



THE TEXAS STATE UNIVERSITY SYSTEM

RULES AND REGULATIONS

LAMAR UNIVERSITY

SAM HOUSTON STATE UNIVERSITY

SUL ROSS STATE UNIVERSITY

SUL ROSS STATE UNIVERSITY RIO GRANDE COLLEGE

TEXAS STATE UNIVERSITY-SAN MARCOS

LAMAR INSTITUTE OF TECHNOLOGY

LAMAR STATE COLLEGE-ORANGE

LAMAR STATE COLLEGE-PORT ARTHUR

Adopted September 1, 1980

Amended May 17, 2007

Chair for consideration prior to execution and prior to public announcement of employment.

1.131 Each contract must include a provision permitting its termination for cause (as defined in the contract) without penalty.

1.132 Unless the contract specifically provides, the Component need not have or state cause for non-renewal.

1.133 The System Vice Chancellor and General Counsel must review contract renewals or extensions and either request modification or present the same for the Board Chair's consideration. No renewal extension, plus the year remaining on the contract, may exceed three (3) years if the contract is paid for, in whole or in part, with appropriated funds or five (5) years if paid for entirely with non- appropriated funds.

1.134 An employee under such a contract may be reassigned to other duties within the Components, retaining his or her base salary for a period not to exceed one (1) year, after which he or she shall be compensated until the contract expires at a rate not to exceed the salaries of other similarly situated employees.

1.135 If an employee is also provided a concurrent teaching appointment, the System's *Rules and Regulations* related to faculty will govern the teaching appointment.

2. GENERAL.

2.1 Employment.

2.11 Equal Employment Opportunity.

It is the policy of the Board of Regents of The Texas State University System and its Components, to provide equal opportunity in employment for all persons in accordance with their individual job-related qualifications and without illegal consideration of race, creed, color, sex, religion, age, national origin, or disability. Equal employment opportunities shall include all personnel transactions of recruitment, employment, training, upgrading, promotion, demotion, termination, and salary.

Each Component shall have an Affirmative Action Program as required by *Executive Order 11246*, as amended by *Executive Order 11375*.

Each Component will maintain records of all information required by the Equal Employment Opportunity Commission, the Department of Education, and the Department of Labor as instructed by the Vice Chancellor and General Counsel of The Texas State University System.

2.12 Hiring and Promotions.

2.121 The President or other administrative officers of the Component will investigate thoroughly the character, integrity, scholastic attainment, and other qualifications of prospective members of the administration before nominating them to the Board or before exercising any delegated authority for making appointments.

2.122 Each Component may require a physical examination, performed by qualified medical personnel approved by the Component, of applicants to be employed. The expense of the examination will be paid by the Component.

2.13 Salaries. No Component employee's salary (not including longevity payments) paid from any source of funds will exceed the Component President's salary designated by the Legislature in the *General Appropriations Act* unless a list of such employees and their positions is included as a supplemental schedule in the original annual operating budget presented to the Chancellor and Board of Regents for approval, or, in the case of externally funded grants and contracts, such salary shall be included in an itemized list in the personnel section of the quarterly report submitted to the Chancellor and Board of Regents for approval.

2.14 Terminations. The Components shall retain and submit to the System Administration specific reports on terminations of all full-time employees as requested by the System Administration.

2.141 The Board of Regents or the President of the Component may suspend without prior notice or hearing and immediately remove from the Component any employee whose presence poses a continuing danger to persons or property or an ongoing threat of disrupting the Component. The President shall as soon as possible notify the Vice Chancellor and General Counsel of such action. In such cases, the President will set a hearing before the appropriate administrator or committee on the employee's case as soon thereafter as is practicable unless otherwise waived by the employee.

2.142 Employees, including both faculty and staff, shall be subject to discipline and/or dismissal for violating Component policy relating to electronic network facilities such as local area networks and the Internet.

Nothing herein shall be construed in derogation of the Board's employment-at-will policy.

