

**Minutes of a Special Called Meeting  
Eastern Kentucky University  
Board of Regents**

**June 23, 2023**

**10:00 a.m.**

**Via Video Teleconference**

**Public Viewing Link: <https://epresence.eku.edu/bor-meeting>**

**I. Call to Order**

A special called meeting of the Eastern Kentucky University Board of Regents convened on June 23, 2023, at 10:01 a.m. via Video Teleconference.

**Present**

Mr. Mike Eaves  
Ms. Laura Babbage  
Mr. Juan Castro  
Mr. Alan Long  
Dr. Jason Marion  
Mr. Edwin Orange  
Ms. Lynn Taylor Tye  
Mr. Ashley Ward

**Absent**

Mr. Jeremiah Duerson  
Ms. Paige Murphy

**II. Executive Session**

Chair Eaves indicated that one of the purposes of the meeting was to discuss pending litigation both by and against the university pursuant to KRS 61.810(1)(c). The Chair entertained a motion pursuant to KRS 61.815 to adjourn to closed session. A motion was made by Regent Tye. The motion was seconded by Regent Castro. The motion passed unanimously by voice vote.

*[The Chair adjourned for Executive Session at 10:02 a.m. The meeting reconvened at 10:35 a.m.]*

Chair Eaves entertained a motion to return to order following closed session with no action being taken. A motion was made by Regent Orange. The motion was seconded by Regent Castro. The motion passed unanimously by voice vote.

### **III. Action Items**

#### **A. Discussion and/or Action on *Ohio Valley Conference v. Eastern Kentucky University***

Chair Eaves gave the floor to President McFaddin for comments regarding pending litigation.

The President explained that in early 2021 EKU made the strategic decision to elevate the profile of the institution and position EKU in a competitive and growing area of the United States by placing it in a situation where the university could recruit student-athletes in that growing area. That focus led EKU to leave the Ohio Valley Conference and join the ASUN Conference, a competitive, athletic conference with a large footprint in that large growing area of the country.

Upon EKU's exit from the OVC, a conference that EKU founded nearly 75 years prior, the OVC demanded EKU pay an exit penalty of one million dollars to leave the conference that the institution established.

He indicated that as a public agency with a fiduciary responsibility to ensure proper spending of public funds, his administration and the board stood by their decision not to pay an exit penalty, believing at that time that it was not legally binding. As a result, EKU did not pay the money to the OVC immediately upon demand. That decision resulted in the OVC suing EKU in August of 2021, and EKU filing a countersuit in its claims and a portion of the value of the conference that the university created, and a nearly two-year legal process ensued.

As the case continued, in April of this year, 48<sup>th</sup> Judicial Circuit Judge Shepherd, ordered EKU and the OVC to confer about amicably resolving the dispute, and as a result of those discussions, the President presented the board with a settlement agreement that allows both EKU and the OVC to move forward to brighter days.

President McFaddin continued explaining that the board has had meaningful opportunities to hear about the litigation in multiple phases and to review the agreement brought before them. Upon the recommendation of Counsel, the order of the court, and with the full support of his administration, he respectfully requested that the board approve the settlement agreement for a total sum of \$750,000 to be funded through existing athletics revenues.

Referencing the document the board reviewed and had before them, Chair Eaves called for a motion concerning the settlement agreement. A motion was made by Regent Long to accept the President's recommendation and enter into the settlement agreement. The motion was seconded by Regent Tye. The motion passed unanimously by a roll-call vote.

Chair Eaves referred to University Counsel, Dana Fohl regarding whether an effort would be made to finalize this agreement that day, and she expressed that with the board's approval, Counsel will work to effectuate the signatures on the agreement both at ECU, and leadership at the OVC. Upon doing that, they will work with Barry Poynter and his finance team to effectuate the same-day wire.

#### **B. Discussion and/or Action on Approval of ECU Manchester Campus Endowed Fund**

Chair Eaves gave the floor to President McFaddin who expressed that the university was very fortunate in the last legislative session to have earmarked funds put in the budget that would come to Eastern Kentucky University to support the work that goes on at the Clay County Manchester Campus with these particular funds providing scholarship and funding opportunities there on that campus. Part of that legislation requires an annual certification and acknowledgment from the board to allow the university to accept those funds. He sought the board's approval for the institution to accept those funds and administer them accordingly.

A motion was made by Regent Babbage. The motion was seconded by Regent Orange. The motion passed unanimously by voice vote.

#### **V. Adjournment**

There being no further business, Chair Eaves asked for a motion to adjourn the meeting. A motion was made by Regent Tye. The motion was seconded by Regent Castro. The motion passed unanimously by voice vote. Chair Eaves adjourned the meeting at 10:42 a.m.



Jeremiah Duerson, Board Secretary



Date