



Office of General Counsel

THE TEXAS A&M UNIVERSITY SYSTEM

Report on Review of Failed Hiring Process at
Texas A&M University Relating to Dr. Kathleen McElroy
August 3, 2023

Over the past several weeks, the Office of General Counsel conducted an internal review into the facts and circumstances that contributed to the failed attempt by Texas A&M University to hire Dr. Kathleen McElroy as a member of the faculty and director of the new journalism program. As everyone knows by now from media reports, Dr. McElroy withdrew from further consideration for the position after she learned of concerns over her impending appointment and was presented with an offer letter that contained terms less favorable than the terms that had been discussed previously during her recruitment. Dr. McElroy has stated publicly that she believes she was treated differently because of her “race and maybe gender”. More recently, Dr. Hart Blanton, Head of the Department of Communication and Journalism at TAMU, issued a public statement “to object to race having been a consideration in [Dr. McElroy’s] treatment” in this hiring process.

To assess the allegations and other issues relating to this hiring process, OGC has gathered numerous documents, emails, and text messages and has interviewed Chancellor Sharp and a number of TAMU officials, including former President Kathy Banks, Senior Vice President Susan Ballabina, Vice President NK Anand, former Interim Dean Jose Bermudez and Department Head Hart Blanton.

Based on this review, OGC reports the following:

- Regarding the McElroy recruitment, in early May 2023 Ballabina received word that McElroy was going to be hired to lead the journalism program and that there were plans for a public announcement. In a weekly meeting with Banks, Ballabina shared this news and indicated there would likely be significant media coverage. Ballabina communicated that she expected the coverage to be overwhelmingly positive, but also mentioned there was a possibility for the announcement to attract attention based on previous McElroy writings related to DEI.
- Early the morning of May 11, 2023, Bermudez informed Blanton that the budget and plan for the new journalism program was approved, and Blanton could proceed with the McElroy hire.
- McElroy was verbally offered the position by Blanton, and accepted, on May 11, 2023.
- Later in text messages exchanged on May 11 and 12, 2023, Bermudez conferred with Blanton and indicated he had spoken with Banks and that she preferred not to have any publicity on the McElroy appointment until after the legislative session ended. Blanton expressed his concerns that it could result in negative publicity for the University “if we

ask a famous Black journalist not to share her exciting decision with the world.” Bermudez reminded Blanton there was no formal offer letter yet and explained his understanding of Banks’s motivations in a text: “Bottom line is the NYT connection is poor optics during this particular legislative session.”

- McElroy was not informed that her hiring was being delayed due to the legislative session. She was told that the delay was due to administrative requirements and the need to process paperwork.
- After the legislative session concluded, Banks informed Sharp of her desire to move forward with the hire. He acknowledged the notice and suggested Banks also inform the Board Chairman, given the significance of this new program and the new position. Within a few days, Chairman Mahomes acknowledged TAMU’s plan to proceed. On June 6, Blanton was authorized to move the hiring process forward, resulting in a public announcement on June 13.
- At the June 13 announcement, McElroy signed an appointment letter that provided for a faculty position with “tenure upon arrival” contingent on approval by TAMU, System and Board of Regents. It also provided for appointment as Director of Journalism in an administrative role. The letter is clear that the administrative position would be “at will”.
- The job posting initially used by TAMU in this search process identified the position as one that is eligible for tenure, and the appointment letter presented to Dr. McElroy and signed by McElroy, Bermudez and Blanton at the June 13 event provided for tenure.
- On June 15, the Texas Scorecard published an article entitled “Aggies Hire NY Times ‘Diversity’ Advocate to Head Journalism Program.” The article described McElroy as a “Diversity, Equity and Inclusion proponent” and highlighted certain articles McElroy had authored. The article also said she was part of the “Council for Racial and Ethnic Equity and Diversity” at the University of Texas at Austin.
- The Texas Scorecard article generated numerous calls and emails to the President’s Office at TAMU, including from the Rudder Association and other former students, raising questions about why a DEI proponent would be hired to serve as director of the new journalism program.
- The June 13 event also generated a significant positive response, including calls, emails and social media activity in support of McElroy’s hiring.
- After the Texas Scorecard article, Banks said that she received calls from 6-7 members of the Texas A&M University System Board of Regents asking questions and raising concerns about McElroy’s hiring. The regents had been briefed previously on the provisions of SB 17 relating to DEI, including the provisions requiring the Board to annually certify that the requirements of the bill have been fully implemented and confirm the System’s compliance with the bill. Regents questioned how McElroy’s advocacy for DEI could be reconciled with TAMU’s obligations under SB 17.
- In apparent response to regent inquiries, on June 16, Banks informed Bermudez in a telephone call that there was a potential problem with McElroy obtaining tenure at TAMU. From that conversation, the idea of shifting the position to a non-tenure track Professor of Practice position emerged. It’s unclear if Banks or Bermudez first suggested it.

