

University of Tennessee, Knoxville Trace: Tennessee Research and Creative Exchange

Board of Trustees Exhibits

Office of the General Counsel

7-30-1984

University of Tennessee Board of Trustees Exhibit Records, 1984 July 30, Exhibits 1 - 4

University of Tennessee

Follow this and additional works at: http://trace.tennessee.edu/utk trustexh

Recommended Citation

University of Tennessee, "University of Tennessee Board of Trustees Exhibit Records, 1984 July 30, Exhibits 1 - 4" (1984). Board of Trustees Exhibits.

http://trace.tennessee.edu/utk_trustexh/10

This Article is brought to you for free and open access by the Office of the General Counsel at Trace: Tennessee Research and Creative Exchange. It has been accepted for inclusion in Board of Trustees Exhibits by an authorized administrator of Trace: Tennessee Research and Creative Exchange. For more information, please contact trace@utk.edu.



The University of Tennessee

PRIMARY CAMPUSES: Knoxville Memphis Martin Chattanooga

Office of General Counsel and Secretary

Suite 810, Andy Holt Tower Knoxville 37996-0184 Telephone 615/974-3245

TO: Members of the Board of Trustees

FROM: Beauchamp E. Brogan

General Counsel and Secretary

DATE: July 13, 1984

SUBJECT: Board of Trustees Meeting

9:00 a.m., Monday, July 30, 1984

The University of Tennessee at Martin

There will be a special called meeting of the Board of Trustees at 9:00 a.m., Monday, July 30, 1984 at The University of Tennessee at Martin. The main items of business will be a proposal for settlement of pending motions for further and additional relief in the statewide desegregation lawsuit, and proposals relating to the Chairs of Excellence. The agenda and backup materials will be forwarded to you prior to the meeting.

Hotel accommodations will be made at the University Lodge in Martin and transportation will be provided to and from the campus. Please let us know your plans by completing the attached reply form and returning it in the envelope that is provided.

Beauchamp E. Brogan

BEB:11

cc: Members of the President's Staff
Mr. Keel Hunt



Office of General Counsel and Secretary

Suite 810, Andy Holt Tower Knoxville 37996-0184 Telephone 615/974-3245

TO: Members of the Board of Trustees

FROM: Beauchamp E. Brogan

DATE: July 24, 1984

SUBJECT: Board of Trustees Meeting

9:00 a.m., Monday, July 30, 1984 The University of Tennessee at Martin

Enclosed are the agenda and back-up material for the July 30, 1984 special meeting of the Board. Because of problems encountered in concluding the proposed settlement in the desegregation lawsuit, we do not have backup material at this time. Also attached is a schedule which indicates the times that University transportation will depart the University Lodge for each function. Please note that Jimmy and Nelda Harrison will host dinner at their home on Sunday evening following the reception at the Elam cabin. This is a change from information sent you earlier.

Hotel reservations have been made in accordance with your requests; we look forward to seeing you in Martin on July 29-30.

Beauchamp E. Brogan

BEB:11

cc: Members of the President's Staff

Mr. Keel Hunt

ORDER OF BUSINESS SPECIAL MEETING BOARD OF TRUSTEES THE UNIVERSITY OF TENNESSEE

July 30, 1984 9:00 a.m.

Room 206, University Center UT Martin

- 1. Invocation
- 2. Roll Call
- 3. Correction of Code Deficiencies in Student Housing, UTK
- 4. Asbestos Removal from Houses in Fraternity Park, UTK
- 5. Proposed University of Tennessee Provisions for Establishing Chairs of Excellence in FY 1985
- 6. Proposal for Settlement of Pending Motions for Further and Additional Relief in Statewide Desegregation Lawsuit
- 7. Appeal of William V. Wilburn
- 8. Other business

SCHEDULE OF EVENTS BOARD OF TRUSTEES MEETING THE UNIVERSITY OF TENNESSEE MARTIN, TENNESSEEE

SUNDAY, JULY 29, 1984	
6:00 p.m.	Depart University Lodge for Elam Cabin
6:30 p.m.	Reception hosted by Tom and Kathleen Elam, Elam Cabin, Union City
7:30 p.m.	Depart Elam Cabin for home of Jimmy and Nelda Harrison
8:00 p.m.	Dinner hosted by Jimmy and Nelda Harrison, 115 N. Newcomb, Martin
MONDAY, JULY 30, 1984	
8:15 a.m.	Depart University Lodge for UTM Student Center
8:30 a.m.	Continental breakfast, Room 208, UTM Student Center
9:00 a.m.	Board of Trustees meeting, Room 206, UTM Student Center
9:15 а.ш.	University transportation to depart University Lodge for spouses' coffee, Chancellor's home
9:15 a.m. 9:30 a.m.	

There will be a brief tour of the Martin campus immediately after the Board meeting, or after lunch, for those interested in seeing the campus.

ROLL CALL THE UNIVERSITY OF TENNESSEE BOARD OF TRUSTEES

Question	

		Present A.M. P.M.		ent P.M.	n.	37	Not
	7.11.	F.PI.	A.M.	F.M.	Aye	Nay	Voting
Governor Alexander				1			
Commissioner Walker			^				
Commissioner McElrath			٨				
Dr. Brown			V			1	
Dr. Boling	V						
Mr. Cooper	✓						
Mr. Craddock	N						
Mrs. Echols			N				
Mr. Elam	^						
Mr. Evans			V				
Mrs. Furrow			Ч				
Dr. Graves	△				<u>.</u>		
Mr. Hailey	N						
Mr. Harrison	N						
Mr. Haslam	V						
Mr. Johnson	N						
Mr. Kimbrough	^						
Mr. Kinser	N						
Mr. Lashlee							
Mr. Long	N						
Mrs. Parish			4				
Mr. Probasco	\ \						
Ms. Stokes	N						



EXHIBIT 1
SPECIAL BOARD OF TRUSTEES MEETING
July 30, 1984

Office of the Executive Vice President and Vice President for Development

605 Andy Holt Tower Knoxville 37916 Telephone 615/974-2206

Knoxville Memphis Martin Chattanooga Nashville

July 19, 1984

MEMORANDUM

TO: Pres. Edward J. Boling and

Members of the Board of Trustees

FROM: Joseph E. Johnson

SUBJECT: Correction of Code Deficiencles in Student Housing

U.T., Knoxville

SBC No. 540/09-02-83

On February 24, 1983, the Board of Trustees approved the initial phase of a project to eliminate life safety code deficiencies in student housing at the University of Tennessee, Knoxville, at an estimated cost of \$1,300,000.00.

