

## COMMITTEE ON UNIVERSITY GOVERNANCE

Thursday, October 11, 2007

### Draft Minutes

The Committee on University Governance met Thursday, October 11, 2007, at 3:30 p.m. in Conference Room C of the General Administration Building. Committee members present included Mr. Bowden, Mr. Davis, Mr. Hayes, Dr. Locklear, Mr. Mercer, Dr. Roseman, Mrs. Sanders, and Chancellor Battle. Mr. Dixon and Dr. Key also attended. Chancellor Dubois was in attendance. Vice President Winner and Secretary Corgnati attended as staff.

### Approval of Minutes

Upon motion of Mr. Bowden and seconded by Mr. Mercer, the committee voted to approve the minutes of the September 6, 2007, meeting of the committee.

### Campus Liaison Assignments

Chairman Davis presented the campus liaison assignments for 2007-2008. See Appendix A.

### Discussion of Vacancies on Boards and Councils

The committee discussed vacancies on councils and boards of trustees.

There is a partial term ending June 30, 2009, on the Elizabeth City State University Board of Trustees. Action was deferred.

There is a second partial term ending June 30, 2009, on the Elizabeth City State University Board of Trustees. Action was deferred.

There is a term ending June 30, 2011, on the University of North Carolina at Charlotte Board of Trustees. Upon motion of Mr. Mercer and seconded by Dr. Locklear, the committee voted to elect Joe L. Price of Charlotte to serve on the UNC Charlotte Board of Trustees. A short biography is presented as Appendix B.

Committee on University Governance  
Thursday, October 11, 2007  
Minutes

Amendments to Policy 200.1, *Dual Memberships and Conflicts of Interest*

Vice President Winner presented the background regarding the proposed amendments to the policy regarding *Dual Memberships and Conflicts of Interest*. The effective change would be to eliminate the duplication between the Statement of Economic Interest required by the State Ethics Act and the Disclosure of Substantial Interests required by the policy. Upon motion of Mr. Hayes and seconded by Mr. Bowden, the committee voted to approve the proposed amendments. The proposed amendments will be presented to the Board of Governors for its consideration at the November meeting. See Appendix C.

Other Business

Chairman Davis discussed the importance of Board of Governors representation at the campus winter commencements and solicited participation by members of the committee.

Upon motion and duly seconded, the committee voted to adjourn.

**CAMPUS LIAISON ASSIGNMENTS**  
**COMMITTEE ON UNIVERSITY GOVERNANCE**  
**2007-08**

**R. STEVE BOWDEN**

- North Carolina A&T State University
- North Carolina Central University
- UNC Greensboro

**JOHN W. DAVIS III**

- Appalachian State University
- Western Carolina University
- NC Arboretum

**CHARLES A. HAYES**

- East Carolina University
- North Carolina State University
- North Carolina Center for the Advancement of Teaching

**CHERYL RANSOM LOCKLEAR**

- Fayetteville State University
- UNC Charlotte
- UNC Center for Public Television

**CHARLES H. MERCER, JR.**

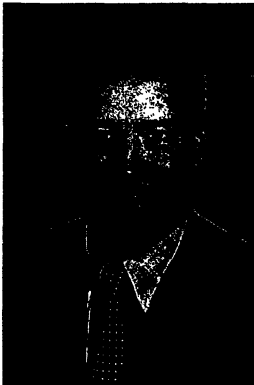
- North Carolina School of the Arts
- UNC Asheville
- UNC Chapel Hill
- Winston-Salem State University

**IRVIN A. ROSEMAN**

- UNC Pembroke
- UNC Wilmington
- UNC Press

**ESTELLE W. SANDERS**

- Elizabeth City State University
- North Carolina School of Science and Mathematics
- Pitt County Memorial Hospital



## **Joe L. Price**

### **Chief Financial Officer, Bank of America Corporation**

Joe Price is Chief Financial Officer for Bank of America and a member of the bank's Risk & Capital and Management Operating Committees. As CFO, he has responsibility for Finance, Corporate Treasury, Corporate Investments and Investor Relations.

Price previously was the Risk Management Executive for Global Corporate and Investment Banking, responsible for the management of the credit, market and operational risks associated with the commercial credit portfolio and trading products within GCIB.

In a former role, Price was a member of the Corporate Development team, identifying strategic opportunities for the company. He has also served as President of Bank of America's Consumer Finance Group, General Auditor for Bank of America, and held other risk management positions with the company.

Price joined Bank of America in 1993 after serving on the bank's engagement team at PriceWaterhouse. While at PriceWaterhouse, he was a member of the Financial Institutions National Industry Group specializing in banking and acquisitions and derivatives.

