



THE UNIVERSITY OF TENNESSEE
BOARD OF TRUSTEES

MINUTES OF THE SPECIAL MEETING

August 4, 2020
Knoxville, Tennessee

A Special Meeting of the University of Tennessee Board of Trustees was held at 9:00 a.m. (EDT) on Tuesday, August 4, 2020. Following continuing guidance from the U.S. Centers for Disease Control and Prevention (CDC) regarding COVID-19 and in compliance with the Tennessee Pledge and other state and local guidelines, the meeting was held virtually with Committee members participating electronically or by telephone. The meeting was hosted from the University of Tennessee, Knoxville campus.

I. Call to Order and Roll Call

The Chair of the Board, John C. Compton, called the meeting to order. Board Secretary Cynthia Moore called the roll, and the following members of the Board were present: John C. Compton, Chair; Bradford D. Box; Leighton Chappell, Student Trustee; Charles Hatcher, Commissioner of the Tennessee Department of Agriculture; Decosta E. Jenkins; Kara Lawson; Amy E. Miles; William (Bill) C. Rhodes III; Donald J. Smith; Kim H. White; Alan D. Wilson; and Jamie R. Woodson.

Others present included: President Randy Boyd; Ryan Stinnett, General Counsel; Ashley Blamey, UT System Title IX Coordinator; and other members of the UT senior leadership and administrative staff.

Ms. Moore addressed requirements for meetings conducted with members participating electronically and announced the presence of a quorum. The meeting was webcast for the convenience of the University community, the general public, and the media.

II. Opening Remarks of the Chair

Chair Compton thanked everyone for attending the Special Meeting. He reminded the trustees that, because it is a special meeting, only items listed on the agenda would be discussed; he advised that there were no requests to address the Board in conjunction with the meeting. Chair Compton welcomed Leighton Chappell, a senior at UT Martin appointed to serve as student trustee, to his first meeting as a member of the Board.

Recognitions

Chair Compton congratulated Trustee Kara Lawson on being named head coach for Duke's Women's Basketball program. Under the UT Focus Act, Ms. Lawson remains eligible to serve on the Board of Trustees, and Chair Compton thanked Trustee Lawson for her willingness to continue as a trustee.



Congratulations were also extended to Chancellor Donde Plowman on her appointment to the NCAA Division I Presidential Forum. She is the first woman president or chancellor in the history of the Southeastern Conference to represent the conference in the position. The Forum is comprised of 1 president or chancellor from each of the 32 Division I Conferences. The purpose of the Forum is to assist the NCAA Division I Board of Directors in accomplishing its strategic mission in the Division I governance structure and to help ensure that the NCAA core value – involving presidential leadership of intercollegiate athletics at the campus, conference and national level – is achieved. Chancellor Plowman will serve a three-year appointment beginning September 1, 2020.

Ohio Valley Athletics Conference Certification

Chair Compton informed the members of the Board that the Ohio Valley Athletics Conference (UT Martin is a member) requires a signed certification from the Board Chair confirming that –

- Responsibility for the administration of the athletics program has been delegated to the chief executive officer of the institution;
- The chief executive officer has the mandate and support of the board to operate a program of integrity in full compliance with NCAA, OVC, and all other relevant rules and regulations; and
- The chief executive officer, in conjunction with the Director of Athletics and Faculty Athletic Representative, determines how the institutional vote shall be cast on issues of athletics policy presented to the NCAA and the Ohio Valley Conference.

He noted that these statements are consistent with and reflected in the Board’s Policy on Oversight of Intercollegiate Athletics and that he would be signing the certification form for the upcoming Academic Year (2020-21) following the meeting.

In concluding his opening remarks, Chair Compton highlighted the main topics listed on the meeting agenda, including (i) an update from President Randy Boyd on the work that has been done to prepare for the reopening of the campuses; and (ii) the action items to be considered by the Board (revisions to the student codes of conduct and board policy to comply with the new Title IX regulations).

