

MOTION OF ADMONISHMENT AND CENSURE OF WALLACE L. HALL JR. AND
RELATED FINDINGS

1 The House Select Committee on Transparency in State Agency
2 Operations (the committee), pursuant to its investigative and
3 oversight authority and its duty to monitor the conduct of
4 individuals appointed to offices of the executive branch of
5 state government, is conducting an extensive formal
6 investigation of allegations of misconduct committed by Wallace
7 L. Hall Jr. while a nominee for and as a member of the Board of
8 Regents of The University of Texas System (the Board).

9 The investigation conducted by the committee uncovered
10 numerous wilful actions by Mr. Hall that constitute either
11 misconduct, incompetency in the performance of official duties,
12 or behavior unbecoming a nominee for and holder of a state
13 office. The committee has previously found in the affirmative
14 that grounds for impeachment exist.

15 At this time, the committee chooses to act by adopting this
16 motion for admonishment and censure while holding, for now, in
17 abeyance further proceedings, in part for our own reasons and
18 also as we continue to monitor developments of other agencies
19 e.g., the actions of the Travis County District Attorney's
20 office. However, the committee retains full jurisdiction and
21 continuing oversight. The committee may impose future action,
22 including the adoption of articles of impeachment which already
23 may be before the committee. Further actions will be taken as
24 warranted. We are mindful that Mr. Hall's actions have been
25 undeterred during this investigation. This temporary period

1 allows the Board, Mr. Hall, other individual regents, and Board
2 and System employees to alter, change, and improve their
3 conduct, and allows the committee by and through its co-chairs
4 and those appointed to monitor these proceedings to exercise
5 oversight and report these findings back to the full committee
6 and to make appropriate recommendations when necessary.

7 BACKGROUND

8 Institutions of higher education in the State of Texas are
9 a crown jewel of the state. The graduates of these schools have
10 shaped our economy and are leaders in their chosen fields, in
11 their communities and in our state and beyond. The state will
12 continue to excel and create abundant opportunities only if
13 these institutions continue to thrive.

14 Because of their importance, the operation of these
15 institutions has been overseen by two entities—the Texas
16 legislature and the board of regents for each institution. Since
17 the establishment of the first public institution of higher
18 education in 1876, both the legislature and the boards of
19 regents have shared these responsibilities. Thus, legislative
20 review of the operation of institutions of higher education in
21 this state (and of all other state agencies) is nothing new.

22 The University of Texas System (the System) is composed of
23 nine universities and six health science centers. It employs
24 over 87,000 people and educates 216,000 students a year. More
25 than one out of every 150 people in Texas either attend or work
26 for an institution within the System. The System is governed by
27 a board of regents, composed of nine voting members and one non-

1 voting student regent. Only the Board, acting as a Board, is
2 statutorily charged with the oversight of the System.ⁱ The role
3 of each regent, as a board member, is analogous to membership on
4 a corporate board. No individual board member may take binding
5 actions on behalf of the entire board. Each regent is appointed
6 to the Board by the Governor and confirmed by the Senate, but
7 the regents' duty is not to those who appointed them or
8 confirmed them, but only to the system's institutions and the
9 state.

10 In the spring of 2013, this committee attempted to explore
11 issues related to the Board, the System, and Mr. Hall concerning
12 not only conduct undertaken by Mr. Hall but also the Board's and
13 the System's interactions with the Cancer Prevention and
14 Research Institute of Texas (CPRIT) and the University of Texas
15 Law School Foundation. It has been suggested that the
16 legislative examination of executive branch appointees in this
17 matter is unprecedented. To be accurate, nothing could be
18 further from the truth. Executive branch appointees are
19 routinely examined by legislative committees. Legislative
20 committees often, by report or by strong words from the dais,
21 have suggested that executive branch appointees consider
22 alternative courses of action, alter their method of doing
23 business, or remove themselves either from the situation at hand
24 or from state service. Legislative disapproval of executive
25 branch appointees' actions has resulted in restructuring or
26 dissolution of agencies and their boards, reduced agency
27 appropriations or increased budgetary review, increased

1 oversight or audits, and, in some cases, the voluntary
2 resignation of one or more appointees.

3 Two recent examples stemming from the expression of
4 legislative disapproval include the resignation of a member of
5 the board of directors of The University of Texas Investment
6 Management Company (UTIMCO) following questioning by a Senate
7 committee and a vote of no confidence in the entire Board of
8 Directors of the former Texas Youth Commission by a joint House
9 and Senate committee. In all such cases, the legislature acts
10 for the sole purpose of ensuring that both the legislature and
11 the state agency in question continue to safeguard the assets of
12 our state.

13 For the last year, this committee has heard testimony,
14 reviewed evidence, and carefully considered additional
15 information provided to the committee by Mr. Hall's attorney
16 related to the actions of Mr. Hall, the Board, and the System.
17 The committee engaged special counsel who gathered a number of
18 items of information and engaged in a lengthy and costly attempt
19 to retrieve documents from the System and the Board. The
20 committee received a report from its special counsel, which has
21 been made public. All those invited to testify before the
22 committee appeared, except for Mr. Hall.