- 2.143 Any employee of any Component of the System, including any member of the administration or faculty, who, acting either singly or in concert with others, obstructs or disrupts, by force or violence, any teaching, research, administrative, disciplinary, public service, or other activity authorized to be held or conducted on the campus of a Component of the System, shall be subject to dismissal as an employee. As used in this *Subsection*, the words "force or violence" include but are not limited to such acts as "stand-ins," "sit-ins," and "lie-ins" when such acts are in fact obstructive or disruptive of any of the authorized activities listed above.
- 2.144 Every employee is expected to obey all Federal, State, and local laws, particularly *Texas Penal Code, Section 42.01* and *42.05* (Disorderly Conduct and Disrupting Meeting or Procession) and *Texas Education Code, Section 4.30* and *4.31* (Disruptive Activities and Exhibition of Firearms). Any employee who violates any provision of these four statutes is subject to dismissal as an employee notwithstanding any action by civil authorities on account of the violation.
- 2.145 The minimum standards of individual conduct required by the penal statutes of Texas or the United States are both expected and required of every employee of the System and its Components. Any employee who violates the minimum standards of conduct required by any penal statute of Texas or the United States is subject to dismissal as an employee regardless of whether any action is taken against the employee by civil authorities on account of such violation.
- 2.146 If action for dismissal of an employee is taken, the appropriate administrative officer shall proceed with the action in the same manner as would be the case of a violation by an employee of any other provision of these *Rules and Regulations* or a provision of the faculty or staff handbook of the Component.
- 2.15 Grievances. Every employee of each Component shall be entitled to present grievances concerning such individuals' wages, hours of work, or conditions of work individually or through a representative that does not claim the right to strike.
- 2.2 Appointment of Relatives (Nepotism Rule).
 - 2.21 Each appointment of an employee at a Component, whether on a full-time or part-time basis, shall be made solely with regard to

the special fitness of the appointee subject to applicable statutes and subject also to the provisions of this *Section* of the System's *Rules and Regulations*.

2.22 In accordance with the prohibition of *Government Code, Chapter 573*, no person related to any member of the Board of Regents within the second degree of affinity or within the third degree by consanguinity shall be eligible for appointment to any office, position, employment, or duty with any Component of The Texas State University System, when the salary, fee, or compensation of such appointee is to be paid, either directly or indirectly, out of public funds of any kind.

2.221 *Government Code, Chapter 573* does not prohibit the reappointment or continued employment of any person who shall have been continuously employed in any such office, position, employment, or duty for a period of one (1) year prior to the appointment of the member of the Board of Regents related to such person within the prohibited degree, nor does it prohibit honorary or non-remunerative positions.

2.222 The prohibition of *Government Code, Chapter 573* applies to all programs administered under the Board of Regents and may not be waived.

2.223 When a person is allowed to continue employment because of the operation of the exception specified by *Subsection 2.221* of this *Chapter*, the Board member who is related to such person shall not participate in the deliberation or voting upon the appointment, reappointment, employment, confirmation, re-employment, change in status, compensation, or dismissal of such person, if such action applies only to such person and is not taken with respect to a bonafide class or category of employee.

2.23 Even though the appointment of a person would not be prohibited by *Government Code, Chapter 573*, special arrangements for personnel actions must be made before a Component may employ any person related within the second degree of affinity or the third degree of consanguinity to another employee if:

(a) Such employment causes one relative to have a direct supervisory relationship over the other relative; or

(b) Such employment causes one relative to have authority over the salary or other terms of employment of the other.

This policy does not prohibit the reappointment or continued employment of any person related to another within either of the prohibited degrees who shall have

been employed in a Component before the adoption of this policy. However, no System employee may approve, recommend, or otherwise act with regard to the appointment, reappointment, promotion, or salary of any person related within either of the prohibited degrees.

2.231 If the appointment, reappointment or continued employment of a person places such person under an administrative supervisor related within the above specified degree, all subsequent actions with regard to reappointment, promotion, or salary shall be the responsibility of the next highest administrative supervisor. It shall also be the responsibility of the next highest administrator to make a written review of the work performance of such employee at least annually and submit each review for approval or disapproval by the Component's appropriate vice President in the case of classified employees or the President in the case of faculty or unclassified employees. When appropriate, the next highest administrator may delegate these responsibilities to another administrator who is neither related to the person subject to the personnel actions nor in that person's reporting line.

2.232 All situations covered by *Subsection 2.231* of this *Chapter* shall be reported annually in May through the Components' President's Report to the Board.

