

The Chair stated that there would be a Public Questions and Comments portion available at the day's meeting.

Dr. Jonathan Bean, SIUC Faculty Senate, spoke to the Board. He reported that the SIUC Faculty Senate voted 25 to 1 in favor of removing the President. He expressed thanks to the Board for resolving a situation that brought ill-repute to the SIU system and distracted the University from its core mission of educating and mentoring students. He noted that 2018 had been a dark period for the SIU system, but he hoped it preceded an era of better re

interested in collaborating and hearing each other's perspectives. He reported that the Carbondale campus was developing a cultural transition from an academic bureaucracy that emphasized organizational preservation to an academic enterprise emphasizing social transformation through a more entrepreneurial approach to achieving the University's mission. He went on to say that it would be achieved first by better directing university activities, achieving the stated mission of providing access to students with both many and few resource opportunities, while c

from one campus that had feelings of being undervalued. Further, she urged that Board members use caution in speaking publically and to refrain from rehashing events or making editorial pieces in the press as prospective parents and students read about the discord and all campuses lose ground in terms of enrollment. She reviewed a number of articles had been in the *Chronicle of Higher Education* and local newspapers regarding recent events. Ms. Fricke observed that ther

Board loaned SIUC \$35 million from SIUE. He praised President Dunn for his action on behalf of SIUE, and he challenged the Board and new President to develop a funding plan.

At 10:11 a.m., Chair Sholar moved that the Board take a ten-minute recess and reconvene in the Board Room for the executive session portion of the meeting.

At 10:26 a. m., Trustee Thomas moved that the Board go into closed session for the purpose of considering pending, probable or imminent court proceedings against or on behalf of the Board; and information regarding appointment, employment, compensation, discipline, performance or dismissal of specific employees of the public body. The relevant sections of the Open Meetings Act Statute that allow for the closed session are 5 ILCS 120/2(c) (1), (11). The motion was duly seconded by Trustee Britton. The motion carried by the following recorded vote: aye, Mr. Tom Britton, Hon. J. Phil Gilbert, Dr. Shirley Portwood, Dr. Marsha Ryan, Mr. Joel Sambursky, Ms. Amy Sholar, Maj. Gen. Randal E. Thomas; nay, none.

At 12:07 p.m., Trustee Britton made a motion to return to open session. The motion was duly seconded by Trustee Thomas. The motion carried via voice vote. Chair Sholar made a motion to take a 10-minute recess and reconvene in the Conference Center for the open portion of the meeting.

At 12:16 p.m., the Board resumed the meeting in open session.

The following item was presented: Consideration of Separation Agreement of President.

SEPARATION AGREEMENT AND RELEASE

This Agreement and Release (“Agreement”) is executed, entered into and delivered, effective as of this 16th day of July, 2018 (the “Execution Date”), by and among (i) the Board of Trustees of Southern Illinois University, a body politic and corporate of the State of Illinois, (the “Employer” or “Board”), and (ii) Dr. Randy Dunn (the “Employee”), in order to state, prescribe and describe the following terms and conditions relating to Employee’s retirement/termination of the employment relationship which exists between the Employer and the Employee prior to the Termination Date. The Employer and the Employee are collectively referred to, in this Agreement, as the “Parties,” and either the Employer or the Employee may be separately identified, in this Agreement, as a “Party.”

WHEREAS, The Board employed Employee as President of Southern Illinois University pursuant to an employment agreement dated February 17, 2014 and amended on December 9, 2016 (hereinafter “Employment Agreement”); and

WHEREAS, The Board and Employee mutually agree to termination of that Employment Agreement prior to its expiration date of June 30, 2022; and

WHEREAS, the Parties enter into this

to Employee on or before August 31, 2018. In further consideration of the execution and delivery of this Agreement by the Employee, Employer agrees to hire Employee, effective January 1, 2019, in the capacity of a visiting professor on its Southern Illinois University Edwardsville campus (hereinafter "SIUE") in accordance with the applicable policies and procedures at an annual salary of One Hundred Thousand and 00/100 Dollars (\$100,000) per year. Employer agrees to hire and employ Employee as detailed above for a minimum period of eighteen (18) months so that Employee is employed as a visiting professor in a department

appropriate tax forms to the Employee, as and when such tax forms are due. Employee is solely responsible to pay any and all tax liabilities which he might incur as a result of receipt of any of the Payments or other remuneration described in this Agreement. Employee agrees to indemnify and hold Employer harmless as to any and all claims, demands, deficiencies, levies, assessments, executions, judgments or recoveries by any governmental entity which may be asserted against Employer as to any amounts claimed to be due from Employee by virtue of this Agreement or pursuant to any claims which are asserted under any federal or state tax laws, as well as any costs, expenses or damages sustained by Employer by reason of any such claims, including, without being limited to, any amounts paid by Employer as taxes, attorneys' fees, deficiencies, levies, assessments, fines, penalties, interest or otherwise. The Parties agreed that Employer and its counsel have not made any representations to Employee or his counsel relating to tax-related matters pertaining to this Agreement, and that Employee and his counsel have had an opportunity to consult with tax advisors of their own choosing regarding tax-related matters pertaining to this Agreement.