23 While opting not to testify, Mr. Hall instead participated
24 vigorously in the committee's proceedings through his private
25 counsel. Mr. Hall's private counsel attended committee
26 proceedings and sent the committee several letters asserting Mr.
27 Hall's positions and defending Mr. Hall's decisions, which

1 included declining to appear before the committee, declining to
2 provide the committee with a list of possible witnesses,
3 declining to submit any documents to the committee, and untimely
4 responses to the committee's requests for documents and
5 information. Mr. Hall (and the other members of Board) also
6 received the assistance of hired outside counsel. In addition to
7 private attorneys, Mr. Hall was represented by lawyers employed
8 by the System, including the general counsel for the Board and
9 the general counsel for the System. Mr. Hall was informed of all
10 contacts between the committee and any portion of the System and
11 Board. Mr. Hall requested from the Chancellor and was given
12 access to the Board's outside lawyer's notes of witness
13 interviews and was told in advance of the release of Board and
14 System documents.ⁱⁱ In an act described as "unusual", Mr. Hall
15 contacted directly the general counsel of the System to have him
16 remind a witness, on the eve of the witness's testimony before
17 the committee, that the witness was not allowed to discuss
18 certain matters.ⁱⁱⁱ Additionally, Mr. Hall was given the
19 opportunity to review and edit letters and reports from the
20 Chancellor addressed to this committee relating to this matter.
21 Mr. Hall (and at least one other regent) caused the Chancellor
22 to request that witnesses who testified before the committee
23 review and, if appropriate, change or alter their testimony.^{iv}
24 Mr. Hall further appears to have suggested that personnel action
25 was appropriate for those who failed to change their testimony.^v

26 Interestingly, Mr. Hall actually has as much, if not more,
27 information about the matters before this committee, because he

1 controls it either personally or through his role as regent
2 supervising the actions of his government lawyers and outside
3 counsel, than the committee does.

4 While the committee could pursue additional leads and
5 information, it has determined it has sufficient information at
6 this time upon which to base an assessment of Mr. Hall's
7 conduct.

8 FINDINGS

9 A. At Times During the Events under Investigation, The
10 University of Texas Board of Regents Suffered a Loss
11 of Institutional Control

12 In testimony provided by Chancellor Cigarroa, the
13 Chancellor described an operational change to the workings of
14 the Board. The Chancellor indicated that a new policy was
15 implemented that allows any regent to request any information
16 from any institution.^{vi} This was a significant shift from prior
17 Board policy.^{vii} Although the Chancellor, as the CEO of the
18 System, might try to discuss the scope of a request with a
19 regent and might suggest the regent achieve the same results in
20 a different manner (e.g. suggest a compliance audit rather than
21 a regent request), the Chancellor was powerless to in any way
22 limit or modify a clearly burdensome or costly regent request.
23 In fact, the Board chose to impose little to no internal
24 "circuit breaker" or oversight on information requests. The
25 Board was not notified of an individual regent's requests, the
26 cost to the System of the requests, the effect of the requests
27 on System's operations, or the dangers to the System from
28 operating in this manner, including through the exposure of

1 confidential information or information that a regent is not
2 allowed to view. It is important to note that System and
3 component institutions' employees raised red warning flags
4 regarding this method of providing information to the Board.^{viii}
5 Certainly, Mr. Hall, the Chancellor, and both the general
6 counsel to the Board and the general counsel to the System were
7 aware of these concerns. Further, each was aware that errors had
8 occurred in the production of documents. Emails produced to the
9 committee indicated that each became at least accepting of their
10 role in enabling these actions.^{ix}

11 Two other events by individual regents also demonstrate
12 that operational control of the Board had significantly eroded.
13 First, a regent unilaterally decided to secretly record an
14 executive session of the Board.^x It is important to note that the
15 Board is not composed of persons who do not understand the
16 corporate world or the deliberative process. At the very least,
17 such conduct was unauthorized and peculiar. At some point,
18 knowledge of the recording was given to the then-chairman of the
19 Board, other Board members, and the Board's counsel.^{xi} Although
20 clearly responsive to a document request made by this committee,
21 the Board's lawyers failed to deliver the recording to this
22 committee or even make its existence known until several months
23 after the document request was to have been fulfilled. We are
24 unaware of any action the Board took regarding this serious
25 breach until after the existence of the recording was made
26 public.