2.3 Retirement and Recognition of Service.

2.31 Retirement Programs. The Board of Regents authorizes each Component in the System to make retirement programs available to each eligible employee through the Teacher Retirement System of Texas, or the Optional Retirement Program, and tax sheltered annuities as authorized by statute.

2.32 Requirements of the Optional Retirement Program.

2.321 Company Qualifications. Each Component will design its specifications for companies to qualify as Optional Retirement Program vendors on that Component's campus. The Board of Regents must approve those specifications. Thereafter, the Component's President (or the President's designee) may authorize any insurance or investment company qualified and admitted to do business in this State to offer an ORP on the Component's campus. Any program offered is subject to compliance with statutory provisions, the prescribed *Rules and Regulations* of the Texas Department of Insurance, the State Securities Board, the Texas Higher Education Coordinating Board, and the requirements of the Board of Regents.

- 2.322 Contributions. Employee and State contribution rates for the Optional Retirement Program and Teacher Retirement System shall comply with law.
- 2.323 Tax Considerations. Whether or not the employer's and/or employee's contributions to the Optional Retirement Program are tax sheltered, the employee's contribution is made on all salary reduction as required by the ORP statute. All contributions shall comply with IRS laws and regulations for accounts authorized under *Section 403(b)* of the *Internal Revenue Code*."
- 2.324 Authorization. The Component President or a representative designated by the President shall be authorized to sign the forms necessary to administer the Optional Retirement Program and the Teacher Retirement System.
- 2.325 Certification of State Comptroller. Each Component shall be required to certify to the State Comptroller each Fiscal Year an estimate of the amount of funds required for payments of State Matching Contributions for participants in the Optional Retirement Program.
- 2.326 Eligibility to Participate. An employee of a Component of The Texas State University System is eligible for participation in the Optional Retirement Program in accordance with rules adopted by the Texas Higher Education Coordinating Board. An employee who has met the ORP vesting requirement and subsequently transfers to a position which would not otherwise qualify for ORP participation shall remain in ORP except as authorized by TRS rules.
- 2.33 Salary Reduction Plan of the Optional Retirement Program. The Components are authorized to participate in the salary reduction agreement of the Optional Retirement Program as provided by statute. The Component President or a representative designated by the President is authorized to approve the forms required for this salary reduction agreement through those carriers approved by the Board of Regents in the implementation of the Optional Retirement Program.
- 2.34 Honorary Titles and Resolutions for Retirees. Faithful and distinguished service by a retiring faculty member or administrator may be recognized by an appropriate resolution of the Board, upon recommendation of the Local Committee.
- 2.341 Long and distinguished service by a faculty member holding the rank of Professor or Associate Professor may be recognized upon retirement by conferral of the title of

Professor Emeritus, Associate Professor Emeritus, Distinguished Professor Emeritus or Distinguished Associate Professor Emeritus as provided by *Section 4.(16)* of this *Chapter*.

2.342 Faithful and distinguished service by the President of a Component may be recognized by the Board upon retirement, or upon returning to full-time teaching if a tenured member of the faculty, by conferral of the honorary title President Emeritus of the Component, without remuneration or authority for this honorary title.

2.4 Standards of Conduct. Except as exempted by *Sections 11.(16), 11.(17)* and *11.(18)* of *Chapter III* of these *Rules and Regulations*, all Component employees shall adhere to the standards of conduct articulated in *Chapter VIII*:

2.41 No employee shall engage in any form of sexual harassment as defined by *Section 8* of *Chapter VII* of these *Rules and Regulations*, or racial harassment as defined by *Section 7* of *Chapter VII* of these *Rules and Regulations*.

2.42 No contacts on behalf of the Component, its programs or the System to the Legislature shall be made without the specific approval of the Component President who shall inform the System Administrative Office. Information, not considered under law to be confidential, which is requested by a member of the Legislature or committee or by any other state official or employee and which relates to proposed or pending legislation, shall be furnished to the requesting party and the System Administrative Office informed of the request and information provided. The Presidents shall be responsible for advising their Component employees of this rule at the start of each legislative session. See also *Chapter VIII, Paragraph 5* of these *Rules and Regulations* pertaining to political activities.

