

Breakdown of Termination Letter:

1. First Paragraph-

Response:

The board clearly violated 551.074-Personnel Matters; Closed Meeting on February 4, 2020.

- “Subsection (a) does not apply if the officer or employee who is the subject of the deliberation or hearing requests a public hearing.
- Evidence-January 11 & 13-Attorney Carter
- Attorney Darryl Carter also objected during the Special Called Board meeting on February 4, 2020 when announcement was made by Chairman Mack to dismiss for closed session.
- It was clear they deliberated about me in closed session as evidenced by Chairman Mack’s comments made in open session when they returned.

2. Second Paragraph-

“The Board’s determination to propose the termination for cause was made after conducting a detailed and ongoing investigation concerning troubling issues which have arisen during your term of employment.”

Response:

- I have been employed as president at TSU since June 2016
- Received exemplary performance reviews and bonuses for reaching institutional targets each year of employment
- Increased enrollment
- Stabilized and created healthy budget reserve with hold the line budgeting approach tied to our institutional effectiveness goals
- Increased our rating from a negative, stable to positive outlook in three years
- Secured millions from the legislature last session
- Increased persistence, progression and graduation rates over last three years
- Launched the inaugural Maroon and Gray Affair that has raised millions for scholarships

The board never told me or the public that they were conducting a detailed and ongoing investigation concerning troubling issues which have arisen during my term of employment. In fact, why would this board with five new members that have all been here less than a year be investigating my “term of employment” when my performance has already been evaluated by the regents that served between June 2016 up until the time the new members were appointed.

Also, they indicated to the public, not me, that they were doing an investigation on “Admissions Improprieties” in a vague press release they sent to the public in November 2019, noting “troubling issues which have arisen during my term of employment.” How did we go from an investigation on admissions improprieties to an investigation on my term of employment for the previous three years? In fact, SACS just cited the Board of Regents in the following areas for non-compliance:

4.2. C-The governing board selects and regularly evaluates the institution's chief executive officer.

To date, this newly elected board (less than a year) has never evaluated me per the SACS rule. The departing board was compliant and did in fact evaluate me and each time I received stellar evaluations and bonuses for reaching agreed upon targets.

4.2g-Board Evaluations-The governing board defines and regularly evaluates its responsibilities and expectations

To date, the board is out of compliance per SACS during their compliance certification visit in September because they have not done a board evaluation on themselves per the SACS rule. I, along with the SACS liaison have urged them to do so for months but they have not complied.

4.2b-The governing board ensures a clear and appropriate distinction between the policy-making function of the board and the responsibility of the administration and faculty to administer and implement policy.

To date, the board is out of compliance per SACS during their most recent by-law change that allows them to hire and fire all employees. This is a direct violation of the standard and one that typically causes a university to lose accreditation. The SACS liaison, general counsel and myself sent letters to Chairman Mack warning him that this would present a problem for the university and recommend he change the by-law but we received no response and the policy is still in place today with Regent Terrell (appointed by chairman Mack) approving and denying all personnel decisions in his role as personnel committee chair. Again, this is a clear violation of the SACS standard and places the board members at risk. In a recent article entitled, "This University Board Now Has The Power to Fire Anyone-Even Down to The Janitor" in the Chronicle of Higher Education, author Lindsey Ellis quotes the president of SACS, Dr. Belle Wheelan as saying, "At first blush, this is unusual and looks like overreach into administrative roles." Ellen Chaffee, a college-governance consultant stated in the article that, "the board's policy deviates sharply from best practices and raises numerous concerns. I've read dozens of board by-laws, and I've never seen anything like this."

Finally, this past September, I also received a new contract that runs through August 31, 2022. I received this contract extension because of my performance during my first three years at TSU. I have never received a negative evaluation or discussed anything the new board is citing as their cause for termination.

3. Third Paragraph-

Section VII(F) defines, in part, "cause" for termination of the contract as: (6) failure to promptly advise and fully report to the board any matter known by Dr. Lane that tends to bring public disrespect, contempt or ridicule upon the University, or (7) any act that creates a material adverse effect on the reputation and/or brand of the University."

Response:

In August 2016 (first two months on the job), I, along with the Chief Audit Executive (internal auditor) and Associate VP of Human Resources submitted the proposed Fraud Policy as an update to the Texas Southern University (MAPPS) Manual of Administrative Policies and Procedures (Policy 02.05.06) to the board of regents for approval. It was approved August 2016 during a regularly scheduled board meeting.