27 Finally, in spring 2013, two legislative requests for

1 information were submitted to the Board. After the documents had
2 been gathered and before they were submitted to the requesting
3 legislator, Mr. Hall requested, and was allowed by the Board's
4 general counsel, not only to review the documents but also to
5 change the designations of classes of information on some of the
6 documents. This method of handling the legislative requests is
7 another indication that by the spring of 2013, the Board had
8 allowed itself to become, in effect, nine individual Boards of
9 Regents, with each one acting as if individual regents were
10 authorized to implement changes in the System's day-to-day
11 operation while ignoring long-standing law and protocols. While
12 a majority of regents chose not to act as Mr. Hall did, the
13 remaining regents fully supported, were unaware of, or at least
14 chose to take no public action in response to Mr. Hall's unusual
15 acts. Institutional control was clearly diminished.

16 B. Regent Hall Breached his Duties to the Board of
17 Regents of The University of Texas System

18 Francie Fredrick, the general counsel for the Board of
19 Regents, in testimony before this committee outlined her
20 understanding of the duties of a regent:

21 Q: How is a regent's duty defined?

22 A: The duty of the board is defined by statute, but the
23 common law defines the duty of any trustee or director as
24 involving two primary duties --

25 Q: Uh-huh.

26 A: -- the duty of care and the duty of loyalty. Some
27 people will add on a third duty, the duty of obedience, but
28 I think that's actually subsumed in the duty of care.

29 The duty of care requires a regent in this case to be
30 diligent in seeking information in making their judgments.
31 The duty of loyalty requires the regent to put the interest
32 of the University of Texas System ahead of all other
33 interests in making decisions on behalf of the board.

34 Q: In your opinion, what would constitute abuse of office
35 of by a regent?

1 A: Conflict of interest, failure to put the interests of
2 the University ahead of personal interests, and certainly
3 personal conduct unbecoming a regent. I mean, I know
4 we're not talking about that today, but if someone were to
5 be convicted of a felony or some other crime of that
6 nature, I think it would unfit them for the position^{xii}

7 She further testified:

8 A: I think that Wallace Hall is a very principled man. I
9 think his heart is good. I think the distractions that
10 have occurred over the last several years are unfortunate
11 and are starting to detract from what is in the best
12 interest of the University of Texas System. And I think
13 that's the best answer I can give you.^{xiii}

14 Ms. Fredrick's testimony is that, at a minimum, the
15 distractions caused by Mr. Hall are unfortunate and are
16 detracting from the best interest of the System, a violation of
17 his duty of loyalty to the System. This is the most favorable
18 testimony that the committee heard regarding Mr. Hall's
19 performance of duties. Other persons testified that Mr. Hall
20 either violated standards of care for a regent or,
21 alternatively, his actions were grounds for impeachment.^{xiv} At
22 least one other regent characterized Hall's conduct as
23 "harassment" and "an abuse of power."^{xv}

24 The duties of a regent are set by law. At least three areas
25 of Texas statutes govern the discharge of a regent's duties.
26 Failure to comply with these laws would therefore constitute
27 "misconduct, malfeasance, or misfeasance" and would constitute a
28 breach of a regent's duty. First, Subchapter G, Chapter 51,
29 Education Code, sets forth broad statutory duties and
30 responsibilities for higher education governing boards such as

1 The University of Texas System Board of Regents. Section 51.352
2 of that subchapter provides, in pertinent part:

3 (a) It is the policy of this state that the governing
4 boards of institutions of higher education, being composed
5 of lay members, shall exercise the traditional and time-
6 honored role for such boards as their role has evolved in
7 the United States and shall constitute the keystone of the
8 governance structure. In this regard each governing board:

9 (1) is expected to preserve institutional
10 independence and to defend its right to manage its own
11 affairs through its chosen administrators and
12 employees;

13 (2) shall enhance the public image of each
14 institution under its governance;

15 (3) shall interpret the community to the campus
16 and interpret the campus to the community;

17 (4) shall nurture each institution under its
18 governance to the end that each institution achieves
19 its full potential within its role and mission; and

20 (5) shall insist on clarity of focus and mission
21 of each institution under its governance.

22 Additional duties applicable specifically to The University
23 of Texas System Board of Regents are contained in Chapter 65,
24 Education Code.

25 Additionally, a number of criminal offenses regulate the
26 performance of public officials such as a UT System regent,
27 including the crimes associated with "abuse of office" in
28 Chapter 39 of the Penal Code, but any criminal activity rising
29 to the level of "abuse of office" would also be fairly described
30 as "misconduct, malfeasance, or misfeasance" and constitute a
31 breach of a regent's duty.

32 Finally, a regent is bound to comply with state and federal
33 laws restricting the use or disclosure of the type of private
34 and educational information a regent may have access to in the

1 course of his or her duties. The most notable and relevant of
2 these laws is the Family Educational Rights and Privacy Act of
3 1974, 20 U.S.C. § 1232g. FERPA protects personally identifiable
4 student information and prohibits the disclosure of the
5 information without permission of the student or a parent of a
6 student under 18 years old.

7 Following a review of the evidence, we find that there is
8 evidence that Mr. Hall violated the duties of care and loyalty
9 as described by General Counsel Fredrick and the standards of
10 care outlined by statute.

