

The Education Trust Board of New Mexico

THE HONORABLE MICHELLE LUJAN GRISHAM
GOVERNOR OF NEW MEXICO

DR. KATE O'NEILL, CABINET SECRETARY
NEW MEXICO HIGHER EDUCATION DEPARTMENT



APPROVED

*Board Secretary
Vera Lyons
8/1/19*

Meeting Minutes of July 12, 2019

1516 Paseo de Peralta, Santa Fe, New Mexico 87501

BOARD MEMBERS
SANDRA LIGGETT, CHAIR
ROBERT J. DESIDERIO, VICE-CHAIR
DR. JOSE Z. GARCIA
DAVID JANSEN
MARK JARMIE

EXECUTIVE DIRECTOR
THEODORE MILLER

Board Members in Attendance

Dr. Jose Garcia – Member (by telephone)
Mark Jarmie – Member (by telephone)
David Jansen – Member (by telephone)

Other Individuals in Attendance

Theodore Miller -- Executive Director ETB
Vera Lyons – Secretary
Helen Atkeson – Hogan Lovells (by telephone)
Kurt Sommer – Sommer, Udall (by telephone)
Kay Ceserani – Meketa Group (by telephone)
Eric White – Meketa Group (by telephone)

1) CALL TO ORDER

Mark Jarmie called the meeting to order at 10:00 AM. The role was called and three out of five Board members were present. A quorum existed.

2) APPROVAL OF AGENDA

Mark Jarmie turned to the agenda and asked if there was any discussion. There being no discussion he called for a motion to approve the agenda. Mr. Jansen so moved. Dr. Garcia seconded the motion. All present voted to approve the agenda as presented to the meeting.

3) PUBLIC COMMENT

Mark Jarmie asked if there were any public comments. There were no public comments.

4) HOGAN LOVELLS CONTRACT AMENDMENT

Mark Jarmie turned it over to Mr. Miller for discussion. He noted that the board approved in early May an increase in the contract amount. Helen and Ted estimated an additional \$60,000 for the remainder of the fiscal year. This added compensation was approved at the May 2nd meeting. The May invoice was received from HoganLovells in mid-June and it revealed that more than \$50,000 of legal expense had been incurred in May. The compensation balance remaining would cover the expenses through June 3rd. At the June 18th meeting the board approved another \$60,000 compensation under the contract. That amendment was approved by DFA on June 19th. Under the usual contract rules the board would not be able to pay for expenses incurred from June 4th thru June 18th. Mr. Miller explained the situation to DFA, and asked if there was any way Hogan Lovells could be paid for that time. DFA claimed that no compensation could be given for the work done from June 4th to June 18th. DFA requested that Ted apply to the State Purchasing Agent for a determination letter as to whether or not there was a procurement code violation. He noted that staff consulted our CPA, and they believe no procurement code violation occurred because the board did not pay for the work during the time that funds were not available. Hogan Lovells revised its invoice to remove the charges for work done from June 4 through June 18. As Mr. Miller was discussing this matter with the board, he received written confirmation from the State Purchasing Agent that in fact no procurement code violation had occurred.

Mr. Sommer noted that he thought a procurement code exception may exist that would permit HoganLovells to be paid the foregone compensation. He stated that he would review the matter, and advise the board of his findings.

5) PROPOSAL TO REPLACE OPPENHEIMER INSTITUTIONAL GOVERNMENT MONEY MARKET FUND

Mr. Jarmie then asked Mr. Werner to discuss the matter of the removal of the Oppenheimer Institutional Government Money Market Fund and its replacement with the Invesco Short Term Government and Agency Fund. Mr. Werner noted that the reason for the removal and substitution is that the OppenheimerFunds mutual fund was being closed effective August 12, 2019. A replacement was needed. Mr. Werner noted that several funds had been reviewed as substitutes. The Vanguard Institutional Money Market Fund was a first choice but the fund manager did not want to accept the over \$200 million that would be moved into the fund for only a few months prior to the conversion to a new program manager and investment line up for the 529 program. He noted that the performance of the Invesco fund was comparable to the OppenheimerFunds fund, and that its fee was one basis point less. Meketa Group consultants agreed with the recommendation from Mr. Werner. At this point Dr. Garcia lost his phone signal. He was not able to reestablish it for the remainder of the meeting. NM counsel was asked if the vote could be taken and the meeting continue. He stated that it could. Mr. Jarmie called for a motion to approve the removal and replacement of funds as described in the presentation. Mr. Jansen so moved. Mr. Jarmie seconded the motion. The vote to approve the motion was unanimous.

6) ADJOURNMENT

Mark Jarmie called for a motion to adjourn. Mr. Jansen so moved. The motion was seconded by Mr. Jarmie. The vote to adjourn was unanimous. The meeting adjourned at 10:38 AM.