Price serves on the Habitat for Humanity of Charlotte Board of Directors. In addition, Price sits on the Advisory Board of the Belk School of Business at the University of North Carolina at Charlotte.

Price was born January 26, 1961. He earned a bachelor's degree in accounting from the University of North Carolina at Charlotte.

## 200.1 Part 5. Inappropriate Advantage Derived from Board Membership

- a. **Purpose:** It is of critical importance that decisions made on behalf of the University by its governors, trustees, chief executive officers, and chief finance officers be in the best interest of the University and not be influenced by any potential financial gain to the decision-makers. Furthermore, to assure public confidence in the integrity of the University, it is important that the University not appear to be influenced by the personal financial interests of those in decision-making positions. The purpose of this policy is assure public confidence in the integrity of the University by preventing members of the governing boards and chief executive and finance officers of the University from using their positions, or appearing to use their positions, to influence the decisions of the University for their personal financial gain while at the same time allowing the University to take advantage of contracts that are advantageous to the citizens of North Carolina and to the University and also avoiding having service to the University be so restrictive that persons with substantial financial interests will be reluctant to serve.
- b. **Definitions**

As used in this policy, the following terms have the following meanings:

- i. "Business entity" means ~~an individual, corporation, partnership, joint venture, not for profit corporation, any other entity doing business, or any wholly owned subsidiary of any such entity~~ a "business" as defined in GS §128A-3(2)<sup>1</sup> or a not for profit corporation.
- ii. "Person" means a member of the Board of Governors or of a Board of Trustees of a Constituent Institution, the President, the Vice President for Finance, a chancellor, or the chief finance officer of a constituent institution.
- iii. "Substantial interest" means any of the following:

<sup>1</sup> G.S. 138A-3(2) defines a "business" as, "Any of the following organized for profit:

- a. Association.
- b. Business trust.
- c. Corporation.
- d. Enterprise.
- e. Joint venture.
- f. Organization.
- g. Partnership.
- h. Proprietorship.
- i. Vested trust.
- j. Every other business interest, including ownership or use of land for income.

1. ownership by a person, or by the person's spouse or dependent child, collectively, including ownership as the beneficiary of a trust, of an interest of 10% or more in a business entity.

2. annual income, or expected annual income, by the person or by the person's spouse or dependent child, collectively, of more than \$10,000 from a business entity other than a publicly traded corporation.<sup>1</sup> Annual income includes earned income only if the person, or the person's spouse or dependent child, will receive a bonus, commission, or other payment in any amount directly as a result of a contract with or purchase by the University. Income does not include income from capital gains.

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1. service by the person or by the person's spouse or dependent child, as an officer, trustee, or director of a business entity. A "business with which associated" as that term is defined in GS § 138A-3(3)<sup>2</sup>, except that ownership of more than \$10,000 in a publicly traded corporation by itself is not a substantial interest; or

2. A "nonprofit corporation or organization with which associated" as that term is defined in G.S 138A-3(24)<sup>3</sup>, except that uncompensated service as a director, officer, or trustee of a not for profit corporation is not a substantial interest.

iv. "The University" as applied to members of the Board of Governors, the President, and the Vice President for Finance means the General Administration or any of the constituent institutions. "The University" as applied to members of the Boards of Trustees, a chancellor, or a chief

<sup>2</sup> G.S. §138A-3(3) Business with which associated. – A business in which the person or any member of the person's immediate family does any of the following:

a. Is an employee.

b. Holds a position as a director, officer, partner, proprietor, or member or manager of a limited liability company, irrespective of the amount of compensation received or the amount of the interest owned.

c. Owns a legal, equitable, or beneficial interest of ten thousand dollars (\$10,000) or more in the business or five percent (5%) of the business, whichever is less, other than as a trustee on a deed of trust.

For purposes of this subdivision, the term 'business' shall not include a widely held investment fund, including a mutual fund, regulated investment company, or pension or deferred compensation plan, if all of the following apply:

a. The person or a member of the person's immediate family neither exercises nor has the ability to exercise control over the financial interests held by the fund.

b. The fund is publicly traded, or the fund's assets are widely diversified.

<sup>3</sup> G.S. §138A-3(24). Nonprofit corporation or organization with which associated. – Any public or private enterprise, incorporated or otherwise, that is organized or operating in the State primarily for religious, charitable, scientific, literary, public health and safety, or educational purposes and of which the person or any member of the person's immediate family is a director, officer, governing board member, employee, or independent contractor as of December 31 of the preceding year.

finance officer of a constituent institution means the constituent institution on whose Board of Trustees the member serves or at which the chancellor or chief finance officer is employed.

