

CURRENT AND PENDING MATTER

Southern Illinois University  
Board of Trustees  
December 5, 2019

APPOINTMENT OF PRESIDENTSummary

The matter presents for approval the appointment of the next President for Southern Illinois University.

Rationale for Adoption

This matter would approve the appointment of Dr. Daniel Mahony as the President of Southern Illinois University.

Dr. Mahony has most recently served as the President of Winthrop University. Before coming to Winthrop University in 2015, Dr. Mahony served at Kent State University, as Dean and Professor in the College of Education, Health, and Human Services. Prior to that, he served in numerous capacities at the University of Louisville, the last being as the Associate University Provost for Academic Planning and Accountability and Professor.

Dr. Mahony earned a bachelor's degree in accounting from Virginia Polytechnic Institute and State University in 1987, a master's in sport management in 1990 from West Virginia University and, in 1995, a doctorate from Ohio State University in sport management.

Constituency Involvement

With the assistance of an external search firm, a Presidential Search Advisory Committee engaged in a national search that resulted in over twenty candidates for consideration. The twenty-seven (27) person committee was comprised of faculty, staff, students, alumni, community members, plus representatives from the Board of Trustees. Upon full vetting of candidate submissions, the Presidential Search Advisory Committee provided a list of recommended candidates to the Board of Trustees for consideration. Based on these recommendations, the Trustees proceeded to conduct interviews with each of the Presidential Search Advisory Committee's recommended candidates. Following these interviews, the Board narrowed the candidates to three finalists who also met with campus leaders.

The resulting appointment presented for approval of Dr. Mahony as the next President of Southern Illinois University is a result of the extensive involvement of campus leaders and broad representation and input of internal and external university constituencies, including faculty, staff, students, and alumni.

Resolution

BE IT RESOLVED, By the Board of Trustees of Southern Illinois University in regular meeting assembled, That: Dr. Daniel Mahony is appointed to the position of President of Southern Illinois University, starting March 1, 2020, at an annual salary of \$435,000 and pursuant to the other terms and conditions of a Presidential Employment Agreement attached herewith, to serve at the pleasure of the Board of Trustees.

BE IT FURTHER RESOLVED, That all delegations and authority currently in place in the Office of the President shall remain in effect until the start date identified above.

BE IT FURTHER RESOLVED, that the Chair of the Board of Trustees is hereby authorized and shall take all action as may be necessary to execute said appointment and the Presidential Employment Agreement attached herewith.

## PRESIDENTIAL EMPLOYMENT AGREEMENT

This Presidential Employment Agreement is made and entered into this 5<sup>th</sup> day of December, 2019 (hereinafter the “Effective Date”), by and between the Board of Trustees of Southern Illinois University (hereinafter the “Board”) and Daniel Mahony (hereinafter the “President”). The Board and President may hereinafter be referred to individually as a “party” or collectively as the “parties.”

### Article I

#### THE BOARD’S AGREEMENTS WITH THE PRESIDENT

1.1 Employment. The Board appoints and employs Daniel Mahony to be President of Southern Illinois University (hereinafter the “University”). The President shall serve as the chief executive officer of the University, the primary representative of the University to 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 President agrees to perform these duties under applicable law; the policies, bylaws, statutes, and charter of the Board (collectively “Board Legislation”); and supervision and direction of the Board, including its Executive Committee and Chair. The President accepts and agrees to such employment.

The President shall commence his duties hereunder upon a date mutually agreed to by the President and Board but in no event later than March 1, 2020. The date upon which the President commences his duties shall hereinafter be referred to as the “Commencement Date.” Any salary, benefits, or other rights granted to the President under this Agreement shall not begin until the Commencement Date.

1.2 Duties. The Board agrees that as President of the University, the President shall, subject to the President’s agreements with the Board 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 Southern Illinois University Carbondale (SIUC) and Southern Illinois University Edwardsville (SIUE) 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 regions 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 and the institutional development officers, as well as the University's foundations and alumni organizations, and oversee the development of institutional fundraising 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 President's employment, the President shall receive the following:

- a. Compensation in the form of an annual base salary in the amount of Four Hundred Thirty-Five Thousand Dollars (\$435,000.00), 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. In the event the Board approves a salary increase plan for any given fiscal year which includes the Office of the President, the President will be eligible to receive such approved average salary increase, subject to the parameters and eligibility requirements for said approved plan.

