

# WILLIAM E. POWELL & CO., INC.

March 17, 2015

Dear Texas Senate Higher Education Committee:

I am writing to offer my strong opposition to SB 177. This legislation adds unneeded language to the existing TEC language found in Chapter 65:31 from 1971. The existing TEC language fully, adequately and clearly lays out the regents responsibilities to the citizens of Texas for whom the University of Texas System exist.

I am also strongly opposed to the bill's lightly veiled attempt to restrict individual regents from asking questions, delving into the operations of the institutions that they manage, reading files and looking at significant amounts of data from the institutions that the individual regents have sworn an oath to the State to operate, manage and support.

Many higher education researchers in America believe that one of the major problems with higher education today is trustees and regents who are not deeply involved, fiduciaries who do not ask a lot of questions and who are not deeply interested in the management of the institutions of higher education that they serve. Some experts actually refer to this lack of involvement as "trustee malpractice." Painful examples of this lack of involvement by trustees and regents are the recent scandals at such prestigious institutions as Penn State, Rutgers, University of Illinois, University of North Carolina Chapel Hill and Duke.

As Chairman of the Board of Regents of the UT System from February 2011 until August 2013 and then as Vice Chairman of the same Board from August 2013 until March 11, 2015 I had a front row opportunity to observe the significant benefits of regents who were deeply committed to upholding their oath, fulfilling their commitment to the state and fulfilling their fiduciary responsibilities to the students, parents and citizens of Texas. During this period the regents asked many tough questions, read and analyzed numerous files and emails and analyzed reams of data. They made this effort to fulfill their commitment to be sufficiently knowledgeable about the institutions they agreed to operate, manage and support.

Students, parents, chancellors and university presidents across America would greatly benefit from regents and trustees who are engaged, ask many questions, offer excellent advice and work tirelessly in the pursuit of excellence at all institutions of higher education.

The dedicated regents at the UT System who have been working so hard for the past four years brought numerous questionable situations to the attention of the Chairman, the Chancellor and the Board. Several of these situations had been ongoing for several years but had never been known to the previous Chancellors or Boards. During their reading of files, documents and emails the regents brought to the attention of the System leadership situations that eventually led to the following discoveries by the Chancellor and the Board:

1. The secret awarding of \$6.5 million in deferred compensation and forgivable loans to select members of the UT Law School faculty by the University of Texas Law School Foundation. This situation had been ongoing since 2003 but was unknown to the Chancellor or the Board until December of 2011. It was an individual regent that did the reading and research necessary for the Board to turn this disturbing situation over to the Attorney General.

2. The operation at the University of Texas at Austin of two separate admission programs – one public and one secret. And after the secret meeting all the documents were shredded. And this investigation led to the revelation that leadership at UT Austin mislead the UT System General Counsel during an earlier inquiry into admission practices at UT Austin and the UT Austin Law School.
3. The awarding of millions of dollars in vendor contracts by UT institutions without the use of public bids. These contracts were secured and awarded by using sole source, state pre-approved suppliers, vendors and contractors. The regent that first discovered this situation in files he was reading first alerted the UT System to the potential problem in 2012 and 2013. Individual regents found these problems far in advance of the discovery of these same kind of problems at HHS in late 2014 and early 2015.
4. The fact that a high profile, popular and high ranking staff member at one institution had an inappropriate sexual encounter with an undergraduate student at the same institution. And the direct supervisor of this staff member and the leadership of the institution reprimanded the staff member and put a letter in the staff member's file but did not advise the Chancellor or the Chairman of this situation. This situation only came to light when a tough question was asked of the institution by an individual regent.

In addition to the incidents listed above there are numerous other situations and incidents of mismanagement or inappropriate activity that would never have come to the attention of the Chancellor, Chairman or Board of Regents without the hard work, dedication and commitment of the dedicated, hardworking and committed individual regents.

I might further point out that the governors of this state have by and large over the years appointed well educated, creative and highly successful men and women to the positions on the Board of Regents. These men and women serve six year terms with no pay and with their only goals being to improve, enhance and protect the medical institutions and academic institutions under their management at the UT System. These board members are on the ground working with the Chancellor and the individual institutions on a daily basis. As a result it would be wise and prudent of the legislature to rely on these successful, talented and resourceful individuals to bring their hard earned expertise to bear upon the operation and management of the fifteen University of Texas institutions.

Rather than writing legislation that adds unnecessary governance language, attempts to tighten restrictions on regents and attempts to restrict a regent's ability to educate himself or herself about the inner workings and management of the various institutions I propose that the Legislature should be **applauding and encouraging regents** to work harder, to be more involved, be more engaged, to study more and to ask more questions of the institutions they have been "authorized and directed to govern, operate, support and maintain..." Texas Education Code Section 65.31 GENERAL POWERS AND DUTIES OF THE BOARD.

Thank you for giving me this opportunity to express my opposition to SB 177.



Wm. Eugene Powell

Chairman, University of Texas Board of Regents, February 2011 thru August 2013  
 Vice Chairman, University of Texas Board of Regents, August 2013 thru March 11, 2015  
 Board of Regents member February 2009 thru March 11, 2015