The estimated cost for the total program included in the February 3, 1983, request was \$2,200,000.00.

Work included in this program includes installation of smoke detectors and fire alarm systems, sprinkler systems, fire stops between floors and above ceilings, fire rated doors and frames, door closers, fire dampers, improved exit ways, new ceilings and lighting in corridors and rooms, as required to meet State adopted Fire Safety codes.

The University Administration desires to proceed with the program including the requirements of the Public Acts enacted by the 1984 Session of the 93rd General Assembly. This request is for the second phase, estimated to cost \$1,100,000.00, which increases the total cost to \$2,400,000.00. Funding will be from Auxiliary Reserves.

Recommended Board Action:

That the Board of Trustees approve phase II of a project and authorize the University Administration to employ architects to prepare contract documents and supervise construction to Eliminate Life Safety Code Deficiencies in Student Housing at the University of Tennessee, Knoxville, at an estimated cost of \$1,100,000.00, and to execute contracts for construction within available funds.

JEJ:CBD:aa



PRIMARY CAMPUSES: Knoxville Memphis Martin Chattanooga Nashville EXHIBIT 2
SPECIAL BOARD OF TRUSTEES MEETING
July 30, 1984

Office of the Executive Vice President and Vice President for Development

605 Andy Holt Tower Knoxville 37916 Telephone 615/974-2206

July 19, 1984

MEMORANDUM

TO:

Pres. Edward J. Boling and

Members of the Board of Trustees

FROM:

Joseph E. Johnson

SUBJECT: Asbestos Removal from Four Houses in Fraternity Park

U.T., Knoxville

A recent survey of houses in Fraternity Park identified friable asbestos in four houses.

The University Administration desires to proceed with a contract for the removal of the asbestos in Alpha Tau Omega, Sigma Nu Epsilon, Phi Gamma Delta, and Kappa Alpha houses in fraternity park at an estimated cost of \$75,000.00. Funding will be from Auxiliary Reserves.

Recommended Board Action:

That the Board of Trustees approve a project and authorize the University Administration to employ an architect to prepare contract documents, and a testing laboratory to monitor air quality and verify that the removal is complete in accordance with applicable regulations in four houses in fraternity park at an estimated cost of \$75,000.00.

JEJ:CBD:aa



Office of the Vice President for Academic Affairs and Research 731 Andy Holt Tower Knoxville, TN 37996-0170 Telephone 615/974-3211

July 23, 1984

MEMORANDUM

TO: Members of the UT Board of Trustees

FROM: John W. Prados John L. Prados

Vice President for Academic Affairs and Research

SUBJECT: Proposed University of Tennessee Provisions for Establishing

Chairs of Excellence in FY 1985

Enclosed are proposed provisions for establishing endowed Chairs of Excellence at units of The University of Tennessee in FY 1985 in accordance with legislation enacted by the 1984 General Assembly. These provisions are consistent with those of the enabling legislation and are recommended to you by the University administration for approval.

Also enclosed for your information are a draft of the Chairs of Excellence Trust Instrument prepared by the State Treasurer (Attachment I) and a copy of the portion of the Appropriations Act establishing the Chairs of Excellence Endowment (Attachment 2).

tc

Enclosures

cc: President Boling President's Staff

> Chief Academic Officers Chief Business Officers

UT CHAIRS OF EXCELLENCE PROVISIONS FOR FY 85

Fiscal and Allocation Procedures

. . . .

- (1) The Chairs of Excellence Endowment is established as an irrevocable trust by the State Treasurer.
- (2) The trust shall include, but not be limited to, an appropriation of \$10 million for FY 1985 together with not less than \$10 million contributed by respective institutions.
- (3) Investments of the endowment by the State Treasurer shall be governed by the same laws, guidelines, and policies that govern those of the Tennessee Consolidated Retirement System.
- (4) The corpus of the trust will not be expended for any purpose. Moreover, the income from the trust will only be expended for the purpose of funding the Chairs of Excellence Program except that expenses incurred for investing the endowment may be deducted from income of the trust.
- (5) The State Treasurer shall divide income from the trust equally into two general accounts, 50% for SBR and 50% for UT.
- (6) The UT general account shall be divided into ten (10) sub-accounts with each being established <u>as soon as</u> the respective institution certifies matching funds and receives UT approval for establishing a chair. The UT Vice President for Business and Finance must certify <u>prior to final UT approval of a chair and establishment by the State Treasurer of a sub-account that matching funds for the endowment exist on a one-to-one basis and that at least half of the institutional matching funds have come from private sources.</u>
- (7) Once a sub-account has been established, it shall have an allocation of the assets of the endowment sufficient to fund the Chair; and all income from that allocation of the assets of the endowments shall be paid to the sub-account. This provision does not limit the State Treasurer's authority to commingle the assets of the endowment for the purpose of investing the assets of the trust.
- (8) Eligibility for proposing sub-accounts from the UT general account apply to the institutions listed in Table I in the amount stipulated.
- (9) Income in excess of an annual budget for a Chair shall be paid into a special reserve which will be maintained at the sub-account level. Likewise, excess income from assets in the UT general account -- that is, those resulting funds unallocated to sub-accounts -- shall be maintained in a special reserve account.

(10) A Chair of Excellence may be proposed to carry the name of a donor or of a person or organization proposed to be honored by a donor's gift.

Criteria

. - :

- (1) Investment income from the Chairs of Excellence Endowment is appropriated for the sole purpose of funding the Chairs of Excellence program.
- (2) Institutions eligible for proposing a sub-account from the UT general account may do so in keeping with the attached calendar by submitting Form A (attached). Each sub-account may support one Chair of Excellence.
- (3) Professors proposed by the institution to hold Chairs under this program must be persons of regional and, perferably, national eminence. Prior to this appointment in an approved Chair, the institution must provide the President with a full dossier and a letter explaining the rationale for the proposed selection. No appointment to a Chair of Excellence may be made without the approval of the President.
- (4) Each proposed Chair of Excellence must be in an approved academic department or program.
 - (a) The proposed Chair must have a clearly defined programmatic impact on the instructional and/or research program of the institution. That definition must include benchmarks sufficient to permit reasonable assessment of success and a projected budget covering at least three years.
 - (b) The proposed Chair must be in a school, program, or department central to the institution's mission and for which it can demonstrate a reasonable base of excellence.

