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FOR  
MEETING OF THE BOARD**

**November 12-13, 2008**  
El Paso, Texas

**Wednesday, November 12, 2008**

- A. CONVENE THE BOARD IN OPEN SESSION TO RECESS TO EXECUTIVE SESSION PURSUANT TO TEXAS GOVERNMENT CODE, CHAPTER 551 (working lunch) (*Templeton Suite, Union Building East*) *11:00 a.m.*  
*Chairman Caven*
1. Personnel Matters Relating to Appointment, Employment, Evaluation, Assignment, Duties, Discipline, or Dismissal of Officers or Employees – Section 551.074
- a. **U. T. System: Discussion and appropriate action regarding individual personnel matters relating to appointment, employment, evaluation, compensation, assignment, and duties of presidents (academic and health institutions), U. T. System Administration officers (Executive Vice Chancellors and Vice Chancellors), other officers reporting directly to the Board (Chancellor, Chancellor ad interim, General Counsel to the Board, and Chief Audit Executive), and U. T. System and institutional employees**
- b. **U. T. Austin: Discussion and appropriate action regarding employment term and change in compensation for Head Baseball Coach August E. Garrido, Jr.** *President Powers*
- c. **U. T. Medical Branch - Galveston: Discussion and appropriate action regarding individual personnel matters relating to appointment, employment, evaluation, compensation, assignment, and duties of U. T. Medical Branch – Galveston employees**
- d. **U. T. System Board of Regents: Discussion of personnel matters relating to Chancellor search**
2. Consultation with Attorney Regarding Legal Matters or Pending and/or Contemplated Litigation or Settlement Offers – Section 551.071
- a. **U. T. System Board of Regents: Discussion with Counsel regarding legal matters or pending and/or contemplated litigation or settlement offers** *Mr. Burgdorf*

**Wednesday, November 12, 2008** (con't)

**b. U. T. Austin: Report on settlement of an intellectual property lawsuit styled Board of Regents, The University of Texas System, on behalf of The University of Texas at Austin, and Hydro-Québec v. Nippon Telegraph and Telephone Corporation**

*Mr. Burgdorf  
President Powers*

**c. U. T. Medical Branch – Galveston: Legal issues related to recovery from Hurricane Ike**

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

**U. T. Medical Branch – Galveston: Deliberations Regarding the Purchase, Exchange, Lease, Sale, or Value of Real Property**

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

**U. T. Medical Branch – Galveston: Negotiated Contracts for Prospective Gifts or Donations**

B. RECONVENE IN OPEN SESSION TO CONSIDER ACTION ON EXECUTIVE SESSION ITEMS, IF ANY, AND RECESS

*12:50 p.m.*

**COMMITTEE MEETINGS**

Concurrent

Audit, Compliance, and Management Review Committee  
*(Templeton Suite, Union Building East)*

*1:00 – 2:00 p.m.*

Student, Faculty, and Staff Campus Life Committee  
*(Tomás Rivera Conference Center, Union Building East)*

Finance and Planning Committee.....  
*(Tomás Rivera Conference Center, Union Building East)*

*2:00 – 3:00 p.m.*

Academic Affairs Committee.....  
*(Tomás Rivera Conference Center, Union Building East)*

*3:00 – 4:00 p.m.*

Health Affairs Committee.....  
*(Tomás Rivera Conference Center, Union Building East)*

*4:00 – 5:00 p.m.*

**Thursday, November 13, 2008**

*(Tomás Rivera Conference Center, Union Building East)*

**Board/Committee  
Meetings**

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**COMMITTEE MEETINGS**

Special Health Affairs Committee	8:30 a.m.	
Facilities Planning and Construction Committee	9:30 a.m.	
C. RECONVENE THE BOARD IN OPEN SESSION	10:30 a.m.	
D. APPROVAL OF MINUTES		
E. CONSIDER AGENDA ITEMS		
1. <b>U. T. El Paso: Overview of the institution</b>	10:35 a.m. <b>Report</b> <i>President Natalicio</i>	<b>1</b>
2. <b>U. T. System: Chancellor's quarterly update -- Impact of Hurricane Ike on U. T. System institutions</b>	10:55 a.m. <b>Report</b> <i>Dr. Shine</i>	<b>1</b>
3. <b>U. T. System: Approval to establish a major Systemwide new initiative in Innovations in Undergraduate Education</b>	11:05 a.m. <b>Action</b> <i>Dr. Shine</i>	<b>1</b>
4. <b>U. T. System: Approval of program details for the Regents' Outstanding Teachers Awards and the Center for Technology Commercialization</b>	11:15 a.m. <b>Action</b> <i>Dr. Prior</i>	<b>2</b>
5. <b>U. T. System: Preparations for the 81st Legislative Session</b>	11:25 a.m. <b>Report</b> <i>Mr. McBee</i>	<b>4</b>
6. <b>U. T. System Board of Regents: Approval to amend Regents' Rules and Regulations, Rule 10501, regarding Delegation to Act on Behalf of the Board, to allow certain agreements needed to facilitate negotiation of contracts with foreign governments</b>	11:35 a.m. <b>Action</b> <i>Mr. Burgdorf</i>	<b>4</b>
7. <b>U. T. System Board of Regents: Amendment to Regents' Rules and Regulations, Rule 30202, regarding delegation to amend the Optional Retirement Program</b>	11:40 a.m. <b>Action</b> <i>Ms. Brown</i>	<b>5</b>
8. <b>U. T. System Board of Regents: Amendment to the Regents' Rules and Regulations, Rule 60101, regarding Acceptance and Administration of Gifts</b>	11:45 a.m. <b>Action</b> <i>Dr. Safady</i>	<b>7</b>
9. <b>U. T. System Board of Regents: Approval of proposed amendments to the Master Investment Management Services Agreement with The University of Texas Investment Management Company (UTIMCO)</b>	11:50 a.m. <b>Action</b> <i>Mr. Zimmerman</i>	<b>13</b>

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|-----|---|-------------------|------------|
| F.  | RECESS FOR MEETINGS OF THE STANDING COMMITTEES<br>AND COMMITTEE REPORTS TO THE BOARD  | <i>12:00 p.m.</i> |            |
|     | Audit, Compliance, and Management Review Committee:<br>Chairman Foster  |                   |            |
|     | Finance and Planning Committee: Chairman Rowling  |                   |            |
|     | Academic Affairs Committee: Chairman Barnhill   |                   |            |
|     | Health Affairs Committee: Chairman McHugh   |                   |            |
|     | Facilities Planning and Construction Committee:<br>Chairman Huffines  |                   |            |
| G.  | RECONVENE AS A COMMITTEE OF THE WHOLE   | <i>12:15 p.m.</i> |            |
| 10. | <b>U. T. System Board of Regents: Discussion and<br/>appropriate action regarding proposed recipient<br/>for Santa Rita Award</b> | <b>Action</b>     | <b>35a</b> |
| H.  | ADJOURN   | <i>12:30 p.m.</i> |            |

1. **U. T. El Paso: Overview of the institution**

REPORT

President Natalicio will discuss the transformative activities at U. T. El Paso in recent years.

**Supplemental Materials: PowerPoint presentation on Pages 1 - 22 of Volume 2.**

2. **U. T. System: Chancellor's quarterly update -- Impact of Hurricane Ike on U. T. System institutions**

REPORT

Chancellor ad interim Shine will report on the impact of Hurricane Ike on University of Texas System institutions.

3. **U. T. System: Approval to establish a major Systemwide new initiative in Innovations in Undergraduate Education**

RECOMMENDATION

Dr. Kenneth I. Shine, in his roles as Chancellor ad interim and Executive Vice Chancellor for Health Affairs, concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs that authorization be granted by the U. T. System Board of Regents to approve the following:

- a. investment of \$500,000 of Available University Funds (AUF) to support competitive proposals on innovations in undergraduate education at U. T. Austin; and
- b. investment of \$2 million of Intermediate Term Funds (ITF) to support competitive proposals on innovations in undergraduate education at U. T. Arlington, U. T. Brownsville, U. T. Dallas, U. T. El Paso, U. T. Pan American, U. T. Permian Basin, U. T. San Antonio, and U. T. Tyler.