**c. Requirements**

- i. ~~At the beginning of every fiscal year, each person must contemporaneously submit to the Vice President of Finance, a Disclosure of Substantial Interests, on a form provided by the Office of the President, to the University Vice President for Finance. The University Vice President for Finance will distribute necessary information from the relevant forms to the chief finance officer of each constituent institution each Statement of Economic Interests that the person files with the State Ethics Commission pursuant to G.S. S 138A-22. These disclosure statements as well as the information distributed by the Vice President for Finance are public records.~~
- ii. Whenever a person has actual knowledge that a business entity in which the person has a substantial interest is attempting or planning to enter, is entering, or has entered into a contract with the University, the person must report the nature of the person's substantial interest and the nature of the contract to the chief finance office of the institution that is or would be a party to the contract. If the person is a chief finance officer, then the chief finance officer must make this report to the chancellor or to the President of the institution that is or would be a party to the contract. Reports required by this paragraph shall be in writing and will be public records retained by the respective chief finance officers.
- iii. The University will not enter into a contract with a value of \$10,000 or more, or with expected payments of \$10,000 or more per year, with a business entity in which a person has a substantial interest, unless one of the exceptions in paragraph C (iv) applies. A person will not in any way
  1. participate in making a contract;
  2. attempt to cause or influence the University to make a contract, or
  3. attempt to influence the contract specifications or contracting process concerning a contract between a business entity in which the person has a substantial interest and the University.

The Vice President for Finance and the respective chief finance officers of the constituent institutions are responsible for determining whether the University is entering into a contract with a value of \$10,000 or more with a business entity in which a person has a substantial interest.

- iv. The restrictions ~~set out~~ on entering into a contract in paragraph c(iii) do not apply if the person with the substantial interest does not participate in making<sup>2</sup> or administering the contract and:
1. The contract results from a competitive sealed bid or a competitive request for proposals with specifications and criteria;
  2. The contract is for goods or services sold or provided to the general public at a uniform price or is for goods on state contract sold to state agencies at a uniform price, unless the contract is prohibited by state law;
  3. The contract is an employment contract with the dependent child or spouse of the President, the Vice President for Finance, a chancellor or chief finance officer or the dependent child of a member of the Board of Governors or a Board of Trustees and the employment is allowed under Section 300.4.2 of these policies;
  4. The contract is with a bank or a public utility; or
  5. The committee of the Board of Governors or of the relevant Board of Trustees designated pursuant to paragraph d(i) below finds that the contract is in the best interest of the University. Examples of when a contract might be in the best interest of the University include, but are not limited to, when it has financially advantageous terms, when the goods or services to be provided are demonstrated to be unique, or when the contract is a continuation of a contract that was in effect before the person with the substantial interest became affiliated with the University.
- v. If a person is an employee or agent of a business entity, the person shall not attempt to influence the University to enter into a contract with the business entity that employs or retains the person.
- vi. A person shall not attempt to influence the administration of or payments under a contract between the University and a business entity in which the person has a substantial interest or between the University and the person's employer.
- vii. No person shall disclose or use confidential information or information concerning economic development or technology research or development which the person received in his capacity as a board member or employee of the University for the person's financial gain.
- viii. No person shall accept a gift or favor from a business entity, or the principal in a business entity, which has entered into a contract with the University within the past year, who currently has a contract with the



University, or who intends to attempt to enter into a contract with the University if the person:

1. has or will prepare plans, specifications, criteria or estimates for the contract;
2. awards, approves, negotiates, or administers the contract; or
3. inspects or supervises the contract.

This paragraph does not prohibit the receipt of advertising items of nominal value, awards such as plaques or trophies, food served at professional meetings or banquets, or gifts from family members or personal friends when it is clear that the friendship extends beyond the business relationship.

- ix. A person shall not represent, as attorney, agent, or trustee, a third party who has an adverse relationship with the University. A person shall attempt to dissuade a firm or business entity in which the person has a substantial interest from engaging in representation adverse to the University.

**d. Procedures**

- i. The Chairman of the Board of Governors and each Chairman of a Board of Trustees shall designate a standing committee to determine whether a potential conflict is a permissible or impermissible activity and to make recommended findings as to whether this policy has been violated.
- ii. Potential conflicts:
  1. Any person who receives a report of a potential conflict shall forward that report to the chief finance officer of the institution that is or would be a party to the contract.
  2. If the person with the substantial interest claims or the chief finance officer believes that the contract is permissible pursuant to paragraph c(iv)(1), (2), (3), or (4) above, the determination of whether the contract is permissible or impermissible may be made by the respective President or chancellor, or the President or chancellor may request that the designated committee make the determination. Any determination by the President or a chancellor shall be in writing and shall be a public record. The President and the chancellors shall report to the designated committee on an annual basis the contracts each has approved pursuant to this subparagraph. In addition, each chancellor shall report to the President

on a quarterly basis the contracts the chancellor has approved pursuant to this subparagraph.