CALENDAR FOR INSTITUTIONS PROPOSING CHAIRS OF EXCELLENCE SUB-ACCOUNTS

Institutions must submit applications to the President by 7 January 1985. A copy of the anticipated proposal will be presented to staff of the Tennessee Higher Education Commission, which shall have an advisory role related to the location of the Chairs. (The President will solicit advice from the THEC staff pertaining to Chair location so that UT may consider that advice prior to formal submission to the Board of Trustees.) Following the Winter 1985 Board of Trustees meeting, those Chairs of Excellence approved will be submitted to the Joint Legislative Oversight Committee established by Public Chapter 7 of the First Extraordinary Session of 1984.

FORM A (APPLICATION) INSTITUTIONAL PROPOSAL: A CHAIR OF EXCELLENCE SUB-ACCOUNT

Please provide the following information:

pages.)

(1)	Title of proposed chair
(2)	Sources of Institutional Match (a)
(3)	Department or program in which proposed chair is located
(4)	Describe the anticipated programmatic impact of the Chair on the instructional and/or research program of the institution. (Attach necessary pages.)
(5)	Project annual benchmarks for achievement to be sought over a minimum of three years (clarity, thoroughness, and precision will be factors used in assessing their response). (Attach necessary pages.)
(6)	Provide a projected budget for the Chair for a minimum of three years. (Attach necessary pages.)
(7)	Describe concisely the relationship of the Chair to the institution's mission and the current quality of the school, program, or department in which the Chair is proposed to be housed. (Attach necessary pages.)
(8)	Please provide as thorough a description as possible of the type(s) of candidates who will be considered as holders of the Chair. (Attach necessary

TABLE I

			IDOWMENT	
SUB-	ACCOUNT	APPROPRIATION	UT MATCH	TOTAL
()	UTC	500,000	500,000	1,000,000
(2)	UTC	500,000	500,000	1,000,000
(3)	UTCHS	500,000	500,000	1,000,000
(4)	UTCHS	500,000	500,000	1,000,000
(5)	UTK	500,000	500,000	1,000,000
(6)	UTK	500,000	500,000	1,000,000
(7)	UTK	500,000	500,000	1,000,000
(8)	UTM	500,000	500,000	1,000,000
(9)	UTM	500,000	500,000	1,000,000
(10)	UTSI	500,000	500,000	1,000,000



TENNESSEE TREASURY DEPARTMENT NASHVILLE

HARLAN MATHEWS

July 16, 1984

MEMORANDUM TO: Members of the Joint Legislative Oversight Committee

on Education

FROM:

Harlan Mathews

RE: Draft of the Chairs of Excellence Trust Instrument

I am enclosing for your review a copy of a draft of the Chairs of Excellence Trust Instrument prepared by this office. This draft incorporates all requirements which the General Assembly included in the General Appropriations Act and supplements those provisions only to the extent that we believe necessary to properly administer the Trust. I am suggesting that trustees, in addition to the Treasurer, be named and that the officials who comprise the State School Bond Authority are the best choice. The State School Bond Authority is composed of the Governor, the Treasurer, the Secretary of State, the Comptroller of the Treasury, the Commissioner of Finance and Administration, the Chancellor of the State Board of Regents and the President of the University of Tennessee.

In order to ensure that we have properly understood the legislative intent, I am requesting that you review the attached document and suggest any changes which you believe necessary. I would emphasize that this is only a draft at this point and can be modified to better reflect the legislative intent. I am available at your convenience to discuss this matter.

HM/z

xc: The Honorable Lamar Alexander, Governor
The Honorable Gentry Crowell, Secretary of State
The Honorable Hubert L. McCullough, Commissioner
Department of Finance and Administration
The Honorable William R. Snodgrass, Comptroller of the Treasury
The Honorable Roy S. Nicks, Chancellor
State Board of Regents
The Honorable Edward Boling, President
The University of Tennessee

The Honorable W. J. (Michael) Cody, Attorney General and Reporter

DRAFT

STATE OF TENNESSEE

CHAIRS OF EXCELLENCE

ENDOWMENT TRUST AGREEMENT

TH	IS	TRUST	AGREEMENT	AND	DECLA	RATI	ON OF	TRUS	ST,	made	and	entered	into	this
		day	of	,	1984,	on	behalf	of	the	Stat	e of	Tennes	see;	

WITNESSETH:

WHEREAS, the State of Tennessee 94th General Assembly has passed and the Governor has signed Public Chapter 1002, Acts of 1984; and

WHEREAS, Section 44, Item 1 of Public Chapter 1002, appropriates ten million dollars to the State Treasurer as Trustee for the Chairs of Excellence Endowment; and

whereas, such Section also provides that matching amounts will be paid into such Endowment by the public universities in Tennessee; and

WHEREAS, the purpose of such Endowment is to provide a corpus which generates income sufficient to fund Chairs of Excellence at various Tennessee public universities on a perpetual basis; and

WHEREAS, this Trust is hereby created to manage such funds and distribute them in accordance with the provisions of Public Chapter 1002 and this Trust Agreement:

NOW THEREFORE, in consideration of the foregoing premises, a Trust is hereby established as follows:

Ι

NAME

The name of this Trust shall be the State of Tennessee Chairs of Excellence Endowment Trust Fund hereinafter called the "Trust".

II

PURPOSE

The Trust is established exclusively for the management and investment of monies transferred to the Trust by the State of Tennessee, by its public universities and by private sources on behalf of a respective university for the Chairs of Excellence Program. The sole object and purpose of the Trust and the Chairs of Excellence Program is to further the cause of education in Tennessee by acquiring and administering funds, the income from which, after payment of the necessary expenses, shall be devoted exclusively to such object and purpose.