11 A non-exhaustive list of these violations of the Regent's
12 fiduciary duty is set out below:

13 1. FERPA Violations

14 In 2013, Francie Fredrick, the general counsel of the
15 University Of Texas Board Of Regents, became aware that Mr. Hall
16 was in possession of two individual student records, at least
17 one of which is protected under federal privacy laws. Mr. Hall
18 told her that he had the documents.^{xvi} She determined that Mr.
19 Hall had no legitimate educational interest for holding those
20 documents.

21 Mr. Hall told Ms. Frederick that he wanted to bring those
22 documents to the office of the Attorney General. Again, she told
23 him that the documents contained FERPA protected information and
24 should not be produced.^{xvii} Mr. Hall nonetheless brought those
25 documents to the office of the Attorney General and also
26 forwarded them to his private attorney.^{xviii} Mr. Hall failed to
27 tell Ms. Fredrick of those actions at that time. Ms. Fredrick

1 eventually told Mr. Hall that she would need to retrieve the
2 FERPA-protected documents from him. He said that he would
3 destroy the documents, then told her for the first time that he
4 had distributed the FERPA document to an attorney at the office
5 of the Attorney General.^{xix} She arranged for the document to be
6 retrieved and destroyed.^{xx}

7 In August 2013, Mr. Hall asked Ms. Fredrick to approve
8 language in a draft letter to this committee prepared by Mr.
9 Hall's private lawyer. As Ms. Fredrick read the draft of the
10 letter, it became clear that Mr. Hall had given a copy of the
11 FERPA-protected information to his private lawyer and that he
12 had failed to disclose that action or seek the return or the
13 destruction of the documents, as requested by Ms. Fredrick.

14 At some point after Mr. Hall's private lawyer sent a letter
15 mentioning the FERPA-related material to the committee, Mr.
16 Hall's private lawyers returned the FERPA information to the
17 System. The System undertook no investigation of the data breach
18 nor was it ever discussed by the Board. In fact, Ms. Fredrick
19 considered the data breach not significant.

20 Under the circumstances, Mr. Hall's action can only be
21 considered knowing, willing, and intentional. His System lawyer
22 personally counseled him that the documents related to students
23 of the System were protected under federal privacy laws and
24 should not be possessed by him and could not be distributed to
25 others. In determining that he should not possess the
26 information, the System further made a determination that he had
27 no legitimate educational interest in viewing the data.

1 After being told this, he ignored the Board counsel's
2 advice and distributed the FERPA-protected material to more than
3 one third party. Moreover, he misled Ms. Fredrick by claiming to
4 have destroyed the documents, when he instead allowed his
5 private counsel to keep the document and use it in Mr. Hall's
6 private legal matters. Mr. Hall's private counsel, over whom Mr.
7 Hall had unquestionable authority, failed to return the
8 protected information promptly when requested.

9 Students who attend an institution within The University of
10 Texas System should not have to worry about their privacy rights
11 being willfully violated by a member of the Board of Regents--no
12 matter the reasoning of the regent. Mr. Hall's actions in this
13 regard were simply wrong and violated his regental duties.

14 2. Unauthorized Advocacy Before CASE

15 In 2012, an issue arose regarding the accounting and
16 reporting of a gift valued at approximately \$44 million made to
17 The University of Texas at Austin in the course of a capital
18 campaign. The University sought clarification of the accounting
19 standards for the gift from the Council for the Advancement and
20 Support of Education (CASE). In a nutshell, the University
21 sought one interpretation of the CASE rules, which would have
22 allowed the reporting of the gift, but Mr. Hall personally
23 preferred another interpretation that would have disallowed the
24 reporting of the gift. The Board as a whole did not take any
25 official action at that time to support Mr. Hall's individual
26 views.

1 With the knowledge and consent of the System, the
2 University undertook discussions with CASE regarding the
3 appropriate method of accounting for the gift. The System
4 Chancellor agreed that the University's actions were not
5 improper--"Any UT System institution may present an argument to
6 CASE if it has a justification to do so "

7 Mr. Hall, acting independently, asked System personnel to
8 brief him on the issues, and ultimately prepared to individually
9 oppose the University's arguments.

10 While regents may have broad authority to inform themselves
11 of matters affecting the System and its components, there is no
12 authority for an individual regent to personally undermine
13 "[the] institutional independence" of UT Austin, to act in a
14 manner that detracts from, rather than "enhances the public
15 image" of, UT Austin, or to act in a manner that does not
16 "nurture" UT Austin, in violation of the statutory obligations
17 of a regent prescribed by the Education Code. Further, under
18 The University of Texas System Regents' own rules, an individual
19 regent is prohibited from making public statements on
20 "controversial matters" without advance Board approval. It is
21 clear that the Board did not discuss, much less approve of, Mr.
22 Hall's actions until after Hall took the unusual step of flying
23 to Washington D.C. to attend a previously-scheduled CASE meeting
24 regarding the UT gift. He had arranged for the general counsel
25 of the Board and another System employee to listen to the
26 meeting by conference call. Mr. Hall's actions at the meeting
27 can best be described as shambolic. Rather than merely observing

1 to inform himself, he actively interjected himself into the
2 meeting as an opponent of the University's position,
3 interrupting and arguing with counsel for the University who was
4 presenting the institution's position. When the hearing
5 concluded with the University appearing to have achieved its
6 desired result, Mr. Hall followed the CASE executive conducting
7 the meeting to his office and pursued a private discussion with
8 him about the matter. After the meeting, Mr. Hall continued his
9 campaign by email, and asked that the University's attorneys who
10 represented the University before CASE be terminated without
11 pay.