III. President’s Update

President Boyd opened his remarks by extending his gratitude to the members of the Board for their dedication and hard work. President Boyd recognized the thousands of individuals from across the UT System, who have worked tirelessly to prepare for the safe return of students to the campuses this fall.



Campus Preparations

President Boyd addressed the reopening plans for the Fall 2020 Semester. He noted that students would be returning over the next two weeks, with classes starting on August 17 at UT Chattanooga and UT Martin and on August 19 at UT Knoxville. Classes at the UT Health Science Center (UTHSC) resumed in July. He provided an update on the format for delivery of educational instruction, noting the following:

- UT Chattanooga – approximately 63% online, with 37% having a face to face component;
- UT Knoxville – approximately 47% online, with 53% having a face-to-face component; and
- UT Martin – approximately 50% online, with 50% having a face-to-face component.

Safety Precautions and Other Efforts

Masks will be required on all campuses as students return. Additionally, signage has been placed around all campuses reminding students, faculty, staff, and visitors to wear masks, wash their hands, and maintain social distance.

With respect to testing, the student health center directors have been working together to develop testing strategies for the campuses. Through the assistance of the Tennessee Department of Health (TDOH), the Tennessee Emergency Management Agency (TEMA), and the Tennessee Higher Education Commission (THEC), the University has obtained access to 22,000 self-sampling kits. In addition, the University has entered into a system-wide contract with a testing provider to help reduce the wait time for test results. President Boyd indicated that the plan is to: (i) test all students, who present with symptoms; (ii) conduct contact tracing, and (iii) test those individuals who have been in close contact with a confirmed COVID-positive individual. The campuses have set aside housing space in anticipation of quarantine/isolation needs, and some of the campuses have worked with local hotels to secure additional space should the need arise.

In preparation for the return of students, the University has worked with TEMA to coordinate tabletop exercises. These exercises feature six different scenarios (COVID and civil unrest). President Boyd reported that UT Chattanooga and UT Martin have completed the exercise, and UT Knoxville and UTHSC will be doing so within the next week.

President Boyd expressed his deep appreciation for the ongoing support and guidance provided by the State of Tennessee, TDOH, THEC, and TEMA. He also acknowledged the University's emergency managers from across the UT System, who have worked collaboratively to share ideas and develop best practices. President Boyd also shared examples of the University's research and outreach efforts employed in the fight against the pandemic.



Financial Impact

From a financial perspective, the current financial impact estimate is approximately \$72.2 million, comprised primarily of \$28 million in refunds, \$23 million in expenditures, and \$21.5 million in lost revenues. President Boyd discussed certain federal and state grants, which may be available to offset certain COVID-related expenses. He noted that the reported financial figure does not reflect the potential impact on UT Knoxville's athletics program, which remains to be determined.

President Boyd advised that the SEC announced a conference-only schedule of 10 football games, instead of the original eight conference and four non-conference games. The presidents and chancellors in the SEC meet weekly and in their upcoming meetings will likely be approving the schedules and discussing whether there will be conference-agreed upon limits as to the number of fans in the stadiums. UT Knoxville athletics is in the process of determining seating capacity for home games and is modeling several different scenarios and the resulting revenue impacts. President Boyd indicated that Chancellor Plowman has been providing updates regularly and he will continue to keep the Board apprised of any significant developments. The planned schedules and possible financial impact to the athletics programs at UT Chattanooga and UT Martin were also discussed.

Enrollment

UT Knoxville has announced that ACT and SAT scores will be optional for applicants. UT Chattanooga and UT Martin are considering this item as well. President Boyd stated that, despite all of the headwinds, enrollment is projected to be up slightly for Fall 2020. He believes that such success is attributable to the strong reputation of the institutions, along with the exceptional efforts of the student admissions teams.

In concluding the reopening update, President Boyd once again thanked everyone from across the UT System for all the exceptional work in preparation for the students return.

