

# The Education Trust Board of New Mexico

THE HONORABLE SUSANA MARTINEZ  
GOVERNOR OF NEW MEXICO

DR. JOSÉ Z. GARCIA, CABINET SECRETARY  
NEW MEXICO HIGHER EDUCATION DEPARTMENT



BOARD MEMBERS  
DR. JOSÉ Z. GARCIA, CHAIRMAN  
ROBERT J. DESIDERIO, VICE-CHAIR  
ROBBIE HEYMAN, ESQ.  
TREVOR SERRAO

## Meeting Minutes of December 5, 2012, 2:00 p.m.

New Mexico Higher Education Department  
5201 Eagle Rock NE, Suite 1A  
Albuquerque NM 87113

### Board Members in Attendance

Dr. José Garcia, Chair  
Robert Desiderio, Vice-Chair  
Trevor Serrao, Student Member (Absent)  
Robbie Heyman, Member (By Phone)

**APPROVED**

### Other Individuals in Attendance

Kevin Deiters - Executive Director  
Angela Gallegos - Board Secretary  
David Mathews – HED Attorney  
Helen Atkeson - Partner – Hogan Lovells  
Ross Burkstaller – OppenheimerFunds  
Ken Henry - OppenheimerFunds  
Jeremy Thiessen – Pension Consulting Alliance  
Javier Machuca, REDW, LLC  
Alan Demir – CPA, REDW, LLC  
John Boyd, Partner – Freedman Boyd  
Rocky Granahan – OppenheimerFunds  
Bill Raynor - OppenheimerFunds  
Kristina Martinez, Rothstein Law Firm  
Yvonne Gonzales - Court Reporter

### AGENDA

#### 1) CALL TO ORDER

Chairman Garcia called the meeting to order at 2:20 p.m. Board Secretary Angela Gallegos called the roll and announced that three of four members were present and that a quorum existed.

#### 2) PUBLIC COMMENT

Chairman Garcia called for public comment. There was no public comment.

Chairman Garcia advised the Board of his intention of completing the meeting by 4:30 and he will call upon our auditors to give their report under Agenda Item 6 before moving into executive session under Agenda Items 5 and 7.

**3) APPROVAL OF AGENDA**

Mr. Desiderio made a motion to approve the agenda. Mr. Heyman seconded the motion. The agenda was approved unanimously.

**4) MEETING MINUTES OF August 15, 2012**

Mr. Desiderio made a motion to adopt the minutes of August 15, 2012. Mr. Heyman seconded the motion. The minutes of August 15, 2012, were approved unanimously.

**5) EXECUTIVE SESSION**

These two agenda items (5 & 6) were combined after Agenda Item 6

**6) FINANCIAL AUDIT UPDATE – Javier Machuca, REDW, LLC**

Chairman Garcia called upon Javier Machuca to update the Board on the FY 2011 and FY 2012 audits.

Mr. Machuca provided an update on the FY 2011 and FY 2012 audits. He informed the Board that the State Auditor approved the FY 2011 audit and that he had authority to print the report. Mr. Machuca advised that he would provide printed copies to the executive director.

Mr. Machuca advised the Board that his firm was on schedule to complete the 2012 financial report and that he had scheduled an exit conference with Dr. Garcia and Mr. Deiters for December 10.

**7) EXECUTIVE SESSION – discuss program financial audits and program litigation**

Mr. Desiderio made a motion for the Board to go into Executive Session to discuss the financial audit and program litigation. The motion was seconded by Mr. Heyman. A roll call vote was taken and three members voted to adjourn to closed session at 2:28 p.m.

Chairman Garcia announced that the Board had returned to open session at 3:23 p.m. and that no action was taken in Executive Session.

**8) OUTSIDE COUNSEL REPORT – Helen Atkeson, Hogan Lovells**

Chairman Garcia called upon Helen Atkeson for the outside counsel's report.

Ms. Atkeson provided an overview of her written report.

Ms. Atkeson advised the Board that Mr. Deiters requested her firm conduct a trademark review of the names and logos associated with the college savings plans to determine if they were properly registered in the Board's name and current in registration.

Ms. Atkeson advised the Board that the trademarks were registered in a prior manager's name and their registrations had lapsed and her firm had filed the necessary documents to register the names and logos in

the Board's name. Ms. Atkinson will work with Mr. Deiters to implement a procedure for maintaining these marks once they are registered.

Ms. Atkeson reported that she is working with Oppenheimer and their counsel to produce updated plan descriptions and marketing materials prior to the implementation of new fund offerings in mid-December.

Ms. Atkeson also advised the Board that she conducted a review of the Board's enabling statute and administrative code and that she will have recommendations for amendments when needed.

**9) PROGRAM MANGER REPORT**

**a. Marketing Report – Ross Burkstaller, OFIPI**

Chairman Garcia called on Mr. Burkstaller to make the Marketing Report.

Chairman Garcia announced to the Board that Ross is leaving OppenheimerFunds at the end of the month. Chairman Garcia thanked him for his work on behalf of the program. Mr. Heyman and Mr. Desiderio also thanked Mr. Burkstaller for his service.

Mr. Burkstaller summarized account and marketing information in the *OFI Private Investments – New Mexico 529 Quarterly Report for the Period Ending September 30, 2012*.

**b. Quarterly Investment Performance Report – Ken Henry, OFIPI**

Mr. Ken Henry of Oppenheimer Funds provided the Board with a summary of the *OFI Private Investments – The Education Plan & Scholar's Edge Quarterly Report for the Period Ending September 30, 2012*.