Section III (a) of the policy defines management as vice presidents, directors, managers and supervisors. It goes on to state that (b) management (not board of regents) is responsible for detecting fraudulent, dishonest or improper activities in **their** area of responsibility.

The assistant dean of admissions reports and falls under the responsibility of the dean of the law school, not president or provost. Section III. (g) goes onto state, "When fraud or a dishonest or improper activity is detected or suspected, management should immediately contact the university department of public safety if the situation warrants such action, for example, if **obvious** theft has taken place, security is at risk, or immediate recovery is possible. In addition, management should immediately contact the University's Office of Internal Audit and Fraud. Since this employee reported to the dean of the law school and was in her area of responsibility, she sought approval from myself and provost to notify and engage the internal auditor regarding **allegations** relating to admissions practices in the law school.

Section III (I). states, "Managements responsibilities in handling fraud or dishonest or improper activities include the following:

III. Do not discuss the case, facts, suspicions or allegations with anyone outside the university unless specifically directed to do so by internal audit and fraud or general counsel.

This case had already been sent to the internal auditor by the dean of law school for investigation via policy. Board had no reason to get involved or discuss the case until the internal auditor completed her investigation per policy and reported her findings to the president and board if she "Uncovered" or had evidence to suggest there was fraud. The board of regents is not an investigative board and in cases of fraud all should be handled by the internal auditor according to the policy.

(IV). Do not discuss the case with anyone INSIDE the University other than employees who have a need to know.

We also received an anonymous allegation that two of our board members who attended the law school were admitted under this person and may have received scholarships. Like all allegations, this was shared with the internal auditor during my interview with her and further explains why the dean of the law school did the right thing by alerting the office of internal audit to investigate and not the board of regents.

(IV). Section IV (D) of the policy states that “care should be taken in dealing with suspected dishonest or fraudulent activities to avoid the following:

- *Incorrect accusations
- *Alerting suspected individuals that an investigation is under way
- *Violating the employee’s right to due process
- *Making statements that could lead to claims of false accusations or other offenses
- *Discussing the case with anyone inside or outside the University.

With the board approving this policy in August 2016, why would they interrupt an active investigation that was being conducted by internal affairs? Why would they contact local law enforcement when the policy clearly states that the internal auditor, department of public safety and general counsel are required to do so, not board of regents? Why would the board of regents hire two independent law firms to interrogate the president, provost, general counsel and special assistant (Wendell Williams) when we were the ones who supported turning this allegation into the internal auditor? Why didn’t the board ever allow the internal auditor the opportunity to complete her investigation and bring her findings to closed session like we have done many times before? Why would they release a vague press release citing admissions improprieties when the investigation was not complete or discussed with the president and board as stated in policy if something was UNCOVERED?

It’s clear that the board of regents did not follow the fraud policy and hi-jacked the internal auditors job of doing the investigation for her along with a hired law firm that represented the board’s interest. It is also clear that the dean terminated the assistant dean of law school per MAPP policy 02.05.03-Discipline and Termination. When the dean recommended termination to the provost, no fraud had been suspected or UNCOVERED with the terminated employee. Such terminations under this policy do not rise to the level of a reportable action as identified in my contract. They clearly fit under my responsibility identified by SACS standard 4.2 (b) which spells out board and administration distinction. The only person the board can hire or fire is the president. There is no policy that requires the president or administration to notify the board when terminating a staff or non-cabinet level member.

Section V. Investigations (D)-

D. Internal audit and fraud will proceed as follows if evidence is **UNCOVERED** showing possible fraudulent, dishonest or improper activity. Internal audit and fraud will notify the **Board of Regents, President, the associate vice president and general counsel, as appropriate.**

I have been here almost four years and we have always followed the process and policy as stated above and the board has never got involved or taken over the investigation. Never. If the allegation is “UNCOVERED”, the internal auditor brings her findings to closed session and updates the president and board of regents. Also, what local law enforcement agency is investigating? Since the investigation is over, can they divulge? We have talked to local law enforcement and there is no pending investigation as mentioned by Regent Carter and the press releases that the board has sent out.

