



TEXAS HOUSE OF REPRESENTATIVES TREY MARTINEZ FISCHER

STATE REPRESENTATIVE, DISTRICT 116 – Bexar County

Chairman:
Mexican American Legislative Caucus

Member:
House Committee on Natural Resources;
House Committee on Ways & Means;
Select Committee on Transparency
in State Agency Operations

October 31, 2013

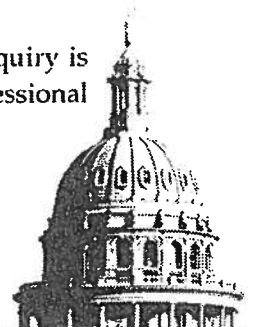
Mr. Rusty Hardin
Rusty Hardin & Associates, LLP
5 Houston Center
1401 McKinney, Suite 2250
Houston, Texas 77010

Dear Mr. Hardin,

Given recent events, I have two requests for witness testimony for the upcoming November 12th & 13th hearings. First, I strongly urge that a subject matter expert testify about the presence or lack of any testimonial privileges that have been or may be asserted by witnesses before the Committee. Secondly, I am requesting a separate resource witness to discuss forensic examination of Regent Wallace Hall's or other regents' personal computers, iPads, smart phones, or other relevant devices for electronic communications responsive to the Committee's requests. These witnesses can be heard in executive session or in public. But, the necessity for this information is apparent.

In August, University of Texas System ("UT System" or "the System") officials, staff members from the office of the Speaker, and I met to discuss the System's open record policy. At this meeting, Francie Frederick, general counsel to the Board of Regents, stated that no current regents used a UT System email address for regental business. In addition, Ms. Frederick stated that regents were on their honor to comply with open records requests when reviewing their own personal or professional emails for responsive records. She also stated that UT System staff does not perform searches on the regents' personal email systems to ensure compliance with the law. At our recent hearing, witness testimony independently confirmed these facts. Just a few days ago, Chairman Foster made comments acknowledging the potential problems with the current Board of Regent's process for complying with open records requests and made several policy recommendations to alleviate these concerns. Most importantly, this Committee has information that sheds doubt as to whether or not all regents are following the law by producing every document in their possession.

In short, this Committee must be assured that every document responsive to our inquiry is produced. Therefore, we must consider forensic examination of the personal or professional electronic communications of the regents in order to ensure compliance with the law.



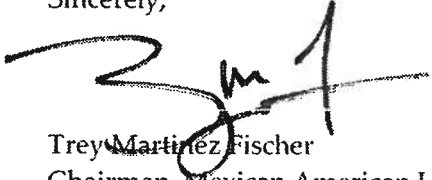
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This Committee must be informed of all the options it has at its disposal in order to ensure the proper and full production of necessary information. If you have any questions about this or any other matter, please contact me at 512.463.0616.

Sincerely,

A handwritten signature in black ink, appearing to read 'Trey M. Fischer', with a large, stylized flourish extending to the right.

Trey Martinez Fischer

Chairman, Mexican American Legislative Caucus

State Representative, HD 116

cc: The Honorable Joe Straus, Speaker of the Texas House of Representatives;
Mr. Jesse Ancira, Chief of Staff to the Speaker;
Mr. Frank Battle, General Counsel & House Ethics Advisor;
Ms. Patricia Shipton, Strategic Legislative Advisor;
Members of the Select Committee on Transparency in State Agency Operations.