ARTICLE 3: RETURN OF PROPERTY

Employee shall vacate Employer's offices no later than the end of the day of the Execution Date and he shall return and deliver to Employer, no later than three (3) business days following the Execution Date, all of Employer's property which is then in Employee's possession, including, but not limited to: automobile; computers, ipad or other electronic devices; software systems, programs or applications, including access password

promises, agreements, controversies, losses, damages and expenses (including attorneys' fees and other costs actually incurred), of any nature whatsoever;

b. any action or claim under federal, state or local law, regulation or executive order, including, but not limited to, actions or claims under Title VII of the Civil Rights Act of 1964, as amended; the Civil Rights Act of 1866, as amended; the Equal Pay Act, as amended; the Fair Labor Standards Act, as amended; the Age Discrimination in Employment Act, as amended (including the Older Workers Benefit Protection Act); the Americans With Disabilities Act, as amended; the Worker Adjustment

all monetary and non-monetary Claims he has or might have against the Employer.

stipulates and agrees that Employer may recover, from Employee, all of the

communication, delivered to the Employer, that: (i) the existence of this Agreement is confidential and (ii) none of the terms or provisions of this Agreement may be further disclosed to another person or entity unless that disclosure is required by law.

5.02 The Parties acknowledge that a Party would sustain immediate and irreparable injuries if the other Party violated any of the provisions or covenants which are contained in this Article 5. The Parties, consequently, stipulate that the non-breaching Party, if it so elects, may seek injunctive relief to enforce this Agreement, or to avert a threatened or impending violation or breach of this Agreement by the other Party.

5.03 The Parties acknowledge, in addition, that the equitable remedies which are specifically enumerated in Section 5.02 are not exclusive. Rather, such remedies are in addition to any other remedy which is available to the non-breaching Party under the law of the state of Illinois, or which is permitted under this Agreement, in the event of a violation or breach of this Agreement by the other Party.

5.04 If a Party is required to divulge or disclose any of the Confidential Information, subsequent to the Execution Date, by virtue of the issuance of a subpoena or other judicial order, such Party, prior to disclosing that Confidential Information, will timely notify the other Party so as to afford the other Party a reasonable opportunity to object to the requested disclosure.

ARTICLE 6: ADDITIONAL COVENANTS AND STIPULATIONS

6.01 Employee further acknowledges, stipulates and agrees that:

(i) Employee is entering into this Agreement knowingly and voluntarily;

(ii) Employee has been advised by the Employer to consult with an independent attorney, selected by the Employee, before signing this Agreement and has consulted with such an attorney;

(iii) Employee has been allowed a reasonable opportunity and period of time to consider the implications and ramifications of this Agreement before signing this Agreement;

(iv) Employee is aware that the Employee is allowed a twenty-one (21) day period to review and consider this Agreement before the Employee signs and delivers this Agreement to the Employer;

(v) except as a consequence of this Agreement or otherwise set out herein, the Employee is not otherwise entitled to receive any payment or remuneration or other employee benefits;

(vi) this Agreement constitutes the entire contract and settlement arrangement between the Employee and the Employer concerning the termination of Employee's employment relationship with Employer; and

(vii) this Agreement has been individually negotiated between Employee and Employer, and is not part of a group exit incentive or other group employment termination program being administered by Employer.

6.02 Employee will cooperate fully with Employer in the defense of any

7.07 Successors. The covenants, terms and conditions which are contained in this Agreement bind and inure to the benefit of Employer and Employee, and all of their respective successors in interests and/or assigns, and, in addition, as applied to Employer, all of Employer's subsidiaries, affiliates, officers, directors, employees, agents and independent contractors.

7.08 Waiver. The waiver by a Party of a violation or breach by the other Party of any provision of this Agreement will not operate or be construed as a waiver by that Party of any subsequent violation or breach of this Agreement by the other Party.

7.09 Headings. The Article titles and other headings contained in this Agreement are for reference only and shall not affect in any way the meaning or interpretation of this Agreement.

In witness whereof, the Employer and the Employee have respectively executed and then delivered this Agreement in pursuance of the uses and purposes which are described and contained in this Agreement.

