

SPECIAL MEETING

BOARD OF REGENTS NEVADA SYSTEM OF HIGHER EDUCATION System Administration, Las Vegas 4300 South Maryland Parkway, Board Room Thursday, May 12, 2016

Video Conference Connection from the Meeting Site to:
System Administration, Reno
2601 Enterprise Road, Conference Room
and
Great Basin College, Elko
1500 College Parkway, Berg Hall Conference Room

Members Present:

Mr. Rick Trachok, Chairman
Mr. Michael B. Wixom, Vice Chairman
Dr. Andrea Anderson
Mr. Cedric Crear (*via telephone*)
Mr. Robert Davidson (*via telephone*)
Dr. Mark W. Doubrava
Dr. Jason Geddes
Mr. Trevor Hayes
Mr. James Dean Leavitt
Mr. Sam Lieberman
Mr. Kevin C. Melcher
Mr. Kevin J. Page
Ms. Allison Stephens

Others Present:

Mr. Daniel J. Klaich, Chancellor
Ms. Crystal Abba, Vice Chancellor, Academic and Student Affairs
Dr. Constance Brooks, Vice Chancellor, Government and Community Affairs
Ms. Brooke A. Nielsen, Vice Chancellor, Legal Affairs
Mr. Vic Redding, Vice Chancellor, Finance
Dr. Marcia Turner, Vice Chancellor, Health Sciences
Mr. Nicholas Vaskov, System Counsel and Director, Real Estate Planning
Mr. Frank Woodbeck, Executive Director, Nevada College Collaborative
Ms. Christine Casey, Senior Director, Human Resources
Mr. Dean J. Gould, Chief of Staff and Special Counsel to the Board of Regents
Dr. J. Kyle Dalpe, President, TMCC
Dr. Marc Johnson, President, UNR
Mr. Chet Burton, President, WNC

Faculty senate chair in attendance was Dr. Camille Naaktgeboren, CSN. Student body presidents in attendance were Ms. Desiree DeCosta, NSSA President, NSC; Mr. Carlos Fernandez, CSUN President, UNLV; and Mr. Brandon Boone, ASUN President, UNR.

Chairman Rick Trachok called the meeting to order at 9:01 a.m. with all members present except Regent Doubrava. Regent Stephens led the Pledge of Allegiance.

1. Information Only – Public Comment –

Regent Doubrava entered the meeting.

Former Regent Robert Blakely, Ms. Hannah Brown and Mr. Umram Osambela spoke in support of Chancellor Daniel J. Klaich.

Mr. William Horne, former Nevada Assembly Majority Leader, spoke in favor of replacing the Chancellor before the upcoming legislative session.

CSUN Student Body President Carlos Fernandez, CSUN Student Body Vice President Ryan Romero, and NSSA Student Body President Desiree DeCosta introduced themselves and stated they looked forward to working with the Board in the upcoming year.

Nevada Faculty Alliance Director David Steel stated there is a widespread concern by faculty that the next Chancellor be someone who understands faculty issues.

Mr. Walter Seip, candidate for Nevada Assembly, stated it is concerning to hear there are some who want to eliminate the Department of Education and asked the Board of Regents to be very proactive in their work.

2. Action Taken – Review of NSHE's Participation in Development of a New Funding Formula for Higher Education – The Board approved Chancellor Daniel J. Klaich's retirement agreement as presented. (*Ref. BOR-2a, Ref. BOR-2b and Handouts BoR-2a, BoR-2b, BoR-2c, BoR-2d and BoR-2e on file in the Board Office.*)

Chancellor Klaich stated he has spent the last 30 years working on behalf of the Nevada System of Higher Education (NSHE) and has always advocated passionately, honestly and fairly for the best interest of the System and state.

Chancellor Klaich reviewed Handout BoR-2d, Written Statement of Chancellor Daniel J. Klaich, including the following:

- NSHE's participation in the legislative Interim Study.
- The process followed by the Chancellor to develop a funding formula proposal.
- The hiring of NCHEMS as a consultant.
- Disclosure of the relationship between NCHEMS and NSHE.

Regent Page left the meeting.

2. Action Taken – Review of NSHE’s Participation in Development of a New Funding Formula for Higher Education – (Continued)

- The drafting of the August 23, 2012, memorandum regarding Nevada’s discipline matrix.

Regent Page entered the meeting.

- A note on my (Chancellor Klaich) emails.
- Response to specific questions.
- Conclusion.

Chancellor Klaich stated in light of the controversy he recognized the Board may desire to transition to new leadership in preparation for the next legislative session. For that reason, he instructed his counsel to work with the Board Chairman and Board counsel to prepare a retirement agreement to take effect after this year’s commencements should the Board deem it in the best interests of the NSHE. The proposed retirement agreement provides for the early termination of his employment for convenience in accordance with the terms of his agreement. Chancellor Klaich stated it has been an honor and privilege to represent and advocate for the NSHE over the last 30 years.