BACKGROUND INFORMATION

The Innovations in Undergraduate Education effort is proposed to be funded with \$2 million from ITF and \$500,000 from AUF funds.

This will be a competitive grant program to fund transformational changes in undergraduate education, targeting significant areas of teaching and learning. These areas include uses of technology, reorganization of curriculum, interdisciplinary learning, new pedagogical approaches, learning materials, and new learning spaces. Specifically, proposals could address any of the following topics:

*Pedagogy* - strategies that will promote proven pedagogical techniques that result in the most effective student learning (e.g., increase success rates, course completion rates, greater retention rates, increased responsiveness to diverse learning styles).

*Learning Materials* - strategies to stimulate development of high-quality learning tools that address new learning styles (e.g., virtual laboratories for science courses, serious gaming activities that engage undergraduates within and outside the classroom).

*Technologies* - strategies that will stimulate new technological applications, reduce instructional costs, and increase student learning and successes. For example, the studio teaching model has been adopted by several prominent institutions.

*Learning Spaces* - strategies that will explore redesign of campus facilities and alternatives to reduce costs in building new facilities. Web-based classrooms, chat rooms, and virtual laboratories are examples of new learning spaces.

The program, to be titled *Transformational Programs in Undergraduate Education*, will be led by the Office of Academic Affairs. Special consideration will be given to innovative projects, the results of which can be shared across academic institutions.

**Supplemental Materials: Transforming Undergraduate Education on Pages 23 - 25 of Volume 2.**

**4. U. T. System: Approval of program details for the Regents' Outstanding Teachers Awards and the Center for Technology Commercialization**

RECOMMENDATION

The Chancellor ad interim concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs that the U. T. System Board of Regents approve the proposed program implementation details for the previously approved Regents' Outstanding Teachers Awards and the Center for Technology Commercialization at the U. T. System institutions.

## BACKGROUND INFORMATION

On August 14, 2008, the Board modified the operating budget to add \$15 million as follows:

- a. \$1 million each year for five years to benefit U. T. Austin through the establishment of a teaching excellence incentive compensation program;
- b. \$1 million each year for five years to benefit U. T. Arlington, U. T. Brownsville, U. T. Dallas, U. T. El Paso, U. T. Pan American, U. T. Permian Basin, U. T. San Antonio, and U. T. Tyler through the establishment of teaching excellence incentive compensation programs; and
- c. \$1 million each year for five years to support technology transfer and commercialization at U. T. Austin.

The Board's action on August 14, 2008, also provided that Executive Vice Chancellor Prior and the Office of Academic Affairs would work on specific details of the new teaching excellence and commercialization incentives and present the proposals for Board approval at the November 2008 meeting.

Dr. Prior has worked in consultation with the presidents of the academic institutions to frame the program implementation details proposed for Board approval.

### Awards Program

The Awards Program will recognize tenured, tenure-track, and other instructional faculty for outstanding teaching, personal commitment to students and the learning process, and the ability to inspire and motivate students in the classroom.

The Awards Program will provide a framework that fosters excellence in teaching at all levels, rewards outstanding teachers, stimulates innovation in education, and promotes continuous quality improvement in education. This program will require a demonstration of sustained excellence in teaching, instructional development and curricular design, and advising and mentoring.

In summary, the Awards Program will recognize those faculty members who deliver the highest quality of undergraduate instruction in the classroom, the laboratory, the field, or online.

### Center for Technology Commercialization

The proposed implementation details and organizational structure for the Center for Technology Commercialization at U. T. Austin builds on the expressed intention of the Board to recognize the importance of accelerating university discoveries into commercial products, increasing the number of start-up companies, and decreasing the time from an idea generation to final stage commercialization.

In summary, the Center will be created to bring together the distinct and complementary capabilities and resources of the Office of Technology Commercialization (OTC) and the

Austin Technology Incubator (ATI). The Center will accelerate commercialization and new venture activities by providing dedicated specialists to structure start-up ventures, negotiate licenses, and increase other transactions relating to university inventions.

**Supplemental Materials:**

- **Regents' Outstanding Teachers Awards - U. T. Austin on Pages 26 - 28 of Volume 2**
- **Regents' Outstanding Teachers Awards - Academic Institutions on Pages 29 - 32 of Volume 2**
- **Center for Technology Commercialization on Pages 33 - 37 of Volume 2**

**5. U. T. System: Preparations for the 81st Legislative Session**

REPORT

Mr. Barry McBee, Vice Chancellor for Governmental Relations, will briefly update the Board on the status of U. T. System preparations for the 81st Regular Legislative Session, including a summary of the U. T. System's and institutions' budget requests, proposals that the Legislature may consider affecting higher education, and the major budgetary and substantive issues facing the Legislature.

**Supplemental Materials: Full report on Pages 38 - 88 of Volume 2.**

**6. U. T. System Board of Regents: Approval to amend Regents' *Rules and Regulations*, Rule 10501, regarding Delegation to Act on Behalf of the Board, to allow certain agreements needed to facilitate negotiation of contracts with foreign governments**

RECOMMENDATION

The Chancellor ad interim concurs in the recommendation of the Vice Chancellor for External Relations and the Vice Chancellor and General Counsel that Regents' *Rules and Regulations*, Rule 10501, be amended as set forth below in congressional style to add a provision allowing U. T. System Administration and U. T. System institutions to enter into certain agreements needed to facilitate negotiation of contracts with foreign governments, without the need for prior Board approval:

- Sec. 3 Contracts or Agreements Requiring Board Approval. The following contracts or agreements, including purchase orders or vouchers, must be approved by the Board.



...

- 3.2 Contracts with Foreign Governments. Contracts or agreements of any kind or nature, regardless of dollar amount, with a foreign government or agencies thereof, except affiliation agreements and cooperative program agreements, material transfer agreements, sponsored research agreements and licenses, or other conveyances of intellectual property owned or controlled by the Board of Regents prepared on an approved standard form or satisfying the requirements set by the Office of the General Counsel, or agreements or contracts necessary to protect the exchange of confidential information or nonbinding letters of intent or memorandums of understanding executed in advance of definitive agreements each as reviewed and approved by the Vice Chancellor and General Counsel.

....

### BACKGROUND INFORMATION

Under Rule 10501, the Board of Regents controls and monitors contracting with foreign governments subject to certain exceptions for matters that do not raise substantial concern and/or are in the normal course of business. The proposed amendment to Section 3.2 adds language allowing U. T. System Administration and U. T. System institutions to enter into nondisclosure agreements and similar mechanisms routinely used to facilitate business transaction discussions in advance of definitive agreements. In each instance, the contemplated facilitating agreement will be subject to review and approval by the Vice Chancellor and General Counsel. Definitive agreements will remain subject to Regental approval other than the express exceptions already listed in Rule 10501.

7. **U. T. System Board of Regents: Amendment to Regents' Rules and Regulations, Rule 30202, regarding delegation to amend the Optional Retirement Program**

### RECOMMENDATION

The Chancellor ad interim concurs in the recommendation of the Vice Chancellor and General Counsel that Regents' *Rules and Regulations*, Rule 30202, regarding Employee Benefits, be revised to delegate authority to amend the Optional Retirement Program (ORP) to the Vice Chancellor for Administration, by amending Section 1.1 as set forth below in congressional style:

- Sec. 1 Optional Retirement Program. The Board of Regents shall select those companies accepted as vendors to participate in the Optional Retirement

Program (ORP), based upon recommendation from the Chancellor. Within a reasonable time period following selection by the Board of Regents, each vendor must execute a contract for products and services. The contract must be acceptable to The University of Texas System and must include the selection criteria contained in the Request for Proposals.

- 1.1 Delegation of Authority. The Board of Regents delegates to the Chancellor authority to approve the ORP employer contribution rates for all institutions and U. T. System Administration in accordance with rules issued by the Texas Higher Education Coordinating Board. The Board of Regents further delegates to the Vice Chancellor for Administration the authority to sign and amend the ORP plan documents consistent with applicable law and to take all actions and make all decisions and interpretations necessary or appropriate to administer and operate the ORP consistent with the plan documents. The Vice Chancellor for Administration will perform, or cause to be performed, such record keeping functions as necessary to administer and maintain the Program in accordance with Section 403(b) of the *Internal Revenue Code*, consistent with *Texas Government Code* Section 830.001 et seq.