III

COMMINGLING OF FUNDS FOR INVESTMENT

The property transferred to this Trust shall be commingled with, and invested or reinvested with other monies transferred to the Trust. All or a portion of the Trust may be invested or reinvested jointly with other monies, not a part of the Trust, which are held by the State Treasurer including, but not limited to assets of the Tennessee Consolidated Retirement System and the Pooled Investment Fund established pursuant to Tennessee Code Annotated, Title 9, Chapter 17. When such joint investment occurs, detailed accounting records shall be maintained by the Trustee of the Trust in accordance with generally accepted accounting principles specifically identifying the portion of the total fund which is owned by the Trust and the income earned by, and attributable to, such portion.

IV

TRUSTEES

- (a) The Trustees of the Trust shall be the public officials who comprise the membership of the State School Bond Authority, being the Governor, the State Treasurer, the Secretary of State, the Commissioner of Finance and Administration, the State Comptroller, the Chancellor of the Board of Regents and the President of the University of Tennessee, who shall all serve ex-officio.
- (b) The State Treasurer shall serve as Chairman of the Board of Trustees of the Trust.
- (c) The Trustees shall serve without salary, but each member shall be reimbursed for actual and necessary expenses including travel expenses in accordance with the comprehensive travel regulations as promulgated by the Department of Finance and Administration and approved by the Attorney General.
- (d) The State Attorney General or his designee shall serve as legal advisor to the Board of Trustees.
- (e) The Board of Trustees shall meet as determined by the Chairman upon notice to all members.
- (f) Four (4) members of the Board shall constitute a quorum. A majority vote of the members present and voting shall be necessary for a decision by the Board.
- (g) The Trustees shall have all powers provided by Tennessee law for fiduciaries acting in a similar capacity, subject to the provisions of this instrument.

ν

INVESTMENT

Monies in the Trust shall be invested in accordance with the same laws, guidelines and policies which govern the investments of the Tennessee

Consolidated Retirement System and shall be made by the Treasurer in accordance with an investment policy approved by the Trustees which shall take into account preservation of principle and maximization of income. Prior to the approval of an investment policy, funds shall be invested in the Pooled Investment Fund established by Tennessee Code Annotated, Title 9, Chapter 17. The Trustees and the Treasurer acting through the investment staff of the Treasury Department shall exercise ordinary business care and prudence under the facts and circumstances prevailing at the time of the action or decision.

VI

CORPUS

The corpus of the Trust shall consist of monies transferred to it by the State of Tennessee, by its public universities and by private sources on behalf of a respective university. The corpus of the Trust shall not be expended for any purpose other than the purchase of investments pursuant to investment policy established pursuant to Section V. However, contributions in excess of the required matching funds may be made to increase the assets allocable to a specific Chair and funds in the reserve accounts established pursuant to Section VII (d) may be added by the Trustees, to the corpus of the Trust with the income from these assets being allocated to the Subaccount from which the funds came.

VII

INCOME

(a) The income from the Trust shall be expended for the exclusive purpose of funding the Chairs of Excellence Program; however, the allowable expenses of the trustees and the expenses of investing said Trust shall also be deducted from the income of the Trust.

- (b) The Trustees shall divide the net income from assets of the Trust equal to the original appropriation of \$10 million, and such additional appropriations as may, from time to time, be made, unless otherwise directed by law, into two General Accounts as follows:
 - (1) 50% to the University of Tennessee, and;
 - (2) 50% to the institutions governed by the State Board of Regents
- (c) The General Accounts shall be divided into Subaccounts as Chairs of Excellence are designated. Each Subaccount shall be allocated income from sufficient assets to fund the Chair as determined by the University of Tennessee or the State Board of Regents from their respective General Accounts, at the time the Chair is designated. In addition, each Subaccount shall also be allocated additional income on assets equal to the matching funds contributed to the Trust for the support of the Chair funded by the Subaccount and funds in the Subaccount's reserve account. In the event that the matching funds are not deposited to the Trust at the time the funds are allocated for a specific Chair, the Subaccount shall be established and all income allocable on the value of the assets apportioned to the Subaccount shall be paid into the Subaccount. No income shall be paid from the Subaccount for a Chair until all matching funds required by Section VIII are deposited in the Trust and all conditions of Section IX are met.
- (d) Net income shall be paid from the subaccounts for each approved Chair in accordance with a schedule acceptable to the Trustees which is submitted prior to the beginning of each academic year by the University of Tennessee and the State Board of Regents for their respective Chairs. Said schedule shall specify the total annual requirement and the frequency of payments which shall provide, to the extent practical, for the maximum investment of funds within the Trust. Not later than thirty (30) days after the close of each fiscal

year, the University of Tennessee and the State Board of Regents shall prepare a report to the Trustees reflecting the actual expenditures for the respective Chairs and certifying that all funds expended were expended for the Chair for which the income was intended. To the extent that the payments made in any fiscal year were in excess of the actual expenses certified for the Chair, the excess amount will be deducted from the first payment(s) made from the Trust for the Chairs in the succeeding fiscal year. Excess income designated to a Subaccount remaining at the end of the academic year shall be paid into a special reserve at the Subaccount level. Excess income in the General Account at the end of the academic year shall be paid into a special reserve at the General Account level.

VIII

FUNDING

The Trust shall be initially funded by a state appropriation of \$10 million authorized by the Public Chapter 1002, Acts of 1984. Such appropriation shall be matched on a one-to-one basis by the participating institutions with at least one half of the institutional matching funds coming from private sources.

IX

CHAIRS OF EXCELLENCE PROGRAM

- (a) Institutions eligible to participate in the Chairs of Excellence

 Program shall be the state's four year public universities which grant

 bacalaureate degrees and the University of Tennessee Space Institute.
- (b) The Board of Trustees of the University of Tennessee and the Board of Regents shall each establish criteria, accept proposals from eligible institutions, evaluate proposals and designate Chairs of Excellence.
- (c) All eligible institutions shall receive at least one Chair of Excellence.

- (d) The Tennessee Higher Education Commission shall serve as an advisor to the governing boards relating to the location of Chairs.
- (e) The Joint Legislative Oversight Committee created by Public Chapter 7 of the First Extraordinary Session of 1984 shall review the Higher Education Commission's comments and the governing board's decisions with respect to the specific chairs. No funds may be expended under the Chairs of Excellence Program until the governing boards have received the Committee's written comments on each specific chair established.
- (f) Professors hired to fill the Chairs established under this Program shall be persons of regional and, preferably, national eminence.