12 Mr. Hall's actions--taking an unauthorized public position
13 on a controversial matter in direct conflict with the
14 institution's position and micromanaging the oversight and
15 potential dismissal of UT Austin's attorneys--is outside the
16 proper scope of regental conduct and exceeded the authority that
17 Mr. Hall alleges he was operating under. He failed to support
18 the institution as required by statute. Thus, Mr. Hall violated
19 his fiduciary duty as a regent.

20 3. Conduct inconsistent with standards demanded of others.

21 Mr. Hall has insisted that System employees and officers
22 perform each of many requested tasks with almost Prussian
23 efficiency. His emails threaten employment retaliation if his
24 wishes are not carried out nearly instantly. In a sense, Mr.
25 Hall's emails contain his own personal standard of what conduct
26 is appropriate for a System officer. But Mr. Hall does not meet
27 the high standards he expects of others.

1 a. Failure to provide or retrieve all documents in
2 response to a public information request

3 In the spring of 2013, Mr. Hall caused an inquiry to be
4 conducted regarding why certain documents were not provided in
5 response to an open records request. The System devoted a number
6 of resources to resolving the issue.

7 In the summer of 2013, Mr. Hall prepared meeting notes on
8 his computer at a Board meeting. Within a short time, the System
9 received a public information request for all Board members'
10 meeting notes. Mr. Hall falsely responded that he had no
11 responsive documents. However, after the System responded to the
12 requestor that it had no responsive documents, Regent Hall, in
13 an unrelated matter, forwarded those very notes to a System
14 employee to prove a point he was making at that time. Mr. Hall's
15 own email proved the responsive document's existence and that he
16 maintained it at the time the public information request had
17 been made, but failed to provide it to a member of the public
18 under Texas Public Information Act. Putting aside the clear
19 statutory duty to provide such information, there is no
20 indication that Mr. Hall showed the same level of concern for
21 his failure to include responsive documents to an open records
22 request as he shows for the System.

23 b. Failure to cooperate with an official investigation or
24 provide requested documents

25 In June 2013, Mr. Hall met with the Attorney General's
26 office regarding its investigation of the University of Texas
27 Law School Foundation. The Board of Regents had by official
28 Board action asked the attorney general to undertake the

1 investigation. At this meeting, Mr. Hall provided the office of
2 the Attorney General with FERPA-protected student information
3 that he had been advised by the Board's lawyer not to provide.
4 At the conclusion of the meeting, the staff of the Attorney
5 General asked for a sworn written statement for Mr. Hall's
6 concerns. Mr. Hall agreed to provide the statement.

7 Subsequently, Mr. Hall decided not to provide any such
8 sworn statement. The Attorney General's office repeatedly
9 contacted Mr. Hall or his private lawyers, who initially
10 responded that a lengthy sworn statement would be immediately
11 forthcoming, to ascertain when and whether Mr. Hall might
12 provide the sworn statement. Much later, Mr. Hall's lawyers
13 indicated that Mr. Hall would not provide a sworn statement
14 unless it was maintained in confidence and not provided to the
15 legislature. Ultimately, Mr. Hall's attorney told the attorney
16 general's office that Mr. Hall had more pressing matters to
17 attend to than providing a sworn statement for the
18 investigation, despite the fact that every other regent had
19 complied with the request. Again, there is no indication that
20 Mr. Hall demonstrated the same level of cooperation for an
21 investigation as was expected of others.

22 c. Failure to correct misstatements

23 In a letter provided to this committee, the Chancellor has
24 provided "clarifications" to testimony by certain System
25 employees. As has been previously discussed, the Chancellor was
26 requested by Mr. Hall and others to have some witnesses change
27 their testimony; the Chancellor's "clarifications" were offered

1 when the other witnesses opted to stand by their testimony. Mr.
2 Hall reviewed the Chancellor's letter before it was delivered to
3 the committee. Two items have caught the committee's attention.
4 First, the Chancellor attempts to mitigate Mr. Hall's
5 inappropriate handling of FERPA documents by overlooking the
6 fact that Mr. Hall was warned not to distribute the student
7 information, that Mr. Hall failed to identify all the parties to
8 whom he distributed the information, and that Mr. Hall
9 intentionally kept the information and let his private lawyer
10 use it months after being told that it was federally protected.