### BACKGROUND INFORMATION

ORP is a State-authorized retirement program for institutions of higher education. Participant account balances include employee contributions pursuant to a salary reduction agreement, employer contributions, and earnings on the contributions. An eligible employee shall make a once-per-lifetime irrevocable election to participate in the ORP in lieu of participation in the Teacher Retirement System of Texas.

An eligible employee must be employed on a full-time basis for at least one full semester or four and one-half months or more in an ORP eligible position. ORP eligible positions include:

- 1) Faculty members whose duties include teaching and/or research as a principal activity
- 2) Faculty administrators responsible for teaching and research faculty
- 3) Professional librarians
- 4) Executive administrators of U. T. System and its institutions
- 5) Other key administrators
- 6) Professionals including physicians, engineers, attorneys, veterinarians, and architects
- 7) Athletic coaches.

The proposed delegation of authority would facilitate the required revision of the ORP to meet new Internal Revenue Service (IRS) regulations under Section 403(b) of the

*Internal Revenue Code*, which will become effective January 1, 2009. The final regulations will require for the first time a formal written plan document for tax deferred 403(b) plans such as the ORP. Such plans must be signed before the end of 2008.

Since there will now be a formal plan document for the ORP, such plan will need to be revised from time to time to comply with applicable law and to facilitate plan operations. It is for these reasons that similar delegations of authority to the Vice Chancellor for Administration are already in place for all other U. T. Systemwide retirement plans, including the UTSaver Deferred Compensation Plan, the UTSaver Tax-Sheltered Annuity Program, and The University of Texas Governmental Retirement Arrangement (UTGRA).

8. **U. T. System Board of Regents: Amendment to the Regents' Rules and Regulations, Rule 60101, regarding Acceptance and Administration of Gifts**

**RECOMMENDATION**

The Chancellor concurs in the recommendation of the Vice Chancellor for External Relations and the Vice Chancellor and General Counsel that the Regents' *Rules and Regulations*, Rule 60101, regarding acceptance and administration of gifts, be amended as set forth on Pages 8 - 12.

**BACKGROUND INFORMATION**

The proposed amendments to the Regents' *Rules and Regulations*, Rule 60101, will streamline the acceptance of gifts that conform to all relevant policies, including the U. T. System Gift Acceptance Procedures, to provide that gifts, which currently require Board of Regents' approval if valued at greater than \$1,000,000, may be accepted by the Chancellor or the president, as appropriate, regardless of the value of the gift. Only gifts that do not conform to all relevant policies would continue to require Board of Regents' approval.

Proposed deletion of Section 6.3 eliminates the requirement for periodic reports summarizing acceptance and approval by the Office of External Relations of all conforming gifts. These reports were discontinued several years ago and were replaced by an annual presentation to the Board on private giving.

Deletion of the references to quasi-endowments in Section 7 is proposed to eliminate redundancy, as quasi-endowments are simply one classification of endowments. Minor editorial changes are also proposed.

€1. Title

Acceptance and Administration of Gifts

2. Rule and Regulation

Sec. 1 Authority to Accept Gifts and Develop Acceptance Procedures. The authority to accept gifts to The University of Texas System or to any of its institutions is vested in the Board of Regents and delegated by the Board as specifically set out in this Rule. Except as provided in this Rule or any other Rule in the Regents' *Rules and Regulations*, or approved institutional policies, no member of the staff of any institution has the authority to accept gifts.

Sec. 2 The Board delegates to the Vice Chancellor for External Relations the authority and responsibility to promulgate a set of guidelines regarding the acceptance, processing, investment, and administration of gifts. These guidelines, ~~will be~~ known as [The University of Texas System Administration Policy UTS138, Gift Acceptance Procedures](#), and shall be adhered to by the U. T. System and its institutions. In promulgating the [U. T. System Gift Acceptance Procedures](#), the delegate shall also consider provisions to:

- 2.1 accomplish the goal of increasing financial support for the U. T. System through the appropriate assistance of donors,
- 2.2 allow staff members to respond to donor initiatives quickly and with certainty,
- 2.3 establish administrative processes to accept and administer gifts in a prudent and efficient manner, with fiduciary responsibilities of fundamental importance,
- 2.4 comply with the Texas Constitution and applicable federal and State law,
- 2.5 comply with the provisions of the [Internal Revenue Code](#) and related regulations,
- 2.6 specifically incorporate provisions related to the acceptance of pledges to fund endowments as follows:

- (a) at least 20% of the donors' total required minimum funding must be received prior to the acceptance of an endowment, and
- (b) the pledge for payment of the remaining funds shall not extend beyond five years from the date of execution of the gift agreement. With the written approval of the Vice Chancellor for External Relations the pledge period may be longer than five years under rare and special circumstances-, and

2.7 provide that, in the interest of financial responsibility and efficiency, it is the specific preference of the Board that all endowment gifts be eligible for commingling for investment purposes with other endowment funds.

Sec. 3 ~~Gifts Requiring Board Approval. All conforming gifts, including pledges, having a value of more than \$1,000,000 (in cash or in-kind) must be submitted to the Board of Regents for approval via the Docket, except those processed or administered by the Office of External Relations. Recommendations regarding the acceptance of gifts or other actions that do not conform to all relevant policies, including but not limited to the [U. T. System Gift Acceptance Procedures](#), shall be made through the Vice Chancellor for External Relations to the Board of Regents after review by appropriate offices of the terms of the gifts, the nature of the donated assets, and/or the requested action.~~

Sec. 4 Gifts of Art

- 4.1 Outdoor Works of Art. Approval by the Board is also required prior to the acceptance of a gift of an outdoor work of art. Considerations will include appropriateness with regard to the institution's Campus Master Plan and expense related to installation and/or continuing maintenance.
- 4.2 Gifts of Statuary Depicting Living Persons. No gift of statuary depicting a living person shall be accepted by an institution, unless intended for display in a museum or for addition to the collection of works of art for display in a museum. Authority to accept proposed museum gifts of statuary depicting living persons, intended for display indoors, is delegated to the presidents. Proposed gifts of

statuary intended for outdoor display require approval under Section 4.1 above.

- Sec. 5 Gifts Requiring Approval by Chancellor or Presidents. The Board of Regents delegates to the Chancellor or the president of an institution the authority to accept all conforming gifts, including pledges, of any value (either in cash or in-kind), other than gifts of real property, that are not processed or administered by the Office of External Relations, and the authority to take any and all desirable actions relating to the administration and management of gifts accepted by the Chancellor or the president of the institution, as may be permitted by applicable law, policies, these Regents' *Rules and Regulations*, and the [U. T. System Gift Acceptance Procedures](#).
- Sec. 6 Gifts Requiring Approval by Executive Vice Chancellor for Business Affairs. The Board of Regents delegates to the Executive Vice Chancellor for Business Affairs authority to accept all conforming gifts of real property of any value that are not processed or administered by the Office of External Relations, and the authority to take any and all desirable actions relating to the administration and management of gifts accepted by the Executive Vice Chancellor for Business Affairs, as may be permitted by applicable law, policies, ~~these Rules and Regulations~~, the [U. T. System Gift Acceptance Procedures](#), and ~~these Regents' Rules and Regulations~~, including [Rule 80306](#) concerning the environmental review policy for acquiring real property and [Rule 60103](#) concerning guidelines for acceptance of gifts of real property. Acceptance of all gifts of real property shall be subject to the Regents' *Rules and Regulations*, [Rule 60103](#) and [Rule 80306](#).
- Sec. 7 Gifts Requiring Approval by Vice Chancellor of External Relations. The Board of Regents delegates to the Vice Chancellor for External Relations authority to accept all conforming gifts, including pledges, of any value (either in cash or in-kind) that are processed or administered by the Office of External Relations. The Board also delegates to the Vice Chancellor for External Relations authority to take any and all desirable actions relating to the administration and management of gifts accepted by the Office of External Relations, including without limitation the modification or termination of trusts, and endowments, and quasi-endowments as may be permitted by applicable law, policies, these *Rules and Regulations*, and the [U. T. System Gift Acceptance Procedures](#).

