a material procedural error. The failure of the Respondent or the Complainant to attend the SCB Hearing does not constitute a material procedural error.
- (3) New Information. New information has been discovered, the information reasonably could have had a substantial impact on the SCB in reaching its decision, and the person submitting the Notice of Appeal did not know and reasonably could not have known about the information at the time of the SCB Hearing.
- (4) Personal prejudice or bias of a SCB Member. A SCB member had a personal prejudice or bias that precluded them from fairly and impartially hearing the case. The fact that a SCB member voted to find a Respondent responsible or not responsible for violating a Standard of Conduct does not, by itself, demonstrate that the SCB member had a personal prejudice or bias for or against the Respondent, the Complainant, or the University.

Section 8.6.4 Effective Date of Sanction. The sanction(s) imposed by the SCB shall not be effective during the period in which a Notice of Appeal may be submitted, or, if a procedurally valid Notice of Appeal has been submitted (as determined by Section 8.6.2), until a Notice of Final Decision is issued by the Appellate Board, whichever is later. In cases in which the sanction of degree revocation is imposed, the sanction shall be presented to the Chancellor for approval before the sanction is imposed.

Section 8.6.5 Appellate Board. The Appellate Board is the University body that considers appeals of decisions of the SCB, after a procedurally valid Notice of Appeal has been submitted to SCCS. SCCS will appoint a pool of persons trained by SCCS who are eligible to serve on an Appellate Board. SCCS may appoint University students, University faculty members, or University staff employees to be members of that pool. SCCS shall not appoint persons on the basis of how SCCS anticipates that they will vote.

Section 8.6.6 Determination of Procedural Validity of Notice of Appeal. Within five (5) business days after the receipt of a Notice of Appeal, SCCS will determine whether the Notice of Appeal is procedurally valid. A Notice of Appeal is procedurally valid only if it has been fully completed, timely submitted to SCCS, does not contain information outside of the record of the SCB Hearing, and does not contain a ground for appeal not listed in Section 8.6.3. If a Notice of Appeal is procedurally invalid and the time for submitting a Notice of Appeal under this Section 8.6.6 has expired, then SCCS shall send the Conduct Officer, the Respondent, and the Complainant (if permitted or required by law) a notice that the decision of the SCB has become final and any sanction(s) imposed will become effective immediately. However, in a case in which the Notice of Appeal contains information outside of the record of the SCB Hearing, SCCS may proceed with appointing an Appellate Board after removing from the Notice of Appeal information that was not included in the record of the SCB Hearing.

Section 8.6.7 Appointment of Appellate Board. If the Notice of Appeal is procedurally valid, then SCCS shall appoint an Appellate Board to hear the appeal from the pool of persons who are eligible to serve on an Appellate Board. An Appellate Board shall be composed of one (1) nonvoting Chairperson and three (3) voting members. At least one (1) voting member of the Appellate Board shall be a University student; except, however, SCCS shall not appoint students to serve on an Appellate Board in a case involving an allegation of research misconduct or involving an allegation of sexual misconduct unless both the Respondent and the Complainant consent to having students appointed to serve on the Appellate Board hearing their case. SCCS shall not appoint a person to serve as Chairperson or a voting member of the Appellate Board if the person served as a Chairperson or a voting member of the SCB whose decision is being appealed. In addition, an employee who works in SCCS or whose direct supervisor is the Conduct Officer who participated in the SCB Hearing shall be ineligible to serve as a member of the Appellate Board.

Section 8.6.8 Transmittal of Notice of Appeal. After the appointment of the members of the Appellate Board, SCCS shall transmit a copy of the Notice of Appeal to persons who have a need to know about the Notice of Appeal including, without limitation, the members of the Appellate Board and all non-appealing parties (e.g., if the Respondent appeals, the Conduct Officer and the Complainant would be the non-appealing parties). A non-appealing party may submit a written response to the Notice of Appeal to the Appellate Board within three (3) business days of SCCS's transmittal of the Notice of Appeal. The written

response shall be limited to: (1) responding to issues raised in the Notice of Appeal and shall not contain information that is not included in the record of the SCB Hearing; and (2) request the removal of a member of the Appellate Board on the grounds that the person cannot be fair and impartial in deciding the case. If SCCS determines that the person cannot be fair and impartial, then SCCS may appoint a substitute member of the SCB in accordance with Section 8.6.7.

Section 8.6.9 Recusal. Any member of the Appellate Board who determines that they cannot decide the appeal fairly and impartially for any reason shall recuse themselves from serving on the Appellate Board, in which case SCCS shall appoint a substitute member of the Appellate Board in accordance with Section 8.6.7.

Section 8.6.10 Review of the Record. The Appellate Board's final decision shall be based on its review of the record of the hearing before the SCB, which shall be limited to: (1) the Notice of Allegations; (2) the Notice of Formal Hearing; (3) the Notice of Decision; (4) the recording and the transcript, if any, of the hearing, and all other information submitted to the SCB during the hearing; and (5) the Notice of Appeal and any written responses, in accordance with Section 8.6.8.

Section 8.6.11 Potential Decisions of the Appellate Board. The Appellate Board shall reach one (1) of the following decisions, by a majority vote, if the appeal is determined to be procedurally valid:

- (1) Affirm both the SCB's finding that the Respondent violated the Standards of Conduct and the sanctions imposed by the SCB;
- (2) In a case involving a clearly unreasonable sanction, the Appellate Board may modify the sanctions imposed by the SCB by imposing a greater or lesser sanction(s);
- (3) In a case involving a material procedural error, the Appellate Board shall remand the case for a new hearing to be conducted by a new SCB or the same SCB. The Appellate Board should recommend to the Chairperson how to correct the procedural error. SCCS may appoint a substitute member for any member of the SCB who is unavailable to participate in the new hearing;
- (4) In a case of new information that fits the criteria described in Section 8.6.3(3), remand the case to the same SCB for the limited purpose of hearing the new information and reconsidering its decision based on the new information. SCCS may appoint a substitute member for any member of the SCB who is unavailable to participate in hearing the new information or the reconsideration of the decision.

(5) In a case in which a SCB member had a personal prejudice or bias, remand the case for a new hearing to be conducted by a new SCB.

Section 8.6.12 Notice of Final Decision. The Appellate Board shall communicate its decision through a written notice called a Notice of Final Decision. The Notice of Final Decision should be issued within ten (10) business days of the submission of the Notice of Appeal. The Notice of Final Decision shall be sent to SCCS, who will notify the Conduct Officer, the Respondent, the Chairperson of the SCB, and, if permitted or required by law, the Complainant about the Notice of Decision and provide them a copy of the Notice of Decision. The decision of the Appellate Board is final and is not subject to appeal.

SECTION 8.7 OTHER ISSUES HEARD BY THE SCB. In addition to hearing disputes concerning violations of the Standards of Conduct, the Student Conduct Board shall also be the University body that hears disputes concerning the interpretation of the Student Government Constitution and disputes concerning the results of Student Government elections.

IX. SANCTIONS

SECTION 9.1 GENERAL RULES.

Section 9.1.1 Purposes of Sanctions. The purposes of sanctions include, without limitation: (1) to educate the Respondent about appropriate conduct; (2) to promote the personal and professional development of the Respondent; (3) to discourage the Respondent and other students from violating the Standards of Conduct; and (4) to protect other members of the University community. The sanctions imposed on a Respondent should be proportional to the Respondent's misconduct and appropriate for the particular case based on the gravity of the offense (including, without limitation, how the violation affected or reasonably could have affected other members of the University community). Consideration may also be given to the Respondent's conduct record; whether the Respondent acted in self-defense, and, if so, whether the amount of force used was reasonable under the circumstances; the Respondent's academic classification (e.g., undergraduate, graduate, freshman, sophomore, junior, senior); and other aggravating or mitigating factors.

Section 9.1.2 Administrative and Developmental Sanctions. A student who accepts responsibility or is found responsible for violating the Standards of Conduct generally will be given one (1) or more administrative sanctions. A student may also be given one (1) or more developmental sanctions.

SECTION 9.2 ADMINISTRATIVE SANCTIONS.

Section 9.2.1 Warning. A warning is a written notice to a student that informs the student that the student has violated the Standards of Conduct, that the misconduct must cease and/or not reoccur, and that further misconduct will likely result in the imposition of more serious sanctions.

Section 9.2.2 Disciplinary Probation. Disciplinary probation is imposed for a specified period of time during which the student may continue to be enrolled but must demonstrate conduct that conforms to the Standards of Conduct. Conditions may be placed on the student's continued enrollment. A student may be placed on disciplinary probation for moderate misconduct or in the case of repeated minor misconduct. Also, a student allowed to re-enroll following a suspension will be placed on disciplinary probation. Subsequent violations of the Standards of Conduct during a period of disciplinary probation may result in more serious sanctions such as suspension or expulsion from the University.

Section 9.2.3 Deferred Suspension. A deferred suspension is a designated period of time during which a student, while continuing to be enrolled, is given an opportunity to demonstrate the ability to abide by the Standards of Conduct. A student may be placed on deferred suspension for serious misconduct or in the case of repeated misconduct. If the student is found responsible for any additional violation(s) of the Standards of Conduct while the student is on deferred suspension, then the sanction of suspension will be the minimum sanction that will be imposed in a Formal Hearing on the subsequent misconduct. Students who are placed on deferred suspension are also generally given developmental sanctions.

Section 9.2.4 Suspension. A suspension is an official separation of a student from the University for a specific period of time and/or until certain conditions are met. A suspension may be imposed for serious misconduct and/or for a violation of deferred suspension. Suspension may include conditions that must be satisfied prior to a student being allowed to re-enroll and/or conditions that will be in place if the student is allowed to re-enroll. The effective date of a suspension may be imposed retroactively to the date that the misconduct occurred. While suspended, the student loses all University rights and privileges (e.g., enrollment privileges), shall not represent the University in any official manner, and shall not be present on University-controlled property without the prior approval of the Vice Chancellor for Student Life. The student may be required to meet with an assigned Student Life staff member periodically while suspended to ensure the student is making satisfactory progress

regarding the developmental sanctions issued. The Vice Chancellor for Student Life will determine whether the student is eligible for consideration for re-enrollment by the University's admissions office(s). Students who are permitted to return to the University following a period of suspension will automatically be placed on disciplinary probation by SCCS for a designated period of time, which is designed to facilitate a smooth transition back to the University community. A student on post suspension disciplinary probation must abide by the Standards of Conduct and all terms and conditions placed on the student's re-enrollment.

Section 9.2.5 Expulsion. Expulsion is a sanction that permanently bars a person from reenrolling as a student at the University. This sanction generally is imposed when the student's misconduct is deemed so serious as to warrant total and permanent disassociation from the University community without the possibility of re-enrollment; and/or when, by the student's repeated misconduct, a student has exhibited a blatant disregard for the health, safety, or welfare of other members of the University community or the University's right to establish rules of conduct. A person who has been expelled shall not be present on University-controlled property without the prior approval of the Vice Chancellor for Student Life.

Section 9.2.6 Withholding of Degree. The University may withhold a degree as a disciplinary sanction for a specified period of time or until the student's completion of all other sanctions imposed, whichever occurs later.

Section 9.2.7 Revocation of Degree. The sanction of the revocation of a degree may be imposed if a student has obtained a degree at least in part through cheating, plagiarism, other academic dishonesty, or through research misconduct. Revocation of a degree shall be approved by the Chancellor before the revocation is effective. If approved by the Chancellor, this sanction will be noted on the student's academic transcript on a permanent basis.

Section 9.2.8 Disciplinary Probation for Student Organizations. A student organization given the sanction of disciplinary probation is permitted to retain University student organization registration on a probationary status. As a condition of the disciplinary probation, the student organization also may be given developmental sanctions.

Section 9.2.9 Social Probation for Student Organizations. Social probation prohibits a student organization from sponsoring or participating in specified social activities. While on social probation, a student organization may not host social events

or participate in University-affiliated activities. Any exceptions to social probation must be approved, in advance, by the Vice Chancellor for Student Life.

Section 9.2.10 Revocation or Suspension of University Registration. In cases of serious or repeated misconduct, a student organization's University registration may be suspended or revoked.

SECTION 9.3 DEVELOPMENTAL SANCTIONS.

In addition to an administrative sanction(s), one (1) or more of the following developmental sanctions may be imposed in an effort to foster student learning and development.

Section 9.3.1 Educational Activities. Educational activities are designed to educate the student about why certain conduct was inappropriate. Examples of such activities include, without limitation, offering a formal apology (in writing and/or in person); attending an educational class, training, or workshop; giving or attending a presentation; preparing and submitting a research project or paper on a designated topic; or offering a written reflection responding to a prompt given by SCCS.

Section 9.3.2 Restitution. Restitution is compensation for loss, damage, and/or injury incurred as a result of the student's conduct. Compensation may take the form of money, service, and/or material replacement. Restitution may be required to be made to the University, a specific individual, or a specific organization. Normally, all restitution must be paid or made within two (2) weeks of the imposition of the sanction.

Section 9.3.3 Supervised Work/Service. A student may be assigned unpaid work or service that is both beneficial to the University community and/or likely to assist the student in understanding the effects of the student's conduct.

Section 9.3.4 Loss or Restriction of Privileges. Specified student privileges are lost or restricted. Such privileges include, without limitation, representing the University in any official manner, the use of or access to University-controlled property, University parking privileges, or participation in University-affiliated activities (e.g., extracurricular activities).

Section 9.3.5 University Housing Reassignment or Removal. A student may be assigned to a different residence hall or residence hall room. A student's residence hall contract also may be terminated, and the student may be prohibited from residing in University housing for a definite or indefinite period of time.