- In text messages exchanged on June 19, Banks and Bermudez discussed a change in McElroy's appointment from a tenured position to a multi-year appointment as a professor of practice. Banks indicated approval of this change.
- Also on June 19, Bermudez had a call with McElroy and reports that he told her that being approved for tenure was not automatic, and political issues over DEI could preclude tenure. Blanton met with McElroy immediately after her call with Bermudez. Blanton reported that McElroy told him that Bermudez referred to "DEI hysteria" and made a comment about McElroy being "a black woman who worked at the New York Times." Bermudez reports that he also told McElroy her nontraditional academic background could prove problematic because the College of Arts and Sciences did not have established tenure review procedures for such candidates. Blanton did not agree that her background would be a problem in the tenure process of the department and college. Bermudez told McElroy that an available option was a multi-year Professor of Practice appointment, a non-tenure track position. At the end of the conversation, it was left open which position McElroy would pursue.
- Later on June 19, Blanton reported to Bermudez that a Professor of Practice appointment was acceptable to McElroy, indicating it was consistent with her professional plans, after being assured that she was still able to serve as Director of the Journalism program.
- In the text exchange with Bermudez on June 19, Banks said she intended to discuss the change in McElroy's appointment with Chancellor Sharp in a meeting already scheduled for the next day. Chancellor Sharp's calendar for June 20 reflects a meeting with Banks and Ross Bjork regarding athletics matters. Chancellor Sharp states that McElroy was not discussed in the June 20 meeting.
- After the June 19 communications, there was then some delay in the process due to administrative requirements. TAMU determined that the position needed to be re-posted as an Academic Professional Track Professor of Practice position because it had been previously posted as a tenured position.
- The position was re-posted as a Professor of Practice position and McElroy re-applied on June 26.
- On or about June 27, new appointment letters were prepared for McElroy. One letter provided for a multi-year appointment as a Professor of Practice and the other letter provided for a multi-year appointment as Director of the Journalism program in an administrative position.
- TAMU did not proceed to deliver the new appointment letters to McElroy at this time. Chairman Mahomes asked that action on the appointment be delayed until the board could be updated in a meeting already scheduled for July 6.
- The July 6 meeting was scheduled to take final action on the appointment of the new president of TAMU-Texarkana. This was the earliest date the meeting could be held due to the 21-day waiting period required by state law after the June 14 board meeting naming a sole finalist for the position.
- The July 6 meeting presented an opportunity for the board to be updated on the McElroy appointment and have their questions answered in a forum where all members of the board would be present.