Х

BOOK AND RECORDS

The books and records of the Trust shall be maintained by the Treasurer in accordance with generally accepted accounting principles and shall be open to public inspection. Such records shall be subject to audit by the State Comptroller or his designee.

ΧI

AMENDMENT

The Trustees shall have the right at any time and from time to time to amend, in whole or in part, any or all of the provisions of this Trust; however, no such amendment shall authorize or permit the Trust Fund (other than such part as is required to pay expenses) to be used for or diverted to purposes other than those expressed in this Trust Agreement.

XII

APPROVAL

This Trust shall not be effective until approved by the State Attorney General and Reporter.

XIII

IRREVOCABILITY

This Trust shall be irrevocable.

XIV

CHOICE OF LAW

The Trust created herein is to be construed according to the laws of the State of Tennessee

ACCEPTED:
Harlan Mathews, State Treasurer
APPROVED:
Attorney General & Reporter

SECTION 44. Upon passage of this act, the public welfare requiring it:

- Item 1. In addition to any other funds appropriated by this act, there is hereby appropriated the sum of \$10.0 million to establish the Chairs of Excellence Endowment for the state's public universities subject to the following terms and conditions:
 - (1) the Chairs of Excellence Endowment shall be established as an irrevocable trust by the State Treasurer;
 - (2) said trust shall include but not be limited to the \$10.0 million dollars appropriated by this item together with not less than \$10.0 million to be contributed by the respective public universities which may include contributions from private sources made on behalf of the respective universities;
 - (3) the investments of said endowment by the State Treasurer shall be governed by the same laws, guidelines and policies which govern the investments of the Tennessee Consolidated Retirement System;
 - (4) the corpus of the trust shall not be expended for any purpose;
 - (5) the income from the trust shall be expended for the exclusive purpose of funding the Chairs of Excellence Program established pursuant to this item, provided however the expense of investing said endowment may also be deducted from the income of the trust:
 - (6) the Treasurer shall divide the income from said trust equally into two general accounts, fifty percent (50%) of said income for the University of Tennessee and fifty percent (50%) of said income for the institutions governed by the State Board of Regents. The general account shall be further divided into sub accounts as Chairs of Excellence are established pursuant to the provisions of this item. Said sub account shall have an allocation of the assets of the endowment sufficient to fund the Chair and all income from said allocation of the assets of the endowment shall be paid to the sub accounts. Provided however, that nothing herein shall be construed as limiting the Treasurer's authority to commingle the assets of the endowment for the purpose of investing the assets of the trust. Income in excess of each year's program requirement as established prior to the beginning of each academic year shall be paid into a special reserve which will be maintained at the sub account level. Provided further, that excess income from assets in the respective general accounts which have not been allocated to establish a Chair shall be maintained in a special reserve in the applicable general account;

- (7) institutions which are eligible to participate in the Chairs of Excellence Program shall be limited to the state's four year public universities granting baccalaureate degrees. Provided however, the University of Tennessee Space Institute shall be eligible to participate in the Chairs of Excellence Program. All eligible institutions shall receive at least one Chair of Excellence; and
- (8) such other terms and conditions, not inconsistent with the purposes set forth in this item, which are necessary to perfect such a trust. The terms and conditions of said trust shall be subject to the approval of the Attornev General and Reporter.

The investment income from the Chairs of Excellence Endowment established pursuant to this item is hereby appropriated for the sole purpose of funding the Chairs of Excellence Program. It is the legislative intent that the funds so appropriated to the endowment shall be matched on a one-to-one basis by the participating institutions. At least half of the institutional matching funds shall come from private sources. The governing boards shall establish criteria, accept proposals from eligible institutions, evaluate the proposals, and designate the Chairs. The Tennessee Higher Education Commission shall have an advisory role related to the location of the Chairs upon the recommendation by the two governing boards. The Higher Education Commission's comments and the governing board's decisions with respect to the specific Chairs to be established shall be transmitted to the Joint Legislative Oversight Committee established by Public Chapter 7 of the First Extraordinary Session of 1984. The Joint Legislative Oversight Committee shall review each specific Chair established by the respective governing boards. No funds shall be expended for the Chairs of Excellence established by this section until the governing boards have received the written comments of the Joint Legislative Oversight Committee on each specific Chair established. It is a legislative intent that the professors hired by the institutions under this program shall be persons of regional and, preferably, national eminence.

EXHIBIT 4 SPECIAL BOARD OF TRUSTEES MEETING July 30, 1984

The University of Tennessee

PRIMARY CAMPUSES: Knoxville Memphis Martin Chattanooga

Office of General Counsel and Secretary

Suite 810, Andy Holt Tower Knoxville 37996-0184 Telephone 615/974-3245

TO:

Members of the Board of Trustees

FROM:

Beauchamp E. Brogan

DATE:

July 25, 1984

SUBJECT: Board of Trustees Meeting

July 30, 1984

Additional Material

Attached is the backup material for item no. 6 on the agenda for the July 30 Board meeting.

This represents the proposed settlement between defendants and all plaintiffs except H. Coleman McGinnis, et al., plaintiff intervenors. Plaintiff-intervenors are making further requests for actions to desegregate TSU and have submitted those requests to the Court. For the most part, the other plaintiffs have refused to accede to those requests, agreeing only to what is contained in this proposal. The Court may have to resolve the current impasse between the plaintiffs and plaintiff-intervenors with respect to TSU, but the resolution would likely have little or no impact on The University of Tennessee.

We shall be prepared to discuss this proposed settlement and answer questions during the Board meeting.

BEB:11

cc: Members of the President's Staff w/enc.

6

IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF TENNESSEE NASHVILLE DIVISION

RITA SANDERS GEIER, et al., Plaintiffs, UNITED STATES OF AMERICA. BERUTY CLEAK Plaintiff-Intervenor, RAYMOND RICHARDSON, JR., et al., No. 5077 Plaintiff-Intervenors, H. COLEMAN McGINNIS, et al.,) Judge Thomas A. Wiseman, Jr. Plaintiff-Intervenors, VS. STIPULATION OF SETTLEMENT LAMAR ALEXANDER, et al., Defendants.