Section 9.3.6 Mandatory Education. A student may be required to participate in one (1) or more educational programs, classes, or workshops relating to the student's misconduct including, without limitation, education concerning alcohol or drugs. The student may be held responsible for the payment of expenses relating to the educational program/class/workshop(s).

X. HONOR STATEMENT

SECTION 10.1 HONOR STATEMENT. An essential feature of the University is a commitment to maintaining an atmosphere of intellectual integrity and academic honesty. As such the University utilizes an Honor Statement that reads, "As a student of the University, I pledge that I will neither knowingly give nor receive any inappropriate assistance in academic work, thus affirming my own personal commitment to honor and integrity."

SECTION 10.2 INFORMING STUDENTS AND FACULTY. The following methods will be used to inform students and faculty members about the Honor Statement: (1) the Honor Statement appears on undergraduate and graduate applications for admission, and applicants will be required to acknowledge his/her affirmation of the Honor Statement in writing; (2) information regarding the Honor Statement is included in the undergraduate and graduate catalogs, Hilltopics; (3) the Honor Statement is discussed during student orientation programs; (4) faculty members are encouraged to discuss the Honor Statement with students in entry level English courses; (5) faculty members are encouraged to include the Honor Statement in their course syllabus; (6) implementation methods and alternatives are discussed during faculty orientation programs; and (7) the enforcement of the Honor Statement through the Standards of Conduct (Section 4.1) and the student conduct process.

SECTION 10.3 ACADEMIC DISHONESTY. The Honor Statement prohibits cheating, plagiarism, and any other type of academic dishonesty.

SECTION 10.4 PLAGIARISM. Plagiarism is using the intellectual property or product of someone else without giving proper credit. The undocumented use of someone else's words or ideas in any medium of communication (unless such information is recognized as common knowledge) is a serious offense, subject to disciplinary action that may include failure in a course and/or dismissal from the University. Specific examples of plagiarism include, but are not limited to: (1) using without proper documentation (quotation marks and citation) written or spoken words, phrases,

or sentences from any source; (2) summarizing without proper documentation (usually a citation) ideas from another source (unless such information is recognized as common knowledge); (3) borrowing facts, statistics, graphs, pictorial representations, or phrases without acknowledging the source (unless such information is recognized as common knowledge); (4) collaborating on a graded assignment without the instructor's approval; and (5) submitting work, either in whole or partially created by a professional service or used without attribution (e.g., paper, speech, bibliography, or photograph).

SECTION 10.5 EXAMPLES OF OTHER TYPES

OF ACADEMIC DISHONESTY. Specific examples of other types of academic dishonesty include, but are not limited to: (1) providing or receiving unauthorized information during an examination or academic assignment, or the possession and/or use of unauthorized materials during an examination or academic assignment; (2) providing or receiving unauthorized assistance in connection with laboratory work, field work, scholarship, or another academic assignment; (3) falsifying, fabricating, or misrepresenting data, laboratory results, research results, citations, or other information in connection with an academic assignment; (4) serving as, or enlisting the assistance of, a substitute for a student in the taking of an examination or the performance of an academic assignment; (5) altering grades, answers, or marks in an effort to change the earned grade or credit; (6) submitting without authorization the same assignment for credit in more than one course; (7) forging the signature of another or allowing forgery by another on any class or University-related document such as a class roll or drop/add sheet; (8) gaining an objectively unfair academic advantage by failing to observe the expressed procedures or instructions relating to an exam or academic assignment; and (9) engaging in an activity that unfairly places another student at a disadvantage, such as taking, hiding, or altering resource material, or manipulating a grading system.

SECTION 10.6 RESPONSIBILITIES ASSOCIATED WITH THE HONOR STATEMENT.

All members of the University community have responsibilities associated with the Honor Statement. These responsibilities are unique to each sector of the University community. Each student is responsible for his/her own personal integrity in academic life. Each student is responsible for knowing and adhering to the terms and conditions of the Honor Statement and may acknowledge his/her adherence to the Honor Statement by writing, "Pledged," and signing on a graded class assignment or examination. Although there is no affirmative duty to report the academic

dishonesty of another, each student, given the dictates of his/her own conscience, may choose to report any violation of the Honor Statement to a faculty member or to SCCS. The prevention of academic dishonesty, and the response to academic dishonesty, is the immediate responsibility of the instructor. However, students are not excused from complying with the Honor Statement because of an instructor's failure to prevent or discourage academic dishonesty.

SECTION 10.7 ACADEMIC DISHONESTY—RESOLUTION BY THE ACADEMIC DEPARTMENT.

Section 10.7.1 Notice of Academic Dishonesty and Informal Opportunity to Respond to Allegations. When an act of alleged academic dishonesty is discovered by, or brought to the attention of an instructor, the instructor shall notify the student about the alleged academic dishonesty, describe the information supporting the allegation, and give the student an informal opportunity to respond to the allegation(s) and information. The instructor may proceed with imposing an academic penalty for academic dishonesty if the student has not responded to the instructor's notice to the student concerning the alleged academic dishonesty within five (5) business days of the notice. The instructor does not have the authority under the Code to impose a sanction identified in Section 9.2 or Section 9.3. An academic penalty shall not take effect until after the deadline for an appeal has passed under Section 10.7.3, or, if the student appeals the penalty, the student conduct process has concluded and the penalty has been upheld, whichever is later.

Section 10.7.2 Decision Whether to Impose an Academic Penalty. After giving the student notice and an informal opportunity to respond, if the instructor concludes that the student engaged in academic dishonesty, then the instructor may impose an academic penalty of a failing or reduced grade in the academic exercise, assignment, examination, and/or course; loss of credit for the work involved; an assignment to repeat the work, to be graded on its merits; and/or an oral or written reprimand. An instructor may impose more than one (1) academic penalty. If the instructor decides to impose an academic penalty, then the instructor shall transmit a notice to the student of the allegations, information, findings, academic penalty imposed, and information on the student's options to appeal the findings and/or penalties under Section 10.7.3. The notice should be countersigned by the department head. Copies of the notice to the student shall be submitted to SCCS, the dean or other chief administrative head of the instructor's academic unit, and, where different,

the dean or other chief administrative head of the academic unit in which the student is enrolled. The instructor is not required to notify a student that a complaint has been made to SCCS.

Section 10.7.3 Appeals of Academic Penalties.

Within five (5) business days of the transmittal of the notice to the student described in Section 10.7.2, the student may appeal the academic penalty imposed by the instructor by submitting a written Notice of Appeal of Academic Penalty to SCCS, using a form approved by SCCS. The SCB hears appeals of academic penalties. If SCCS does not issue a Notice of Allegations, then the instructor shall serve as the Conduct Officer in the SCB Hearing. The decision of the SCB, or the Appellate Board if the decision is appealed, shall be the final decision of the University concerning the academic penalty. For example, if the SCB's decision, if not appealed to the Appellate Board, is to reverse a grade of "F" for the course, then SCCS will inform the University's Registrar of the SCB's decision and request the Registrar to enter the grade for the course that the student would have received if the student had not been accused of academic dishonesty. If there is a question about what grade the student would have received if the student had not been accused of academic dishonesty, the question will be referred to the Provost for resolution.

SECTION 10.8 ACADEMIC DISHONESTY—RESOLUTION THROUGH THE STUDENT CONDUCT PROCESS. After receiving notice from the instructor under Section 10.7.2, SCCS may proceed with the student conduct process and determine of whether to issue a Notice of Allegations for violating Section 4.1. A decision by SCCS not to issue a Notice of Allegations shall not be used by the student to support an appeal of an academic penalty imposed by the student's instructor. In addition, SCCS may issue a Notice of Allegations for violating Section 4.1 regardless of the response of the instructor to the alleged academic dishonesty. If an instructor alleges that a student engaged in academic dishonesty and the student wants to appeal the academic penalty and/or SCCS issues a Notice of Allegations containing an allegation of a violation of Section 4.1, then the allegations against the student and the issue of the appropriate academic penalty shall be resolved through a Resolution Agreement, a Formal Hearing, or an Alternative Resolution Process.

SECTION 10.9 COLLEGE OF LAW. The University of Tennessee College of Law has adopted and promulgated its own Code of Academic Conduct, Chapter 1720-04-09. Chapter 1720-04-09 shall control in the event of a conflict between this Chapter and Chapter 1720-04-09.

SECTION 10.10 RESEARCH MISCONDUCT.

Notwithstanding anything in this Code to the contrary, allegations of research misconduct shall be reported, assessed, inquired into, investigated, and resolved consistently with the University's Policy on Misconduct in Research and Service.

XI. POLICY ON AMNESTY FOR INDIVIDUAL GOOD SAMARITANS AND STUDENTS IN NEED OF EMERGENCY MEDICAL ATTENTION.

SECTION 11.1 BACKGROUND. The University of Tennessee holds paramount the health, safety, and welfare of students. Accordingly, all University students are expected to alert appropriate officials in the event of a health, safety, or welfare emergency including, without limitation, a situation involving the abuse of alcohol or other drugs.

SECTION 11.2 EXPECTATIONS. When individual students know or reasonably should have known that other individual students are in need of emergency medical attention, the individual students are expected to: (1) contact appropriate people to report the incident and request assistance (e.g., University staff members, law enforcement), and provide those people with the names and contact information for the individual students reporting the incident and the impaired individual students; and (2) demonstrate cooperation and care by remaining with the impaired individual students and providing reasonable assistance during and after the incident. Individual students who take all of the steps described in this Section 11.2 will be referred to as a "Good Samaritan" under the Code. The individual students in need of emergency medical attention will be referred to as an "impaired individual student" under the Code.

SECTION 11.3 AMNESTY FOR INDIVIDUAL GOOD SAMARITANS. Unless individual Good Samaritans have engaged in a repeated or serious violation of the Standards of Conduct (e.g., physical or sexual assault, property destruction, disorderly behavior, theft, second incident of misconduct involving alcohol or drugs), individual Good Samaritans will not be subject to formal University disciplinary action for misconduct discovered by the University as a result of the Good Samaritan's report. While no formal University disciplinary action may be taken, the individual students who acted as a Good Samaritan may be required to meet with a University staff member to discuss the individual Good Samaritan's misconduct and adhere to appropriate remedial and/or educational recommendations.

SECTION 11.4 AMNESTY FOR INDIVIDUAL IMPAIRED STUDENTS. Unless individual impaired students have engaged in a repeated or serious violation of the Standards of Conduct (e.g., physical or sexual assault, property destruction, disorderly behavior, theft, second incident of misconduct involving alcohol or drugs), individual impaired students will not be subject to formal University disciplinary action for misconduct discovered by the University as a result of the Good Samaritan's report. While no formal University disciplinary action may be taken, the individual impaired students may be required to meet with a University staff member, participate in educational activities, and/or establish that the individual students have addressed issues that contributed to the misconduct.

SECTION 11.5 APPLICATION OF THE AMNESTY POLICY TO STUDENT ORGANIZATIONS.

Student organizations, through their officers and members, are also expected to take responsible action in emergency situations. While the Policy on Amnesty for Individual Good Samaritans and Students in Need of Emergency Medical Attention may not fully apply, adherence to steps described in Section 11.2 by a student organization's officers and/or members will be considered a mitigating factor when determining the outcome of or sanction for misconduct. Additionally, the University will consider a failure of officers and/or members to adhere to steps described in Section 11.2 to be an aggravating factor when determining the outcome of or sanction for misconduct.

XII. EMERGENCY POWERS

When, in the judgment of the University's Chancellor, conditions are such that it is impractical for the Student Conduct Board to function, the Vice Chancellor for Student Life may suspend these procedural regulations and appoint an ad hoc committee to hear a conduct matter. Any such ad hoc committee shall follow procedures that will insure that the Respondent is provided with due process. The final decision of the ad hoc committee may be appealed to the Vice Chancellor for Student Life, but the grounds for appeal are limited to those outlined in Section 8.6.3.

XIII. MAINTENANCE, DISCLOSURE, AND EXPUNGEMENT OF STUDENT DISCIPLINARY RECORDS

SECTION 13.1 MAINTENANCE OF STUDENT DISCIPLINARY RECORDS. The University maintains student disciplinary records separately from student academic records.

SECTION 13.2 DISCLOSURE OF STUDENT DISCIPLINARY RECORDS WHILE A STUDENT IS ENROLLED. While a student is enrolled in the University, SCCS may disclose disciplinary records to University officials who have a legitimate educational interest in the disciplinary records or to students who request to inspect their disciplinary records. SCCS may disclose disciplinary records to other persons only in accordance with state or federal law.

SECTION 13.3 DISCLOSURE OF STUDENT DISCIPLINARY RECORDS AFTER A STUDENT IS NO LONGER ENROLLED. After a student is no longer enrolled in the University, SCCS will disclose a student's disciplinary records to persons outside of SCCS only if one of the following sanctions was imposed on the student while the student was enrolled in the University: suspension; expulsion; withholding of degree; or revocation of degree. Notwithstanding the previous sentence, SCCS will disclose disciplinary records as required by state or federal law (e.g., subpoena, judicial order).

SECTION 13.4 EXPUNGEMENT OF STUDENT DISCIPLINARY RECORDS. SCCS permanently maintains student disciplinary records for students who have received the following sanctions (or their equivalents under previous versions of the Code): suspension; expulsion; withholding of degree; or revocation of degree. SCCS expunges student disciplinary records for other students seven (7) years after graduation or the last date of enrollment, except as prohibited by law or a University litigation hold.