Employer:

Employee:

Board of Trustees of
Southern Illinois University

By: _____
Amy Sholar
Chair

Dr. Randy Dunn

Vice Chair Gilbert expressed his support of the separation agreement negotiated between the Board's General Counsel and President Dunn's attorney. He acknowledged that paying \$215,000 was not preferable to some, but due to his more than 30 years in litigation he felt the agreement was in the best interest of the SIU system and its future. He explained that President Dunn entered into a presidential employment contract with the Board of Trustees on February 17, 2014, for an initial term of four years ending February 16, 2018. Section 3.2 of the agreement was a renewal provision and in

December of 2016, President Dunn's contract was renewed through June 30, 2022. He went on to say that the renewal agreement also amended the termination without cause provision to provide the equivalent of three years' annual base salary for almost \$1.3 million for terminating him without cause. All other aspects of the original agreement would remain in effect. In addition, President Dunn was granted a tenured appointment at SIUC at the rank of professor in a college appropriate to his discipline pursuant to SIUC policy. Section 4.1 of the initial agreement provided that the Board may terminate the agreement at any time for just cause and listed several factors that would be considered just cause. Vice Chair Gilbert noted that it was not totally clear from his reading of the agreement that if the Board terminated the agreement for a just cause that President Dunn might still be able to exercise his right to a tenured appointment. He further noted that the agreement had an alternative dispute resolution provision that if the parties could not resolve a dispute on their own, the dispute would be submitted to a mediator. He went on to say that if the provision were invoked by President Dunn the process could take many months to get a resolution. Vice Chair Gilbert noted that if the Board were to prevail, President Dunn could then file legal action against the Board and the University in the Illinois Court of Claims which could take years to resolve. He spoke of potential costs of litigation including the discovery process on University staff being subjected to depositions and documents which likely would be two or three times the number of documents already released, and staff needed to concentrate on enrollment and growing the system. He noted continued publicity would affect not only enrollment but the ability to attract quality professors and staff to the SIU system. He noted that in his profession he had overseen litigation that had attorney's fees in the hundreds of thousands of dollars.

Mr. Tom Britton, Hon. J. Phil Gilbert, Dr. Shirley Portwood, Dr. Marsha Ryan, Mr. Joel Sambursky, Ms. Amy Sholar, Maj. Gen. Randal E. Thomas; nay, none.

The following item was presented: Consideration of Appointment of Interim President.

INTERIM PRESIDENTIAL EMPLOYMENT AGREEMENT

This Interim Presidential Employment Agreement is made and entered into this 16th day of July, 2018, by and between the Board of Trustees of Southern Illinois University (hereinafter the "Board") and J. Kevin Dorsey (hereinafter the "Interim President"). The Board and Interim President may hereinafter be referred to individually as a "party" or collectively as the "parties."

Article I

THE BOARD'S AGREEMENT WITH THE INTERIM PRESIDENT

1.1 **Employment.** The Board appoints and employs J. Kevin Dorsey to be Interim President of Southern Illinois University (hereinafter the "University"). The Interim President shall serve as the chief executive officer of the University, the primary representative of the University for external bodies, including offices, agencies, and branches of federal and state government; coordinate, facilitate, and manage the private philanthropic community and fundraising efforts of the University; and serve as the primary contact to and University officer for and on behalf of the Board. The Interim President agrees to perform these duties under the policies, bylaws, statutes, and charter of the Board (collectively "Board Legislation") and supervision and direction of the Board, including its Executive Committee. The Interim President accepts and agrees to such employment.

1.2 **Duties.** The Board agrees that as Interim President of the University, the Interim President shall, subject to the Interim President's agreements with the Board under Article II herein, perform the following duties:

- a. Serve as chief executive officer for the University, including but not limited to, providing general leadership and coordination for the University, its policies, programs, and operation.
- b. Make recommendations concerning the mission, scope, and organization of the University and concerning plans and policies for the development and enhancement of the University operations and activities.
- c. Develop for Board review and approval a budget for the University and provide allocation and oversight to the campuses regarding said budget.
- d. Appoint, supervise, and evaluate the Chancellors of SIUC and SIUE and Dean and Provost of the School of Medicine (hereinafter the "Dean and Provost") and collaborate with them in planning and administering campus programs and activities.

- e. Serve, under the general direction of the Board, as the principal spokesperson and representative for the University with the offices, agencies, and branches of federal and state government and other external bodies or constituencies.
- f. Develop and maintain good public relations between the University and the region in which it is located, the public it serves, and the state of Illinois.
- g. Make recommendations to the Board of Trustees concerning the initiation, continuation, or modification of University programs and activities and assure compliance with Board programs and Board Legislation, including revisions thereto.
- h. Develop and make recommendations concerning the operating and capital budget requests, appropriation requests, and internal budgets of the University.
- i. Serve as a fund raiser for the University in coordination with the Chancellors, Dean and Provost, and the institutional development officers, as well as the University's foundations and alumni organizations, and oversee the development of institutional fund raising initiatives assuring appropriate coordination of efforts between the respective campuses.
- j. Appoint and supervise such officers and employees as may be designated by the Board.
- k. Perform such other duties as may be assigned or delegated by the Board.