Plaintiffs RITA SANDERS GEIER, et al., and Plaintiffs-Intervenors RAYMOND RICHARDSON, JR., et al., and Plaintiff-Intervenors H. COLEMAN MCGINNIS, et al., baving sought further injunctive relief to effectuate statewide desegregation of all Tennessee institutions of public higher education, and having conducted extensive negotiations with all parties to this lawsuit in an effort to bring about a just resolution of the issues, without further litigation, that will achieve a unitary¹, desegregated system of public higher education in the State of Tennessee,

¹It is the purpose of this order to achieve a unitary desegregated system and not to achieve a merger of the

IT IS HEREBY STIPULATED by and between the undersigned, and subject to this Court's approval, as follows:

I. INTRODUCTION

- A. Defendants commit to continue efforts to achieve their current desegregation goals and to revision of those goals as necessary after the pertinent studies referenced herein are completed. It is the intention of defendants through implementation of this plan to achieve desegregation of all institutions of higher education in the state.
- B. Each defendant agrees to include a proposed budget for their part of any plan or program developed hereunder and to request adequate funding for each plan or program at their respective stages of the normal budgetary process an, the Governor will make every effort within the budgetary process to secure adequate funding from the General Assembly. Prior to finalization of this stipulation of settlement, and no later than September 15, 1934, defendants University of Tennessee (UT) and the State Board of Regents (SBR) shall submit to all parties an estimated total amount necessary to implement the plans and programs to be developed hereunder.

existing systems of higher education in Tennessee.

- C. Defendants agree to begin collecting selected data in accordance with the reporting forms of the Office of Civil Rights (OCR) of the United States Department of Education, but will continue to monitor progress by means of established reporting methods in order to preserve historical comparisons. The data to be utilized will be selected by mutual agreement of all parties prior to finalization of this Stipulation of Settlement.
- D. The Desegregation Monitoring Committee will establish a procedure for monitoring and reporting progress to the Court on the desegregation of all institutions. The Committee will identify problem areas and make recommendations to the defendants concerning research and actions that should be undertaken and new programs that should be developed to address problem areas.
- E. Progress toward desegregation at Tennessee State
 University (TSU) shall be placed under the Desegregation
 Monitoring Committee and shall be monitored in the same
 manner as is progress in desegregation at the other institutions.
- F. Each Monitoring Committee report shall include a description of specific steps taken to implement each provision in this settlement agreement. In areas where sufficient progress has not been made, the board shall

include in the monitoring committee report further steps it will take to assure progress in this area.

- G. Each desegregation monitoring committee report shall include a listing of each presidential/chancellor, vice presidential/vice chancellor and dean position filled during the reporting period at each university, with the number and race of applicants for each position and the race of person selected.
- H. All Plans to be developed pursuant to this Stipulation of Settlement shall run for a period of five years and shall contain benchmark goals to be achieved by the end of each year.

II. STUDENT DESEGREGATION

A. Defendants agree that as soon as necessary data are available, and no later than one (1) year from the date of this Stipulation of Settlement, a study will be conducted to ascertain whether there is a statewide disparity in college-going rates among black and white high school graduates in Tennessee, and long-range and interim desegregation goals will be modified if necessary in an effort to eliminate any statewide disparity. Said study shall be completed no more than 180 days from the date the necessary data is available. In addition, SBR shall immediately establish a 1993 interim

objection for Tennessee State University (T.S.U.) of 50% white full time equivalent undergraduate enrollment.

- B. Defendants will conduct a study within 180 days to ascertain whether there is a statewide disparity by race in the ratio of graduates of public institutions in Tennessee who enter graduate or professional programs in public institutions in Tennessee, and long-range and interim desegregation goals will be modified if necessary in an effort to eliminate any statewide disparity.
- C. SBR commits to retain its current admission policies at its 2-year institutions for the foreseeable future and for at least five years.
- D. Defendants will provide within 90 days a statewide survey of admissions and retention requirements for 4-year public institutions. If either governing board should take any steps in the next five years to increase admissions and/or retention requirements and to establish minimum requirements statewide, the Board will:
 - Conduct a desegregation impact analysis prior to the implementation of the new requirements, to ascertain whether these new requirements will have an adverse impact on black students;
 - 2. Authorize institutions to enroll a percentage of new entering classes under alternative admissions standards, said percentage to be determined periodically by the appropriate governing board and to be consistent with the objectives of this Stipulation of Settlement.

The rate of alternative admissions at TSU shall in no event be increased beyond the rate for the 1984-85 academic year;

- Provide for the phasing in of these new requirements;
- 4. Provide developmental education programs available to students throughout the state to promote retention of those students entering under alternative admissions standards. The funding and standards for these programs will be developed as needed, in accordance with the implementation of parts 1 through 3 of this paragraph II (D); and
- 5. Each institution, through its respective governing board, will advise the Desegregation Monitoring Committee of the expected impact of increased admission and/or retention standards and will report on its desegregation goals in light of the new standards, and also will report on alternative means of achieving its desegregation goals.
- 6. SBR agrees that the admission standards at TSU will be raised over a period of 5 years. The admission standards shall include a minimum GPA and minimum ACT, neither of which shall be lower than those established for MTSU. TSU minimum GPA shall increase to no less than a 2.25 over the next five years.
- E. The defendants shall conduct a study within 120 days to determine the feasibility of a plan whereby other-race² students shall be accorded tuition discounts, loans, scholarships and/or other incentives for purposes of desegregation. These incentives will also be studied for the purpose of encouraging the retention of other-race students. The plan shall be implemented by the fall semester of 1935 if and to the extent feasible.

