

**10-1 Board of Regents Manual: Part One: Organization and Operation**

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**1. General Powers, Duties and Functions of the Board.**

- A. **Powers of the Board.** The Board has complete power and control over the ENMU System (System). The powers of the Board include the following powers the Legislature has expressly given to the Board: to sue, to make contracts, to hire the System chancellor and determine his or her compensation, to determine what shall be taught and the faculty to be employed and their compensation. The title to all property belonging to the System is vested in the Board. [See N.M. Const. art. XII, § 13; NMSA 1978, § 21-1-20 (1921), §§ 21-3-4 (1893) and 21-3-7 (1899) made applicable by § 21-3-30 (1927). For the power to contract see *Hillis v. Meister*, 82 N.M. 474, 483 P.2d 1314 (Ct. App. 1971).]
- B. **Duties and Functions.** Under its broad responsibility for the management and control of the System, the Board has many specific duties and functions. Its power to control, manage and govern the institution necessarily includes exercise of wide discretion, including discretion in what actions it takes directly and in what authority it delegates to individuals and groups within the System. The delegation by the Board of authority to individuals or groups within the System does not relieve the Board from its ultimate responsibility for the entire System. The Board may withdraw or modify delegated authority, but not on a retroactive basis. Listed below are those duties and functions considered by the Board to be among the most important it exercises:
- (1) To select and appoint a chancellor of the System who serves as the System's chief executive officer (generally considered to be the most important task carried out by the Board);
  - (2) To adopt policies, laws, rules and regulations for the government of the System;
  - (3) To evaluate periodically the mission, goals and objectives of the System and established procedures and policies of the Board;
  - (4) To delegate authority and responsibility deemed by the Board to be appropriate and necessary for the most effective operation of the System, with the full understanding that such delegation implies the right of the Board to withdraw or modify the delegation when it is considered wise to do so;
  - (5) To approve, or authorize others to approve, all contracts between the System (Portales, Roswell, Ruidoso) and other parties, including those contracts for services rendered, equipment and materials to be purchased, construction of buildings and care and preservation of all System property;
  - (6) To approve all System expenditures through review and approval of annual budgets;
  - (7) To approve requests for leave without pay and sabbatical leave in accordance with existing policies;

- (8) To approve constitutions, bylaws, and other governing documents (including proposed amendments) of all groups and bodies within the System operating under such documents, including amendments to faculty and staff handbooks;
- (9) To approve all degrees (including both earned and honorary or posthumous degrees) or honors to be awarded by the System;
- (10) To borrow money, as provided by law and
- (11) To receive benefits and donations directly from the federal government and from private or corporate sources to be used in ways deemed by the Board to be in the best interests of the System. [See *State ex rel. Sego v. Kirkpatrick*, 86 N.M. 359, 524 P.2d. 975 (1974).]

**2. Membership of the Board.** The Board consists of five (5) members, four (4) of whom shall be qualified electors of the state of New Mexico, one of whom shall be a member of the student body of the ENMU Portales campus and no more than three (3) of whom at the time of their appointment shall be members of the same political party. Appointment of the non-student members is for six (6) years and until the regent's successor is appointed and duly qualified [See N.M. Const. art. XII, § 13, art. XX, § 2 and NMSA 1978, §§ 21-3-4 (1893) and 21-3-30 (1927).] Upon the first vacancy of a position held by a student member, the Governor shall nominate, by and with the advice and consent of the Senate, a student member from a list provided by the president of the System. In making the list, the chancellor of the System shall give due consideration to the recommendations of the president of the student body of the Portales campus. Each regent, before entering on his or her duties, takes the oath set forth in NMSA 1978, § 21-1-19 (1889). The membership, appointment, qualifications and terms of members of the board and their removal and replacement shall be governed by the constitution and laws of the state of New Mexico.

### **3. Conflicts of Interest.**

- A. **Prohibited Financial Interests.** No regent may have any direct or indirect financial interest in any contract for building or improving the System or for the furnishing of supplies or services to the System, except as permitted pursuant to the University Research Park Act. [See NMSA 1978, § 21-1-17 (1999).]
- B. **Prohibited Transactions.** The Board follows the New Mexico Procurement Code regarding transactions conducted by the System. Where the Procurement Code does not apply: no regent, either directly or indirectly, may sell to the System any kind of school books, furniture, equipment or school supplies; sell property insurance or life insurance to any employee of the System; do any work under contract for the System or receive any commission or profit on account of those transactions. The Regents are prohibited from being parties directly or indirectly to any such contract or transaction, provided that these provisions do not apply to contracts entered into pursuant to the provisions of the University Research Park Act. [See NMSA 1978, § 21-1-35 (1999).]
- C. **Governmental Conduct Act.** The regents are governed by the Governmental Conduct Act, NMSA 1978, § 10-16, dealing with ethical matters, and should become familiar with it.

### **4. Meetings of the Board.**

- A. **Regularly Scheduled and Other Meetings of the Board.** Regularly scheduled meetings of the Board are held quarterly, or more frequently, at one of the System's campuses. [See NMSA 1978,

§ 21-1-14 (1889).] The president of the Board may call other meetings of the Board at other venues. Notice stating the time, place and agenda for regularly scheduled meetings and other meetings shall be delivered either personally, by mail, email, fax or by telephone at the direction of the president of the Board to each regent at least by the time notice of the meeting is made available to the public pursuant to the Open Meetings Act policy [AGP&P, 10-4-4] of the System. This provision for notice also applies to notice of working sessions of a quorum of the Board. A notice is considered delivered when deposited with the transmitting agency addressed to the regent. A waiver of notice of a meeting signed by the regent entitled to the notice is equivalent to the giving of timely notice. Attendance by a regent at a meeting of the Board constitutes a waiver of notice of the meeting, except when attendance is for the sole purpose of objecting that the meeting is not lawfully called.