- 7.1 Gifts Reviewed. The Office of Development and Gift Planning Services, with assistance from the Real Estate Office, University Lands West Texas Operations and the Office of General Counsel as required, shall review all gift assets processed or administered by the Office of External Relations and certain gift assets that the Chancellor or president is authorized to accept. Gift assets requiring review include, but are not limited to, securities, interests in limited partnerships, stock of closely-held corporations, stock of S corporations, stock options, and warrants. The Office of Development and Gift Planning Services shall also review all bequests, interests in trusts, gifts, and other funds to establish endowments and quasi-endowments, and other planned gifts as defined in the [U. T. System Gift Acceptance Procedures](#).
- 7.2 Gifts to Establish Endowments. Endowments will be established with gifts that have been completed for tax purposes or with a combination of such gifts, pledges, and other funds at a minimum funding level of \$10,000.

Sec. 8 Internal Revenue Service Forms. The Board of Regents delegates to the Chancellor, the Executive Vice Chancellor for Business Affairs, the Vice Chancellor for External Affairs, and the president of the institution the authority to execute all necessary Internal Revenue Service forms, including without limitation IRS Forms 8283 and 8282, that relate to gifts accepted by each, respectively.

~~Sec. 8 Nonconforming Gifts. Recommendations regarding the acceptance of gifts or other actions which do not conform to all relevant laws and Board of Regents policies, including but not limited to the [U. T. System Gift Acceptance Procedures](#), shall be made through the Chancellor to the Board via the Agenda after review by the appropriate offices of the terms of the gifts, the nature of the donated assets and/or the requested action.~~

Sec. 9 Gift Benefiting an Individual. Neither the U. T. System nor any of its institutions will administer a gift for the benefit of any designated individual unless the donor is exempt from federal income taxes as defined by the Commissioner of Internal Revenue.

- Sec. 10 Service by Board as Estate Executor/Administrator. The Board of Regents will not serve as executor or administrator of an estate because of the potential for conflicts of interest and the scope of the required duties.
- Sec. 11 Prohibition to Act as Witness to Will. The employees of the U. T. System or any of its institutions should not knowingly act as witnesses to wills in which the U. T. System or an institution is named as a beneficiary so as not to jeopardize the receipt of the bequest.
- Sec. 12 Service by Employee as Executor/Administrator of Estate or Trustee of Trust. Employees of the U. T. System or any of its institutions who agree to serve as trustee of a trust, or executor or administrator of an estate benefiting the U. T. System or any of its institutions are immediately to notify the Office of Development and Gift Planning Services of their appointment. Upon notification, the employee will be furnished with a statement advising of the potential for conflicts of interest and directing that all communications pertaining to the trust or estate between the employee and any office of the U. T. System or its institutions shall be in writing.



9. **U. T. System Board of Regents: Approval of proposed amendments to the Master Investment Management Services Agreement with The University of Texas Investment Management Company (UTIMCO)**

RECOMMENDATION

The Chancellor ad interim, the Executive Vice Chancellor for Business Affairs, and the Vice Chancellor and General Counsel concur in the recommendation of The University of Texas Investment Management Company (UTIMCO) Board of Directors that the U. T. System Board of Regents (U. T. Board) approve amendments to Section 3, Description of Investment Management Services, of the Master Investment Management Services Agreement (IMSA) effective November 13, 2008, as set forth below in congressional style:

Section 3. Description of Investment Management Services.

...

(h) Other Services:

...

(x) maintaining a log of (1) all agreements or transactions between UTIMCO or a "UTIMCO entity" and a "Director entity" or an "Employee entity," and (2) all investments in the private investments of a business entity in which a "Director" or "Employee" then owns a private investment, or is then co-investing, in the same business entity, provided that all quoted terms above shall have the meanings assigned to them in UTIMCO's Code of Ethics, which annually shall be reviewed by the UTIMCO Board of Directors and reported to the U. T. Board;

(xi) reporting to the U. T. Board annually on compliance with the UTIMCO Code of Ethics and any recommended changes to the UTIMCO Code of Ethics following review by the UTIMCO Board of Directors; and

(xii) any other services necessary to provide investment management of the Funds.

BACKGROUND INFORMATION

The proposed amendments to the IMSA between the U. T. Board and UTIMCO incorporate compliance requirements associated with the revised UTIMCO Code of Ethics, approved at the August 14, 2008, meeting of the U. T. Board. The action approving the amended Code was conditioned upon requirements that UTIMCO maintain a log of certain transactions, assure that the log is reviewed annually by the UTIMCO Board of Directors, and report the covered transactions annually to the U. T. Board. UTIMCO is also required to report annually to the U. T. Board on compliance

with the Code of Ethics and suggest recommended Code changes, if any, following review by the UTIMCO Board.

UTIMCO staff has drafted changes to the IMSA, consistent with the above requirements, which have been reviewed and approved by U. T. System staff.

Proposed substantive amendments are summarized as follows:

- Section 3(h)(x): Add the requirement to maintain a log of agreements, transactions, investments and co-investments between UTIMCO and a Director or Employee and their related business entities, to be reviewed by the UTIMCO Board of Directors and reported to the U. T. Board on an annual basis.
- Section 3(h)(xi): Add the requirement to annually report to the U. T. Board on compliance with the UTIMCO Code of Ethics and any recommended changes to it.

These proposed revisions to the IMSA and the precise wording of the Code of Ethics (as approved on August 14, 2008, and as set forth for information on Pages 15 - 35) have been the subject of careful review and consultation between U. T. System and UTIMCO staff members to assure that the compliance requirements are consistent with the intent of the approval motion and are clear and enforceable. The proposed IMSA revisions are on the agenda for approval by the UTIMCO Board of Directors on November 7, 2008, and will formally amend the IMSA that was approved February 7, 2008.



**THE UNIVERSITY OF TEXAS  
INVESTMENT MANAGEMENT COMPANY**

# CODE OF ETHICS

Approved by the Board of Regents August 14, 2008

**THE UNIVERSITY OF TEXAS INVESTMENT  
MANAGEMENT COMPANY  
CODE OF ETHICS**

**Subchapter A. GENERAL PROVISIONS**

**Sec. 1.01. General Principles.** (a) The Board of Regents of The University of Texas System has ultimate fiduciary responsibility for causing the funds within its investment authority to be managed in accordance with applicable law.

(b) The standard mandated by Article VII, Section 11b, of the Texas Constitution concerning the permanent university fund, the standard mandated by the Board of Regents concerning all of the funds within its investment authority under the Investment Management Services Agreement between the Board of Regents and The University of Texas Investment Management Company (UTIMCO), and the standard mandated by the Board of Regents' Investment Policy Statements require those funds to be invested in such investments that "prudent investors, exercising reasonable care, skill, and caution, would acquire or retain in light of the purposes, terms, distribution requirements, and other circumstances of the fund then prevailing, taking into consideration the investment of the assets of the fund rather than a single investment."

(c) Pursuant to the Investment Management Services Agreement, the Board of Regents has appointed UTIMCO as its investment manager with respect to those funds for which the Board of Regents has investment responsibility. In the agreement, UTIMCO has acknowledged that it acts as a fiduciary of the Board of Regents in the discharge of its investment management responsibilities and is obligated to manage the investments of the funds pursuant to policies of the Board of Regents that incorporate and adhere to the prudent investor standard. Accordingly, both the Board of Regents and UTIMCO have fiduciary interests in assuring that the Directors and Employees of UTIMCO possess the requisite knowledge, skill, and experience to manage the funds in accordance with the prudent investor standard described in Subsection (b) of this section and other applicable law.

(d) This Code of Ethics (Code) sets forth the basic principles and guidelines for Directors and Employees of UTIMCO, in addition to and in accordance with the requirements of Section 66.08 of the *Texas Education Code*, the Texas Non-Profit Corporation Act, and other applicable laws.