^{2&}quot;Other-race students" and "other-race faculty" refer to white persons with respect to predominantly black institutions and black persons with respect to predominantly white

- F. Within 180 days defendants will identify graduate programs where blacks are underrepresented; defendants will develop a scholarship program to achieve graduate desegregation goals; and universities will submit projections for increasing the number of blacks appointed as teaching and research assistants.
- G. No public institution of higher education in Tennessee shall actively engage in racial discrimination or practices which discourage enrollment or involvement of other-race persons.
- H. Defendants will review various postsecondary developmental education programs and develop within one year a plan designed to address the retention, performance and progression of students at all public institutions.
- I. SBR and UT will within 180 days review their financial aid programs to identify any inequities in the awarding of public or private financial aid and, if inequities are identified, implement appropriate measures to eliminate such disparities. The award of merit scholarships shall be reviewed to determine if they are made on any basis other than merit.
- J. SBR and UT will monitor, develop and/or coordinate a statewide other-race recruiting program, utilizing bi-

institutions.

racial recruiting teams, for the institutions within the respective systems. This program shall be fully operational within 180 days from the date of this Stipulation of Settlement, and shall contain the following elements:

- 1. Each predominantly white institution shall utilize a black and each predominantly black institution shall utilize a white for recruiting other-race students. By fall semester, 1985, 50% of the recruiters used by TSU shall be white.
- 2. To assist the institutions in identifying prospective other-race students, defendants shall obtain from the Educational Testing Service and the American College Testing Program, and provide to each institution each fall, a list of all Tennessee students (by race) still enrolled in high school who took the SAT or ACT and agreed to have their names released.
- 3. Each institution shall send recruitment literature to each high school in its service area and encourage the high school to disseminate the same to all students, with particular emphasis given to reaching other-race students.
- 4. Defendants shall develop and provide to the predominantly white institutions which have graduate and professional programs a list of all black students expected to graduate during that school year from public and private undergraduate institutions in Tennessee, and who agree to have their names and their educational records released. The list shall provide the following information: name of each student, the student's major field, grade point average, and other relevant information. Each predominantly white institution shall actively seek applications from qualified students whose names appear on the list.
- 5. Defendants shall obtain and provide to all predominantly white institutions a list of all black students enrolled in Tennessee institutions of public higher education who take the Graduate Record Examination (GRE) and who

- agree to have their names released. Each predominantly white institution shall solicit applications from among all qualified students whose names appear on the list.
- 5. Tennessee' state-supported law schools shall obtain through the SBR and UT Governing Boards a list of black students enrolled in Tennessee's public and private four-year institutions who have taken the Law School Admission Test (LSAT) and agree to have their names released. A comparable list of black students who have taken the Medical College Admission Test (MCAT) and the Dental Admission Test (DAT) shall be supplied to Tennessee's state-supported medical and dental schools. The professional schools shall actively seek applications from among qualified black students who take the above-named examinations and whose names appear on the appropriate list.
- K. Defendants will coordinate the development of a cooperative program to increase the number of black students who enroll in and graduate from professional programs. Every spring beginning in 1985 and for five years, 75 black sophomore students who are Tennessee residents enrolled in Tennessee public institutions will be selected by committees representing the faculties of all state-supported professional schools and all other public universities in the state for pre-enrollment in the state's schools of law, veterinary medicine, dentistry, pharmacy and medicine. There shall be representation by black faculty members on these committees, to the extent available. The professional schools will counsel these students, assist in planning their pre-professional curricula, provide summer programs at

the end of their junior and senior years and agree to their admission as first year professional students if they successfully complete their undergraduate work and meet minimum admissions standards. Defendants will consult with other states that have developed similar programs [e.g., Kentucky] and complete development of the program described in this paragraph II, (I), including a proposed budget and projected source of funds, within 180 days.

III. EMPLOYMENT

- A. Defendants will review various approaches, including effective programs in other states, to increase the number of qualified black applicants for employment in public institutions of higher education in Tennessee.

 Defendants will implement the program(s) determined to be feasible and effective to increase the number of qualified black applicants. Defendants will actively recruit in the relevant labor market to increase the black presence, especially in disciplines where blacks are underrepresented, at the predominantly white institutions.
- B. Within 180 days, SBR and UT shall develop a plan, including financial and other incentives, to encourage other-race individuals who have been offered faculty or administrative positions at SBR or UT institutions to accept the offer. The plan shall be widely publicized at all

institutions. The plan shall address credit for prior service and other benefits.

- C. Defendants will within 120 days identify disciplines where blacks are underrepresented and where the national availability pool is small, and request adequate funding through the budgetary process pursuant to ¶I (B) above to develop a "grow-your-own program," utilizing the public and private universities in Tennessee, to increase the pool of qualified black candidates for employment as faculty and administrators in the public universities.
- D. SBR and UT will within 120 days request adequate funding through the budgetary process pursuant to %I (B) above to institute a staff development program, to enable black staff members to obtain advanced degrees and become eligible for positions of higher salary and higher rank within all institutions of higher education in the State of Tennessee.
- E. Defendants will develop a plan for a Black Faculty Development Program, including a proposed budget therefor, within 120 days. The program will be designed to increase the number of black faculty with doctoral degrees at all public institutions of higher education.
- F. TSU shall continue to increase the percentage of other-race faculty and administrators and all other institu-

tions shall increase their efforts to attract other-race faculty and administrators and accomplish their goals for other-race employment.

- G. Progress in affirmative action will be a factor in the review of department heads, deans and vice presidents/vice chancellors by institutional presidents and chancellors and in the review of presidents and chancellors by the chief executive officer of each system.
- H. The SBR and UT must approve, prior to any offer being extended, the recommended choice of the administration at each of its universities for the positions of vice president/vice chancellor, dean and department chair, beginning immediately upon execution of this agreement. This review will take into account the following factors:
 - 1. The credentials and qualifications of the applicant.
 - 2. Affirmative action responsibilities of the institution in the system of the Board, and the degree of achievement of institutional desegregation goals.
 - 3. The degree of commitment to affirmative action on the part of the applicant.

IV. HIGHER EDUCATION IN MIDDLE TENNESSEE

÷...

A. SBR and the Tennessee Higher Education Commission (THEC) agree to develop within 180 days a comprehensive plan for the enhancement of Tennessee State University (TSU),

with the unique specialized regional and statewide missions, and to implement TSU's mission as the regional urban university for Middle Tennessee. Sufficient funding through the normal budgetary process will be projected in order to achieve success of the provisions of the plan.

- B. To the extent that the increase in admission standards at TSU is expected to increase the quality of the student body but have an adverse budgetary impact as a consequence of total enrollment decline, THEC will follow its existing policy of negotiating a wider enrollment range for TSU so as to minimize this budgetary impact.
- C. Within 120 days SBR will complete a physical facilities study for TSU that will include: a) a report of a comparative study between TSU and selected regional, predominantly white institutions throughout the State which are comparable, to identify deficiencies in TSU's physical plant and total campus environment; b) an assessment of the cost of bringing all TSU facilities up to standards for safety, health, environmental protection, and access to the handicapped; c) recommendations for changes or alterations necessary to support TSU's new mission.