XIV. DEFINITIONS OF TERMS USED IN THE CODE

The following words, terms, or phrases, when used in the Code, shall have the following meanings:

- (1) **ATTEND:** To participate in a meeting or hearing electronically or in person.
- (2) **BUSINESS DAY:** Any weekday not designated by the University as a holiday or administrative closure day. When calculating a time period of business days specified in the Code, the business day of the event that triggers a time period is excluded.
- (3) **CHAIRPERSON:** A faculty or staff member appointed by SCCS to preside over and facilitate a SCB Hearing.
- (4) **CODE, CODE OF CONDUCT, or STUDENT CODE OF CONDUCT:** The University of Tennessee, Knoxville's Student Code of Conduct, Chapter 1720-04-03.

- (5) **COMPLAINANT:** An individual who may have been subjected to student conduct that violates the Standards of Conduct, regardless of whether that individual makes a complaint or report to SCCS. This term does not imply prejudgment concerning whether the Respondent violated the Standards of Conduct. SCCS is the final decision maker with respect to whether an individual is a Complainant for purposes of the Code.
- (6) **CONDUCT OFFICER:** A University employee designated by SCCS to present information on behalf of SCCS to the Student Conduct Board. The Conduct Officer shall be employed in the Division of Student Life but is not required to be employed by SCCS. However, in a case involving alleged academic dishonesty in which SCCS has not issued a Notice of Allegations, the instructor generally will be designated as the Conduct Officer.
- (7) **DISCIPLINARY HOLD:** The University hold described in Section 6.4.3.
- (8) **DISCIPLINARY RECORDS:** A written record that personally identifies a student as a Respondent and is maintained by SCCS.
- (9) **FACULTY MEMBER OR INSTRUCTOR:** A person hired by the University to conduct teaching, research, or supervised clinical placements.
- (10) **FORMAL HEARING:** A SCB Hearing, a hearing before a Student Life Hearing Officer, and/or a UAPA Hearing.
- (11) **GOOD FAITH:** Having a belief in the truth of information that a reasonable person in the same position could have, based on the information known to the person communicating the information at the time the information was communicated by that person. Information is not communicated in good faith if it is communicated with knowing or reckless disregard for information that would negate the former information.
- (12) **KNOXVILLE AREA:** The geographical area that consists of the following counties in the state of Tennessee: Knox, Anderson, Union, Grainger, Jefferson, Sevier, Blount, Loudon, and Roane.
- (13) **MEMBER OF THE UNIVERSITY COMMUNITY:** A person who is a student, University employee, University volunteer, invited visitor to University controlled property, or participant in a University affiliated activity.
- (14) **NOTICE OR NOTIFY (given to students):** Written notice transmitted by United States mail, courier service, or hand delivery to the address the University's Registrar has on file for the student; and/or by email to a student's University provided email account. When a notice is transmitted by United States mail or courier service, the notice is effective on the date that it is mailed or delivered to the courier service. When a notice is transmitted by hand delivery, the notice is effective on the date that it is delivered to the person to whom the notice is addressed. When a notice is transmitted by email, the notice is effective on the date that the email is sent. A student's University issued email address is the official method of communication used by SCCS.
- (15) **POSSESSION:** Direct control of a substance or property, actual knowledge of a substance or property and/or being in such close proximity to the substance or property that it is a reasonable presumption that one had knowledge of the substance or property.
- (16) **PROTECTED ACTIVITY:** A person's good faith: (1) opposition to conduct prohibited under the Standards of Conduct; (2) report to the University about conduct prohibited under the Standards of Conduct to the University; (3) participation (or reasonable expectation of participation) in any manner in an investigation, meeting, hearing, or interim measure; or (4) exercise of rights or responsibilities under any provision of the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act.
- (17) **REASONABLE PERSON:** A sober, objectively reasonable person in the same situation, and with the same sex, gender identity, and sexual orientation as the person whose words and/or conduct are being evaluated.
- (18) **RELEVANT INFORMATION:** Information having any tendency to make the existence of any fact that is of consequence to determining whether the Respondent violated the Standards of Conduct more probable or less probable than it would be without the information.
- (19) **RESPONDENT:** A student or student organization who has been accused of violating the Standards of Conduct and/or whose conduct is being investigated by SCCS.
- (20) **SANCTION:** An administrative sanction and/or a developmental sanction.
- (21) **SCB:** Student Conduct Board.
- (22) **SCCS:** The Office of Student Conduct and Community Standards, which acts through University employees designated by the Director of SCCS to act on

behalf of the University in the student conduct process including, without limitation, University employees who work in SCCS and University employees who work in University Housing.

(23) **STAFF MEMBER:** A person employed by the University on a part or fulltime basis, primarily involved in planning, organizing, staffing, directing and controlling efforts to achieve the goals and objectives of the University.

(24) **STANDARDS OF CONDUCT:** Chapter 1720-04-03-.04.

(25) **STUDENT:** For purposes of the Code, the term “student” means:

(a) A person enrolled or registered for study at the University, either fulltime or part-time, pursuing undergraduate, graduate, or professional studies, as well as non-degree and noncredit programs and courses;

(b) A student organization;

(c) A person who has completed the immediately preceding academic term and is eligible for re enrollment;

(d) A person who is not officially enrolled but who has a continuing relationship with the University (e.g., on educational leave or other approved leave status);

(e) A person who attended the University during a previous academic term and who engaged in misconduct during the time of enrollment; and/or

(f) A person who has been admitted to the University and later matriculates at the University, with respect to misconduct:

1. That occurs as part of the application process; or

2. That occurs post admission and pre matriculation and falls within the jurisdiction of the Code (e.g., occurs on University-controlled property).

(26) **STUDENT LIFE HEARING OFFICER.** As more fully described in Section 7.2.4, a University employee designated by SCCS to conduct a Formal Hearing.

(27) **STUDENT ORGANIZATION:** An organization that is composed solely of University students that has

submitted a pending application or has completed the process for registration according to University rules.

(28) **UAPA:** Uniform Administrative Procedures Act, Tennessee Code Annotated, § 45301 et seq.

(29) **UAPA HEARING:** A hearing conducted by a University administrative judge or hearing officer in accordance with the University’s procedures for conducting a contested case hearing pursuant to the UAPA, Chapter 1720-01-05.

(30) **UNIVERSITY:** The University of Tennessee, Knoxville; the University of Tennessee Institute of Agriculture; and their campuses, centers, institutes, and constituent parts including, without limitation, their academic, administrative, or auxiliary departments or divisions.

(31) **UNIVERSITY-AFFILIATED ACTIVITY:** means an activity on or off University-controlled property that is initiated, aided, authorized, sponsored, or supervised by the University.

(32) **UNIVERSITY-CONTROLLED PROPERTY:** All land, grounds, structures, or any other property owned, controlled, or operated by the University. For purposes of this rule, University-controlled property includes, without limitation, all streets, alleys, sidewalks, and public ways abutting such property. University-controlled property also includes computers and network systems owned, controlled, or operated by the University or funded by the University.

(33) **UNIVERSITY OFFICIAL:** An employee of the University including, without limitation, faculty members and staff members, or, for purposes of this Code, a University-recognized volunteer, when acting in the performance of their duties. Student employees may be considered University officials when acting in the performance of their duties (e.g., event staff, resident assistants, and teaching assistants).

(34) **VICE CHANCELLOR FOR STUDENT LIFE:** The University’s chief student affairs officer, to whom the Chancellor has delegated responsibility for the administration of the Code. For the purposes of the Code, the term also includes any University employee whom the Vice Chancellor for Student Life designates to act in place of the Vice Chancellor for Student Life.

(35) **WEAPON:** Any device, instrument, or substance that is designed to, or reasonably could be expected to, inflict a wound, incapacitate, or cause serious bodily injury or death, including, without limitation, firearms (loaded and unloaded, real firearms and devices that would reasonably appear to a law enforcement

officer to be real firearms), ammunition, electronic control devices (such as tasers and stun guns), devices designed to discharge an object (such as bb guns, air guns, pellet guns, potato guns, and slingshots, but not water guns), explosives, dangerous chemicals (such as mace, tear gas, and oleoresin capsicum), martial arts weapons, bows and arrows, artificial knuckles, night sticks, blackjacks, dirks, daggers, swords, and knives with fixed blades longer than four (4) inches. The term “weapon” does not include pocket knives that fold (but not excluding switchblades); chemical repellents available over-the-counter for self-defense; instruments used solely for personal hygiene, preparation of food, maintenance, University-related instruction, or University employment-related duties.

(36) WRITTEN (OR IN WRITING): To communicate words either on paper and/or electronically. For example, a notice delivered via email constitutes a written notice under the Code.

March 2017



THE UNIVERSITY OF TENNESSEE, KNOXVILLE**RESPONSES TO PUBLIC RULEMAKING HEARING COMMENTS****CHAPTER 1720-04-03 (STUDENT CODE OF CONDUCT)****5**

On October 13, 2016, The University of Tennessee held a public hearing on a proposed rule for The University of Tennessee, Knoxville (“UTK”), Chapter 1720-04-03, which proposed a new Student Code of Conduct (“Proposed Code”). This document contains UTK’s responses to comments timely submitted in connection with the public hearing on the Proposed Code, whether orally or in writing. UTK received three oral comments and 82 written comments.

The University reviewed and evaluated every comment that was timely received. In accordance with Tennessee Code Annotated § 4-5-222, UTK has grouped similar comments together and addressed those comments in one response. UTK’s responses to comments are categorized and summarized below. While some suggested changes were made in response to comments, not every suggested change was incorporated in the final Student Code of Conduct (“Final Code”) being proposed to The University of Tennessee Board of Trustees (“Board”) on March 28-29, 2017. UTK has not responded to comments that did not address specific aspects of the Proposed Code.

The Model Student Code of Conduct (“Model Code”) authored by student affairs professionals Ed Stoner and John Lowery was created as a guide for campuses to use as a reference to revise policies and procedures. The Model Code was used throughout the drafting process of UTK’s proposed Student Code of Conduct and will be referenced throughout this document. A copy of the Model Code can be found at http://www.edstoner.com/uploads/stoner_lowery_JCUL_2004_cropped.pdf.

Philosophy, Accessibility, & Length of the Proposed Code

Several commenters commended the educational philosophy and process clarification in the Proposed Code. Other commenters expressed concerns related to the perceived legalistic nature of the Proposed Code, necessity for clarification, and length of the document. In an effort to address some of the stated concerns related to the aforementioned areas, UTK clarified multiple areas in the Final Code. Revisions were made in the following areas to address some concerns expressed by commenters: a more detailed explanation of retaliation in the Standards of Conduct (Section 4.7); the addition of required student notification of the right to an advisor (Section 5.3.3); and further explanation of UTK interim actions and restrictions (Section 6.4). UTK maintains that the Final Code establishes a more clearly stated educational philosophy that affirms a

developmental and educational process (e.g., creation of an Educational Conference, educational sanctions, and process simplification). The Final Code is slightly longer than the current Code of Conduct; however, it provides much needed process explanation and clarification, as well as additional components (e.g., medical amnesty). Upon successful promulgation, the Code will be accessible online.

Jurisdiction

Several commenters voiced concerns that the Proposed Code's description of UTK's jurisdiction over off-campus misconduct is vague and overbroad. The Final Code outlines the geographical limits of the Code in Section 2.1. The Final Code further outlines and clarifies when students will be held accountable for off-campus misconduct. The off campus jurisdiction outlined in the Final Code is consistent with peer Tennessee, SEC, and aspirant institutions. Additionally, several individuals voiced concerns regarding the inclusion of the clause "adversely affects the University's educational or reputational interests." That clause was removed from the Proposed Code prior to its passage by the Board in October 2015.

Legal Counsel

One commenter commended the Proposed Code for outlining the right of a student to have legal counsel present throughout the process. Several other commenters raised concerns about the absence of "active" legal counsel during the conduct process. The Proposed Code was not amended based on these comments. Allowing attorneys to actively speak on behalf of the student in a disciplinary proceeding diminishes many educational aspects of the conduct process, creates issues of fairness, and makes the conduct process much more legalistic in nature. Additionally, the current process of allowing students the right to a legal advisor meets the due process requirements as outlined by the Model Code and legal precedent. The Final Code does permit attorneys to be present during all stages of the process in an effort to maintain the educational and developmental nature of the proposed process, while allowing students the right to counsel. This process is consistent with other Tennessee, SEC, and aspirant institutions. Furthermore, if a student elects to have their disciplinary case heard pursuant to a contested case proceeding under the Tennessee Uniform Administrative Procedures Act ("UAPA"), then the student has the right to active representation by an attorney in the UAPA proceeding.

Burden of Proof

Three commenters voiced concerns regarding the standard of evidence used in the Proposed Code and several commenters raised an issue with the voting threshold used

in hearing decisions. The commenters who voiced concerns regarding the standard of evidence advocated for using the standard of clear and convincing evidence. The standard of evidence that is used in the Final Code is preponderance of the evidence. Using a preponderance of the evidence standard is consistent with other Tennessee institutions, the Model Code, federal guidance regarding Title IX cases, and the standard of evidence used in UTK's student conduct process for the past 40 years.

The commenters who expressed concern regarding the voting threshold used in hearing decisions advocated that the voting threshold should be higher (e.g., unanimous or 2/3 majority). In the proposed Code, board members will determine if a student is found responsible for the alleged misconduct by a majority vote. However, the burden of presenting information demonstrating that it is more likely than not the alleged misconduct occurred rests with the Conduct Officer, not with the student (Section 8.4.8). UTK believes that a majority decision by the board is sufficient in making a responsibility determination for a student conduct process. The Model Code also supports this practice.

