

**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 ECU made the strategic decision to elevate the profile of the institution and position ECU 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 ECU 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 ECU's exit from the OVC, a conference that ECU founded nearly 75 years prior, the OVC demanded ECU 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, ECU did not pay the money to the OVC immediately upon demand. That decision resulted in the OVC suing ECU in August of 2021, and ECU 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, 48th Judicial Circuit Judge Shepherd, ordered ECU 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 ECU 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