

## 41.01 Real Property

Revised [August 16, 2023](#) (MO -2023)  
Next Scheduled Review: August 16, 2028  
Click to view [Revision History](#).



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### Policy Summary

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The Board of Regents (board) of The Texas A&M University System (system) has the sole and exclusive management and control of all real property and real property interests. All real property, including both the surface estate and mineral estate, is held in the name of the board. This policy governs the acquisition, disposal, management and leasing of real property.

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### Definitions

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Click to view [Definitions](#).

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### Policy

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#### 1. GENERAL PROVISIONS

- 1.1 Delegation of Authority. Except as otherwise provided in this policy, the board delegates to the chancellor authority to manage and maintain all real property owned or controlled by the board. The chancellor is granted authority to execute and deliver, on behalf of the board, all contracts, agreements, closing documents, deeds, assignments, leases, easements, permits, licenses, listing agreements, division orders and all other documents necessary to carry out the powers granted to the chancellor by this policy, and to perform other specific real property transactions authorized by the board.

Any authority delegated to the chancellor in this policy may be further delegated by the chancellor in writing.

- 1.2 Responsibility for Care, Maintenance and Safekeeping. The chancellor is responsible for ensuring the care, maintenance and safekeeping of all real property. The chancellor may delegate these responsibilities to a system employee or department, a member chief executive officer (CEO), or an employee or department of the member. Any such delegations must be in writing.
- 1.3 Regulations. The chancellor establishes regulations implementing this policy.

## 2. ACQUISITION OF REAL PROPERTY

- 2.1 Except as provided in Sections 2.2 and 2.3, all acquisitions of real property, including through the power of eminent domain under Section 85.32 of the *Texas Education Code*, must be approved by the board.
- 2.2 Acceptance of Gifts and Bequests of Real Property. Following a due diligence review by the System Real Estate Office (SREO) for gifts and bequests of a surface estate and/or by the System Land Management Office (SLMO) for gifts and bequests of a mineral estate, and review and approval by the System Office of Budgets and Accounting, gifts and bequests of real property may be accepted by a member CEO on behalf of the board in accordance with System Policy 21.05, *Gifts, Donations, Grants and Endowments*, and this policy. Unless waived by the System Office of General Counsel (OGC):
- (a) the due diligence review of a surface estate must include an environmental site assessment, a survey, a property condition inspection and an examination of title; and
  - (b) an owner's policy of title insurance covering surface estate gifts or bequests must be obtained in an amount determined by SREO.
- 2.3 Purchase of Real Property. Following a due diligence review by SREO for the purchase of a surface estate and/or by SLMO for the purchase of a mineral estate, the chancellor has authority to approve the purchase of real property, other than through the power of eminent domain, in which the consideration payable by the system or its member, exclusive of closing costs, is \$1,000,000 or less.

Unless waived by OGC:

- (a) the due diligence review of a surface estate must include an environmental site assessment, a survey, a property condition inspection and an examination of title; and
- (b) an owner's policy of title insurance covering the surface estate purchased must be obtained in an amount determined by SREO.

## 3. DISPOSITION OF REAL PROPERTY

It is the policy of the system to retain commercial water rights when disposing of real property consisting of 10 or more acres and to retain all mineral rights in all real property dispositions.

Subject to the foregoing, the chancellor has authority to approve:

- (a) dispositions of title to undivided surface estate interests; and
- (b) dispositions of real property valued at \$500,000 or less.

All other dispositions of title to real property must be approved by the board.

#### 4. LEASE OF SURFACE ESTATE

- 4.1 All leases of a surface estate **to** third parties having a term that exceeds five years must be approved by the board. Renewal periods that may be exercised in the sole discretion of the third-party tenant must be included in computing the term of the lease. The chancellor is delegated authority to approve all other leases of a surface estate to third parties.
- 4.2 All leases of a surface estate **from** third parties for the benefit of the system or a member must be approved by the board if **either**:
- (a) the term of the lease, including renewal periods, exceeds 10 years; or
  - (b) the total consideration payable by the system or member for the term of the lease, including renewal periods, exceeds \$1,000,000.

The chancellor is delegated authority to approve all other leases of a surface estate from third parties. The term “total consideration” means all rent, tenant improvement costs (but excluding furniture, fixtures and equipment) and other expenses payable by the system or a member, the amounts of which can be reasonably determined at the inception of the lease term, including base rent, security deposits and common area maintenance and other charges, but excluding the costs of insurance, taxes and maintenance under a “triple net” lease and rent escalations, unless the amount of those costs and/or rent escalations can be determined at the inception of the lease.

Agenda Items for all leases of a surface estate from third parties with tenant improvement costs (including furniture, fixtures and equipment) to the system or member of \$4,000,000 or more that are financed with Permanent University Fund (PUF) or Revenue Financing System (RFS) debt must address the tenant improvements costs, the Minute Order related thereto must authorize the payment for tenant improvements with debt proceeds, and the tenant improvements must be added to the system or member’s capital plan.

- 4.3 In the case of a lease amendment, modification or extension, “term” means only the period of time from the commencement date of the lease amendment, modification or extension going forward, and not the time period for which the lease term has already been completed or satisfied.

#### 5. LEASE OF MINERAL ESTATE

- 5.1 Process. A mineral estate may be leased for oil, gas, sulphur, mineral ore and other mineral development by public auction, sealed bid or negotiated agreement.
- 5.2 Delegation. The board delegates to the chancellor authority to approve mineral leases having:
- (a) a primary term of three years or less; and
  - (b) a royalty of:
    - (1) at least 25% in states without statutory or compulsory pooling; or

- (2) less than 25% in states with statutory or compulsory pooling, if no 25% royalty option to lease is offered by the potential lessee.