Medical Amnesty/Good Samaritan Policy

Multiple commenters commended UTK for the inclusion of the medical amnesty policy in the Proposed Code. However, several commenters also expressed concerns with the application of the medical amnesty policy to organizations and the policy being "discretionary." In response to the concern about the application of the policy being discretionary, the medical amnesty policy states that unless an individual impaired student or an individual Good Samaritan has engaged in repeated or serious violations (e.g. sexual assault, theft, physical assault), then they will not be subject to formal disciplinary action. However, educational sanctions may be utilized in certain situations to facilitate a true learning experience and help address any health or safety concerns.

In regard to the application of this policy to student organizations, the proposed Code states that the utilization of the policy by student organizations will be considered a mitigating factor in determining the outcome and/or sanction for any alleged misconduct. Such an application of the policy to student organizations is consistent with peer institutions who have a medical amnesty policy.

Consolidation of Hearing Boards

Several commenters, including the then-President of the Panhellenic Council at UTK, commended the consolidation of the hearing boards for one or more of the following reasons: (1) eliminates preferential treatment for any particular group; (2) not all groups

on campus have a separate board; (3) the current separation of the boards creates a system of inequality for the rest of the campus; and (4) consolidation of the boards allows for more consistent enforcement for all students and student organizations.

Several commenters expressed concern with the elimination of the Greek Judicial Board. The absence of a Greek Judicial Board is consistent with all public, four-year Tennessee institutions, as well as many peer and aspirant institutions. UTK continues to maintain that the consolidation of the hearing boards provides a fair, equitable, and consistent process for all students and student organizations. All students, including Greek-affiliated students, will have the opportunity to apply to serve on the Student Conduct Board under the Final Code.

Chicago Principles

Several commenters voiced concerns that the Proposed Code does not include the “Chicago Principles.” UTK did not adopt the Chicago Principles in the Final Code. UTK specifically references the First Amendment of the United States Constitution three times to address protected student rights. Based on feedback, further clarification was also added to the Final Code in the preamble section. The additional language states, “The Code shall be interpreted in a way that does not violate the students’ constitutional rights including, without limitation, the rights protected by the First Amendment of the United States Constitution” (Article I). UTK believes multiple references to the Constitution are sufficient reminders of the Code’s protections of the constitutional rights of students.

Rights of the Accused

Several commenters expressed concerns over the perceived elimination of the Fundamental Rights of the Accused despite the fact that the Fundamental Rights of the Accused were included in the Proposed Code in Article V. The Fundamental Rights of the Accused are included in the Final Code in Article V.

Grounds for Appeal

Several commenters stated that the bias of a hearing board member should be an automatic ground for appeal. This change was made and a ground for appeal based on “personal prejudice or bias” of a board member is now included in the Final Code (Section 8.6.3). One commenter also stated that “material procedural error” should be considered a ground for appeal. Material procedural error was already included as a ground for appeal in the Proposed Code and remains in the Final Code (Section 8.6.3).

Composition of the Student Conduct Board

Several commenters stated they were concerned with the composition of the Student Conduct Board, specifically in reference to faculty or staff representation being greater than student representation on the board. Based on feedback from the campus community prior to the passage of the Proposed Code by the Board in October 2015, the composition of the Student Conduct Board was amended. The Final Code states, “the student composition of the voting members of the SCB must be equal to or greater than the sum of the faculty and staff voting members,” except for cases involving allegations of sexual misconduct and research misconduct (Section 8.2.2).

Additionally, two commenters submitted inquiries concerning the composition and training of the group of individuals able to serve on hearings. All students, faculty, and staff will be able to apply to serve on the Student Conduct Board and if selected these individuals will receive a comprehensive training. A Student Life Hearing Officer, who also has the ability to conduct hearings, is a UTK employee designated and trained on the procedures in the Proposed Code (Section 7.2.4).

Composition of the Student Conduct Board in Cases Involving Sexual Misconduct

Several commenters expressed concerns about the removal of student board members from cases involving allegations of sexual misconduct. The Proposed Code and the Final Code state that students shall not be appointed to serve on the Student Conduct Board (SCB) in cases involving the allegation of sexual misconduct, unless both the Respondent and Complainant agree to students serving on the Board (Section 8.2.2). This language is retained in the Final Code because UTK is required to propose this change to the Board to comply with an agreement to settle *Jane Doe I et al. v. University of Tennessee*, Case No. 3:16-cv-00199, United States District Court for the Middle District of Tennessee.

One commenter raised a question concerning the confidentiality of Student Conduct Board members. In response, board members are required to maintain confidentiality for all cases. The importance of confidentiality is also discussed at length in the trainings for board members.

One commenter mentioned UTK’s efforts related to prevention and awareness. UTK has an office, the Center for Health Education and Wellness, dedicated to prevention and intervention efforts in this area.

One commenter also mentioned incorporating anonymity between parties involved in cases of alleged sexual misconduct. Additionally, an individual recommended changing

board composition by requiring even male and female representation on sexual misconduct boards. No changes were made to the Proposed Code in these areas because the recommended changes are not consistent with current UTK procedures.

Alcohol Policy

Several commenters indicated dissatisfaction with the current UTK alcohol policy, specifically alcohol being prohibited on campus. In response to these concerns, the Standard of Conduct related to alcohol on University-controlled property or in connection with a University-affiliated activity was amended to include additional language. The additional language states, “unless expressly permitted by University policy,” which allows for any future change in the alcohol policy without the Code of Conduct impeding the change.

Amendments to Code Based on Feedback

Several commenters expressed concerns of a perceived lack of amendments or changes to the Proposed Code following feedback. These commenters also specifically mentioned a meeting that occurred with University administrators in December 2015. Changes were made to the proposed Code based on feedback received throughout the initial vetting process in 2015 (e.g., changes made to jurisdiction, clarification of organization responsibility). Changes also occurred following the aforementioned December 2015 meeting (e.g., the director of SCCS shall not appoint persons to serve on the SCB based on how they are anticipated to vote). Additional amendments followed the public rulemaking hearing in October 2016 (e.g., addition of student notification of the right to have an advisor and an addition of a ground for appeal based on personal prejudice or bias). All feedback received during the vetting process was evaluated and while some changes were incorporated based on feedback received, not every suggested change was integrated into the Final Code.

Vetting Process/Timeline of Proposed Code/Final Code

Several commenters noted their involvement, as students, in the vetting process of the Proposed Code. One commenter commended the process by stating that the Proposed Code reflects student voices from across campus.

Several commenters expressed concern about the timeline and the perceived lack of student involvement in the vetting process. The external review of the Office of Judicial Affairs (currently known as the Office of Student Conduct and Community Standards) occurred in 2013. This external program review recommended that UTK revise the Student Code of Conduct. The initial vetting process of the Proposed Code then began in

2015 and consisted of various presentations and discussions with groups across campus (e.g., Student Senate, Greek Leaders, and Faculty Senate). Additionally, students received various emails inviting questions and feedback on the Proposed Code (e.g., an email sent to all students and an email sent to Greek Chapter Presidents). Throughout the vetting process, feedback was gathered, assessed, and changes were made based on evaluation, as discussed above.

Definitions/Standards

Two commenters expressed concern with the withholding information clause in the Proposed Code (Section 4.3). In response, UTK wants to highlight that the Standard of Conduct pertaining to withholding information includes an exception for respondents. This exception can be found in the fundamental rights for the respondent, where the Final Code states that the respondent or student alleged to have violated the Code of Conduct has the “right to refrain from presenting information and witnesses...and the right to not have the Student Life Hearing Officer or SCB draw an inference adverse to the Respondent if the Respondent does not present information or witnesses” (Section 5.1, Fundamental Right 9).

Additionally, several commenters stated that the definitions of academic dishonesty and plagiarism are broad. UTK did not make any changes to these sections because UTK believes the Final Code clarifies and provides examples for each of these terms in Article X. The information in the Final Code concerning plagiarism and academic dishonesty provides clarity, examples, and is consistent with the current Code of Conduct.

One commenter stated that the definitions should be placed at the front of the Proposed Code. This change was not implemented because UTK believes that placing the definitions at the back of the Final Code allows students to have prior context for the material the definitions reference.

One commenter also stated that definitions in the Code should have ordinary meaning and that several definitions were too lengthy. UTK believes the length of the definitions provide clarity and necessary, detailed information on the meaning of terms used throughout the document. Specifically, this commenter expressed concern with the definition of consent and the perception of the burden of proof being with the accused student. This referenced definition of consent is located in UTK’s Policy on Sexual Misconduct, Relationship Violence, Stalking, and Retaliation, which is separate from the Final Code and was previously approved by the Board. Additionally, the Final Code

clearly states that “the Conduct Officer bears the burden of presenting information demonstrating that it is more likely than not that the Respondent violated a Standard of Conduct” (Section 8.4.8).

Student Organization Responsibility

Several commenters expressed apprehension about student organization responsibility for violations of the Standards of Conduct. A few commenters stated that there needed to be an inclusion of an organization definition in the Code. This definition can be found in the definitions section of the Final Code (Article XIII). Additional concerns focused on the responsibility of an organization if just a few members were involved in the alleged violation of the Standards of Conduct, but the organization was not aware of the incident. Some commenters further expressed the desire for the Final Code to include a specific number of members at an event that would result in the event being considered an organization event. The Final Code outlines what criteria will be used to determine student organization responsibility for violations of the Standards of Conduct in Section 2.4. This section outlines and clarifies what will be used to determine if the conduct is fairly attributable to the student organization based on a totality of the outlined criteria. UTK did not change the Proposed Code to include a specific number of members at an event that would result in the event being considered an organization event. This is in an effort to avoid an event begin considered an organization event based solely on the number of individual members present. This is also consistent with other peer Tennessee and SEC institutions. Overall, UTK believes that outlining a set of criteria used to determine organization responsibility will provide clarity for organizations, as well as help prevent organizations from unfairly being held responsible for violations by individual members.

Advisors

One commenter expressed support for the additional option for an advisor detailed in the Proposed Code (Section 5.3).

One commenter inquired as to who the advisors are and if they receive training for this role. The Final Code outlines the various options students have for advisors, which includes a UTK employee, friend, or attorney (Section 5.3). The Office of Student Conduct and Community Standards will train UTK employees who serve as advisors. Upon the successful promulgation of the Final Code, a comprehensive training for advisors would be developed and include topics such as the role of an advisor, the Code of Conduct, and the student conduct process.

Hearing Process

One commenter commended the inclusion of collaborative solutions to conflicts reported to the Office of Student Conduct and Community Standards.

One commenter submitted questions and concerns surrounding the hearing process, including topics such as the timeline of the process and hearing logistics. One comment deals with allowing a video link to be a two-way link to allow both parties to interact with one another. The current process is to use a two-way device to allow for interaction between the involved parties if an individual video conferences for a hearing. In response to a question raised regarding Complainant and Respondent access to the hearing record, both parties will have access to the decision of the board and the Notice of the Appeal, if the decision of the Board is appealed (8.6.8). In response to the comment regarding a need for guidelines for a chairperson's authority, the Final Code outlines the role of the Chairperson (Section 8.4). An additional suggestion is to allow the reference of a respondent's student conduct records in the sanction discussion for a hearing. The Final Code states that the Respondent's conduct history can be provided for the determination of the sanction (Section 8.5.3). This commenter also asked if witness statements are required to be notarized. Witness statements are not currently required to be notarized.

One commenter expressed concerns regarding the timeline of the hearing process. The commenter stated that case information should be provided no less than seven business days in advance and that the pre-hearing review occur at least three days in advance. The Final Code requires the reporting of information to the Office of Student Conduct and Community Standards five business days in advance (Section 8.3.1). This allows the complainant and respondent ample time to prepare information they would like to present at the hearing. The pre-hearing review will take place no less than three business days prior to the hearing, as suggested above (8.3.2).

One commenter suggested seven business days as the minimum failure to request a formal hearing and two commenters suggest seven business days as the time allotment for requesting an appeal. In the Proposed Code, the Respondent has five business days upon notice of allegations to elect a Formal Hearing (Section 7.4.3). The Respondent also has five business days to submit a Notice of Appeal once provided with a copy of the Notice of Decision. UTK did not change this time allotment to seven business days in an effort to ensure that the adjudication process is completed in a timely manner.

Search Policy

Several commenters stated concerns about the UTK housing search policy. The University housing search policy and procedures are a separate UTK policy and are not a part of the Final Code.

Other

One commenter suggested the development of a Student Code of Conduct banner to be distributed in the lobby of UTK buildings to serve as a reminder for students, faculty, staff, and alumni. Upon promulgation of the Final Code, UTK will implement a plan to inform the campus community of the new Code of Conduct.

One commenter praised the adjustment of disciplinary records disclosure in the Proposed Code, by which records will only be released after a student is no longer enrolled if the sanction is suspension or greater (Article XIII).

One commenter mentioned the fourth paragraph of Article I and the absence of the mention of student organizations. Throughout the Final Code, the term “student” is used to refer to students and student organizations. The definition of student in the Final Code includes student organization (Article XIII).

One commenter requested that UTK continue the review and redrafting process. This comment was submitted as part of the rulemaking hearing in October 2016. Following the evaluation of comments presented at the rulemaking hearing, several revisions were made to the Proposed Code.

Oral Comments

One commenter recognized the necessary improvements to the Proposed Code and the subsequent benefits for students. The commenter specifically recognized the educational approach in Article I, the medical amnesty/Good Samaritan policy, the inclusion of an educational conference, and the elimination of the sanction of indefinite suspension. The commenter also mentioned a Student Government resolution passed in support of the medical amnesty/Good Samaritan policy in the Proposed Code. The commenter expressed a desire for additional conversations regarding the board composition change for sexual misconduct cases. The commenter acknowledged the value of consolidating the hearing boards, while also mentioning expressed concerns from the Greek community regarding the elimination of the Greek Judicial Board. The commenter stated that a separate Greek Judicial Board might take away from the consistency and efficiency of the process. However, the commenter also states that additional conversations should

take place regarding this issue. Lastly, an amendment to the Standard of Conduct related to alcohol on campus was recommended. This recommended change was implemented in the Final Code by the addition of the language “unless expressly permitted by University policy,” which allows for any future change in the alcohol policy to occur, without the Code of Conduct impeding any change (Section 4.18).