2.5 Absences.

2.51 The President of each Component shall adopt policies and guidelines covering the authorized absences for all faculty and staff employees, including administrative officers. Such policies and guidelines shall be in accordance with the provisions of current statutes and these *Rules and Regulations*. A leave of absence granted to a faculty or staff employee by the President of the Component under the provisions of this *Subsection* shall not modify in any way the employment status of the employee as defined in *Chapter V, Sections 1-5*, of these *Rules and Regulations* unless such modification in status is approved in advance by the Board of Regents. Unless approved in advance by the Board, upon expiration of the leave, the employee shall return

to the same job classification, pay benefits, seniority and under the same conditions of employment as he held prior to the leave.

- 2.52 Leave for Jury Duty. Necessary time off for jury duty is allowed without loss of pay or vacation leave. Employees shall not be required to account to the Component for any fee or compensation received for jury service.
- 2.53 Military Leave. In the case of military leave, authorized absence will not exceed 15 working days each year.
- 2.6 Power to Bind the System in Fixing Its Policies. No employee of the System or any of its Components, as an individual or as a member of any association or agency, has the power to in any way bind the System or any of its Components unless such power has been officially conferred in advance by the Board. Any action which attempts to change the policies or otherwise bind the System or any of its Components, taken by any individual or any association or agency, shall be of no effect whatsoever until the proposed action has been approved by the President concerned and ratified by the Board.
- 2.7 Legislation. Any proposed legislation affecting the System, the Component, or their operations, by any employee or organization of the Component, acting in an official capacity and on behalf of the Component, shall be approved by the Component President and the Board of Regents.
- 2.8 Insurance. Each Component is authorized to provide a program of payment of insurance premiums for its employees.
- 2.9 Payroll Deductions. The Components within The Texas State University System shall not make automatic payroll deductions from an employee's paycheck for any purpose unless the deduction is authorized by law.

3. ADMINISTRATIVE OFFICERS.

- 3.1 Employment.
 - 3.11 Hiring. The President of each Component shall recommend annually to the Chancellor, before presentation to the Board of Regents, the employment or re-employment of all administrative officers, stating their names and academic credentials, if applicable. Such officers shall not have tenure by virtue of their office and shall serve without fixed term subject to the pleasure of the President. Statutory provisions requiring notification to employees shall be followed.
 - 3.12 Salaries. The President shall recommend to the Chancellor, before presentation to the Board, the salary for each administrative officer at a regular Board meeting.

3.13 Vacancies. A President may fill any administrative vacancy by an interim appointment subject to Chancellor and Board ratification.

3.2 Terminations.

3.21 Limited Right to Hearing. The President of a Component or the System Chancellor may terminate the employment of an administrative officer of the Component when in their judgment the interest of the System or of the individual Component requires termination. An administrative officer shall not have a right to a hearing unless the officer makes a *prima facie* showing that the decision to terminate violates rights guaranteed by the laws or Constitution of the State of Texas or of the United States and requests an administrative hearing to review the allegations. In such case the administrative officer shall be afforded an opportunity to present allegations before a hearing committee consisting of three impartial administrative officers of the Component appointed by the President. Such allegations shall be heard under the same procedures as in the case of dismissal of faculty for cause, with the following exceptions:

- (1) The burden of proof is upon the affected administrative officer to establish at such hearing that the decision in question constitutes violation of a right guaranteed by the laws or Constitution of the State of Texas or of the United States.
- (2) The President of the Component need not state the reasons for the questioned decision nor offer evidence in support thereof unless the affected administrative officer presents a *prima facie* case in support of such allegations. In such case, the hearing committee shall determine whether the President has no other reason for his decision.
- (3) The hearing committee will make written findings on the material facts and a recommendation, which findings and recommendation shall be forwarded to the President and to the affected administrative officer. The administrative officer may appeal to the President and ultimately to the Board of Regents in accordance with the terms and procedures specified in *Subsections 4.244 and 4.245 of this Chapter*.

3.22 Tenured Faculty as Administrators. If the administrative officer has tenure at the Component by virtue of holding a past faculty position or otherwise, termination as a member of the tenured faculty shall be only for good cause shown, and the official shall be given a hearing if terminated from tenured faculty status.