11 Second, the letter attempts to challenge the basis of
12 testimony provided by a component employee, even though it is
13 clear from emails sent after the letter was delivered that the
14 Chancellor had no idea how the information was determined or
15 even if an error had, in fact, been made. In short, Mr. Hall's
16 demand that misstatements be corrected appears to apply only to
17 corrections that would benefit him.

18 In advocating for "clarifications" to witness testimony,
19 Mr. Hall disregarded statements by other system employees
20 supporting the allegedly inaccurate testimony. For example, Mr.
21 Hall challenged a portion of the testimony of University
22 President Powers, and continued to dispute that testimony even
23 after the System's vice chancellor for external relations sent
24 an email acknowledging that the testimony was correct.

25 Mr. Hall also made demonstrably false representations
26 regarding FERPA-protected information in his possession. After
27 being told by the Board's general counsel that he could not

1 disclose a particular FERPA-protected document to the attorney
2 general, Mr. Hall said that he had destroyed the document.
3 Instead, he retained possession of the document and shared it
4 with his private attorney, which the Board's general counsel and
5 others at the System learned of at a later time. It is unclear
6 what, if any, action was taken to address that breach when the
7 System learned of it.

8 At best, Mr. Hall's misrepresentations and shocking lack of
9 candor reflect poorly on all who participated in providing the
10 information to the legislative committee.

11 A. Mr. Hall's Appointment Application

12 It is clear that Mr. Hall's application for appointment to
13 The University of Texas System Board of Regents was incomplete.
14 He failed to convey information that he was aware of regarding
15 personal litigation with which he was involved. Mr. Hall's
16 explanation is that the Governor's office told him it was
17 acceptable to omit the information, but testimony by the
18 Governor's office does not verify that allegation.

19 In any event, it is clear that the circumstances
20 surrounding Mr. Hall's application did contribute to the change
21 in process of the Senate in reviewing appointees—each appointee
22 must now file information on a separate form designated by the
23 Senate. At this time, our inquiry regarding defects in Mr.
24 Hall's application must halt because the Governor's office does
25 not adequately track what items it advises are not required on
26 appointee applications. However, it merits consideration whether

1 a better method of recordkeeping might be more appropriate in
2 dealing with appointees' applications in the future.

3 CONCLUSION

4 Chairman Foster recently made a pointed observation that is
5 central to our inquiry--there is a fundamental difference in the
6 understanding of the role of a regent and the conduct of a
7 regent between Mr. Hall and others. The committee today at
8 length sets out its understanding that Mr. Hall's actions have
9 crossed the line from remaining informed and engaged to
10 violating his regental and fiduciary duties. The committee wants
11 to be clear that it expects and encourages regents (and all
12 members of the governing boards of state institutions) to ask
13 hard questions and exercise due care in overseeing those
14 institutions. Fraud, corruption, waste, or mere inefficiency are
15 common foes that the legislature and other governing bodies are
16 charged to identify and root out. That said, there are right
17 ways to conduct affairs and there are wrong ways to manage them.
18 An ends-justifies-the-means approach is inappropriate in this
19 context. Not only did Mr. Hall's demands and conduct create a
20 toxic environment on the University of Texas at Austin campus
21 and within the System, but the manner in which that conduct was
22 undertaken was simply not constructive taken as a whole. Mr.
23 Hall's conduct became so distracting and disruptive that the
24 Board Chairman called for his resignation. Further, the costs
25 and expenses to the University and System attributable to Mr.
26 Hall far exceed the cost of the legislature's investigation of
27 his conduct.^{xxi} Testimony received by the committee puts the

1 estimated cost of satisfying Mr. Hall's demands at around \$1
2 million. It is inconceivable that other less costly and more
3 appropriate avenues could not have been pursued to achieve the
4 desired results. Prosecutors are not permitted to violate the
5 law to enhance their odds of obtaining a conviction. Similarly,
6 the committee cannot condone the wrongful conduct of a rogue
7 regent regardless of his stated goals.

8 The committee also adopts these findings and conclusions in
9 an effort to "clear the decks". It is not lost on the committee
10 that in the coming months, a new Chancellor of the System and a
11 new president of The University of Texas at Austin will assume
12 those positions. The committee is also aware that the component
13 institutions of the System will hire thousands of new
14 professors, employees, and other personnel. The committee takes
15 this action to give those institutions notice of its findings
16 and to relate the committee's expectations that these issues
17 related to the Board, the System, and the System's component
18 institutions will not fester. The committee is also aware that
19 hundreds of thousands of students and prospective students will
20 apply to or attend institutions in the System and thousands of
21 patients will be seen at System health care institutions. The
22 committee is certain that the manner in which privacy interests
23 are protected will reflect well on the System.