Vice Chairman Wixom observed a report in the *Las Vegas Review-Journal* that the meeting was called after the *Review-Journal* reported hundreds of emails from 2011-2012 obtained by the newspaper, under the state Public Records Law, showed “the System worked to undermine a legislative committee that was studying ways to make college and university financing more equitable”. Vice Chairman Wixom took issue with the statement and noted for the record the Board has not come to that conclusion.

Regent Doubrava left the meeting.

Vice Chairman Wixom read into the record his remarks, Handout BoR-2a, made on March 19, 2013, before the Senate Finance/Assembly Ways and Means Joint Subcommittee on K-12/Higher Education.

Regent Doubrava entered the meeting.

Vice Chairman Wixom stated there is an implication the Chancellor can be fired for cause. Vice Chancellor for Legal Affairs Brooke A. Nielsen stated her role and fiduciary duty is to the entire Board as a whole. In a situation like this, pursuant to specific policy she reports directly to the Chairman of the Board Trachok. Vice Chairman Wixom asked if she had reviewed Chancellor Klaich’s contract, the 3,000 pages of emails provided to the *Review Journal*, Chancellor Klaich’s response provided to the Board, and the minutes from the Interim Committee for Higher Education Funding with Vice Chancellor Nielsen responding yes. Vice Chairman Wixom asked if she saw any basis for the termination of Chancellor Klaich for cause. Vice Chancellor Nielsen stated knowing all the facts and the terms of the contract there is no basis for an action based on cause.

2. Action Taken – Review of NSHE’s Participation in Development of a New Funding Formula for Higher Education – (Continued)

Vice Chairman Wixom asked Chief of Staff and Special Counsel Dean J. Gould to identify himself and explain his role. Chief of Staff Gould stated he is counsel to the Board of Regents and his role is particularly important when there may be a potential conflict between the System and the Board of Regents. His role is to strictly represent the interests of the Board of Regents. In response to Vice Chairman Wixom, Chief of Staff Gould stated he concurred with Vice Chancellor Nielsen’s conclusion.

Regent Geddes did not believe the integrity of the process was in jeopardy. Because of long-standing inequities of the formula, the System hired MGT to evaluate the funding formula. Study results were presented to the 2011 Legislature. There was a bill during the session to address CSN inequities. There were supplemental appropriations but nothing to address the inherent inequity of the system. The bill morphed into an overall formula study to review the entire formula and not just the CSN inequities. The MGT study found no inequities at the university level, but the study did make several recommendations for the inequities at the community college level. The Board heard the results of the MGT study. Regent Geddes pointed out the formula is how the Nevada State Legislature determines how to appropriate funding to the System and individual institutions. It was not created by the Chancellor or the Board of Regents. After the first meeting of the Committee, the Board members directed the Chancellor to work with his staff to find best practices or other formulas across the country to provide another option to be vetted next to the old formula. The final formula adopted by the Interim Committee was the final product from the process. All information and data was reviewed by the Board and was the basis of the Formula Funding Study in 2013. Regent Geddes reviewed Handout BoR-2b, Budget to Actual Fiscal Years 2011 and 2015, General Fund Revenue Per SFTE. Regent Geddes stated the new formula is intact, was able to rid long-standing inequities, created something easy to understand and is balanced.

Regent Page concurred with Regent Wixom’s testimony from March 19, 2013. The formula has corrected inequities and is now performance based. Graduation rates have improved and are aligned with Nevada’s economic development goals. Regent Page stated the formula has improved and is working.

Chairman Trachok read Handout BoR-2c, former Assemblyman Pat Hickey’s Letter to the Board of Regents into the record.

Regent Leavitt believed the emails demonstrated Chancellor Klaich’s extraordinary dedication, commitment, and passion and more importantly his fairness to every institution in the System. The Board asked Chancellor Klaich to “drive the agenda” and that is exactly what he did. Regent Leavitt worked with Chancellor Klaich during his two years as Chairman of the Board and he never misrepresented and never did or said anything that did not have the interests of the students and Board of Regents at heart.

Regent Leavitt moved to approve Chancellor Daniel J. Klaich’s retirement agreement as presented.
Regent Stephens seconded.

2. Action Taken – Review of NSHE’s Participation in Development of a New Funding Formula for Higher Education – (Continued)

Regent Leavitt added he has never observed more ethical conduct and more passion from any individual he has worked with and this will be a tremendous loss to the System.

Regent Lieberman felt it was odd and unsettling the Board is dealing with issues in 2016 from 2011 and 2013. He understood the role of the media in this process; however, it has gone from appropriate to the inappropriate and absurd. The Board is about to reinvent history in Nevada and the System. The Board must make sure this System is stronger and more vibrant long after it is gone. The System is bigger than one person, crisis or success. This is not about the formula, it is the fact that trust has been lost between two parties, the Legislature, and the System, which must work together for the betterment of future generations of students and alumni.