Another commenter and member of the Greek community, voiced support for the consolidation of the hearing boards and the elimination of the Greek Judicial Board. The commenter discusses the leadership role they hold in the Greek community and the reasoning they support the removal of the Greek Judicial Board. The commenter contends that Greek organizations strive to hold themselves to a higher standard and that if this is true, it should not be a concern to appear before a uniform hearing board who hears cases for all students and organizations. Additionally, the commenter asserts that members of the hearing board would be individuals entrusted with making determinations for all students and therefore that trust should extend for Greek decisions, regardless of Greek affiliation. Additionally, the commenter stated that the board consolidation helps to eliminate separation between the Greek community and other students. Overall, the commenter states that the Proposed Code provides various improvements for students and that it is important for Greek students and alumni to consider this.

The final commenter stated opposition to the removal of student board members from cases involving allegations of sexual misconduct, and expressed concerns regarding potential consequences of this change. The commenter referenced a Student Government Association resolution detailing concerns with this change. The resolution did not pass because it was voted down following a tie vote. The commenter asserted that this is a divisive issue on campus. As stated above, the language is included in the Final Code to comply with an agreement to settle Title IX litigation. The commenter also mentioned that issues exist in the sexual misconduct process and that a review is needed in order to address these issues. Those issues are related to the Policy on Sexual Misconduct, Relationship Violence, Stalking, and Retaliation, which is a separate UTK policy.

THE UNIVERSITY OF TENNESSEE
BOARD OF TRUSTEES

ACTION ITEM

DATE: March 29, 2017

ITEM: **Minutes of the Last Meeting**

PRESENTED BY: Catherine S. Mizell, Secretary

Minutes of the December 15, 2016 meeting of the Board of Trustees follow this memorandum. The necessary Resolution for approval appears below.

RESOLVED: The reading of the minutes of the December 15, 2016 meeting of the Board of Trustees is omitted, and the minutes are approved as presented in the meeting materials, provided that the Secretary is authorized to make any necessary edits to correct spelling errors, grammatical errors, format errors, or other technical errors subsequently identified.

BOARD OF TRUSTEES

MINUTES OF THE CALLED MEETING

December 15, 2016
Knoxville, Tennessee

A called meeting of The University of Tennessee Board of Trustees was held at 12:30 p.m. CST, on Thursday, December 15, 2016, in the offices of Bradley Arant Boult Cummings, 1600 Division Street, Suite 700, Nashville, Tennessee.

I. CALL TO ORDER AND INVOCATION

Raja J. Jubran, Vice Chair of the Board, called the meeting to order.

II. ROLL CALL

Secretary Catherine S. Mizell called the roll, and the following members were present at the meeting location or by telephone:

Raja J. Jubran, Vice Chair
Charles A. Anderson
Shannon A. Brown (by telephone)
Joseph A. DiPietro
Spruell Driver, Jr.
William Evans (by telephone)
John N. Foy
D. Crawford Gallimore
Vicky Gregg
Brad A. Lampley
Sharon Miller Pryse
Jefferson S. Rogers (by telephone)
Rhedona Rose
Miranda N. Rutan (by telephone)
Rachel M. Smith (by telephone)
Jai Templeton (by telephone)
Julia T. Wells
Charles E. Wharton
Tommy G. Whittaker

The Secretary announced the presence of a quorum. Governor Haslam, Commissioner McQueen, THEC Executive Director Krause, Trustees Cates, Davidson, Tickle were unable to attend the meeting. Members of the administrative staff, Emeritus Trustee James L. Murphy, and media

representatives were present. The meeting was also webcast for the convenience of the University community, the general public, and the media.

The Secretary noted the requirements for meetings conducted with members participating by telephone, including the requirement that all votes be conducted by a roll call. Trustees Brown, Evans, Gallimore, and Rogers acknowledged that no one else was present at their respective locations.

III. MINUTES OF THE LAST MEETING

Chair Jubran called for any additions or corrections to the minutes of the October 14, 2016 meeting as presented in the meeting materials. Hearing none, Trustee Gallimore moved approval of the minutes. Trustee Pryse seconded, and the motion carried by roll-call vote (Exhibit 1).

IV. PRESIDENT'S REPORT

Dr. DiPietro's report included discussion of the state's budget hearing, reporting that the state's resources are in good shape, and the University is hopeful for its capital projects and allocations. The report also updated the Trustees on the first meeting of the independent Title IX Commission, next steps for the group working on streamlining the compensation incentive plans, and the anticipated report card from the Department of Education evaluating teacher education programs across the state of Tennessee. He also reported on implementing the system administration reorganization, searches, and appointments.

V. PRESIDENT'S RECOMMENDATION FOR APPOINTMENT AND COMPENSATION OF THE CHANCELLOR OF THE UNIVERSITY OF TENNESSEE KNOXVILLE/GRANT OF TENURE IN A FACULTY APPOINTMENT

Dr. DiPietro said his recommendation of Dr. Beverly J. Davenport as the 8th Chancellor of The University of Tennessee, Knoxville marks a very special moment in the history of that campus. After recognizing Dr. Davenport and her daughter, Sloane, who were present at the meeting, he noted highlights from Dr. Davenport's extensive and esteemed career in higher education. He called the Board's attention to the offer letter and tenure recommendation included in the meeting materials (Exhibit 2) and said the appointment would be effective February 15, 2017, with initial compensation summarized as follows:

- Base salary: \$48,750.00 per month (\$585,000.00 annualized);
- Non-accountable expense allowance: \$1,666.67 per month (\$20,000.00 annualized);
- Housing allowance: \$5,000.00 per month for one year from the effective date of her appointment or until sale of her house in Cincinnati, whichever occurs first; thereafter, the housing allowance will be \$1,666.67 per month (\$20,000.00 annualized);
- One-time moving allowance: \$15,000.00; and

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December 15, 2016

Potential for an annual performance incentive payment of up to 15% of base salary, payable in three installments over three years.

Vice Chair Jubran asked Dr. Davenport to exit the meeting and then called for a motion on the President's recommendation. Trustee Pryse moved adoption of the following Resolution:

RESOLVED:

(1) The President's recommendation for appointment and initial compensation of Dr. Beverly J. Davenport as Chancellor of The University of Tennessee, Knoxville is approved as presented in the meeting materials; and

(2) Tenure is granted to Dr. Beverly J. Davenport in a faculty appointment as Professor in the School of Communication Studies at The University of Tennessee, Knoxville, with no additional compensation for the faculty appointment while serving as Chancellor; upon leaving the position of Chancellor, Dr. Davenport's compensation in the full-time faculty appointment will be \$438,750.00 (75% of her initial base salary of \$585,000.00 as Chancellor) for four years; and beginning with year five after leaving the position of Chancellor, Dr. Davenport's compensation in the full-time faculty appointment will be adjusted to the average base salary of full professors in the department.

Trustee Anderson seconded the motion. Vice Chair Jubran called for any discussion.

Trustee Wharton noted that Dr. Davenport's salary will be significantly higher than the salaries of the previous Chancellor and Dr. DiPietro. He asked what analysis has been done to see what ripple effect might occur with respect to other current salaries. Dr. DiPietro responded when he makes a recommendation to this Board, he is bringing a candidate at market value. As a result, those like Chancellor Cheek who stayed in their role for eight years end up compressed as the market moves. He reviewed the market analysis of similar colleges and university systems (Indiana, Purdue, Penn State, Rutgers, Ohio State, Michigan, North Carolina, and Wisconsin) used to compile data for the proposed salary. Dr. Davenport's proposed salary is in the middle of the range. Trustee Wharton requested that the Board receive salary data for system administration from five years ago and compare that to market rates today to see how the number has changed. Trustee Gregg asked if the salary requirements of other candidates were within this same range. Dr. DiPietro confirmed that they were and added that in his experience, there are not many superior candidates who aspire to these jobs, and those who do know the market very well and have their choice of opportunities. Trustee Rogers said he had consulted with the faculty senate leadership at UTK and reported that first and foremost they are very happy with the selection of Dr. Davenport. He said they are concerned, however, that the higher salary for Dr. Davenport is increasing the wage gap between administration and faculty. He said they shared with him data mentioned by Trustee Wharton showing that nine-month faculty salaries increasing by 22% over a ten year period (2005-2014), while executive salaries increased by 45%. Dr. DiPietro said he

would not dispute that data, except to point out that the turnover on executive positions is much more frequent than faculty positions, and market forces move quicker in the executive markets. He added, however, that this does not mean we will let up in closing the salary gap for the faculty. He noted that Chancellor Cheek did a lot to close those gaps. Noting that this salary data has been mentioned twice in the meeting, Vice Chair Jubran asked the administration to prepare a report analyzing the 45% increase in executive salaries versus the 22% increase in nine-month faculty salaries for the next Board meeting. Vice Chair Jubran commended Dr. DiPietro for his work in getting Dr. Davenport on board at market value even though his own salary is compressed due to his loyalty and length of service. He said the President's actions demonstrate a very strong and secure character. Trustee Wharton said it is necessary to continue to analyze the salary gaps so our outstanding loyal faculty and executives do not feel they need to change jobs to get market value. Vice Chair Jubran said the Board recognizes that Dr. DiPietro has been working hard to reduce costs, increase revenue, and close the salary gaps within the System without relying on external revenue. Trustee Evans said one step in addressing the concern is to appoint a strong leader as the next UT Knoxville Chancellor. He said he finds the proposed salary to be well within market range and not high in comparison to the peers to which we aspire. He said the Board should move forward with the motion on the table and address the ripple effect that Trustee Wharton appropriately raised at the appropriate time. Vice Chair Jubran called for any further discussion. Trustee Lampley said he understands that at the end of her service as Chancellor, Dr. Davenport would receive 75% of her initial base salary for four years as a tenured faculty member. He asked if there is a vesting requirement to receive the retiring right at 75% of her initial base salary. Dr. DiPietro responded that as her offer letter is written, she could step down as Chancellor after one or two years and return to faculty if she chose to do so. He added that she is very committed to the job of Chancellor, and it is her intent to be very successful.

The Vice Chair called for a roll-call vote, and the motion carried (Exhibit 3).

Dr. Davenport returned to the meeting, and Vice Chair Jubran invited her to make remarks. She said she is honored and excited to be coming to be Chancellor of the flagship institution of this great state. She looks forward to delivering the workforce of tomorrow for the students that come through our doors. She thanked the Board for their confidence in her to step into this leadership platform.

DiPietro thanked Dr. Steve Magnum and the entire search committee for their hard work. He thanked Trustee Anderson for representing the Board and being a very engaged member of the search committee.

VI. PRESIDENT'S RECOMMENDATION FOR APPOINTMENT AND COMPENSATION OF THE CHANCELLOR OF THE INSTITUTE OF AGRICULTURE

Dr. DiPietro recommended the appointment of Dr. Tim L. Cross as Chancellor of The University of Tennessee Institute of Agriculture, effective January 1, 2017, with the initial compensation summarized as follows (Exhibit 4):

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Base salary: \$27,750.00 per month (\$333,000.00 annualized);
 Non-accountable expense allowance: \$416.67 per month (\$5,000.00 annualized);
 Potential for an annual performance incentive payment of up to 15% of base salary,
 payable in three installments over three years.

He reviewed Dr. Cross' excellent history with the Institute of Agriculture, including his service as interim Chancellor. He said he currently holds a tenured faculty appointment in the Department of Agriculture and Resource Economics but would receive no compensation for the faculty appointment while serving as Chancellor. Upon leaving the position of Chancellor, his compensation in the full-time faculty appointment would be 75% of his initial base salary as Chancellor (75% of \$333,000 = \$249,750) for four years. Beginning with year five after leaving the position of Chancellor, Dr. Cross' base salary in the full-time faculty appointment would be adjusted to the average base salary of full professors in the department.

Vice Chair Jubran asked Dr. Cross to exit the meeting and called for a motion. Trustee Gallimore moved adoption of the following Resolution:

RESOLVED:

(1)The President's recommendation for appointment and initial compensation of Dr. Tim L. Cross as Chancellor of The University of Tennessee Institute of Agriculture is approved as presented in the meeting materials; and

(2)Upon leaving the position of Chancellor, Dr. Cross' compensation in a full-time faculty appointment in the Department of Agriculture and Resource Economics will be \$249,750.00 (75% of his initial base salary of \$333,000.00 as Chancellor) for four years; and beginning with year five after leaving the position of Chancellor, Dr. Cross' compensation in the full-time faculty appointment will be adjusted to the average base salary of full professors in the department.

Trustee Gregg seconded the motion. Vice Chair Jubran called for any discussion. Trustee Pryse said it is wonderful to promote a great person from within UT. Trustee Gallimore said Chancellor Carver and now Dr. Cross demonstrate that succession planning is working at UT, and that is very comforting.

The Vice Chair called for a roll-call vote, and the motion carried (Exhibit 5).

Dr. Cross returned to the meeting, and Vice Chair Jubran invited him to make remarks. Dr. Cross said for several years, he has heard Dr. DiPietro refer to the Chancellor of the Institute of Agriculture as the best job in the System. He thanked the Board for the opportunity to work with them in this capacity and said he looked forward to many great opportunities in the years to come. He said the Institute of Agriculture tag line has been "Real Life Solutions," and we are

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committed to that. The Institute serves not only the citizens of East Tennessee but the entire state, and it is a great honor to represent the Institute in this role.