Diversity and Inclusion

President Boyd provided an update on the University's diversity, equity, and inclusion (DEI) efforts. He noted that, over the next several months, the leadership team will be working on a number of items, including:

- Aligning DEI efforts with the University's strategic plan;
- Reviewing the 2014 Diversity Statement to consider potential updates;
- Embedding DEI into the OneUT culture system-wide;
- Continuing to make it safe to have open and honest conversations with the goal of ensuring that everyone has a sense of belonging at UT;
- Working on a United Together to End Racism system-wide campaign; and
- Developing accountability metrics to be reported annually to the Board.

Further updates on these efforts will be provided at the upcoming fall meeting of the Board.



Additional Items

President Boyd was pleased to report that he was able to complete his goal of visiting all 95 extension offices across the state. He acknowledged the work performed by the extension agents, and the positive impact these offices have on their local communities. President Boyd closed his address by stating that the University is continuing to look at other ways to assist Tennesseans during this challenging time.

Before moving on to the next item on the agenda, Chair Compton acknowledged the communications received by the Board from parents, students, faculty, and others, who have expressed concerns relating to the pandemic and the return of students to the campuses for the fall semester. He indicated that the Board is aware of the differing plans of other colleges and universities, and he expressed his confidence in the work that has been done by the University in developing its reopening plans for the campuses. He stressed that, while these plans have been carefully considered, the plans should not be viewed as static. Given that the pandemic situation remains fluid, the plans may need to be adapted based on changing conditions.

IV. Title IX Revisions to UAPA Rules

Ryan Stinnett, General Counsel, reminded the members of the Board that the U.S. Department of Education released new Title IX Regulations on May 6, 2020 that will become effective on August 14, 2020. He stated that the regulations are extensive (over 2,000 pages in length) and the changes are significant. Mr. Stinnett acknowledged the collaborative efforts of many individuals from across the UT System, who have worked determinedly to ensure that the University is in a position to meet the requirements of the new regulations in such a short period of time, over the summer, remotely, and during a pandemic. To comply with the Title IX regulations, certain revisions are needed to: (i) the four student codes of conduct (one for each campus); and (ii) Board Policy BT0006 - Policies Governing Academic Freedom, Responsibility, and Tenure.

Student Codes of Conduct

Although there are four separate student codes of conduct, the revisions being made are limited to changes required to comply with the Title IX and are virtually identical for all the student codes of conduct. As the student codes of conduct are administrative rules of the University, the University must follow the rulemaking provisions of the Uniform Administrative Procedures Act (UAPA) to amend these rules. In order to meet the August 14 effective date of the Title IX regulations, the University is proposing to promulgate the revised rules as emergency rules. Mr. Stinnett explained that a state agency may adopt an emergency rule if it finds that the rule "is required by an agency of the federal government and adoption of the rule through ordinary rulemaking procedures...might jeopardize the loss of a federal program or funds." (*Tennessee Code Annotated* § 4-5-208)



If adopted by the Board, the emergency rules would be submitted to the Tennessee Attorney General for final approval and then filed with the Tennessee Secretary of State under the rulemaking procedures of the UAPA. The emergency rules would be effective for up to 180 days. Prior to expiration of the emergency rules, the University would promulgate permanent rules, with a publicly noticed rulemaking hearing, later in the fall.

Board Policy BT0006 – Policies Governing Academic Freedom, Responsibility, and Tenure

The Board Policy requires revision to incorporate grievance procedures and appeal rights for faculty members accused of sexual harassment under Title IX.

Pending Litigation

Various lawsuits have been filed challenging the new Title IX regulations. Mr. Stinnett indicated that the Office of General Counsel will continue to monitor these cases to determine what, if any, impact these legal proceedings may have on the regulations and/or the effective date.