(e) This Code of Ethics anticipates that many of UTIMCO's Directors and Employees will be active investors, either individually or on behalf of others, in the same asset categories as the funds managed by UTIMCO on behalf of the Board of Regents. Without seeking to disqualify those Directors and Employees from service to UTIMCO except to the extent necessary or appropriate to avoid conflicts of interest or otherwise conform to applicable law, this Code holds all Directors and Employees to high standards of conduct consistent with their special relationship of trust, confidence, and responsibility to UTIMCO. This Code also recognizes UTIMCO's unique role as the dedicated investment manager of the Board of Regents in investing the funds in furtherance of the education mission of the Board of Regents, the institutions of The University of Texas System, and other beneficiaries of the funds.

(f) In addition to strict compliance with legal requirements, all Directors and Employees are expected to be guided by the basic principles of loyalty, prudence, honesty and fairness in conducting UTIMCO's affairs.

**Sec. 1.02. Definitions.** In this Code:

- (1) "Audit and Ethics Committee" means the standing Audit and Ethics Committee established by UTIMCO bylaws.
- (2) "Board" means the Board of Directors of UTIMCO.
- (3) "Board of Regents" means the Board of Regents of The University of Texas System.
- (4) "CEO" means the Chief Executive Officer of UTIMCO.
- (5) "Chief Compliance Officer" means the person designated from time to time as the chair of the Employee Ethics and Compliance Committee.
- (6) "Director" means a member of the Board of Directors of UTIMCO.
- (7) "Director entity" means an investment fund or other entity controlled by a UTIMCO Director.
- (8) "Employee" means a person working for UTIMCO in an employer-employee relationship.
- (9) "Employee entity" means an investment fund or other entity controlled by a UTIMCO Employee.

- (10) “General Counsel” means the lawyer or firm of lawyers designated from time to time as the external General Counsel of UTIMCO.
- (11) “Key Employee” means an Employee who has been designated by the Board as one who exercises significant decision-making authority by virtue of the position the Employee holds with UTIMCO.
- (12) “Personal securities transactions” means:
- (A) transactions for a Director’s or Employee’s own account, including an individual retirement account; or
  - (B) transactions for an account, other than an account over which the Director or Employee has no direct or indirect influence or control, in which the Director or Employee, or the Director’s or Employee’s spouse, minor child, or other dependent Relative:
    - (i) is an income or principal beneficiary or other equity owner of the account; or
    - (ii) receives compensation for managing the account for the benefit of persons other than such person or his or her family.
- (13) “Private investment” means any debt obligation or equity interest that is not a publicly traded security, including a “private investment” in a publicly traded company.
- (14) “Publicly traded company” means a business entity with a class of securities that consists of publicly traded securities.
- (15) “Publicly traded securities” means securities of a class that is listed on a national securities exchange or quoted on the NASDAQ national market system in the United States or that is publicly traded on any foreign stock exchange or other foreign market.
- (16) “Relative” means a person related within the third degree by consanguinity or the second degree by affinity determined in accordance with Sections 573.021 – 573.025, *Government Code*. For purposes of this definition:
- (i) examples of a relative within the third degree by consanguinity are a child, grandchild, great-

grandchild, parent, grandparent, great-grandparent, brother, sister, uncle, aunt, niece, or nephew;

- (ii) examples of a relative within the second degree by affinity are a spouse, a person related to a spouse within the second degree by consanguinity, or a spouse of such a person;
- (iii) a person adopted into a family is considered a relative on the same basis as a natural born family member; and
- (iv) a person is considered a spouse even if the marriage has been dissolved by death or divorce if there are surviving children of that marriage.

(17) “UTIMCO” means The University of Texas Investment Management Company.

(18) “UTIMCO entity” means an investment fund or other entity controlled by UTIMCO.

**Sec. 1.03. Definition of “Control.”** (a) For purposes of this Code, UTIMCO or a Director or Employee is presumed to control an investment fund or other entity if UTIMCO’s or the Director’s or Employee’s management role with or investment in the fund or entity enables UTIMCO or the Director or Employee, as appropriate, to direct the operating or financial decisions of the fund or entity. However, the presumption of control by a Director or Employee shall be rebutted if the General Counsel advises the Board that, based upon a review and confirmation of relevant facts provided by the respective Director or Employee, it is the opinion of the General Counsel that the Director or Employee does not have ultimate control of the operating or financial decisions of a particular fund or entity.

(b) Without limiting the provisions of Subsection (a), UTIMCO or a Director or Employee is not presumed to control an investment fund or other entity if UTIMCO or the Director or Employee, as appropriate, does not have a management role, if the terms of the investment do not give UTIMCO or the Director or Employee, as appropriate, the legal right to direct the operating or financial decisions of the fund or entity, and if UTIMCO or the Director or Employee, as appropriate, does not attempt to direct the operating or financial decisions.

**Sec. 1.04. Decision-Making Based on Merit.** (a) UTIMCO Directors and Employees shall base UTIMCO business transactions on professional

integrity and competence, financial merit and benefit to UTIMCO, and, if required or prudent, on a competitive basis.

(b) UTIMCO Directors and Employees may not base any UTIMCO business decisions on family or personal relationships.

**Sec. 1.05. Compliance with Law.** Directors and Employees shall comply with all applicable laws, and should be specifically knowledgeable of Section 66.08, *Education Code* (Investment Management), Section 39.02, *Penal Code* (Abuse of Official Capacity), and Section 39.06, *Penal Code* (Misuse of Official Information).

**Sec. 1.06. Compliance with Professional Standards.** Directors and Employees who are members of professional organizations, such as the CFA Institute, shall comply with any standards of conduct adopted by the organizations of which they are members.

**Sec. 1.07. Accounting and Operating Controls.** Directors and Employees shall observe the accounting and operating controls established by law and UTIMCO policies, including restrictions and prohibitions on the use of UTIMCO property for personal or other purposes not related to UTIMCO business.

**Sec. 1.08. General Standards of Conduct for Directors and Employees.**

(a) It is the policy of UTIMCO that a Director or Employee should not:

- (1) accept or solicit any gift, favor, or service that might reasonably tend to influence the Director or Employee in the discharge of his or her duties for UTIMCO or that the Director or Employee knows or should know is being offered with the intent to influence the Director's or Employee's conduct on behalf of UTIMCO;
- (2) accept other employment or engage in a business or professional activity that the Director or Employee might reasonably expect would require or induce the Director or Employee to disclose confidential information acquired by reason of his or her position with UTIMCO;
- (3) accept other employment or compensation that could reasonably be expected to impair the Director's or Employee's independence of judgment in the performance of his or her duties for UTIMCO;
- (4) make personal investments that could reasonably be expected to create a substantial conflict between the



Director's or Employee's private interest and the interests of UTIMCO; or

- (5) intentionally or knowingly solicit, accept, or agree to accept any benefit for having exercised the Director's or Employee's authority or performed the Director's or Employee's duties at UTIMCO in favor of another.

**Sec. 1.09. Honesty and Loyalty.** (a) Directors and Employees shall be honest in the exercise of their duties and may not take actions that will discredit UTIMCO.

(b) Directors and Employees should be loyal to the interests of UTIMCO to the extent that their loyalty is not in conflict with other duties that legally have priority.

**Sec. 1.10. Relationship with UTIMCO Not Used for Personal Gain.**

(a) Directors and Employees may not use their relationship with UTIMCO to seek or obtain personal gain beyond agreed compensation or any properly authorized expense reimbursement.

(b) This section does not prohibit the use of UTIMCO as a reference or prohibit communicating to others the fact that a relationship with UTIMCO exists as long as no misrepresentation is involved.

**Sec. 1.11. Confidential Information.** (a) Directors and Employees may not disclose confidential information unless duly authorized personnel determine that the disclosure is either permitted or required by law.

(b) Directors and Employees shall use confidential information for UTIMCO purposes and not for their own personal gain or for the gain of third parties.

(c) Directors and Employees may not copy confidential information, for any reason, except as required to fulfill their duties for UTIMCO.

(d) Employees may not remove confidential information from the premises of UTIMCO, except as required to fulfill their duties for UTIMCO and then only for so long as required to fulfill their duties.