1.3 Consideration. As consideration for the Interim President's employment, the Interim President shall receive the following:

- a. Compensation in the form of an annual base salary in the amount of Four Hundred Thirty Thousand Dollars (\$430,000.00), payable in equal installments in accordance with the appropriate University payroll schedule. Salary shall include deductions for local, state, and federal taxes and employee benefits;
- b. Health insurance benefits, sick leave, paid vacation, and other benefits accorded to administrative and professional employees of the University that are authorized by law or policy.
- c. The University shall reimburse the Interim President for reasonable entertainment, travel, and other expenses incurred by the Interim President in the performance of his duties as Interim President in accordance with the University's policy on reimbursement of expenses.

hereafter amended but only when the presence of the spouse is necessary to further the interests of the University, in the sole discretion of the Board, and when pre-approved by the Board Chair.

Article II

THE INTERIM PRESIDENT'S AGREEMENTS WITH THE BOARD

2.1 Acceptance of Interim Presidency. For and in consideration of the promises of the Board as stated in this Agreement, J. Kevin Dorsey agrees to serve as Interim President of the University. The Interim President agrees to remain responsible to the Board for the execution of Board Legislation, as applicable, as it exists or as amended from time to time. The Interim President agrees to discharge the authority and responsibilities delegated by the Board and to consult with the Board and such constituencies as are appropriate. The Interim President agrees to regularly report to the Board and the pertinent Board committees, as appropriate, all major policy, legislation, budget, operational, and other material matters as determined by the Board Chair and Interim President.

2.2 Accountability. The Interim President agrees that in performing the duties enumerated in this Agreement he shall be accountable to the Board. The Interim President agrees to conduct regular meetings with the Board and Board Chair in order to provide advice and counsel, coordinate and implement the Board Legislation, and articulate University challenges or concerns.

2.3 Full-time position. The Interim President further agrees to faithfully and with maximum application of experience, ability and talent, devote full-time attention and energies to the duties of the Interim President.

2.4 Outside Employment. The Interim President further agrees not to render services of any professional nature for any person or entity for remuneration (other than the Board) without the Board's prior consent. This provision does not prohibit the making of personal investments or the conducts of private business affairs so long as these activities do not conflict with the Interim President's responsibilities or duties to the University or reflect negatively upon him or the University.

Article III

TERM OF APPOINTMENT

3.1 Term. This Agreement shall be for a term of one (1) year, commencing July 16, 2018, and terminating July 15, 2019, or until a new President of the University is hired, whichever is shorter, subject, however, to extension or to prior termination as provided for in this Agreement. The Board and Interim President may mutually agree to extend the term. Any such extension must be in writing, signed by both parties. At the conclusion of the Interim President's term, the Interim President shall be entitled to return to his prior position with the University, at his prior rate of pay adjusted by any across the board salary increases provided to similarly located and classified employees. The Interim President shall maintain his tenure and shall hold a 0% appointment as a

Professor in the Department of Medical Education and Department of Internal Medicine.

Article IV
TERMINATION

4.1 Termination by the Board. The Board may, in its sole discretion, terminate this Agreement in accordance with Board Legislation. If such a termination occurs, Interim President shall return to his prior position, at his prior rate of pay adjusted by any across the board salary increases provided to similarly located and classified employees.

4.2 Termination by Interim President. This Agreement may be terminated without cause by Interim President giving the Board thirty days (30) advance written notice of the termination of employment.

4.3 Disability. Regardless of any other provisions of this Agreement, this Agreement shall terminate automatically if Interim President dies or becomes totally disabled, or totally incapacitated to such a degree, either physically or mentally, that the Interim President is incapable of carrying out the duties as Interim President, as defined by the Board.

- a. If the Board deems Interim President disabled, totally incapacitated, or incapable of carrying out the duties as Interim President, the Board reserves the right to require Interim President to submit to a medical examination, either physical or mental.
- b. If Interim President becomes incapable of carrying out the duties of office, due to permanent disability or incapacity and is terminated, the Board shall pay to Interim President or Interim President's personal representative, as the case may be, for any accrued but unpaid compensation together with a proportionate part of any other benefits which would be due and payable to Interim President, or personal representative, as the case may be, by reason of death or incapacity during employment by Board. The payment liability of the Board shall terminate as of the date of death or determination of permanent disability or incapacity.
- c. If the Interim President becomes disabled or incapacitated, the Board shall cooperate with the Interim President or his personal representative to enable him to secure any appropriate disability, Social Security, or related benefits including executing any

compensation for any damages or injury suffered because of such termination by either party.

Article V
OTHER MUTUAL AGREEMENTS

5.1 Entire Agreement. This Agreement constitutes the entire understanding of the parties hereto and supersedes any and all prior or contemporaneous representations or agreements, whether written or oral, between the parties, and