- b. Retirement benefits, 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. Additionally, the Board agrees to reimburse the President for (or provide in-kind) reasonable actual relocation and transition expenses (such as travel and temporary furnishings) during the eighteen (18) month period following the Commencement Date, and moving expenses to relocate his household from South Carolina based on the lowest of three (3) bids, with the aggregate amount of all such reimbursements, in-kind benefits and expenses provided by the University pursuant to this sentence not to exceed Twenty-Five Thousand Dollars (\$25,000.00); provided, that if the University is required by law to make a deduction or withholding with respect to any such reimbursements, in-kind benefits or expenses, the amount of the payments by the University pursuant to this sentence shall be appropriately adjusted so that the amount of such payments, reduced by the amount of all withholdings payable, shall equal the amount of the total reimbursements, in-kind benefits and expenses which the President would otherwise be entitled to receive pursuant to this sentence (*i.e.*, not more than \$25,000).
- c. The University shall reimburse the President for reasonable entertainment, travel, and other expenses incurred by the President in the performance of his duties as President in accordance with University policy, as now or hereafter amended. These expenses shall be subject to audit by the University. Further, the President may attend educational conferences, conventions, seminars, and other professional growth activities, and other meetings to advance the interests of the University in accordance with University policy as now or hereafter amended, and the reasonable expenses connected therewith shall be reimbursed, including membership in appropriate professional and service organizations. The President understands that the University shall reimburse travel and associated expenses of the President's spouse in accordance with University policy as now or 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.
- d. A tenured appointment at Southern Illinois University Carbondale ("SIUC") at the rank of professor in a college appropriate to his discipline, pursuant to SIUC policy. If his appointment of President terminates other than pursuant to Section 4.1 herein and an appointment as professor commences, the President shall then be paid a salary amount that is consistent with other members of the faculty with similar rank and experience as determined by the dean of the applicable college. The President shall negotiate said salary with the dean and provost, whose decision shall be final. Notwithstanding the foregoing, the President's salary for

service as a tenured professor pursuant to this Section 1.3.d shall not be less than the salary, as in effect at the time that the President's appointment as professor commences hereunder, of the highest paid tenured full-time faculty member employed within the academic school in which the President's academic discipline is housed.

- e. An automobile for University business use. This automobile shall be maintained by the University and fuel for business use thereof shall be paid by the University. The University shall be responsible for insurance coverage for the automobile.

## Article II

### THE PRESIDENT'S AGREEMENTS WITH THE BOARD

- 2.1 Acceptance of Presidency. For and in consideration of the promises of the Board as stated in this Agreement, Daniel Mahony agrees to serve as President of the University. The 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 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 President agrees to regularly report to the Board, the pertinent Board committees, and the Board Chair, as appropriate, all major policy, governmental, budget, operational, and other material matters as determined by the Board Chair and President.
- 2.2 Accountability. The President agrees that in performing the duties enumerated in this Agreement he shall be accountable to the Board. The 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 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 President.
- 2.4 Outside Employment. The 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 conduct of private business affairs so long as these activities do not conflict with the President's responsibilities or duties to the University or reflect negatively upon him or the University.

### Article III

#### TERM OF APPOINTMENT

Term. This Agreement shall be for a term of four (4) years, beginning on the Commencement Date above (March 1, 2020), and terminating at the end of the day immediately preceding the fourth (4<sup>th</sup>) anniversary thereof (February 29, 2024) (the “Term”), subject, however, to prior termination as provided for in this Agreement.

### Article IV

#### TERMINATION

4.1 Termination by Board for Just Cause. The Board may terminate this Agreement at any time for “just cause,” which shall mean:

- a. A deliberate or serious violation of the duties set forth in this Agreement or refusal or unwillingness to perform such duties in good faith and to the best of President’s abilities, in either case if not remedied (to the extent subject to remedy) after thirty (30) days’ written notice thereof to President;
- b. A material violation by President of any of the other terms and conditions of this Agreement not remedied after thirty (30) days’ written notice thereof to President;
- c. Any conduct of the President that constitutes moral turpitude, or that would tend to bring public disrespect, contempt, or ridicule upon the University;
- d. A violation of prohibition against activity as stated in Section 2.4 of this Agreement;
- e. A deliberate or serious violation of any local, state, or federal law, rule, regulation, Constitutional provision, or Board Legislation, or University Guidelines, which violation may, in the sole judgment of Board, reflect adversely upon the University;
- f. Prolonged absence, in excess of fifteen (15) calendar days, from duty (other than due to disability or incapacity) without the Board’s consent;
- g. Misconduct as defined in the Government Severance Pay Act (5 ILCS 415/5).

4.2 Termination by Board without Cause. The Board may, in its sole discretion, terminate this Agreement in accordance with Board of Trustees Legislation. In connection with such a termination, the Board may, in its sole discretion assign the President other responsibilities, including but not limited to the responsibilities of a professor in the department in which the Professor holds tenure. In the event the Board terminates this Agreement without cause during the term of the Agreement, the University shall pay to the President the equivalent of twenty (20) weeks’ worth of annualized base salary, as provided in Section 1.3(a), reduced by any

compensation the President receives as a professor or any other position for the University, as his sole compensation and remedy for such cancellation. However, if termination occurs with less than twenty (20) weeks remaining on the Term, the University shall pay to the President the amount of annualized base salary, reduced by any compensation the President receives as a professor or any other position for the University, remaining in the Term. Such compensation shall not be paid if termination is for cause, as reflected in Section 4.1, or misconduct otherwise defined in the Government Severance Pay Act (5 ILCS 415/1 et seq.). In the event the President elects to exercise his tenure rights at the University after termination without cause by the University, said amount payable under this Section shall be reduced by the amount of the faculty salary paid to the President. In the event the President obtains employment from a subsequent employer after termination without cause by the Board, said amount payable under this Section shall be reduced by any compensation or salary paid to the President through such employment. Such compensation paid by the University shall be the sole remedy and damages due the President for the termination of this Agreement. In consideration of this payment by the University, the President expressly agrees to release, waive, and hold harmless the Board, the University, and its trustees, officers, agents, servants, employees, and representatives from any or all claims the President may have arising out of his employment or termination from employment.