(e) Employees must return to UTIMCO all confidential information in their possession immediately upon request or immediately upon the termination of Employee's employment with UTIMCO, whichever comes first.

**Sec. 1.12. Nepotism.** (a) UTIMCO may not employ a person who is a Relative of a Director. This subsection does not prohibit the continued employment of a person who has been working for UTIMCO for at least 30 consecutive days before the date of the related Director's appointment.

(b) UTIMCO may not employ a person who is a Relative of a Key Employee, of a consultant, or of any owner, director, or officer of a consultant. This subsection does not prohibit the continued employment of a person who has been working for UTIMCO for at least 30 consecutive days:

- (1) before the date of the selection of the Key Employee or consultant; or
- (2) before becoming a Relative.

(c) An Employee may not exercise discretionary authority to hire, evaluate, or promote a Relative.

(d) An Employee may not directly or indirectly supervise a Relative. In this subsection, "supervise" means to oversee with the powers of direction and decision-making the implementation of one's own or another's intentions, and normally involves assigning duties, overseeing and evaluating work, and approving leave.

(e) This section does not prohibit the employment of a Relative of an Employee for a short-term special project as a non-exempt Employee if the Employee seeking to employ a Relative discloses the relationship in advance to the Chief Compliance Officer and obtains prior approval from that officer for the employment.

**Sec. 1.13. Gifts and Entertainment.** (a) A Director or Employee may not accept a gift that the Director or Employee knows or should know is being offered or given because of the Director's or Employee's position with UTIMCO. This prohibition applies to gifts solicited or accepted for the personal benefit of the Director or Employee as well as to gifts to third parties.

(b) The prohibitions in this Code do not apply to the following gifts if acceptance does not violate a law:

- (1) gifts given on special occasions between Employees and/or Directors;

- (2) books, pamphlets, articles, or other similar materials that contain information directly related to the job duties of a Director or Employee and that are accepted by the Director or Employee on behalf of UTIMCO for use in performing his or her job duties;
- (3) gifts from the Relatives of a Director or Employee that are based solely on a personal relationship between the Director or Employee and his or her Relative;
- (4) business meals and receptions when the donor or a representative of the donor is present;
- (5) ground transportation in connection with business meetings, meals, or receptions;
- (6) fees for seminars or conferences that relate to the Director's or Employee's job duties and that are sponsored by UTIMCO's consultants or agents, prospective consultants or agents, or persons or entities whose interests may be affected by UTIMCO; and
- (7) items of nominal intrinsic value, such as modest items of food and refreshment on infrequent occasions, gifts on special occasions, and unsolicited advertising or promotional material such as plaques, certificates, trophies, paperweights, calendars, note pads, and pencils, but excluding cash or negotiable instruments.

(c) Attendance of Directors or Employees at seminars, conferences or other sponsored events that involve entertainment or recreation and that are hosted in person and paid for by UTIMCO's consultants or agents, prospective consultants or agents, or persons or entities whose interests may be affected by UTIMCO may in some cases be in the best interest of UTIMCO. An Employee must obtain specific written approval to attend such events from the CEO or Chief Compliance Officer. Approval may be withheld for elaborate entertainment events such as ski trips, hunting trips, or stays at expensive resorts.

(d) A Director or Employee may not accept a gift if the source of the gift is not identified or if the Director or Employee knows or has reason to know that a prohibited gift is being offered through an intermediary.

(e) A Director or Employee who receives a prohibited gift should return the gift to its source or, if that is not possible or feasible, donate the gift to charity.

**Sec. 1.14. Communications with General Counsel.** When the General Counsel of UTIMCO is a firm of lawyers, one principal within that firm must be identified to receive all written and oral communications made pursuant to this Code.

**Sec. 1.15. Key Employees.** The Board shall designate by position with UTIMCO those Employees who exercise significant decision-making authority. These Employees are “Key Employees” for purposes of this Code.

## **Subchapter B. CONFLICTS OF INTEREST**

**Sec. 2.01. Definition of Conflict of Interest.** (a) A conflict of interest exists for a Director or Employee when the Director or Employee has a personal or private commercial or business relationship that could reasonably be expected to diminish the Director’s or Employee’s independence of judgment in the performance of the Director’s or Employee’s responsibilities to UTIMCO.

(b) For example, a person’s independence of judgment is diminished when the person is in a position to take action or not take action with respect to UTIMCO or its business and the act or failure to act is or reasonably appears to be influenced by considerations of personal gain or benefit rather than motivated by the interests of UTIMCO.

**Sec. 2.02. Exceptions for Minimal Stock Ownership.** It is not a conflict of interest solely because a Director or Employee has an investment in the stock of a publicly traded company that is owned, purchased, sold, or otherwise dealt with by UTIMCO if the Director’s or Employee’s interest in the stock is not more than five percent of any class and if the Director or Employee is not a director or officer of the company.

**Sec. 2.03. Duty to Avoid Conflicts of Interest.** (a) Directors and Employees should avoid personal, employment, or business relationships that create conflicts of interest.

(b) A Director or Employee may not take action personally or on behalf of UTIMCO that will result in a reasonably foreseeable conflict of interest. If a Director or Employee believes that an action is in the best interest of UTIMCO but could foreseeably result in a conflict of interest, the Director must disclose that fact to the General Counsel or the Employee must disclose that fact to the Chief Compliance Officer before taking the action.

**Sec. 2.04. Duty to Disclose and Cure Conflicts.** A Director or Employee who becomes aware of a conflict of interest has an affirmative duty to disclose and cure the conflict in a manner provided for in this Code.

**Sec. 2.05. Curing Conflicts of Interest.** (a) A Director or Employee who becomes aware, or reasonably should have become aware, of a conflict of interest shall cure the conflict by promptly eliminating it, except as provided by Subsection (b).

(b) A Director or Employee may cure a conflict by prudently withdrawing from action on a particular matter in which a conflict exists if:

- (1) the Director or Employee may be and is effectively separated from influencing the action taken;
- (2) the action may properly be taken by others;
- (3) the nature of the conflict is not such that the Director or Employee must regularly and consistently withdraw from decisions that are normally the Director's or Employee's responsibility with respect to UTIMCO; and
- (4) the conflict is not a prohibited transaction resulting from a Director or Employee having a pecuniary interest in a business entity as described in Section 3.01 of this Code.

(c) A Director or Employee who cannot or does not wish to eliminate or cure a conflict of interest shall terminate his or her relationship with UTIMCO as quickly as responsibly and legally possible.

**Sec. 2.06. Disclosing and Refraining from Participation.** (a) A Director must disclose any conflicts of interest regarding matters that are before the Board, absent himself or herself from any relevant deliberations, and refrain from voting on the matter.

(b) An Employee must disclose any conflicts of interest and refrain from giving advice or making decisions about matters affected by the conflict unless the Board, after consultation with the General Counsel, expressly waives the conflict.

**Sec. 2.07. Waivers of Conflicts of Interest.** (a) The Board shall decide at an official meeting whether to waive any conflict of interest disclosed under Section 2.06(b) of this Code.

(b) To assist it in deciding whether to grant waivers, the Board may develop criteria for determining the kinds of relationships that do not constitute material conflicts.

(c) Any waiver of a conflict of interest, including the reasons supporting the waiver, must be included in the minutes of the meeting.

(d) The Chief Compliance Officer shall maintain records of all waivers granted, including the reasons supporting the waivers.

**Sec. 2.08. Procedures for Director's Disclosure of Conflict of Interest.** A Director must disclose conflicts of interest in writing to the General Counsel before a UTIMCO Board meeting. If disclosure is made at a Board meeting, the minutes of the meeting must include the disclosure of the conflict.

**Sec. 2.09. Procedures for Employee's Disclosure of Conflict of Interest.**

(a) An Employee must promptly disclose conflicts of interest in writing to the Chief Compliance Officer through the financial disclosure and ethics compliance statement required by Section 4.03 of this Code. The Chief Compliance Officer shall report to the Audit and Ethics Committee regarding the statements the officer receives under this subsection.

(b) If a person with a duty to disclose a conflict has a reasonable cause to believe that disclosure to the Chief Compliance Officer will be ineffective, the person shall disclose the conflict to the Audit and Ethics Committee by filing a written disclosure with the chair of the Committee.