Dr. DiPietro thanked Mr. Herb Byrd for chairing the search committee and also Trustee Rose for her support and assistance as a member of the committee.

VII. PRESIDENT'S RECOMMENDATION FOR APPOINTMENT AND COMPENSATION OF THE GENERAL COUNSEL PURSUANT TO A REORGANIZATION

Dr. DiPietro said he and the Vice Chair have been discussing for several months the need to separate the position of Secretary from the position of General Counsel because the responsibilities of these key University Officers demand far more than a single full-time position. Catherine Mizell has held both positions for more than 16 years and has been willing to work long hours to carry out the responsibilities of both. We believe now is the time to separate the positions to allow adequate time and attention to be devoted to the distinct and critical responsibilities of each position. In particular, we believe the Secretary needs to be a full-time position that can provide support to all Trustees on a regular basis and assist the leadership of the Board in promoting more effective governance.

To accomplish this reorganization, Catherine will continue full-time as Secretary with additional duties as Chief of Staff and Special Counsel to the Trustees, effective January 1, 2017. This will allow the Board and the University to retain the value of Catherine's extensive knowledge of the University and her legal expertise. For the short term, her role as Special Counsel will include working closely with the General Counsel to ensure a smooth transition; for the long term, she will provide legal advice to the Board with respect to governance and provide other legal services, in coordination with the General Counsel. Duties and responsibilities of this full-time position are outlined in the position description included in the meeting materials.

Dr. DiPietro said that under the reorganization, the duties and responsibilities of General Counsel would be reassigned to Matthew Scoggins (who currently holds the title Deputy General Counsel). He recommended Matthew's promotion to General Counsel, effective January 1, 2017. Calling the Board's attention to Matthew's résumé in the materials, Dr. DiPietro noted that Matthew was one of the top two graduates in the College of Business at UT Knoxville in 1999 and one of the top 15 graduates overall. He graduated first in his class from the UT College of Law (1/160) in 2003 and practiced with law firms in Atlanta and Knoxville before joining the Office of the General Counsel in June 2008. Matthew has consistently been a top performer, which led Catherine to promote him to Deputy General Counsel in April 2015. Dr. DiPietro said he has had the opportunity to work directly with Matthew and has developed strong confidence in his counsel and commitment to the best interests of the University.

Based on the market analysis included in the materials, President DiPietro recommended the following initial compensation for Matthew as General Counsel: (1) a base salary of \$23,750.00 per month (\$285,000.00 annualized); and (2) a non-accountable expense allowance of \$416.67 per

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month (\$5,000.00 annualized). Matthew will also be eligible for a potential annual performance incentive payment of up to 15% of base salary, payable in three installments over three years.

Vice Chair Jubran asked Mr. Scoggins to exit the meeting and called for a motion. Trustee Lampley moved adoption of the following Resolution:

RESOLVED: The President's recommendation for the appointment and initial compensation of Matthew M. Scoggins, III as General Counsel pursuant to the reorganization described in the meeting materials is approved.

Trustee Anderson seconded the motion. Vice Chair Jubran said he has watched Catherine's around-the-clock dedication and unbelievable work ethic over the past couple of year. He said the Board needs the expertise and attention of a full-time chief of staff and counsel, and Catherine's historical knowledge and legal expertise is needed to assist the Board in reviewing its policies and governance practices to identify needed changes. He said this is an opportunity for this Board to think about things it should do better. Trustee Wharton echoed Vice Chair Jubran's statements about Catherine's dedication and work ethic.

The Vice Chair called for a roll-call vote, and the motion carried (Exhibit 6).

Mr. Scoggins rejoined the meeting, and Vice Chair Jubran invited him to make remarks. He said he was grateful for the privilege entrusted to him to serve the University he loves. He thanked Dr. DiPietro for his confidence and thanked Catherine for being an incredible mentor over the years and also an incredible servant to this University. He said he was grateful she will continue to serve, hopefully for a long time.

VIII. OTHER BUSINESS

There was other further business to come before the Board.

IX. ADJOURNMENT

Before adjournment, Dr. DiPietro announced that Dr. Golden, who the Board knows very well as a former Faculty Trustee, has stepped into the position of Executive Assistant to the President. The Board and meeting attendees congratulated Dr. Golden. There being no further business, the meeting was adjourned.

Respectfully Submitted,

Catherine S. Mizell, Secretary

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Board of Trustees
December 15, 2016

THE UNIVERSITY OF TENNESSEE
BOARD OF TRUSTEES

ACTION ITEM

DATE: March 29, 2017

COMMITTEE: Executive and Compensation

ITEM: **Revision of the Annual Presidential Performance Review Process**

RECOMMENDATION: Approval

PRESENTED BY: Raja J. Jubran, Vice Chair

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At its meeting on March 3, 2017, the Executive and Compensation Committee considered revisions to the annual presidential performance review process and recommended approval of the revisions. The revisions are redlined in the following version of the Policy on Presidential Performance Reviews. The cumulative performance review process was revised in 2014 in preparation for President DiPietro's cumulative review. The annual performance review process has not been revised since 2007.

Some revisions are only technical or clarifying in nature (e.g., codifying that the Chair of Trusteeship and the Chair of Audit and Compliance are the designated members of the Executive and Compensation Committee to participate in the annual review process). Other revisions are designed to provide flexibility in how the views of constituency groups are obtained. For example, rather than requiring that every member of the senior administrative staff be interviewed every year, the revised policy would allow use of an electronic survey but still provide the opportunity for any senior administrator to request an interview to address the President's performance. Soliciting the views of the Speakers of the Tennessee State Senate and House of Representatives and of Trustees has been added to the review process.

Committee Recommendation

The Executive and Compensation Committee recommended approval of the proposed revisions to the Policy on Presidential Performance Reviews. Therefore, on behalf of the Committee, I move adoption of the following Resolution:

RESOLVED: Revision of the Policy on Presidential Performance Reviews is approved as presented in the meeting materials.

**BOARD OF TRUSTEES
THE UNIVERSITY OF TENNESSEE**

POLICY ON PRESIDENTIAL PERFORMANCE REVIEWS

Adopted by the Board of Trustees March 4, 2004

Revised March 7, 2007

Revised February 27, 2014

Revised March 29, 2017

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PURPOSES

The purposes of the annual performance review are: (1) to enable the President to enhance his or her performance and leadership; (2) to promote good communications and strong working relationships between the President, the Board, and University constituencies; (3) to enable the President and Board to set mutually agreeable goals; and (4) to inform board decisions on compensation and other terms of employment for the President.

Periodic comprehensive performance reviews have the following additional purposes: (1) to solicit the informed perceptions of the Trustees and members of the University's major stakeholder groups on broader aspects of institutional health, management, and governance; (2) to engage and inform a wide range of University constituencies; (3) to enable the President to develop plans for his or her professional development; and (4) to enable the President and the Board to determine whether they have the basis for an extended commitment to each other.

RESPONSIBILITY

The Board of Trustees is responsible for assessing the President's performance and, in doing so, to solicit the views of other leaders within and outside the University.

The Board delegates to the Vice Chair of the Board the responsibility for organizing and conducting an annual performance review of the President. This delegation of authority to the Vice Chair is subject to the provisions of this policy and to the Board's ultimate authority to approve or modify the Vice Chair's evaluation of the President's performance. The Chair of the Trusteeship Committee and Chair of the Audit and Compliance Committee (hereinafter "Committee Chairs") shall participate in the annual review process as outlined below.

Every third or fourth year, or earlier as the Board in its sole discretion may determine, the Vice Chair shall conduct a comprehensive review of the President's performance with the assistance of at least one external advisor.

PROCESS FOR THE ANNUAL PERFORMANCE REVIEW

The President shall prepare a written self-assessment statement in a format and according to a timetable mutually agreed-upon by the President and the Vice Chair. In addition to a retrospective review of goals previously agreed upon by the President and the Board and of other achievements, disappointments, or problems of the preceding year, the self-assessment statement shall include a prospective statement of challenges and opportunities facing the University and the President's proposed goals for the coming year.

~~The Executive and Compensation Committee of the Board, which is composed of Vice Chair of the Board and the chairs of the other standing committees, shall designate two of its members to participate in the annual review process as outlined hereinafter. After receipt of the President's self-assessment statement, the Vice Chair and the two standing committee chairs shall interview the senior administrative staff concerning the President's performance. The Vice Chair and the two standing committee chairs shall also solicit views of the President's performance from faculty, student, staff, and alumni leadership. The Vice Chair and the Committee Chairs shall solicit views of the President's performance from various groups, including the senior administrative staff; faculty, student, staff, and alumni leadership; Speakers of the Tennessee Senate and House of Representatives; and Trustees. Members of the senior administrative will be informed that they may request an interview with the Vice Chair and Committee Chairs in person or by telephone to address the President's performance.~~

The Vice Chair shall then interview the President concerning the President's self-assessment statement and ~~the President's~~ proposed goals for the coming year. The ~~two standing e~~Committee ~~e~~Chairs shall be present during the Vice Chair's interview of the President only as observers and not as participants. The Vice Chair shall prepare a written assessment of the President's performance, including an aggregate summary of the views of the senior administrative staff and of faculty, student, staff, ~~and~~ alumni, and legislative leadership, and Trustees.

The Vice Chair shall then submit the following materials to the Executive and Compensation Committee: (1) the President's self-assessment statement and any additional information the Vice Chair may have requested of the President; (2) the Vice Chair's written assessment of the President's performance; (3) the President's proposed goals for the coming year and the Vice Chair's recommendation concerning those goals; and (4) any recommendation of the Vice Chair concerning the President's compensation or other terms of employment. After reviewing the Vice Chair's written assessment and

recommended goals, the ~~two standing e~~Committee ~~e~~Chairs ~~designated by the Executive and Compensation Committee~~ may submit a separate written assessment of the President's performance to the Executive and Compensation Committee.

In a previously scheduled or a called meeting, the Executive and Compensation Committee shall approve or modify the Vice Chair's assessment of the President's performance and recommendations concerning goals, compensation, and other terms of employment. The Committee's action shall then be submitted to the full Board of Trustees for approval or modification. The President shall be present at the meetings of the Executive and Compensation Committee and the Board of Trustees to answer questions about his or her performance and the proposed goals for the coming year. The President shall be excused from the meetings prior to discussion and voting on the President's performance, goals, and compensation or other terms of employment.

PROCESS FOR THE COMPREHENSIVE PERFORMANCE REVIEW

Every third or fourth year of the President's employment, or earlier as the Board in its sole discretion may determine, the Vice Chair shall conduct a comprehensive review of the President's performance with the assistance of one or more external advisors. The Vice Chair shall select the external advisor(s) in consultation with the President and one or two members of the Executive and Compensation Committee. If feasible, at least one external advisor should be a former chief executive with experience as head of an enterprise similar in scope and mission outside the State of Tennessee.

Early in the year of the comprehensive performance review, the Vice Chair, in consultation with the President and the external advisor(s), shall develop a written plan and timetable for the comprehensive review and present it to the Executive and Compensation Committee or the full Board for approval. The plan shall include at least the elements outlined below.

The President shall prepare a comprehensive self-assessment covering the period of service under review. This self-assessment should present a clear picture of the state of the University in relation to strategic goals approved by the Board and should highlight the President's view of his or her major achievements and concerns.

The external advisor(s) shall conduct personal interviews with the President, members of the Board, and a broad array of individuals or groups internal and external to the University, including but not limited to the University's senior

administrative staff, faculty, students, staff, alumni, and other major stakeholder groups. At his or discretion, the Vice Chair may participate in these interviews.

The external advisor(s) shall prepare a draft written report of findings and recommendations including, but not limited to, the following: (1) a summary of the views of the various internal and external constituencies interviewed by the external advisor(s); (2) specific recommendations for enhancing the President's performance, professional development, and relationships with the Board, University constituent groups, and other major stakeholder groups; and (3) any recommendations concerning institutional or governance issues or other matters relevant to the President's future leadership performance. The external advisor(s) shall present the draft report to the President for review and comment.

After receiving the President's comments, the external advisor(s) shall present a draft report to the Vice Chair. The Vice Chair and the external advisor(s) shall review the report and the President's self-assessment with the President and work with the President to develop a set of goals for recommendation to the Executive and Compensation Committee and the Board. The external advisor(s) shall then prepare a final written report, which shall include the recommended goals in addition to the matters outlined in the immediately preceding paragraph of this policy.

The Vice Chair shall submit the external advisor(s) final written report to the Executive and Compensation Committee. The Vice Chair shall also submit to the Executive and Compensation Committee any recommendation concerning the President's compensation or other terms of employment. The Executive and Compensation Committee shall receive copies of the President's self-assessment and any other information the Vice Chair or external advisor(s) may have requested of the President.

In a previously scheduled or a called meeting, the Executive and Compensation Committee shall approve or modify the Vice Chair's recommendations concerning goals, compensation, and other terms of employment. The Committee's action shall then be submitted to the full Board of Trustees for approval or modification. The President shall be present at the meetings of the Executive and Compensation Committee and the Board of Trustees to answer questions about his or her performance and the proposed goals. The President shall be excused from the meeting prior to discussion and vote on the President's performance, goals, and compensation or other terms of employment.

THE UNIVERSITY OF TENNESSEE
BOARD OF TRUSTEES

ACTION ITEM

DATE: March 29, 2017

ITEM: **Vice Chair's Recommendation for Committee Appointments**

RECOMMENDATION: Approval

PRESENTED BY: Raja J. Jubran, Vice Chair

The Vice Chair recommends the following new committee appointments:

John D. Tickle: Athletics Committee (at-large member)

David A. Shepard: Advancement and Public Affairs Committee
Research, Outreach, and Economic Development Committee

MOTION: I move approval of the Vice Chair's recommendation of new committee appointments for John D. Tickle and David A. Shepard as presented in the meeting materials.