The board also delegates to the chancellor authority to approve those mineral leases, ratifications, and related agreements in which the board does not own or control the executive rights.

All other mineral leases must be approved by the board.

## 6. EASEMENTS

- 6.1 Granting of Easements to Third Parties. The board must approve easements on a surface estate granted for highway or roadway purposes having an indefinite term. The chancellor has authority to approve all other easements over, across, under, or through real property, provided that the term of the easement does not exceed 10 years. The chancellor or designee will periodically publish a schedule of fees to be charged for easements over, across, under, or through real property. The chancellor has the right, in the public interest, to waive fees for easements granted to governmental entities or which solely serve the system or a member. Easements on real property may not exceed 10 years, except those granted for highway or roadway purposes which may be indefinite.
- 6.2 Easements from Third Parties. The board must approve easements over, across, under, or through real property owned by third parties and benefiting the system or a member if the consideration payable to the third party exceeds \$300,000.
- 6.3 Conservation Easements. Neither the system nor a member will be the holder of a conservation easement as defined in Section 183.001 of the *Texas Natural Resources Code* without first obtaining approval of the board.

## 7. PURCHASE/SALES PRICE AND APPRAISALS

In order to ensure the system receives fair value, acquisitions and dispositions of title to real property must be supported by one or more current independent appraisals, market studies, and/or other reasonable documentation of value as determined by SREO in the case of a surface estate and/or SLMO in the case of a mineral estate and in accordance with the rules of the Texas Higher Education Coordinating Board, if applicable.

## 8. INCOME FROM REAL PROPERTY

- 8.1 Revenues from Real Property Acquired Other Than by Gift or Bequest. Unless otherwise directed by the board, by law or by an intrasystem agreement between or among members, and except as set forth in Sections 8.2, 8.3, and 8.4, all sale proceeds, rents, fees and other income from the sale, lease or use of real property, including all surface damages paid by mineral lessees (other than damages to crops or other property of a tenant) must be credited to the account of the member to which the property has been assigned.
- 8.2 Revenues from Real Property Acquired by Gift or Bequest. Unless otherwise directed by the donor, and except as set forth in Section 8.4, all sale proceeds, rents, fees, royalties, bonuses, damage recoveries and other income from the sale, lease or use of real property or mineral interests acquired by gift or bequest, must be credited to the account of the

member designated as the donee of the gift or bequest; provided that, if the board or the system is designated as the donee, the board must determine the disposition of all revenues.

8.3 Mineral Revenues from State Land. In accordance with Section 85.70 of the *Texas Education Code*, except as provided in Section 8.4, all income received from mineral leases on real property that was acquired from the state of Texas, purchased with state funds or acquired by any means other than gift or bequest, will be deposited into The Texas A&M University System Special Mineral Investment Fund. Income from this fund must be deposited to the credit of The Texas A&M University System Special Mineral Income Fund and may be expended under the direction of the board for the general use of any member. Money in these funds is considered to be institutional funds, as defined by Section 51.009 of the *Texas Education Code*, of the system and its members.

8.4 Mineral Revenues for Texas A&M University-Kingsville. In accordance with Section 85.70(c) of the *Texas Education Code*, if real property was: (1) acquired from the state of Texas for the use of Texas A&M University-Kingsville and its divisions, (2) purchased with state funds for the use of Texas A&M University-Kingsville and its divisions, or (3) acquired by any means other than gift or bequest, and it was purchased or acquired for the use of Texas A&M University-Kingsville and its divisions, all income received from mineral leases on such property will be deposited into the Texas A&M University-Kingsville Special Mineral Fund. Money in this fund is considered to be institutional funds, as defined by Section 51.009 of the *Texas Education Code*, of the university and is to be used exclusively for Texas A&M University-Kingsville and its branches and divisions.

## 9. PRIVATIZED HOUSING

Unless waived by the chancellor, prior to submitting a student housing construction project to the board for approval as a system project, a member must undertake a procurement process to identify a potential private partner/developer to design, construct and operate the project under a ground lease. All privatized student housing ground leases must be prepared or reviewed and approved by OGC for legal sufficiency.

## 10. REPORTING

The chancellor reports to the board on a quarterly basis: (1) all acquisitions approved by the chancellor or designee under the authority of Section 2.3 in which the purchase price payable by the system or member exceeds \$500,000 and is less than \$1,000,000; and (2) all leases of a surface estate from third parties approved by the chancellor or designee under the authority of Section 4.2 in which the total consideration payable by the system or member exceeds \$500,000 and is less than \$1,000,000.

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## Related Statutes, Policies, or Requirements

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[Tex. Educ. Code § 51.009](#)

[Tex. Educ. Code § 85.25](#)

[Tex. Educ. Code § 85.26](#)

[Tex. Educ. Code § 85.32](#)

[Tex. Educ. Code § 85.51](#)

[Tex. Educ. Code § 85.70](#)

[Tex. Nat. Res. Code § 183.001](#)

[19 Tex. Admin. Code Ch. 17](#)

[System Policy 21.05, Gifts, Donations, Grants and Endowments](#)

The December 2008 version of this system policy supersedes:

System Policy 41.01, *Real Property Gift and Bequest Acceptance*

System Policy 41.02, *Real Property Purchase*

System Policy 41.03, *Real Property Condemnation*

System Policy 41.04, *Real Property Classification*

System Policy 41.05, *Real Property Management Policy*

System Policy 41.06, *Mineral Lease Property*

System Policy 41.07, *Real Property Disposition*

System Policy 41.08, *Administration of Real Estate Office*

System Policy 41.09, *Privatization of On-Campus Housing Facilities by Third Parties*

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## **Member Rule Requirements**

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A rule is not required to supplement this policy.

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## **Contact Office**

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Real Estate  
(979) 458-6350

Land Management  
(979) 458-2388