(c) A copy of the disclosure provided to either the Chief Compliance Officer or the Audit and Ethics Committee shall be provided to the Employee's supervisor unless the person with the conflict of interest believes that the disclosure would be detrimental to the resolution of the conflict.

**Sec. 2.10. Referrals.** Referral of information from a Director related to investment opportunities outside of a posted open meeting of the Board must be made using the procedures provided by the Regents' *Rules and Regulations*, Rule 70201, Section 12.

### **Subchapter C. PROHIBITED TRANSACTIONS AND INTERESTS**

**Sec. 3.01. Prohibitions Related to UTIMCO.** (a) UTIMCO or a UTIMCO entity may not enter into an agreement or transaction with:

- (1) a Director or Employee acting in other than an official capacity on behalf of UTIMCO;
- (2) a Director entity, Employee entity, or other business entity, including an investment fund, in which a Director or Employee has a pecuniary interest;
- (3) a former Director or Employee, an investment fund or other entity controlled by a former Director or Employee, or a business entity in which a former Director or Employee has a pecuniary interest, on or before the first anniversary of the date the person ceased to be a Director or Employee; or
- (4) an investment fund or account managed by a Director, Director entity, Employee, or Employee entity as a fiduciary or agent for compensation, other than funds for which the Board of Regents has investment responsibility and for which UTIMCO has been appointed as investment manager.

(b) For purposes of this Code, a person has a “pecuniary interest” in a business entity if the person:

- (1) owns five percent or more of the voting stock or shares of the business entity; or
- (2) owns five percent or more of the fair market value of the business entity; or
- (3) received more than five percent of the person’s gross income for the preceding calendar year from the business entity.

**Sec. 3.02. UTIMCO Investment Policies for Publicly Traded Companies.**

UTIMCO and UTIMCO entities shall implement procedures and safeguards to insure that none of the funds for which the Board of Regents has investment responsibility and for which UTIMCO has been appointed as investment manager is invested by UTIMCO or a UTIMCO entity in the publicly traded securities of a publicly traded company in which a Director or Employee has a pecuniary interest.

**Sec. 3.03. UTIMCO Investments in Private Investments of Certain Business Entities.** UTIMCO or a UTIMCO entity may not:

- (1) invest in the private investments of a business entity if a Director or Director entity then owns a pecuniary interest in the same business entity as defined by Section 3.01(b) of this Code; or

- (2) invest in the private investments of a business entity if an Employee or Employee entity then owns a private investment in the same business entity; or
- (3) co-invest with a Director or Director entity in the private investments of the same business entity if after the co-investment, the Director's or Director entity's private investment constitutes a pecuniary interest in the business entity as defined by Section 3.01(b) of this Code; or
- (4) co-invest with an Employee or Employee entity in the private investments of the same business entity.

**Sec. 3.04. Director Investments in Private Investments of Certain Business Entities.** (a) A Director or a Director entity may not:

- (1) invest in the private investments of a business entity if UTIMCO or a UTIMCO entity, then owns a private investment in the same business entity if after the investment, the Director's or Director entity's private investment constitutes a pecuniary interest in the business entity as defined by Section 3.01(b) of this Code; or
- (2) co-invest with UTIMCO or a UTIMCO entity in the private investments of the same business entity if after the co-investment, the Director's or Director entity's private investment constitutes a pecuniary interest in the business entity as defined by Section 3.01(b) of this Code; or
- (3) co-invest with an Employee or an Employee entity in the private investments of the same business entity.

(b) The prohibitions provided by this section apply to a Director's spouse, minor children, or other dependent Relatives.

**Sec. 3.05. Employee Investments in Private Investments of Certain Business Entities.** (a) An Employee or Employee entity may not:

- (1) invest in the private investments of a business entity if UTIMCO, a UTIMCO entity, a Director, or a Director entity then owns a private investment in the same business entity; or



- (2) co-invest with UTIMCO, a UTIMCO entity, a Director, or a Director entity in the private investments of the same business entity.

(b) The prohibitions provided by this section apply to an Employee's spouse, minor children, or other dependent Relatives.

**Sec. 3.06. Divestment Not Required For Certain Private Investments.**

An Employee or Employee entity that owns a private investment in a business entity on the date on which the Employee assumes a position with UTIMCO is not required by Section 3.05 of this Code to divest that private investment as long as the private investment does not constitute a pecuniary interest in a business entity as defined by Section 3.01(b) of this Code. Any transactions concerning the private investment that might occur after that date are subject to this Code.

**Sec. 3.07. Director Personal Securities Transactions.** (a) A Director or Director entity may buy or sell a publicly traded security of an issuer that is held by UTIMCO but may not engage in a personal securities transaction if the Director has actual knowledge that an internal portfolio manager of UTIMCO has placed a buy/sell order for execution.

(b) The prohibition provided by this section applies to a Director's spouse, minor child, or other dependent Relative.

**Sec. 3.08. Employee Personal Securities Transactions.** (a) Employees are prohibited from using advance knowledge of a UTIMCO decision to buy or sell a security for the personal financial gain of the Employee.

(b) An Employee or Employee entity may engage in a personal securities transaction without obtaining preclearance for the transaction from the Chief Compliance Officer with respect to a security that is not a security of an issuer that is held by UTIMCO and included on the UTIMCO maintained list of securities holdings. The UTIMCO list of securities holdings will be posted on the UTIMCO intranet and updated as securities holdings change. An employee may rely on the posted list when engaging in personal securities transactions.

(c) Before an Employee or Employee entity may engage in a personal securities transaction with respect to a security of an issuer that is included on the UTIMCO maintained list of securities holdings, the Employee or Employee entity must obtain preclearance for the transaction from the Chief Compliance Officer. Preclearance is effective for one trading day only.

(d) The Chief Compliance Officer shall verify that no buy/sell order has been placed by a UTIMCO internal manager with respect to the security of an issuer held by and included on the UTIMCO maintained list of securities holdings that is the subject of the Employee's personal securities transaction. If such a buy/sell order has been placed, an Employee or Employee entity may not conduct the personal securities transaction for those securities until at least one trading day after the buy/sell order has been completed or canceled.

(e) The Chief Compliance Officer shall document preclearances in a personal securities transaction log for each Employee, which will provide a record of all requests and approvals or denials of preclearances.

(f) An Employee who engages in a personal securities transaction must provide transactional disclosure for each transaction by completing a transactional disclosure form and filing it with the Chief Compliance Officer not later than the tenth calendar day after the trade date. The form must contain the:

- (1) name and amount of the security involved;
- (2) date and nature of the transaction;
- (3) price at which the transaction was effected; and
- (4) name of the broker through whom the transaction was effected.

(g) The preclearance and transactional disclosure requirements apply only to equity or equity-related transactions, including stocks, convertibles, preferreds, options on securities, warrants, and rights, etc., for domestic and foreign securities, whether publicly traded or privately placed. The preclearance and transactional disclosure requirements do not apply to bonds other than convertible bonds, mutual funds, co-mingled trust funds, exchange traded funds, financial futures, and options on futures.

(h) This section applies to an Employee's spouse, minor child, or other dependent Relative.

**Sec 3.09. Interest in Brokerage Firm** (a) A Director may not direct trades or exercise discretion over the selection of brokerage firms.

(b) An Employee may not have stock or other ownership or profit sharing interest in a brokerage firm selected by the Employee for

UTIMCO business if the Employee has the discretion to direct trading and therefore the discretion to select brokerage firms.

(c) The restrictions provided by this section apply to:

- (1) stock held for an Employee's own account;
- (2) stock or other ownership or profit sharing interests held by an Employee's spouse; or
- (3) stock held for an account, other than an account over which the Employee has no direct or indirect influence or control, in which the Employee has a beneficial interest, such as accounts involving the spouse, minor child, or other dependent Relative.

(d) The restrictions provided by this section do not prohibit the ownership of stock in a company that may own stock in a brokerage firm if the brokerage firm is not the dominant or primary business of the parent company.