The Vice Chair also announces that he has stepped down as Chair of the Athletics Committee, and in accordance with the authorization granted to the Vice Chair under the Bylaws, he has appointed Trustee Anderson to serve as Chair of that Committee. No action by the Board is required. Trustee Anderson already serves as an *ex officio* voting member of the Athletics Committee by virtue of his position as Chair of Finance and Administration.

THE UNIVERSITY OF TENNESSEE
BOARD OF TRUSTEES

ACTION ITEM

DATE: March 29, 2017

CAMPUS/INSTITUTE: The University of Tennessee System

ITEM: **Resolution Appointing a Managerial Group for U.S. Government Contracts**

RECOMMENDATION: Approval

PRESENTED BY: Catherine S. Mizell
Secretary, Chief of Staff, and Special Counsel

The Department of Energy, Department of Defense, and other federal agencies with which the University has contracts impacting national security require the Board to appoint a Managerial Group and delegate to that group responsibility for negotiation, execution, and administration of U.S. Government contracts. Only members of the Managerial Group will receive security clearance to access to classified information related to these contracts.

The Board appointed a Managerial Group by resolution adopted on December 11, 2001. A new resolution is required annually or more often to reflect changes in personnel. The resolution following this memorandum incorporates changes in personnel since the last resolution was adopted on June 23, 2016.

RESOLVED: The Resolution appointing a managerial group for U.S. Government contracts is approved.

RESOLUTION OF THE BOARD OF TRUSTEES
APPOINTING THE MANAGERIAL GROUP FOR CONTRACTS BETWEEN
THE UNIVERSITY OF TENNESSEE AND THE
UNITED STATES GOVERNMENT
PURSUANT TO
THE NATIONAL INDUSTRIAL SECURITY PROGRAM OPERATING MANUAL

BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE UNIVERSITY OF
TENNESSEE THAT:

1. Those persons occupying the following positions at The University of Tennessee shall be known as the Managerial Group, having the authority and responsibility for the negotiation, execution, and administration of U.S. Government contracts as described in the National Industrial Security Program Operating Manual:

President

Chief Financial Officer

General Counsel

Chancellor, The University of Tennessee, Knoxville

Vice Chancellor for Research and Engagement, The University of Tennessee,
Knoxville

Executive Director, The University of Tennessee Space Institute

Facility Security Officer

2. The Chief Executive and the members of the Managerial Group are cleared, or will be processed for clearance, to the level of The University of Tennessee's facility clearance. If uncleared, pending issuance of the requested access authorization, such individual shall be excluded from all access and shall not participate in any decision or other matter pertaining to the protection of classified information and/or special nuclear material.
3. The above-named Managerial Group is hereby delegated all of the Board's duties and responsibilities pertaining to the protection of classified information and/or special nuclear material released to The University of Tennessee.
4. In the future, when any individual is appointed to the Managerial Group as an additional member or replacement member, such individual shall immediately be processed for an access authorization at the same level as The University of Tennessee's facility clearance. Pending issuance of this requested access authorization, such individual shall be excluded from all access and shall not participate in any decision or other matter pertaining to the protection of classified information and/or special nuclear material.

5. The following named officers and members of the Board of Trustees of The University of Tennessee shall not require, shall not have, and can be effectively excluded from access to all classified information and/or special nuclear material released to The University of Tennessee and do not occupy positions that would enable them to affect adversely the policies or practices of The University of Tennessee's performance of classified contracts for the U.S. Government:

Officers

| <u>Name</u> | <u>Title</u> |
|---------------------|--|
| Steve R. Angle | Chancellor, The University of Tennessee at Chattanooga |
| Keith S. Carver | Chancellor, The University of Tennessee at Martin |
| Tim L. Cross | Chancellor, The University of Tennessee Institute of Agriculture |
| Tonja L. Johnson | Executive Vice President and Chief Operating Officer |
| Rickey N. McCurry | Vice President for Development and Alumni Affairs |
| David E. Millhorn | Senior Vice President for Research, Outreach, and Economic Development |
| Catherine S. Mizell | Secretary, Chief of Staff, and Special Counsel |
| Steve J. Schwab | Chancellor, The University of Tennessee Health Science Center |

Members of the Board of Trustees

| <u>Name</u> | <u>Title</u> |
|--------------------------|---|
| William E. Haslam | Trustee/Governor |
| Candice McQueen | Trustee/Commissioner of Education |
| Jai Templeton | Trustee/Commissioner of Agriculture |
| Mike Krause | Trustee/Interim Executive Director, Tennessee Higher Education Commission |
| Charles C. Anderson, Jr. | Trustee |
| Shannon A. Brown | Trustee |
| George E. Cates | Trustee |
| Susan Davidson | Trustee |
| Spruell Driver, Jr. | Trustee |
| William E. Evans | Trustee |
| John N. Foy | Trustee |
| D. Crawford Gallimore | Trustee |
| Vicky B. Gregg | Trustee |
| Raja J. Jubran | Trustee |
| Brad A. Lampley | Trustee |
| Sharon J. Miller Pryse | Trustee |

| | |
|---------------------|---------|
| Jefferson S. Rogers | Trustee |
| Rhedona Rose | Trustee |
| Miranda N. Rutan | Trustee |
| David A. Shepard | Trustee |
| Rachel M. Smith | Trustee |
| John D. Tickle | Trustee |
| Julia T. Wells | Trustee |
| Charles E. Wharton | Trustee |
| Tommy G. Whittaker | Trustee |

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CERTIFICATION

The above Resolution of the Board of Trustees Appointing the Managerial Group for Contracts between The University of Tennessee and the United States Government Pursuant to the National Industrial Security Program Operating Manual was duly adopted by the Board of Trustees on the 29th day of March, 2017.

Catherine S. Mizell, Secretary

Executive and Compensation Committee - Acquisition of 525 North Gay Street and Master Plan Amendment (UTK)

THE UNIVERSITY OF TENNESSEE
BOARD OF TRUSTEES

ACTION ITEM

DATE: March 3, 2017

COMMITTEE: Executive and Compensation

CAMPUS/UNIT: UT Knoxville

ITEM: **525 North Gay Street Acquisition and Master Plan Amendment**

RECOMMENDATION: Approval

PRESENTED BY: Joseph A. DiPietro, President

The University of Tennessee, Knoxville seeks approval to acquire 0.20+/- acres and building improvements located at 525 North Gay Street in Knoxville, Tennessee (see attached map).

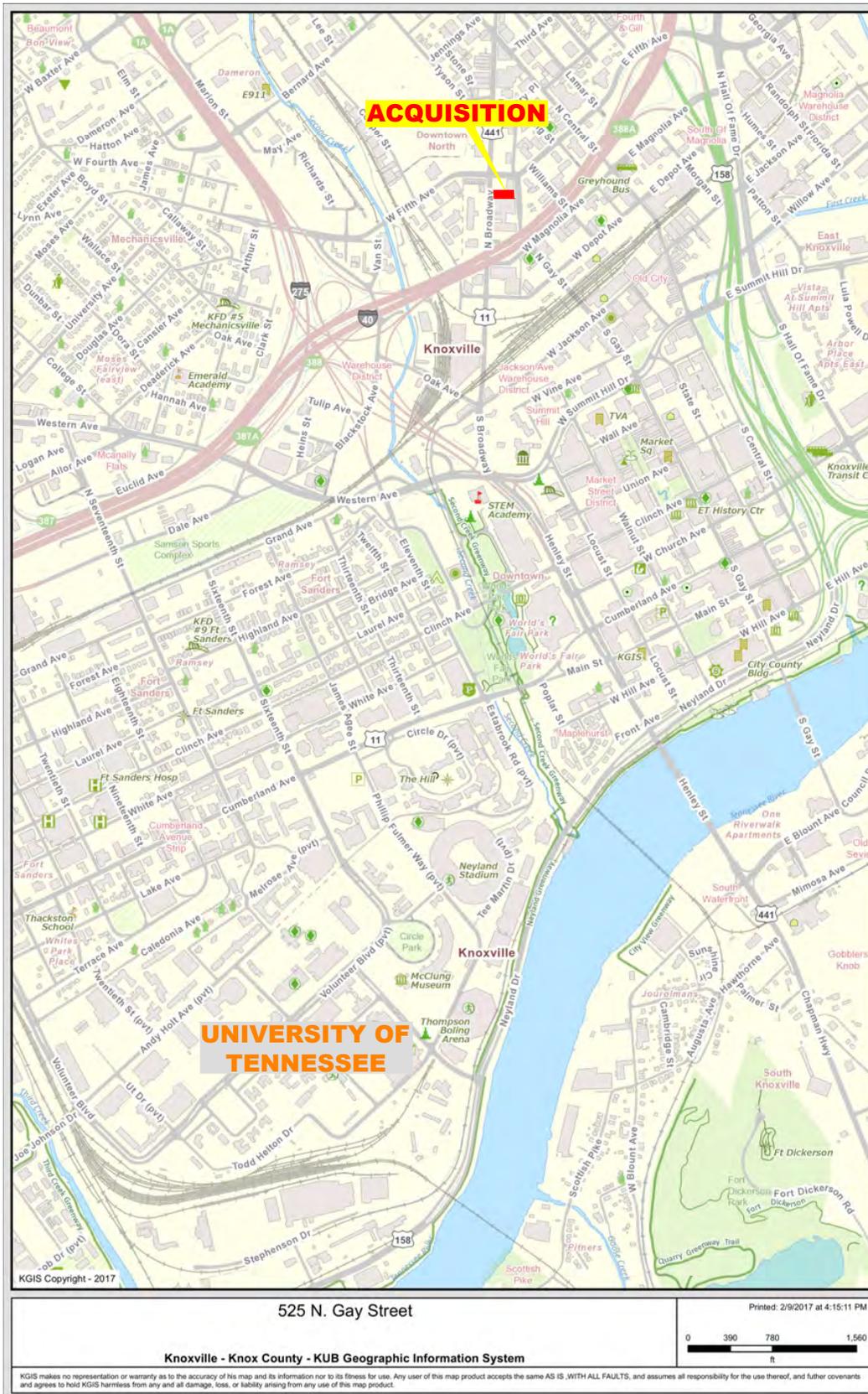
The property will be used by the College of Architecture for off-campus fabrication work. The building was constructed in 1920 and renovated in 2014 with open office, shop, and storage space totaling approximately 20,000 square feet.

The University requests approval to acquire the property at a purchase price equal to or less than the appraised value. The University also requests approval to revise the UT Knoxville Master Plan to include this property. Upon approval by the Committee, the University will seek all required state government approvals.

RESOLVED:

- 1. Acquisition of 525 North Gay Street in Knoxville, Tennessee, is approved at a purchase price equal to or less than the appraised value; and**
- 2. The UT Knoxville Master Plan shall be revised to include the property located at 525 North Gay Street in Knoxville, Tennessee.**

Executive and Compensation Committee - Acquisition of 525 North Gay Street and Master Plan Amendment (UTK)



Executive and Compensation Committee - KUB Easement at Lake Avenue and Terrace Avenue (UTK)

THE UNIVERSITY OF TENNESSEE
BOARD OF TRUSTEES

ACTION ITEM

DATE: March 3, 2017

COMMITTEE: Executive and Compensation

CAMPUS/UNIT: UT Knoxville

ITEM: **KUB Easement at Lake Avenue and Terrace Avenue**

RECOMMENDATION: Approval

PRESENTED BY: Joseph A. DiPietro, President

The University of Tennessee, Knoxville proposes to grant an easement to the Knoxville Utilities Board (KUB) of up to 0.40+/- acres located at Lake Avenue and Terrace Avenue, Knoxville, Tennessee (see attached map).

The easement is necessary to install an electric line, water line, and water meter that will provide service to a new parking garage. The easement will allow KUB and its contractors to enter upon, construct, operate, repair and maintain utilities within the defined area. The University reserves the right to relocate the easement at the expense of the University.

Because the utility improvements on the easement will benefit UT Knoxville, the University has not requested further consideration from KUB. Upon approval by the Committee, the University will seek all required state government approvals.

RESOLVED: The administration is authorized to grant an easement to the Knoxville Utilities Board at Lake Avenue and Terrace Avenue in Knoxville, Tennessee, as presented in the meeting materials.