Overview of the Regulatory Changes

Dr. Ashley Blamey, UT System Title IX Coordinator, provided a presentation on the Title IX regulations, which addressed key provisions, including: (i) definitions; (ii) applicability based on location of incident; (iii) the grievance process; and (iv) the standard of evidence. Dr. Blamey confirmed that the University will continue to address sexual harassment occurring in the campus community that takes place inside and outside of academic programs and activities both on and off campus, even if it does not fall within the strict definitions and scope of the new Title IX regulations. She emphasized that the University's values have not changed, but the processes involved for handling such matters will differ depending on whether the specific conduct falls under Title IX.

Mr. Stinnett and Dr. Blamey addressed questions from the trustees pertaining to: (i) the primary differences in the University's processes as a result of the new regulations; (ii) benchmarking conducted regarding the University's processes as compared to other universities and colleges; (iii) the potential impact (i.e., loss of federal funding) should the University fail to comply with the federal regulations; (iv) the need for emergency rules due to the length of time associated with the standard rulemaking processes and the effective date of the Title IX regulations; (v) the nature of issues driving the need for the revised regulations and sense of urgency for implementation; and (vi) the extent of stakeholder participation in the process of developing the revisions to the student codes of conduct and the Board Policy. In addition, Dr. Blamey discussed efforts to ensure symmetry across the campuses, and she highlighted a training initiative intended to support coordination and consistency. In addition to the actions to date on stakeholder engagement, there will be future opportunities for further engagement with the University community and the public in conjunction with the promulgation of the permanent rules.



Following the discussion, the Board, having determined that the revisions to the student code of conduct rules are required by a federal agency and that adoption through the ordinary rulemaking procedures might jeopardize the loss of federal financial funds, proceeded with the adoption of the following emergency rules:

- UT Chattanooga (Emergency Student Code of Conduct Rules)

Upon motion duly made and seconded, a roll call vote was taken, and the Board approved *Resolution 051-2020*.

- UTHSC (Emergency Student Code of Conduct Rules)

Upon motion duly made and seconded, a roll call vote was taken, and the Board approved *Resolution 052-2020*.

- UT Knoxville (Emergency Student Code of Conduct Rules)

Upon motion duly made and seconded, a roll call vote was taken, and the Board approved *Resolution 053-2020*.

- UT Martin (Emergency Student Code of Conduct Rules)

Upon motion duly made and seconded, a roll call vote was taken, and the Board approved *Resolution 054-2020*.

In addition, the Board proceeded with the adoption of the revisions to the Board Policy as necessary to comply with the Title IX regulations.

- Board Policy (BT0006) – Policies governing Academic Freedom, Responsibility, and Tenure

Upon motion duly made and seconded, a roll call vote was taken, and the Board approved *Resolution 055-2020*.

VI. Grant of Tenure upon Initial Appointment

President Boyd and Chancellor Plowman recommended that tenure be granted to four candidates as identified in the meeting materials. President Boyd advised that the candidates meet the requirements to be considered for tenure upon initial appointment, all steps in the review process outlined in the Board policy have been completed, and the candidates have received strong support at each level of review.

Upon motion duly made and seconded, a roll call vote was taken, and the Board approved *Resolution 056-2020*.



VII. Closing Remarks

On behalf of the Board of Trustees, Chair Compton expressed his gratitude to President Boyd, the Chancellors, Provosts, faculty, and staff for all the hard work in preparing for the return of students to the UT campuses. Chair Compton closed the meeting by extending best wishes and prayerful hope for a safe fall reopening of the campuses. He noted that the Board stands ready and willing to reconvene as needed to address unanticipated items that may arise as the semester progresses.

The Board will hold its next Executive Committee meeting on Friday, September 11, 2020 and the Fall Meeting will be held on October 22 and 23, 2020.

VIII. Adjournment

With no further business to come before the Board, the Chair adjourned the meeting.

Respectfully Submitted,

A handwritten signature in blue ink that reads "Cynthia C. Moore".

Cynthia C. Moore
Secretary and Special Counsel

Attachments. Copies of the following documents are filed with the official minutes of this meeting.

- Presentation Materials:
 - Title IX: Regulation Key Provisions