- The McElroy matter was discussed in executive session of the July 6 board meeting. The board took no action on the McElroy appointment and did not direct Banks to modify the terms of the offer.
- After the July 6 meeting, it was understood that McElroy would provide a briefing to the board of regents regarding her plans for the new journalism program at the regular meeting scheduled for August 16-18.
- During the afternoon of July 6, after the board meeting, Banks called Bermudez. Bermudez reports that Banks instructed him to call McElroy and advise her that she was coming into a difficult environment, and also instructed him to change the faculty appointment from a 3-year appointment to a 1-year appointment.
- Bermudez called McElroy on July 7. McElroy contacted Blanton and asked him to join the call. Blanton was added to the call. Bermudez does not recall his specific comments to McElroy, but Blanton and certain text messages indicate that Bermudez did make a comment to McElroy during the phone call about race being a factor in her treatment. Bermudez now explains that the comment referred to race potentially being a factor for certain outside parties that were critical of hiring McElroy and did not mean that race was a factor for any TAMU officials. Bermudez confirms telling McElroy that he thought the environment at TAMU might be sufficiently unwelcoming based on his view of the political climate that she should see if there is a way that she could retain tenure at UT in the event that things did not work out at TAMU (through for example taking leave without pay).
- McElroy was unhappy with the message delivered by Bermudez. McElroy called Blanton the morning of July 8 and told Blanton she was cutting off contact with TAMU.
- Bermudez sent updated appointment letters to McElroy on July 9, and copied Blanton on his email to McElroy. One provided for appointment to the faculty as a Professor of Practice with a 1-year appointment, and the other provided for a 3-year administrative appointment as Director of the Journalism program. The administrative appointment letter contained language regarding “at will” status, consistent with all TAMU appointment letters for administrative positions. The faculty appointment letter did not contain such language.
- Bermudez did not provide the updated appointment letters to Blanton for review prior to sending them to McElroy and Blanton on July 9. The only change to the letters was to the length of the term of the faculty appointment. Blanton’s signature was included on the July 9 drafts due to an automated electronic signature feature of the document.
- When sending the appointment letters to McElroy on July 9, Bermudez’ cover email indicated that the letters were drafts and asked McElroy to contact him if she “would like to revisit some aspects of the offer.”
- On July 10, Bermudez called McElroy and she expressed displeasure that the faculty appointment letter provided only a 1-year appointment. Bermudez said he was willing to confer with TAMU administration to see if it could be changed to a 3-year appointment. McElroy indicated that she needed to process what had transpired.
- On July 11, the Texas Tribune posted an article entitled “Texas A&M recruited a UT professor to revive its journalism program, then backtracked after ‘DEI hysteria’”.

- In her publicly reported comments, McElroy suggested that race or “maybe gender” was a factor in the way she was treated by TAMU in this hiring process. As noted above, the evidence indicates that Bermudez commented about McElroy’s race on two different occasions in the hiring process. As also noted above, Bermudez explains that his comments were based on his subjective belief that certain outside parties critical of the McElroy hiring could have been motivated in part by race. Bermudez nevertheless reports that he did not observe any actions or comments by TAMU officials indicating that race was a factor in TAMU’s decisions in this hiring process.
- When asked about the statement he issued on July 21, Blanton reports that the only information that supports his statement regarding race as a factor in this hiring process was his knowledge of the two Bermudez comments. The OGC review did not identify any other evidence that race was a factor in the internal hiring process. In addition, there was no evidence of gender as a factor in the hiring process. On July 20, Banks met with the TAMU Faculty Senate. She denied knowing about the changes to the terms of the appointment of McElroy prior to the publication of McElroy’s comments on July 11.
- On July 21, OGC obtained documents confirming that Banks and Bermudez had been in contact about the various changes to the terms of McElroy’s appointment.
- Banks resigned the evening of July 21.
- In interviews with TAMU leaders including Interim President Mark Welsh, Ballabina and Anand conducted after key details of the failed hiring process were discovered, they have acknowledged that significant mistakes were made in this hiring process, primarily due to a failure to follow established policies and procedures that govern faculty hiring. OGC is advised that as an immediate next step, all faculty offer letters will require the signature of the Vice President of Faculty Affairs to ensure compliance with policies and procedures and to provide an effective oversight mechanism.
- Additionally, Interim President Welsh has directed the Office for Faculty Affairs to create a task force to provide recommendations on appropriate protections for faculty in matters of faculty hiring and academic freedom.