3. If the person claims that the contract is permissible pursuant to paragraph c(iv)(5) above, because the contract is in the best interest of the University, or if a chancellor or the President refers a conflict question to the committee, then the designated committee shall determine whether the proposed contract is a permissible or impermissible activity under this policy and shall enter its determination in the minutes of its proceedings.
4. If the person who has the potential conflict is a member of the designated committee, the person shall not participate in the deliberations of the committee, other than to present the relevant facts to the committee, and shall abstain from voting.

iii. Allegations of conflict

1. If any person or any Senior Academic or Administrative Officer becomes aware or alleges that a person covered by this policy has violated this policy, the person shall report the alleged violation to the chancellor or President of the institution that is or would be a party to the contract.
2. The person who receives the allegation shall forward the allegation:
  - a. to the designated committee of the Board of Trustees or of the Board of Governors if the person alleged to have violated this policy is a member of that Board;
  - b. to the designated committee of the Board of Governors if the President is alleged to have violated this policy;
  - c. to the President if the person alleged to have violated this policy is a chancellor or the Vice President for Finance; or
  - d. to the respective chancellor if the person is a chief finance officer of that constituent institution.
3. If the person alleged to have violated the policy is the President or a member of a Board of Governors or of the Board of Trustees, then the designated committee will determine whether or not the policy has been violated. The chairperson of the designated committee will designate an individual to investigate the allegations and to make a report to the committee. After considering the report of the investigation and any response by the person alleged to have violated the policy, the committee shall

make a determination as to whether the policy has been violated and, if so, a recommendation as to the appropriate sanction to the respective Board of Trustees or Board of Governors. The Board of Trustees or Board of Governors shall vote to affirm, reject, or modify the recommendation.

4. If the person who has the potential conflict is a member of the designated committee, the person shall not participate in the deliberations of the committee, other than to present the relevant facts and arguments to the committee on his own behalf, and shall abstain from voting.
  5. A Board of Governors member, Board of Trustees member, or President who is alleged to have violated this policy is entitled to receive notice of the allegation, to be present to hear the report presented to the designated committee, and to inform the committee of any facts or arguments that demonstrate that he or she did not violate the policy.
  6. If the Vice President for Finance, a chief finance officer or a chancellor is alleged to have violated this policy, that allegation will be investigated and acted upon in accordance with the procedures for disciplining, demoting, dismissing, or terminating the contract of employees of that position.
- iv. The President will present this policy annually to the Board of Governors and will present it to new members at the beginning of their service. The chancellors will present this policy annually to their respective Boards of Trustees and will present it to new members at the beginning of their service.

**e. Sanctions**

- i. If the Board of Governors or a Board of Trustees finds that one of its members has violated this policy, the Board may take one or more of the following actions:
  1. Reprimand or censure the member;
  2. Remove the person from any Board office the person holds or from any committee chairmanship or assignment; and
  3. Report the violation to the entity that appointed the member.
- ii. If the Board of Governors finds that the President has violated this policy, the Board of Governors may discipline, demote or dismiss the President, as it deems appropriate.

- iii. If the President finds that the Vice President for Finance has violated this policy, the President may discipline, demote, or dismiss the Vice President, and shall report the violation and the action taken by the President to the Board of Governors.
- iv. If the President finds that a chancellor has violated this policy, the President may discipline the chancellor and report the action taken to the Board of Governors and the relevant Board of Trustees, or the President may recommend to the Board of Governors that the employment of the chancellor be terminated and that the chancellor be demoted or dismissed.
- v. If a chancellor finds that a chief finance officer has violated this policy, the chancellor may discipline, demote or dismiss the chief finance officer and shall report the violation and the action taken to the President and the Board of Trustees.
- vi. Pursuant to North Carolina law, any contract between the University and an entity in which a person has a substantial interest which was entered into in violation of state laws governing conflicts of interest is void.

The provisions of Section 5 are effective July 1, 2001. Initial disclosure forms will be filed on or before October 1, 2001. The provisions of paragraph c(iii) will apply to all contracts entered into after January 1, 2002. The Statement of Economic Interest replaces all disclosure forms due to be filed on or after July 1, 2007; the initial Statement of Economic Interest for people employed or in office on January 1, 2008, must be submitted to the Vice President for Finance by April 15, 2008.