**Sec. 3.10. Employee's Outside Employment or Business Activity.** (a) An Employee may not engage in outside employment, business, or other activities that detract from the ability to reasonably fulfill the full-time responsibilities to UTIMCO.

(b) A Key Employee must obtain advance written approval from the CEO for any outside employment or business, including service as director, officer, or investment consultant or manager for another person or entity. The CEO must obtain advance approval from the Board for any outside employment.

(c) An Employee, with the prior approval of the Board, may serve as a director of a company in which UTIMCO has directly invested its assets. The Board's approval must be conditioned on the extension of UTIMCO's Directors and Officers Insurance Policy coverage to the Employee's service as director of the investee company. All compensation paid to an Employee for service as director of an investee company shall be endorsed to UTIMCO and applied against UTIMCO's fees.

**Sec. 3.11. Further Restrictions on Directors and Employees.** A Director or Employee may not:

- (1) participate in a matter before UTIMCO that involves a business, contract, property, or investment held by the person if it is reasonably foreseeable that UTIMCO action on

the matter would confer a benefit to the person by or through the business, contract, property, or investment;

- (2) recommend or cause discretionary UTIMCO business to be transacted with or for the benefit of a Relative;
- (3) accept offers by reason of the person's position with UTIMCO to trade in any security or other investment on terms more favorable than available to the general investing public;
- (4) borrow from investment managers, outside service providers, professional advisors or consultants, banks, or other financial institutions with which UTIMCO has a business relationship unless the entity is normally engaged in such lending in the usual course of business, in which case the transaction must be on customary terms offered to others under similar circumstances to finance proper and usual activities; or
- (5) represent any person in any action or proceeding before or involving the interests of UTIMCO except as a duly authorized representative or agent of UTIMCO.

**Sec. 3.12. Former Directors and Employees.** (a) A former Director or Employee may not make any communication to or appearance before a current Director or Employee before the second anniversary, in the case of a former Director, or the first anniversary, in the case of a former Employee, of the date the former Director or Employee ceased to be a Director or Employee if the communication is made:

- (1) with the intent to influence; and
- (2) on behalf of any person in connection with any matter on which the former Director or Employee seeks action by UTIMCO.

(b) A Director or Employee who knowingly communicates with a former Director or Employee in violation of this prohibition is subject to disciplinary action, including removal from serving as a Director.

(c) A former Director or Employee may not disclose confidential information without UTIMCO's written consent or except as permitted or required by law.

**Subchapter D. FINANCIAL DISCLOSURE, COMPLIANCE,  
AND ENFORCEMENT**

**Sec. 4.01. Employee Ethics and Compliance Committee.** (a) The CEO shall appoint an Employee Ethics and Compliance Committee composed of UTIMCO personnel.

(b) The Chief Compliance Officer appointed by the Audit and Ethics Committee shall be the chair of the Employee Ethics and Compliance Committee.

(c) The Employee Ethics and Compliance Committee shall:

(1) provide ethics training for UTIMCO personnel; and

(2) issue opinions on the proper interpretation of this Code.

(d) An Employee may file a written request with the Employee Ethics and Compliance Committee for an opinion on the proper interpretation of this Code, and may rely on that opinion with respect to compliance with this Code.

**Sec. 4.02. Financial Disclosure Statements.** (a) Directors and Employees shall file financial disclosure statements with the Chief Compliance Officer.

(b) Directors and Employees shall file the financial disclosure statement not later than the 30<sup>th</sup> day after the date of appointment or employment, and not later than April 30 of each year thereafter. The CEO may postpone a filing deadline for not more than 60 days on the written request of a Director or Employee (other than the CEO), or for an additional period for good cause as determined by the chair of the Board. A CEO's request to postpone his/her filing deadline must be approved by the chair of the Board.

(c) UTIMCO must maintain a financial disclosure statement for at least five years after the date it is filed.

(d) Directors who are required to file disclosure statements with the Texas Ethics Commission shall file those statements in the form prescribed by law.

**Sec. 4.03. Ethics Compliance Statements.** (a) Directors and Employees, including acting or interim Employees, must file ethics compliance statements with the Chief Compliance Officer.

(b) Directors and Employees shall sign, date, and file the ethics compliance statements not later than the 60<sup>th</sup> day after the date of appointment or employment. Thereafter, any person who is a Director or Employee on December 31 of any year must file the compliance statement not later than April 30 of the following year.

(c) In the ethics compliance statement, the Director or Employee must acknowledge that he or she has received and read this Code, that he or she will comply with its provisions, and that it is his or her duty to report any act by other Directors or Employees when he or she has knowledge of a violation of this Code. An Employee must also acknowledge that adherence to this Code is a condition of employment. The statement must also disclose any conflicts of interest or violations of the Code of which the Director or Employee is aware.

(d) Key Employees must acknowledge their Key Employee status in the ethics compliance statement.

(e) The ethics compliance statement must include a reminder that a Director or Employee is required to update a statement if a change in circumstances occurs that would require reporting under this Code.

(f) An Employee's signed statement shall be maintained in the Employee's personnel file. The Chief Compliance Officer shall maintain the Directors' signed statements.

**Sec. 4.04. Certification of No Pecuniary Interest.** (a) Before the Board enters into an agreement or transaction with a business entity, including an investment fund, each Director and Key Employee shall certify that he or she does not have a pecuniary interest, as defined by Section 3.01(b) of this Code, in the business entity.

(b) Before the Board invests in the private investments of a business entity, (i) each Director shall certify that neither the Director nor any Director entity has a pecuniary interest, as defined by Section 3.01(b) of this Code, in the same business entity; and (ii) each Key Employee shall certify that neither the Key Employee nor any Key Employee entity owns a private investment in the same business entity.

**Sec. 4.05. Disciplinary Action Disclosure Statements.** (a) Directors and Key Employees shall file disciplinary action disclosure statements that disclose any proceedings, actions, or hearings by any professional organization or other entity involving the Director or Key Employee.

(b) Directors and Key Employees must file the disciplinary action disclosure statement with the Chief Compliance Officer not later than April 30 of the first year of designation as a Director or Key Employee.

(c) A Director or Key Employee must promptly update a statement if any action occurs that would cause a Director's or Employee's answers to change.

**Sec. 4.06. Custodian of Records.** For open records purposes, the Chief Compliance Officer is the custodian of the disclosure statements required by this Code.

**Sec. 4.07. Enforcement.** (a) The CEO is responsible for implementing this Code with respect to Employees. The Board shall enforce this Code with respect to Employees through the CEO.

(b) An Employee who violates this Code may be subject to the full range of disciplinary options under UTIMCO personnel policies and practices, including termination.

(c) The Board shall enforce this Code with respect to individual Directors through resolutions of reprimand, censure, or other appropriate parliamentary measures, including requests for resignation.

**Sec. 4.08. Duty to Report.** (a) A Director who has knowledge of a violation of this Code shall report the violation to the General Counsel.

(b) An Employee who has knowledge of a violation of this Code shall report the violation to the Chief Compliance Officer or to a member of the Audit and Ethics Committee.

(c) Retaliatory action may not be taken against a person who makes a good faith report of a violation involving another person.

**Sec. 4.09. Notice to Audit and Ethics Committee.** (a) The CEO shall notify the Audit and Ethics Committee in writing not later than February 15 of each year concerning:

(1) any approval given for outside employment by Key Employees, including the nature of the employment; and

(2) any disciplinary action disclosed by Directors or Key Employees.

10. **U. T. System Board of Regents: Discussion and appropriate action regarding proposed recipient for Santa Rita Award**

**RECOMMENDATION**

Chairman Caven may make a recommendation for award of the Santa Rita Award, the highest honor bestowed by the Board of Regents.

**Supplemental Materials: Regents' *Rules and Regulations*, Rule 10601 on Pages 88a - 88b in Volume 2.**

**BACKGROUND INFORMATION**

The criteria for selection include such factors as:

- A demonstrated concern for the principles of higher education
- A deep commitment to the furtherance of the purposes and objectives of The University of Texas System
- A record of commitment to securing appropriate support for the System from both the public and private sectors
- A demonstrated record of participation in the affairs of the System, which serves as a high example of selfless and public-spirited service.