4. Fourth Paragraph-

Response:

The board has also accused me of being presented with evidence of fraud committed by the former assistant dean and student one. First and foremost, I was just informed for the first time on February 4

during the special called meeting about the allegations they were making against me. Until then, I have never been given an opportunity to know what I was being accused of. Secondly, I have not been presented with any alleged evidence of fraud that was supposedly committed from the board regarding the investigation they took over from the internal auditor. They have accused me of knowing about the evidence and that is false and has never been shared with me by anyone to date. I also don't know who they are referring to when they mention "student one" in their claim against me. They alleged that my subordinate and I "allowed this student to be admitted into the university into another graduate program for which he was not qualified without having filed an application for admissions." I have absolutely nothing to do with graduate admissions and have never talked to "student one" nor did I authorize my provost to grant any admissions into graduate school for this person. The provost and dean of the graduate school can and will dispel this erroneous claim against me. How many presidents of universities across this country serve as admissions directors? None. We have processes in place and personnel responsible for following admissions processes.

Since my arrival in 2016, we have never had an issue with undergraduate or graduate admissions. Periodically, we have also launched our own audits. This is done to check our areas to make sure they are functioning properly. If we find that they are not, we have the auditor write up the findings and make sure management has plans to correct. We don't call the media, put out vague and premature press releases, or start accusing staff or wrongdoing until we have UNCOVERED evidence that confirms our suspicions. The board has no evidence that demonstrates I knew "student one" or that I directed my provost to admit this person to another program. The provost and dean of the graduate school are responsible for this function and can prove that the student was admitted appropriately and that I had nothing to do with his admissions nor did I ever talk to him about entering TSU in any program.

The board also indicated that "after being made aware of the above, they sought the assistance of the university's internal auditor, third party investigators and hired special employment law counsel to investigate these matters." This is false. The allegation was already being handled by the internal auditor. Instead, they took over the investigation from the internal auditor, hired expensive third party investigators and special employment law counsel (employed by O'Hanlon) that harassed myself, provost, special assistant and general counsel through a number of rushed interviews in November. Each of us complied with the interviews even though we were not clear on why we were being interviewed.

My first interview was with the internal auditor. She called me and we talked for about 10 minutes. I told her that I had no knowledge of any fraud and asked her if she had completed her investigation that was sent to her by the dean of the law school. After a series of accusatory interviews conducted by the board hired firms, their board counsel sent all regents a letter on December 12, 2019 stating that she could not get all technology staff to cooperate on getting information from the information technology system and that the foundation wasn't being cooperative. Board counsel also indicated that the board should solicit the help of the Texas Rangers. Never once was I or any member of my staff cited in this letter as doing something wrong, violating any policy, or failing to alert the board.

During my second interview that lasted almost four hours, I was again questioned about things that had absolutely nothing to do with any alleged admissions improprieties. I again inquired about the status of the investigation and specifically asked the auditor and board appointed attorney if they had uncovered any fraud from the allegation that was sent by the dean of the law school. They both said they were still investigating and had not uncovered anything. I questioned them about why this wasn't being handled by the internal auditor via policy and they gave me no response other than the board hired firms to

assist the internal auditor. It was obvious that the board and the firms had taken over the process and turned their attention on myself and my staff instead of the assistant dean that was terminated. Again, no evidence of wrongdoing linked to me and I believe the interview took four hours because she was off topic and talking about other things besides admissions. I answered all her questions truthfully and indicated to her that if she wanted another interview I would have to consult with my attorney. I did so because it was obvious she was looking for anything to accuse me of with her line of questioning.

5. Paragraph 5-

Response:

During the October 25th Board meeting (see the video of meeting on the Board website), the regents approved a change in the by-laws. Regent Carter is over the by-laws committee and the board voted to have the authority to hire and fire all staff, down to the janitor as Regent Terrell put it in his comments during this meeting. After the meeting, I was requested to come into closed session with all my staff and we were admonished and basically threatened to stop what we are doing when board members call. We were also told by Chairman Mack that Regent Terrell would be over all hiring and firing and that we must send all decisions related to employment to him as of October 25, 2019. He never mentioned sending any employees prior to October 25 that had already been hired, fired or demoted to him. However, a few days after this meeting, he requested to see employees that were hired, fired or demoted from a year ago. When we sent the list to him, we were surprised to see that he asked two employees that had ongoing personnel issues and recommended by their supervisor for termination or scheduled to resign to have their letters rescinded and placed back in their positions.

He also instructed HR to remove a personnel document for an employee that was scheduled to be terminated in December. This employee was given notice by me in August/September (before October 25 mandate) that he would be demoted and have until December to find other employment. I received notice from Regent Terrell that this employee, despite having performance issues, would not be terminated in December. He never asked me or the other supervisors about any of their performance issues. To date, Regent Terrell has approved more than 80 personnel decisions. He has also been heavily involved in leading my investigation with the firms employed by the board.