Regent Doubrava read from an email dated November 23, 2011, from President Emeritus Dennis Jones, NCHEMS, to the Chancellor. He asked Chancellor Klaich what the phrase “hope the kids are having fun with the toy” referred to. Chancellor Klaich did not know but added in his preparation for the meeting he focused on the areas he was directed to. He stated he would look at it if the Board wishes him to do so. Regent Doubrava appreciated the comments related to cause provided by Vice Chancellor Nielsen and Chief of Staff Gould. Regent Doubrava stated most of his dealings with the Chancellor have gone well. It is known that while he was chairing the UNLV President Search that he and the Chancellor were on opposite sides of an issue and he added he still has disagreements with how the process ended.

Regent Davidson left the meeting.

Regent Stephens thanked Chancellor Klaich for his dedication and service to the NSHE. As a member of the TMCC President Search Committee, she had never encountered such a highly qualified pool of candidates and the Chancellor had everything to do with it. Regent Stephens believed the Board had an appropriate agreement in front of them, which was agreed to by the Chancellor.

Regent Geddes believed the Board always participated in an open and public process. Regent Geddes reemphasized the formula is a product of the Nevada State Legislature. The Legislature has an audit division and requested the Chairman to send a letter to the Legislative Counsel Bureau to audit the formula.

Regent Davidson entered the meeting.

Regent Geddes encouraged the Board to not govern on allegations and anecdotes. The Chancellor’s memorandum outlines the facts, the formula is sound and the judgment in emails and memorandums was not. Allegations made were investigated by a private third party and found to not be true. The Board must govern on facts and what is right. Chancellor Klaich is a class act and dedicated public servant. The students, System, and state are all better for this hard work and dedication. Regent Geddes stated he did not

2. Action Taken – Review of NSHE's Participation in Development of a New Funding Formula for Higher Education – (Continued)

want to approve the retirement agreement, but he will because the Chancellor has asked him to do so.

Regent Melcher believed Chancellor Klaich's legacy will be written well. The Chancellor has served the System extremely well. There has always been outstanding support and dedication in the depths that the Chancellor has led the System. Chancellor Klaich has led the System through the most difficult times and the greatest comebacks.

Vice Chairman Wixom has always focused on the facts. The System is not where it was and is not operating under status quo. The formula is entirely different. Vice Chairman Wixom stated he will support the proposal. He stated he has reviewed the record and reiterated there is no basis for cause. The System did something significant with the formula that was positive and meaningful. Vice Chairman Wixom thanked the Chancellor for a stellar job. An electronic communication should not taint Chancellor Klaich's record or what the Board and Legislature have done for the System and Nevada.

Regent Page thanked Chancellor Klaich and his wife Denise Klaich for supporting him during his 30 years. The System will learn how much institutional knowledge is leaving with the Chancellor and how hard he worked. Regent Page stated he will support the proposal, but reiterated the Chancellor's hard work cannot be forgotten. The Chancellor should be defined by his hard work, dedication to the State of Nevada, NSHE, the students and the community.

Regent Anderson stated she worked in the System under the old formula where it was based on the number of students sitting in seats. The whole culture has shifted because of this new formula. She felt the Chancellor's dedication and good intentions are being overshadowed by a few unfortunate comments in emails. Regent Anderson thanked Chancellor Klaich.

Regent Lieberman stated the Chancellor built a wonderful team and he thanked them for their work and standing by the Chancellor's side.

Regent Hayes believed the Board should be defending Chancellor Klaich vigorously since Vice Chancellor Nielsen and Chief of Staff Gould both stated there is no reason for termination by cause. He stated he did not like the proposal on the table but will support the motion since it would be difficult to move forward without new leadership in the Chancellor position as the System moves into the legislative session.

Regent Crear stated he was a much better individual to have worked with Chancellor Klaich and for having known him and his family.

Regent Davidson stated it was a pleasure to have worked with Chancellor Klaich and found him to be of the highest character.

2. Action Taken – Review of NSHE’s Participation in Development of a New Funding Formula for Higher Education – (Continued)

Chairman Trachok believed the careless use of electronic transmissions has brought the Board the problem they face today. It is a difficult decision and has been a difficult process. Chairman Trachok stated he has known Chancellor Klaich for 50 years, but believed the proposed agreement is the correct one for the System in moving forward. The formula is fair, sound and the System did provide all the information that was available. The formula is transparent and based on objective criteria. The NSHE has been well served by Chancellor Klaich.

Chancellor Klaich appreciated the vigorous defense of the formula by the Board members. He stated he will walk away from a lifetime of passionate support for higher education. The public hearing today and kind comments of the Board will allow him to be proud with his head high knowing he has accomplished something that is appreciated and for that he is profoundly grateful.

Motion carried via a roll call vote. Regent
Doubrava voted no.

3. Information Only – New Business – None.

4. Information Only – Public Comment – Former Regent Blakely thanked Chancellor Klaich for his great service to the NSHE and the State of Nevada.

The meeting adjourned at 10:45 a.m.

Prepared by:

Angela R. Palmer
Special Assistant and Coordinator
to the Board of Regents

Submitted for approval by:

Dean J. Gould
Chief of Staff and Special Counsel
to the Board of Regents

Approved by the Board of Regents at the August 25-26, 2016, meeting