4.3 Termination by President. This agreement may be terminated without cause by the President giving the Board twenty (20) weeks advance written notice of the termination of employment. A shorter period of notice may occur by mutual written consent of the Parties.

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

- a. If the Board deems President disabled, totally incapacitated, or incapable of carrying out the duties as President, the Board reserves the right to require President to submit to a medical examination, either physical or mental.
- b. If President becomes incapable of carrying out the duties of office, due to permanent disability or incapacity and is terminated, the Board shall pay to President or 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 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 President becomes disabled or incapacitated, the Board shall cooperate with the President or his personal representative to enable him to secure any

appropriate disability, Social Security, or related benefits including executing any documents necessary to apply for any such benefits.

4.5 Exclusion of Consequential or Other Damages. The parties have bargained for and agreed to the foregoing provisions. In no case shall the University be liable to the President for any damages, or loss of any collateral business opportunities or any other benefits, or income from any other source. The provisions for payment upon termination as provided in this Agreement are the sole and exclusive legal and equitable remedies for termination and shall constitute adequate and reasonable compensation for any damages or injury suffered because of such termination by either party. Regardless of the damages provisions herein, the President agrees to mitigate the University's obligations to pay damages under this Agreement and to make reasonable and diligent efforts to obtain employment upon termination, including but not limited to exercising his right to the tenured faculty position at SIUC. For the avoidance of doubt, after the President obtains such new employment, the University's financial obligations under this Agreement shall cease.

## 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 cannot be changed or modified unless in writing, approved by the Board and signed by the parties hereto.

5.2 Non-Disparagement. The parties agree not to make comments that injure or damage the reputation or character of the other party, or otherwise disparage the other party, during or after the term of this Agreement, or make comment about the circumstances giving rise to the Agreement or the termination, non-renewal, or expiration of this Agreement except as otherwise required by law.

5.3 Jurisdiction. This Agreement shall be interpreted and construed in accordance with the laws of the state of Illinois, without regard to its conflict of law provisions. The parties agree that all claims against the University are subject to the Illinois Court of Claims Act, and disputes against the University arising under this Agreement shall be exclusively brought before the Illinois Court of Claims.

5.4 Waiver. No delay or failure to enforce any provision of this Agreement shall constitute a waiver of any subsequent breach of the same or other provision or rights enforceable under this Agreement.

5.5 Assignment. This Agreement is not assignable but shall be binding upon heirs, administrators, representatives, and successors of both parties.

5.6 Captions. The captions are for reference purposes only and have no force and effect in determining the rights or obligations of any of the parties to this Agreement.

5.7 Severability. The terms of this Agreement are severable such that if any term or provision is declared by a court of competent jurisdiction to be illegal, void, or unenforceable, the remainder of the provisions of the Agreement shall continue to be valid and enforceable.

5.8 Interpretation. The parties acknowledge that (i) each party has reviewed the terms and provisions of this Agreement; (ii) the rule of construction to the effect that any ambiguities are resolved against the drafting party shall not be employed in the interpretation of this Agreement; and (iii) the terms and provisions of this Agreement shall be construed fairly as to both parties and not in favor or against any party, regardless of which party was generally responsible for the preparation of this Agreement.

5.9 Notices. Any notices required hereunder shall be hand delivered or sent by certified mail, return receipt requested to the following addresses, or to such other address as subsequently provided by a party pursuant to this notice provision:

For the Board of Trustees:  
Secretary of the Board  
Southern Illinois University  
1400 Douglas Drive, MC 6801  
Carbondale, IL 62901

For the President:  
President Daniel Mahony  
Southern Illinois University  
1400 Douglas Drive, MC 6801  
Carbondale, IL 62901

5.10 Ratification by Board of Trustees. This Agreement shall be subject to ratification by the Board of Trustees of Southern Illinois University prior to it being enforceable against University. Upon said ratification, the Agreement shall be in full force and effect and shall bind each party to the terms and conditions herein as of the date of first written above.

IN WITNESS WHEREOF, the parties hereby execute this Agreement below.

BOARD OF TRUSTEES OF  
SOUTHERN ILLINOIS UNIVERSITY:

PRESIDENT:

By: \_\_\_\_\_  
Hon. J. Phil Gilbert, Chair

\_\_\_\_\_ Daniel Mahony