## 3.2.5

### Governance and Administration: Board dismissal

The governing board has a policy whereby members can be dismissed only for appropriate reasons and by a fair process.

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8.	Compliant		Non-Compliant		Not Applicable
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## **Compliance Report Narrative**

Note: Text for all linked documents below can be increased/decreased for ease of reading by pressing your keyboard's Ctrl key while rotating the mouse wheel.

The Texas Tech University System, which includes Texas Tech University, the Texas Tech University Health Sciences Center, and Angelo State University, is governed by a board of nine regents appointed by the governor with the advice and consent of the senate (TEC §§109.21–109.22). The members hold office for staggered terms of six years, with the terms of three members expiring January 31 of odd-numbered years. A non-voting student regent is also appointed by the governor for a one-year term from June 1 to May 31 (TEC §51.355).

Members of the Board of Regents are considered state officials and are subject to the Texas Government Code §572.051, which enumerates the standards of conduct and conflict of interest provisions applicable to state officers or employees. Texas Government Code §572.058 defines the procedures necessary for removing from office those state officials who are found to violate the standards of conduct. The process involves a petition by the attorney general identifying the cause and a decision by due process of a court or jury that the individual violated a standard of conduct for a state official.

#### Off Site Team Comments

The Compliance Report cited Texas Government Code §572.051 and §572.058 which, respectively, prohibit conflicts of interest and spell out the procedure by which a state officer (including TTUS Regents) might be removed from office for violating the conflict of interest prohibition. Code §572.051 further requires all state agencies to adopt code of ethics policies implementing the provisions of the law.

In its response to CS 3.2.3, Board Conflict of Interest, Angelo State University documented fulfillment of this legal requirement by providing pertinent TTUS Regents Rules from Sections 1 and 3. However, the documentation provided does not indicate the possibility of removal of office for any cause other than violating conflict of interest and does not present process procedures for removal for cause of any member of the Board.

# **University Response**

Angelo State University is part of the Texas Tech University System (TTUS) and is accountable to no board except the Texas Tech University System Board of Regents. TTUS regents may only be removed for appropriate reasons (e.g., nepotism, private interest in a decision, breach of trust) and by certain process procedures. TTUS governing board practices and the Regents' Rules, which are the policies of the TTUS, are based on Texas Government Code (TGC), which in turn is based on the Texas Constitution. A memo from TTUS General Counsel John Huffaker summarizes reasons and process. More detail is provided below.

TGC Chapter 572.002 Item 1B includes regents in its definition of appointed officers and Section 051, Subsection (a) defines the standards of conduct expected of appointed officers. Subsection (b) in section 051 describes possible sanctions for violations of behaviors described in Subsection (a) and applicable ethics policies referred to in Subsection (c) such as Chapter 03.01 of the TTUS Regents' Rules. Subsection

(b) also states that a state officer who violates Subsection (a) "is subject to any applicable civil or criminal penalty if the violation also constitutes a violation of another statute or rule." TGC Chapter 572 section 058, Item (b) defines removal from office for violation of private interest in a measure of decision.

Board conduct is outlined in the Regents' Rules Chapter 01.03. Chapter 03 of the TTUS Board of Regent Rules outlines proper conduct (03.01.1), ethical behavior (03.01.2), conflict of interest (03.01.3), and regent conduct in relation to benefits, gifts, and honoraria (03.01.4). Section 03.01.8, Item j defines removal for violation of nepotism rules. Section 03.02 defines conduct including breach of trust (03.02.1) and subsequent adjudication (03.02.3). Chapter 9.02.4 sets out the provisions relating to conflicts of interest and investments.

TGC Chapter 572.058 subsections b and c, as stated in ASU's original response, describes removal from office by the attorney general or by a district court. As appointed officers of the State, board members can be impeached. TGC Chapter 665 subsection A defines impeachment; section 002 lists individuals, including regents, who may be impeached; sections 003 and 004 define, respectively, the process procedures for impeachment when the House is and is not in session; and sections 022 and 023 define, respectively, the process procedures for subsequent removal from office when the Senate is and is not in session if the impeachment process goes that far.