- B. **Quorum.** Three (3) members of the Board constitute a quorum for the transaction of business. [See NMSA 1978, § 21-3-6 (1893), made applicable by § 21-3-30 (1927).]
- C. **What Constitutes an Act by the Board.** The Board may act only as a Board with each regent having one (1) vote. The act of a majority of regents present at a meeting of the Board at which a quorum is present will be the act of the Board, unless a greater number is required by law. Individual regents are without power to act separately in connection with System business, except when one (1) or more regents are specifically authorized to act on behalf of the Board. Whether referred to as "the Board" or as "the regents" in System documents, the meaning is the same.
- D. **Open Meetings Act.** Meetings of the Board are governed by the Open Meetings Act, NMSA 1978, § 10-15. In order to comply with 1993 changes to the Open Meetings Act, the System adopted in 1993 a revised Open Meetings policy. Each regent should become familiar with the System's Open Meetings policy. The Open Meetings policy covers such matters as which meetings are subject to the Open Meetings Act, when Board meetings are open to the public and when they may be closed, how notices of Board meetings must be given, meeting agendas, participation in Board meetings by telephone or other media, emergency Board meetings and minutes of Board meetings. If the Board delegates its policy-making authority to other organizations or committees in the System, meetings of those groups may be subject to the Open Meetings Act. The Board should therefore be careful, in delegating particular activities to organizations or committees within the System, to determine the scope of authority, which is vested in the delegated entity.

## 5. Officers of the Board.

- A. **Election of Officers.** The Board annually elects a president of the Board, a vice president of the Board and a secretary-treasurer of the Board, to hold offices until their successors are appointed and duly qualified.
- B. **President and Vice President.** The president (or the vice president, during the absence, disability or failure to act of the president) presides at all meetings of the Board, when authorized, executes, and delivers all documents issued in the name of the Board.
- C. **Secretary-Treasurer.** The secretary-treasurer shall sign board minutes when officially approved. The secretary-treasurer's signature shall be affixed to any other legal documents requiring board approval. The secretary-treasurer shall perform such other duties as the board may direct and require.

- D. **Bond of Secretary-Treasurer.** The secretary-treasurer is required to execute bonds to the state of New Mexico for not less than \$20,000, with at least two (2) residents of the state as sureties. Bonds are required to be approved by the Governor and filed in the Office of the Secretary of State. [See NMSA 1978, § 21-3-5 (1893), made applicable by § 21-3-30 (1927).] N.M. STAT. ANN. §§ 21-7-5 ("Annual organization meeting of board; election of officers; bond of secretary-treasurer; conditions"), 21-7-6 ("President; secretary and treasurer; duties and powers") (1978)
- E. **Annual Authorizations of Officers.** Each year, after the election of new officers of the Board, the following authorizations are approved by the Board, such authorizations being effective until rescinded or until the next election of Board officers:
- (1) The newly elected officers of the Board are authorized to sign checks, drafts and other documents on the Board's behalf.
  - (2) The vice president of the Board is authorized to sign for the president or the secretary and treasurer of the Board in the absence of either.
  - (3) The president or the vice president of the Board is authorized to execute (buy, sell, assign or endorse for transfer) certificates representing stocks, bonds or other securities now registered or hereafter registered in the name of the System.
  - (4) The chancellor of the System and the ENMU System chief financial officer are authorized to continue to sign contracts, grants and other agreements necessary for the daily operation of the System. The chancellor of the System is further authorized to delegate similar authority to other administrative officers connected with various entities of the System to execute designated contractual documents related to their respective organizations.

## 6. Committees of the Board.

- A. **Functions of Board Committees.** A committee of the Board may make recommendations to the Board and may exercise the authority of the Board to the extent allowed by law. A committee of the Board consists only of regents, and there must be at least two (2) regents on the committee. The appointment by the Board of a committee of the Board does not relieve the Board or any individual regent of any responsibility imposed by law on the Board or an individual regent.
- B. **Audit and Finance Committee.** This is a standing committee of the Board and consists of at least two (2) regents. This committee receives the results of internal audits directly from the internal auditor of the System and receives the results of external audits directly from the external auditor. The committee reviews the results of the internal and external audits before the Board reviews them. The committee may perform other functions as directed by the Board. [See AGP&P, 10-7.]
- C. **Other Committees.** The Board may appoint other standing and *ad hoc* committees of the Board.

7. **Per Diem and Mileage for Regents.** Regents are not compensated for their services. They are paid per diem and mileage in connection with their attendance at meetings of the Board and of committees of the Board and for discharge of their official duties for travel in accordance with the Per Diem and Mileage Act, NMSA 1978, § 10-8. The ENMU System chief financial officer administers per diem and mileage.

- 8. Liability of Regents.** Regents shall not be held personally liable in any action at law based upon a claim for damages arising out of any act or failure to act of the Board. [See NMSA 1978, § 21-1-18 (1941).] The System provides a defense, including costs and attorneys' fees, for any regent when liability is asserted against the regent for actions not covered by the Tort Claims Act.
- 9. Support for the Board.** In order to facilitate the work of the Board, agendas are prepared for Board meetings, questions of the regents concerning the System are answered and other support services related to Board matters are provided to the regents. Insofar as possible, a person selected by the chancellor of the System and already performing administrative responsibilities at the System shall perform these functions.

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