Within 60 days of completion of the study, SBR will complete a plan to implement necessary renovations, modifications, and new construction at TSU in accordance with the

.

study, such implementation to be completed within five years.

- D. SBR will include in the TSU physical facilities plan the total cost of implementation and the proposed source of funds (state appropriations, bond issues, federal sources, etc.). SBR commits to assuring facilities at TSU that are comparable to those at comparable predominantly white institutions and adequate for TSU's enhanced mission.
- E. SBR will within 120 days convene presidents and senior academic officers at Austin Peay State University, Middle Tennessee University and TSU to a) discuss whether program duplication, especially at the post-baccaulaureate levels, is a barrier to the implementation of the state's commitment to enhance TSU and b) develop a plan for the realignment of certain specified programs in order to support TSU's enhanced mission. E.g., post-baccalaureate programs in education will be reviewed and, if necessary, realigned to create a master's degree in urban education at TSU.
- F. During the next five years, the SBR will accord TSU first priority for all new graduate programs in the Middle Tennessee region. No doctoral programs will be proposed or approved for Middle Tennessee State University or Austin Peay State University during the five-year period.

In addition, there will be no net increase of new master's level degree programs at either Middle Tennessee State University or Austin Peay State University during the five-year period.

- G. SBR will develop at TSU within 120 days, with appropriate services of experts, needed and effective new programs to be offered at TSU. These proposed programs will be submitted to THEC for review and THEC approval will be obtained prior to implementation of the programs. In exercising its responsibilities of review and approval, the THEC will give additional positive consideration to programs consistent with the aims of this plan.
- H. SBR will within 180 days develop at TSU an Institute of Government, funded through the normal budgetary process, offering a degree program and courses for credit in public administration to train administrators for senior and middle level positions in state, county and local government and to conduct research. SBR will provide consultants to TSU to assist in the development of this new program and to recommend how TSU's current program in public administration could be strengthened and the kinds of new programs that should be offered.
- I. Each institution in the SBR and UT system shall annually make a substantial number of recruiting visits to other-race high schools.

- J. SER will match any existing or future scholarship programs designed to increase white student enrollment at TSU with an identical scholarship program designed to increase black enrollment at Middle Tennessee State University.
- K. The governing boards or the institutions under their jurisdiction will conduct a desegregation impact analysis prior to implementing any proposals for the creation of new institutions or initiating changes in the mission of existing institutions. Defendants commit to implementing no such changes which would be inconsistent with provisions of this Stipulation of Settlement or which would adversely affect desegregation of higher education in Tennessee.
- L. Defendants agree that no institution will be identified as a one-race institution or a predominantly one-race institution in any official university publication or in any public statement made in an official capacity by any administrator of that institution. Each institution mission statement shall refer to its mission as an institution committed to education of a non-racially identifiable student body.
- M. The Board of Regents shall formulate a plan for the implementation of an educational "consortium" between MTSU and TSU which will require the institutions to establish a

common university calendar, publish and disseminate a joint listing of all courses offered at each institution and design registration procedures whereby students at one institution may attend classes at the other for up to 30 hours of credit.

- N. The SBR shall within 180 days initiate a study of all facets of administrative functions at all campuses of TSU. Faculty and students from both campuses of the institution will actively participate in this study. Specific recommendations for personnel and other changes necessary to improve the administrative function of all campuses of the university shall be made and implemented by the SBR.
- V. Copies of all plans and proposals required to be formulated pursuant to this stipulation shall be submitted to counsel for all parties prior to implementation. Copies of all budget requests for plans or proposals developed pursuant to this Stipulation of Settlement shall be submitted to counsel for all parties to the lawsuit by the THEC upon receipt from UT and SBR.
- VI. This Stipulation of Settlement shall not prevent any plaintiff or plaintiffs-intervenor from seeking further relief if funding requested through the normal budgetary process is not provided by the legislature to implement its provisions or is otherwise not provided.

VII. If plaintiffs or any of the plaintiffs-intervenors to this lawsuit believe that any defendant or any agent or employee of a defendant is not acting in good faith to implement the provisions of this Stipulation of Settlement, their counsel shall initially bring the matter to the attention of defendants' counsel in writing, with service upon counsel for all other parties, identifying the specific act or acts alleged to be inconsistent with the objectives of this Stipulation of Settlement. The parties will make every effort to resolve such disputes informally without bringing the matter before the Court. However, if efforts at informal resolution of disputes are unsuccessful, any of the plaintiffs or plaintiffs-intervenors to this lawsuit may file a motion with the Court for further injunctive relief to enforce compliance with this Stipulation of Settlement.

Upon the filing of a motion by any party the Court shall hear arguments from counsel for all parties. The Court shall set the motion(s) for hearing within 60 days.

VIII. The goals provided for in this Decree are not to be construed as quotas.

IX. Defendants do not admit that failure to achieve any goal in itself constitutes noncompliance with this Decree.

X. Defendants by agreeing to this Stipulation do not admit that they are presently in violation of any constitutional or statutory provision.

Dated: Nashville, Tennessee July , 1984

GEORGE E. BARRETT 217 Second Avenue North Nashville, Tennessee Attorney for Plaintiffs

LEVERNE M. YOUNGER
NATHANIEL DOUGLAS
Civil Rights Division
Department of Justice
Washington, D.C. 20530
Attorneys for Plaintiff-Intervenors
United States of America

ALETA ARTHUR
JOHN NORRIS
8th Floor
Third National Bank Building
Nashville, Tennessee 37219

AVON N. WILLIAMS, JR.
RICHARD H. DINKINS
203 Second Avenue North
Nashville, Tennessee 37201

JULIUS CHAMBERS
JOEL BERGER
THEODORE M. SHAW
99 Hudson Street
16th Floor
New Nork, New York 10013
Attorneys for Plaintiff-Intervenors
Raymond Richardson, Jr., et al.

R. STEPHEN DOUGHTY
Deputy Attorney General
450 James Robertson Parkway
Nashville, Tennessee 37219-5025
(615) 741-6440

SO ORDERED:

THOMAS A. WISEMAN, JR. United States District Judge

-20-