Executive and Compensation Committee - KUB Easement at Lake Avenue and Terrace Avenue (UTK)



THE UNIVERSITY OF TENNESSEE
BOARD OF TRUSTEES

ACTION ITEM

DATE: March 3, 2017

COMMITTEE: Executive and Compensation

CAMPUS/UNIT: UT Knoxville

ITEM: **KUB Easement at Andy Holt Avenue**

RECOMMENDATION: Approval

PRESENTED BY: Joseph A. DiPietro, President

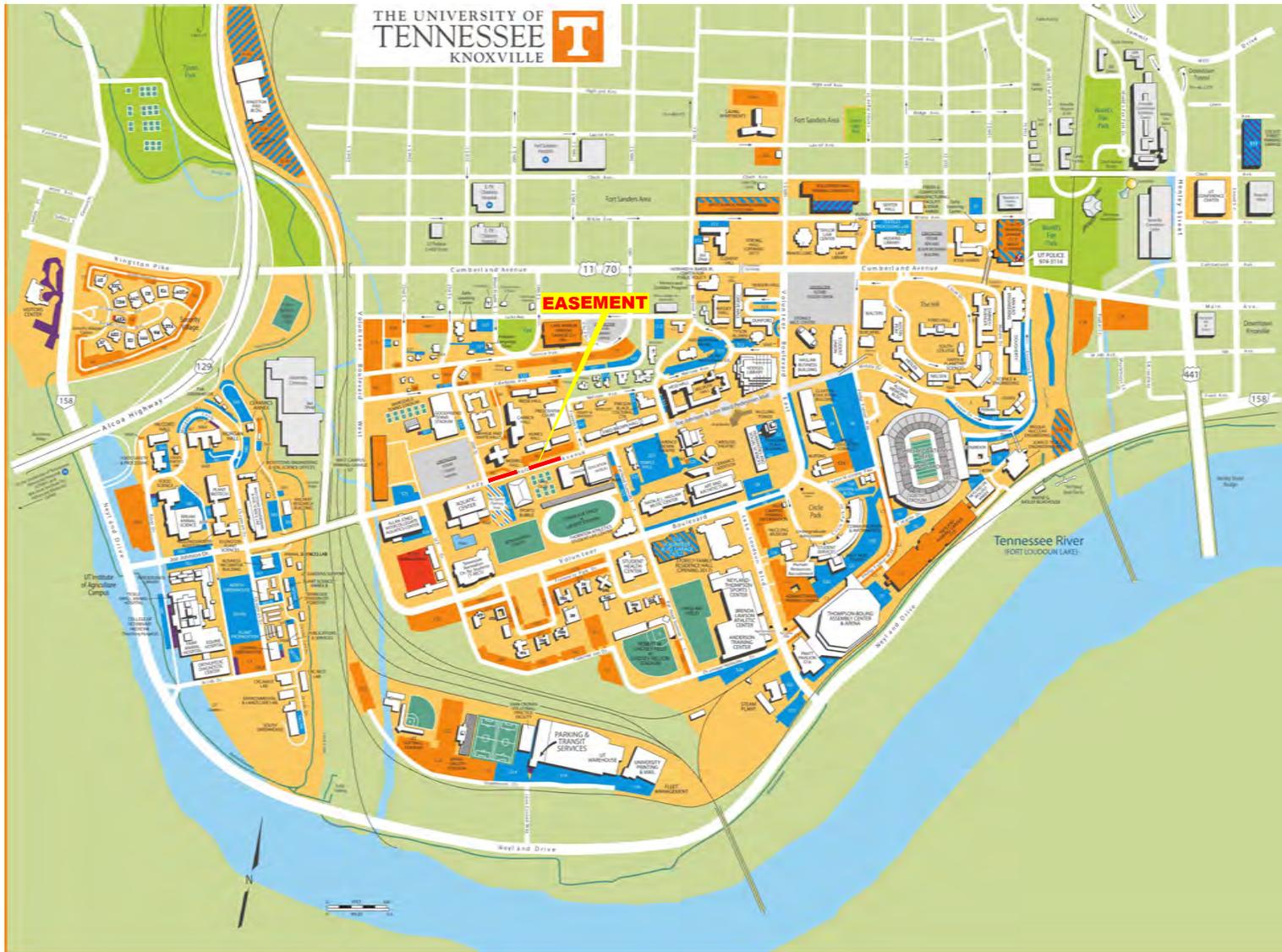
The University of Tennessee, Knoxville proposes to grant an easement to the Knoxville Utilities Board (KUB) of up to 0.67+/- acres located at Andy Holt Avenue, Knoxville, Tennessee (see attached map).

The easement is necessary to install a larger diameter gas line that will provide service to a new residence hall. The easement will allow KUB and its contractors to enter upon, construct, operate, repair and maintain utilities within the defined area. The University reserves the right to relocate the easement at the expense of the University.

Because the utility improvement on the easement will benefit UT Knoxville, the University has not requested further consideration from KUB. Upon approval by the Committee, the University will seek all required state government approvals.

RESOLVED: The administration is authorized to grant an easement at Andy Holt Avenue, Knoxville, Tennessee, to the Knoxville Utilities Board as presented in the meeting materials.

Executive and Compensation Committee - KUB Easement at Andy Holt Avenue (UTK)



Executive and Compensation Committee - KUB Easement at Andy Holt Avenue and Twentieth Street (UTK)

THE UNIVERSITY OF TENNESSEE
BOARD OF TRUSTEES

ACTION ITEM

DATE: March 3, 2017

COMMITTEE: Executive and Compensation

CAMPUS/UNIT: UTK

ITEM: **KUB Easement at Andy Holt Avenue and Twentieth Street**

RECOMMENDATION: Approval

PRESENTED BY: Joseph A. DiPietro, President

The University of Tennessee, Knoxville proposes to grant easements to the Knoxville Utilities Board (KUB) of up to 0.30+/- acres off Andy Holt Avenue and Twentieth Street, Knoxville, Tennessee (see attached map).

The easements are necessary to install water service lines and water meters that will provide service to the West Campus Redevelopment Project. The easements will allow KUB and its contractors to enter upon, construct, operate, repair and maintain utilities within the defined area. The University reserves the right to relocate the easements at the expense of the University.

Because the utility improvements on the easements will benefit UT Knoxville, the University has not requested further consideration from KUB. Upon approval by the Committee, the University will seek all required state government approvals.

RESOLVED: The administration is authorized to grant easements at Andy Holt Avenue and Twentieth Street, Knoxville, Tennessee to the Knoxville Utilities Board as presented in the meeting materials.

Executive and Compensation Committee - KUB Easement at Andy Holt Avenue and Twentieth Street (UTK)



THE UNIVERSITY OF TENNESSEE
BOARD OF TRUSTEES

ACTION ITEM

DATE: March 3, 2017

COMMITTEE: Executive and Compensation

CAMPUS/UNIT: UT Knoxville

ITEM: **KUB Easement at Fraternity Park Drive**

RECOMMENDATION: Approval

PRESENTED BY: Joseph A. DiPietro, President

The University of Tennessee, Knoxville proposes to grant an easement to the Knoxville Utilities Board (KUB) of up to 0.45+/- acres within the right-of-way of Fraternity Park Drive in Knoxville, Tennessee (see attached map).

A section of an existing 8" gas main along Volunteer Boulevard will be abandoned. Two new sections of a 2" gas main will be installed at Fraternity Park Drive to maintain connectivity to all buildings. The easement will allow KUB and its contractors to enter upon, construct, operate, repair and maintain utilities within the defined area. The University reserves the right to relocate the easement at the expense of the University.

Because the utility improvements on the easement will benefit UT Knoxville, the University has not requested further consideration from KUB. Upon approval by the Committee, the University will seek all required state government approvals.

RESOLVED: The administration is authorized to grant an easement within the right-of-way of Fraternity Park Drive in Knoxville, Tennessee, to the Knoxville Utilities Board as presented in the meeting materials.

Executive and Compensation Committee - KUB Easement at Fraternity Park Drive (UTK)



THE UNIVERSITY OF TENNESSEE
BOARD OF TRUSTEES

ACTION ITEM

DATE: March 3, 2017

COMMITTEE: Executive and Compensation

CAMPUS/UNIT: UT Knoxville

ITEM: **KUB Easement at Former Johnny Majors Drive**

RECOMMENDATION: Approval

PRESENTED BY: Joseph A. DiPietro, President

The University of Tennessee, Knoxville proposes to grant an easement to the Knoxville Utilities Board (KUB) of up to 0.35+/- acres near former Johnny Majors Drive (closed upon construction of a new parking garage) in Knoxville, Tennessee (see attached map).

A section of an existing water line and sewer line will be abandoned. New sections for these lines will be installed to serve facilities in the area. The easement will allow KUB and its contractors to enter upon, construct, operate, repair and maintain water and sewer utilities within the defined area. The University reserves the right to relocate the easement at the expense of the University.

Because the utility improvements on the easement will benefit UT Knoxville, the University has not requested further consideration from KUB. Upon approval by the Committee, the University will seek all required state government approvals.

RESOLVED: The administration is authorized to grant an easement near former Johnny Majors Drive in Knoxville, Tennessee, to the Knoxville Utilities Board as presented in the meeting materials.

Executive and Compensation Committee - KUB Easement at Former Johnny Majors Drive (UTK)



THE UNIVERSITY OF TENNESSEE
BOARD OF TRUSTEES

ACTION ITEM

DATE: March 3, 2017

COMMITTEE: Executive and Compensation

CAMPUS/UNIT: UT Knoxville

ITEM: **KUB Easement at Pat Head Summit Street**

RECOMMENDATION: Approval

PRESENTED BY: Joseph A. DiPietro, President

The University of Tennessee, Knoxville proposes to grant an easement to the Knoxville Utilities Board (KUB) of up to 0.42+/- acres located at Pat Head Summit Street in Knoxville, Tennessee (see attached map).

The easement is necessary to install a water line and gas line that will provide service to the facilities in this area. The easement will allow KUB and its contractors to enter upon, construct, operate, repair and maintain utilities within the defined area. The University reserves the right to relocate the easement at the expense of the University.

Because the utility improvements on the easement will benefit UT Knoxville, the University has not requested further consideration from KUB. Upon approval by the Committee, the University will seek all required state government approvals.

RESOLVED: The administration is authorized to grant an easement at Pat Head Summitt Street in Knoxville, Tennessee, to the Knoxville Utility Board as presented in the meeting materials.

Executive and Compensation Committee - KUB Easement at Pat Head Summit Street (UTK)



Executive and Compensation Committee - KUB Easement at Pat Head Summit Street and Andy Holt Avenue (UTK)

THE UNIVERSITY OF TENNESSEE
BOARD OF TRUSTEES

ACTION ITEM

DATE: March 3, 2017

COMMITTEE: Executive and Compensation

CAMPUS/UNIT: UT Knoxville

ITEM: **KUB Easement at Pat Head Summit Street and Andy Holt Avenue**

RECOMMENDATION: Approval

PRESENTED BY: Joseph A. DiPietro, President

The University of Tennessee, Knoxville proposes to grant an easement to the Knoxville Utilities Board (KUB) of up to 0.95 +/- acres located at Pat Head Summit Street and Andy Holt Avenue, Knoxville, Tennessee (see attached map).

The easement is necessary install a water line that will provide service to a new residence hall and other facilities in the area. The easement will allow KUB and its contractors to enter upon, construct, operate, repair and maintain utilities within the defined area. The University reserves the right to relocate the easement at the expense of the University.

Because the utility improvement on the easement will benefit UT Knoxville, the University has not requested further consideration from KUB. Upon approval by the Committee, the University will seek all required state government approvals.

RESOLVED: The administration is authorized to grant an easement at Pat Head Summitt Street and Andy Holt Avenue, Knoxville, Tennessee, to the Knoxville Utilities Board as presented in the meeting materials.

Executive and Compensation Committee - KUB Easement at Pat Head Summit Street and Andy Holt Avenue (UTK)



THE UNIVERSITY OF TENNESSEE
BOARD OF TRUSTEES

ACTION ITEM

DATE: March 3, 2017

COMMITTEE: Executive and Compensation

CAMPUS/UNIT: UT Knoxville

ITEM: **KUB Easement at Phillip Fulmer Way**

RECOMMENDATION: Approval

PRESENTED BY: Joseph A. DiPietro, President

The University of Tennessee, Knoxville proposes to grant an easement to the Knoxville Utilities Board (KUB) of up to 0.56+/- acres located at Phillip Fulmer Way in Knoxville, Tennessee (see attached map).

A section of an old 6" water line along Phillip Fulmer Way will be replaced. The easement will allow KUB and its contractors to enter upon, construct, operate, repair and maintain a new water line within the defined area. The University reserves the right to relocate the easement at the expense of the University.

Because the utility improvement on the easement will benefit UT Knoxville, the University has not requested further consideration from KUB. Upon approval by the Committee, the University will seek all required state government approvals.

RESOLVED: The administration is authorized to grant an easement at Phillip Fulmer Way, Knoxville, Tennessee, to the Knoxville Utilities Board as presented in the meeting materials.

Executive and Compensation Committee - KUB Easement at Phillip Fulmer Way (UTK)



THE UNIVERSITY OF TENNESSEE
BOARD OF TRUSTEES

ACTION ITEM

DATE: March 3, 2017

COMMITTEE: Executive and Compensation

CAMPUS/UNIT: UT Knoxville

ITEM: **KUB Easement at Volunteer Boulevard**

RECOMMENDATION: Approval

PRESENTED BY: Joseph A. DiPietro, President

The University of Tennessee, Knoxville proposes to grant an easement to the Knoxville Utilities Board (KUB) of up to 0.63+/- acres located at Volunteer Boulevard in Knoxville, Tennessee (see attached map).

The easement is necessary to tie water lines on each side of Volunteer Boulevard together. The easement will allow KUB and its contractors to enter upon, construct, operate, repair and maintain utilities within the defined area. The University reserves the right to relocate the easement at the expense of the University.

Because the utility improvement on the easement will benefit UT Knoxville, the University has not requested further consideration from KUB. Upon approval by the Committee, the University will seek all required state government approvals.

RESOLVED: The administration is authorized to grant an easement at Volunteer Boulevard, Knoxville, Tennessee, to the Knoxville Utilities Board as presented in the meeting materials.

Executive and Compensation Committee - KUB Easement at Volunteer Boulevard (UTK)



**FUTURE BOARD OF TRUSTEES MEETINGS
AND COMMITTEE MEETINGS**

2017

- May 3:** Executive & Compensation , Nashville
Audit & Compliance, Nashville
Health Affairs, Nashville
Trusteeship, Nashville
- June 21-22:** Annual Meeting of the Board, Knoxville
- August 19:** THEC Continuing Professional Education Program
for Tennessee Public Higher Education Governing
Boards
- Nov 2-3:** Fall Meeting of the Board, Knoxville