24 The committee is mindful of several recent changes in the
25 operation of the Board and seeks to encourage additional
26 progress. The committee remains troubled and rejects the plainly
27 false assertion that the Board is not empowered to take action

1 regarding Mr. Hall's behavior. The Board, by rule, can decide
2 how to monitor and police its own members' behavior. The Board
3 has the ability to oversee its members' actions. All of Mr.
4 Hall's actions took place on the regents' collective watch. Each
5 regent either agrees with his actions, or until recently, took
6 few visible steps to deter them. There should be no doubt that
7 this committee is looking not only at Mr. Hall's actions, but
8 the Board's actions as well.

9 In the end, the committee has decided, in part, to rely on
10 the carefully crafted decision-making model that the Chancellor
11 used in determining whether to recommend the recent dismissal of
12 the President of The University of Texas at Austin, which both
13 the Executive Vice Chancellor and the Chairman of the Board of
14 Regents agreed was an appropriate level of review. The
15 Chancellor stated that dismissal was warranted, even if the
16 officer or employee had broken no law, no rule was violated,
17 that the employee or officer was passionate, and every
18 quantitative measure was exemplary, if the deteriorating
19 circumstances of a working relationship had occurred, or was
20 coupled with persistent behavior indicating a failure to change,
21 and a realization that the focus of all controversy centers
22 around a single individual. These conditions alone require the
23 removal of the person from the problem in the best interests of
24 the institution. Many have suggested that what is in the best
25 interest of the System concerning President Powers may also be
26 applicable to Regent Hall. With those thoughts in mind, and
27 given that this committee does not have the unilateral authority

1 to simply remove Mr. Hall from office, the committee issues this
2 public admonishment and censure of Mr. Hall.

3 Even if the committee were to accept all of Mr. Hall's
4 stated reasons for his actions, his methods merit censure. Most
5 troubling is that almost every one of Mr. Hall's goals could
6 have been accomplished in a way that would not have required
7 this committee to meet or issue this censure. His actions,
8 separate and apart from his stated goals, deserve consequences.
9 Special counsel to the committee described Mr. Hall as "a roving
10 inspector general in search of a problem rather than a
11 solution." The committee hopes, and anticipates, that Mr. Hall
12 and the entire Board of Regents will receive these comments and
13 criticisms and move forward more productively. Accordingly:

14 WHEREAS, the misconduct, incompetency in the performance of
15 official duties, or behavior unbecoming a nominee for and
16 holder of a state office demonstrated by Wallace L. Hall Jr.
17 included:

18 A. While holding office as a member of the Board of
19 Regents, Mr. Hall either improperly obtained,
20 retained, or disclosed or caused to be disclosed
21 confidential student information and failed to return
22 or destroy the same information when the disclosure
23 was discovered with disregard for or in violation of
24 the law, the rules and practices of the Board of
25 Regents, or the best interests of The University of
26 Texas System;

27 B. While holding office as a member of the Board of

1 Regents, Mr. Hall substantially impeded the ability of
2 this committee to carry out its duties in aid of the
3 legislature's core constitutional functions of
4 oversight of the executive branch of state government
5 and of examination of the conduct of state officers by
6 failing to provide to the committee or preventing the
7 committee from obtaining information essential to its
8 investigation, actions that demonstrated a wilful
9 disregard of the responsibility of a state officer to
10 assist the legislature in carrying out those duties;

11 C. While holding office as a member of the Board of
12 Regents, Mr. Hall retaliated or threatened retaliation
13 against System and University of Texas at Austin
14 personnel who testified before the committee during
15 the committee's investigation of allegations of
16 wrongdoing committed by Mr. Hall with disregard for or
17 in violation of state law, the rules and practices of
18 the Board of Regents, or the best interests of The
19 University of Texas System;

20 D. While holding office as a member of the Board of
21 Regents, Mr. Hall disregarded the best interests of
22 The University of Texas at Austin and The University
23 of Texas System by personally advocating before the
24 Council for Advancement and Support of Education
25 ("CASE") against the development interests of the
26 University without the authorization of the Board of
27 Regents, with disregard for or in violation of state

1 law, the rules and practices of the Board of Regents,
2 or the best interests of The University of Texas
3 System; and

4 WHEREAS, the conduct of Wallace L. Hall Jr. as outlined in
5 this motion, has brought disruption and significant harm to The
6 University of Texas System, the State of Texas, and the citizens
7 of this state; and

8 WHEREAS, if there were any question regarding the
9 appropriateness of Mr. Halls' actions as a member of the Board
10 of Regents of The University of Texas System, one need only
11 examine the required changes to the operation of a number of
12 state agencies, including the Texas Senate and The University of
13 Texas System, resulting from his actions, the costs incurred by
14 The University of Texas System in his defense, and the
15 reputational harm to the System, and because such action
16 requires a formal disapproval and censure; now, therefore, be it

17 RESOLVED, That this committee does hereby admonish and
18 censure Wallace L. Hall Jr. for misconduct, incompetency in the
19 performance of official duties, or behavior unbecoming a
20 nominee for and holder of a state office; and, be it further