Mr. Henry directed the Board's attention to page 39 of the report to explain third quarter portfolios performance. He stated the equity markets were very strong during the quarter and the domestic U.S. equities were up 6% or more across all the indices. The international indices were up around 7%., emerging markets up almost 8%. Mr. Henry gave a summary of the three active funds currently in the direct-sold blended portfolio and index fund portfolio.

Mr. Henry briefed the Board on the advisor sold plans, informing the Board that 9 out of the 12 funds in the active funds outperformed for the quarter.

**10) SCHOLAR'S EDGE INVESTMENT OPTIONS - discussion and possible action - Jeremy Thiessen, Pension Consulting Alliance, Inc. and Ken Henry - OFIPI**

Chairman Garcia called on Messrs. Henry and Thiessen to report on the proposal to provide additional investment options to investment advisors in the Scholar's Edge plan.

Mr. Henry provided an overview of his report entitled Scholar's Edge 2.0 dated December 5, 2012. He explained that Oppenheimer was proposing to add 16 single-fund portfolios to Scholar's Edge. This would provide investment advisors with additional fund options for building customized asset allocations for their clients. If the proposal is adopted, investors would have 24 funds to choose from in the creation of customized portfolios starting in the second quarter of 2013.

Chairman Garcia questioned Mr. Henry regarding the success of custom made portfolios. Mr. Henry explained that there have not been any custom-built portfolios built using the proposed asset-classes; however, he stressed that the intent was to allow financial advisors to build specific portfolios for their clients.

Mr. Thiessen responded that the investment community continues to argue about asset allocation and that some advisors believe you are better off staying with an allocation of 60% equities and 40% fixed income. Having said that, Mr. Thiessen pointed out that an investment advisor must first assess the risk tolerance of their client and then determine the available options. For some clients, the traditional 60-40 allocation would not be appropriate.

Mr. Deiters asked Mr. Henry if the customized portfolios would be clearly branded so an account owner would know that his/her investment advisor had established the asset allocation. Mr. Desiderio followed by asking about any disclaimers that might be included.

Ms. Rocky Granahan, Senior Vice President, OFI Institutional, responded that the investment options would be disclosed in the plan document that is provided to the client before an investment is made.

Mr. Thiessen provided the Board with an overview of his December 3, 2012, report on the proposed "Portfolio Allocator" Option that included his recommendation that the Board accept Oppenheimer's proposal.

PCA reviewed each of the proposed underlying funds and found no immediate performance concerns; however, they did find some mixed relative performance for some of the funds where performance was below the benchmark. Mr. Thiessen pointed out that even though some of the funds have trailed their benchmarks that when an advisor constructs a portfolio that the risk profile of the portfolio changes even if one is trailing and one is outperforming.

Chairman Garcia called for a motion to accept the recommendations of the program manager to expand the Scholar'Edge program with the funds identified on Page 5 of the report entitled "Scholar'sEdge 2.0."

Mr. Heyman moved to adopt the recommendations of the program manager to expand the Scholar'Edge program with the funds identified on Page 5 of the report entitled "Scholar'sEdge 2.0." The motion was seconded by Mr. Desiderio. The motion was approved unanimously.

#### **11) INVESTMENT CONSULTANT QUARTERLY REVIEW – Jeremy Thiessen, Pension Consulting Alliance, Inc.**

Chairman Garcia called on Mr. Thiessen to give his review of investment performance for the quarter ending September 30, 2012.

Mr. Thiessen stated in the interest of time, he would not go through all the market overview being that it was encapsulated in Ken's discussion. He proceeded to report on the watch memo.

12) **WATCH LIST** - discussion and possible action – Jeremy Thiessen, Pension Consulting Alliance, Inc.

Mr. Thiessen provided the Board with an overview of his *"Watch Status" Update* memorandum dated November 20, 2012. He recommended the Board add the MainStay Map Fund to the Watch List because of negative performance over the medium term. Mr. Thiessen also recommended the Board maintain the Capital Appreciation Fund, INVESCO Mid Cap Core Fund, and Oppenheimer Value Fund on the Watch List.

Chairman Garcia called for a motion to adopt the investment consultant's recommendation to add the MainStay Map Fund to the Watch List.

Mr. Desiderio moved to adopt the recommendation of the Board's investment consultant to add MainStay Map Fund to the Watch List. The motion was seconded by Mr. Heyman. The motion was approved unanimously.

13) **EXECUTIVE DIRECTOR'S REPORT** – Kevin Deiters, Executive Director

Chairman Garcia called on Kevin Deiters to provide the Executive Director's report.

Mr. Deiters summarized his *Executive Director's Report* of December 5, 2012 that detailed administrative expenses, reserve funds, fee revenues, and Core Bond Fund settlement distributions.

Mr. Deiters advised the Board that the final Core Bond Fund distributions were made on October 12.

Mr. Deiters concluded his report by stating that the Board received \$75,000 from Oppenheimer Funds pursuant to their indemnification agreement.

14) **ADJOURNMENT**

Mr. Desiderio made a motion to adjourn the meeting. Mr. Heyman seconded the motion. The motion was approved unanimously.

Chairman Garcia adjourned the meeting at 4:41 p.m.

*Approved by Education Trust Board*

*March 21*, 2013 Meeting

*Angela M. Gallegos*  
Angela M. Gallegos, Board Secretary