Because of his role and the by-law change, the university must now respond to SACS about this change and why it is not a recommended practice. A recent article in the chronicle of higher education has the SACS president quoted as saying she has never seen anything like this. The TSU SACS liaison also expressed his concerns along with me and our general counsel to rethink the by-law change. We submitted a joint letter to board but never received a response. The board also had to respond to SACS about the vague press release they sent in November about "admissions improprieties" and local law enforcement by January 30. They submitted their response on January 20 to SACS stating that there were no admissions issues at TSU and that they were compliant with SACS 10.5-Admissions Policies and Procedures.

6. Paragraph 6-

Response:

The board also told us they would be conducting an investigation that none of us knew anything about. We had absolutely no knowledge of a whistleblower complaint or even cared to know who it was. That information was never revealed to me so there was no way we could have knowingly violated any discipline and termination policies despite their claims that my staff and I interfered with their investigation. There is no proof to substantiate their claim against me.

7. Paragraph 7-

Response:

The board has accused me of excessive entertainment expenses to be paid through the foundation; however, the foundation has not accused me of that and they are a 501C3 entity separate from the University and have its own board. In fact, the foundation board chair is in full disagreement with the Board of Regent's claim against me and complied with all their request during the investigation. I had nothing to do with the audit and each time my VP for Advancement told me about their request, I would always tell her to comply and that she doesn't have anything to hide.

All administrators at TSU, including myself, know that you can't be reimbursed for entertainment expenses with state dollars so not sure why the board's claim against me is actually saying that is where my reimbursement should occur and connecting it to my contract. I didn't need any reimbursement because I rarely spend foundation funds. When funds were spent, they were all approved by foundation board and went to support the Maroon and Gray Gala. To date, the foundation has a clean audit and has been during my time and Chairman Gerald Smith. Their claim is completely false.

Paragraph 8-

Response:

The board has accused me of creating a material adverse effect on the reputation and/or brand of the university stating that I failed to fully inform the entire board of the primary reason for Law School dean, James Douglass' resignation. I thought this investigation was about admissions improprieties, not James Douglass. When James Douglass resigned almost three years ago, none of the five new board members (Medina, Carter, Zeidman, Myers and Price) had been appointed. They just arrived less than a year ago. The entire board that was in place at the time was fully aware of why he resigned. James Douglass resigned because he did not want to report to the provost at the time and I would not allow him to separate the law school from the university and violate university

policy as it related to Title IX. My chairman at the time was well informed as were other board members.

Also, the board claims that I improperly directed Mr. Williams to engage in acts that violate university policy but they never cited the policy I/we violated. The board also claims that myself and Mr. Williams improperly instructed James Douglass to misrepresent the authorship of a report to be submitted to ABA. I have earned, wrote and defended two doctoral dissertations unlike James Douglass and am fully aware of the importance of academic integrity. I take great offense to the board's claim about me being a bad role model while granting degrees and shaking the hands of our graduates during commencement.

The ABA includes two names on their request for information, the president and dean of law school. This means that the reports we submit for compliance must have my final approval and James Douglass didn't want that to happen. I had a feeling that James Douglass would be upset with this directive and I wrote notes on his letter he submitted to me back in September 2017. 1. My notes indicate that I never informed the consultant to draft our ABA plan 2. I asked James Douglass to submit what he has already done and send to consultant and myself so we could include items we wanted to add to the plan that related to Title IX. James wanted Title IX to be a law school only function and I disagreed. ABA agreed with me. They (ABA) wanted all Title IX to be handled as a university function, not embedded in the law school due to the complaints we were receiving from law school faculty and their claims going unanswered. 3. Never asked consultant to produce the plan as if it was his work, that would be academic dishonesty. Made it clear to him that this plan would be collaboration of faculty, staff and administrators and the consultant would only be reviewing to make sure we were on the right page. As a result, the ABA plan was approved in 2017 and we have cleared key standards each year. I have all the reports from ABA that have been approved. Also, it turns out Mr. Williams never talked to Douglass because he refused to talk to him via a letter back to me. Their claim regarding James Douglass is false and really a stretch.

All claims against me are false and unsubstantiated. They offer no proof, just accusations that are designed to tarnish my reputation and career. I also find it strange that Mr. Wendell Williams was the only employee accused and mentioned by name in my termination letter. He filed two grievances against Regent Terrell (Chair of personnel committee and lead investigator) before his wrongful termination.