21 RESOLVED, That the committee appoint one or two members of
22 the committee to be assigned an official, ongoing oversight role
23 over the Board of Regents of The University of Texas System, The
24 University of Texas System, and The University of Texas System
25 component institutions. For the purposes of this oversight
26 role, the assigned members will have the authority of the full
27 committee, including the powers of this committee under Chapter

1 665, Government Code, committee staff and resources assigned or
2 designated, as well as any authority granted an individual
3 member. In performing the oversight role, the assigned members
4 may request meetings with Board, System, or university
5 personnel, including the members of the Board, the Chancellor,
6 and component institutions' presidents. Oversight document and
7 report requests will be treated as if issued from the full
8 committee. Board, System, and component institution personnel
9 may contact the assigned members directly with concerns about
10 the actions of Mr. Hall, other regents, the Board, or System.
11 The System will keep the assigned members apprised of all
12 developments during the selection and installation of a new
13 System chancellor and new president of the University of Texas
14 at Austin. The System will continue to provide monthly reports
15 to the committee's co-chairs and to the assigned members. The
16 assigned oversight members may revise the parameters of the
17 monthly report and request new reports from the System or
18 component institutions, including but not limited to requests
19 for information on the performance of the Board, individual
20 Regents, the System, or component institutions; information on
21 interactions between the Board, individual Regents, the System,
22 and component institutions; estimates of time expended by any
23 person and all costs for responses to information requests from
24 the Board or individual Regents; and descriptions of all
25 information transmitted to the Board or an individual regent
26 that involves or touches on the privacy rights of a student or
27 any other person within the System or a component institution

1 within the System, including information protected under federal
2 or state statutory or common law. The assigned members shall
3 inform the committee regarding their findings on a monthly
4 basis. Further, this matter will remain an agenda item for each
5 remaining meeting of the committee and representatives of the
6 Board and System will be asked by the committee to testify at
7 each of those meetings; and, be it further

8 RESOLVED, That the committee recommends that the cost of
9 the committee's investigation be imposed against the System and
10 that such recommendation be forwarded to the appropriate House
11 and Senate committees and to the Legislative Budget Board. In
12 assessing this cost, it is the intention of the committee that
13 the cost not be borne by the students or employees of the
14 System, not be passed on to any component institution, and not
15 affect in any way the quality of teaching, research, or student
16 life. It is the intention of the committee that these costs be
17 paid out of the operating funds of the System offices or the
18 Board; and, be it further

19 RESOLVED, That a written copy of this motion be forwarded
20 to the governor, the speaker of the house of representatives,
21 the lieutenant governor, the secretary of state, the Legislative
22 Reference Library, the Texas State Library and Archives
23 Commission, the presiding officer of the Board of Regents of The
24 University of Texas System, and Wallace L. Hall Jr. as the
25 official statement of admonishment and censure of Mr. Hall by
26 the committee.

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- ⁱ Tex. Gov't Code §§ 65.11, 65.31.
- ⁱⁱ UTS-098708 (Hardin Report exh. 130); UTS-103741 (Hardin Report exh. 143).
- ⁱⁱⁱ Frederick Testimony 130:16-131:9; 136:21-25.
- ^{iv} UTS-102861-67 (Hardin Report exh. 179); UTS-102859 (Hardin Report exh. 183); UTS-102857-58(Hardin Report exh. 186); UTS-103063 (Hardin Report exh. 190).
- ^v UTS-103063 (Hardin Report exh. 190).
- ^{vi} Cigarroa Testimony 96:2-97:19.
- ^{vii} Caven and Barnhill Testimony 27:2-30:17.
- ^{viii} UTAVP\RHA 000085 (Hardin Report exh. 43); UTAVP\RHA 000121-22 (Hardin Report exh. 58; UTAVP\RHA 000101 (Hardin Report exh. 53).
- ^{ix} E.g. UTAVP\RHA 000101 (Hardin Report exh. 53); UTAVP\RHA 000124-26 (Hardin Report exh. 59;) UTS-034425-28(Hardin Report exh. 92).
- ^x UTS-116795.
- ^{xi} *Id.*
- ^{xii} Frederick Testimony 37:20-39:6.
- ^{xiii} Frederick Testimony 95:10-16.
- ^{xiv} E.g., Caven and Barnhill Testimony 31:23-32:11, 33:1-21.
- ^{xv} UTS-0737-97 (Hardin Report exh. 83); see UTS-0238700-01 (Hardin Report exh. 89) (describing Hall's actions as "divisive" and an "abuse of power").
- ^{xvi} Frederick Testimony 46:4-50:5
- ^{xvii} *Id.*
- ^{xviii} *Id.*
- ^{xix} *Id.*
- ^{xx} *Id.*
- ^{xxi} Powers Testimony 236:18-23, Dec. 18, 2014 (estimating that the cost of responding to Mr. Hall's inquiries exceeded a million dollars).