

**Notice of Meeting**

**UNIVERSITY OF HAWAII'I  
BOARD OF REGENTS COMMITTEE ON INTERCOLLEGIATE ATHLETICS**

Members: Regents Portnoy (Chair), Yuen (Vice-Chair), Acopan,  
Higaki, and Westerman

**Date:** Wednesday, March 20, 2019

**Time:** 9:00 a.m.

**Place:** University of Hawai'i at Mānoa  
Information Technology Building  
1<sup>st</sup> Floor Conference Room 105A/B  
2520 Correa Road  
Honolulu, Hawai'i 96822

**AGENDA**

**I. Call Meeting to Order**

**II. Approval of Minutes of the December 19, 2018, Meeting**

**III. Public Comment Period for Agenda Items:** All written testimony on agenda items received after posting of this agenda and up to 24 hours in advance of the meeting will be distributed to the board. Late testimony on agenda items will be distributed to the board within 24 hours of receipt. Written testimony may be submitted via US mail, email at [bor@hawaii.edu](mailto:bor@hawaii.edu), or facsimile at 956-5156. Individuals submitting written testimony are not automatically signed up for oral testimony. Registration for oral testimony on agenda items will be provided at the meeting location 15 minutes prior to the meeting and closed once the meeting begins. Oral testimony is limited to three (3) minutes. All written testimony submitted are public documents. Therefore, any testimony that is submitted verbally or in writing, electronically or in person, for use in the public meeting process is public information and will be posted on the board's website.

**IV. Agenda Items**

- A. Coaches Corner: Gene Okamura, University of Hawai'i at Hilo Women's Soccer Coach
- B. Update on Title IX and Gender Equity
- C. Association of Governing Boards Statement and Articles on Governing Boards' Responsibilities for Intercollegiate Athletics and Regents Policy 7.208, Intercollegiate Athletics

**V. Adjournment**

**DISCLAIMER – THE FOLLOWING ARE DRAFT MINUTES AND ARE SUBJECT TO  
CHANGE UPON APPROVAL BY THE COMMITTEE ON INTERCOLLEGIATE  
ATHLETICS**

**MINUTES**

**BOARD OF REGENTS COMMITTEE ON INTERCOLLEGIATE  
ATHLETICS MEETING**

**DECEMBER 19, 2018**

**I. CALL TO ORDER**

Committee Chair Jeffrey Portnoy called the meeting to order at 8:45 a.m. on Wednesday, December 19, 2018, at the University of Hawai'i at Mānoa, Information Technology Building, 1<sup>st</sup> Floor Conference Room 105A/B, 2520 Correa Road, Honolulu, Hawai'i 96822.

Committee members in attendance: Committee Chair Jeffrey Portnoy; Committee Vice Chair Stanford Yuen; Board Vice Chair Wayne Higaki; Regent Brandon Marc Higa; Regent Douglas Shinsato.

Others in attendance: Board Chair Lee Putnam; Regent Simeon Acoba; Regent Michael McEnerney; Regent Randy Moore; Regent Ernest Wilson Jr. (ex officio committee members); President/UH-Mānoa (UHM) Chancellor David Lassner; Vice President for Legal Affairs/University General Counsel Carrie Okinaga; Vice President for Academic Planning and Policy Donald Straney; Vice President for Budget and Finance/Chief Financial Officer Kalbert Young; Interim UH-Hilo (UHH) Chancellor Marcia Sakai; Executive Administrator and Secretary to the Board of Regents (Board Secretary) Kendra Oishi; and others as noted.

**II. APPROVAL OF MINUTES OF THE OCTOBER 4, 2018, MEETING**

Regent Higa moved to approve the minutes of the October 4, 2018, meeting, seconded by Regent Shinsato and the motion carried unanimously.

**III. PUBLIC COMMENT PERIOD**

Board Secretary Oishi announced that the Board Office received no written testimony. No individuals signed up to provide oral testimony.

**IV. AGENDA ITEMS**

**A. Coaches Corner – Charlie Wade, University of Hawai'i at Mānoa Men's Volleyball Coach**

A talk story session was held with UHM Men's Volleyball Coach Charlie Wade. Coach Wade discussed how the increase in academic scholarship funds has benefitted the volleyball program in relation to recruitment. The program's values place an

emphasis on players doing their best athletically, academically, and in the community. Coach Wade also highlighted the academic and national athletic achievements of current players.

Regent Acoba arrived at 8:51 a.m.

Committee Vice Chair Yuen commended Coach Wade and his staff for recruiting quality players that are good representatives of the university and ambassadors for students.

A question was raised regarding the attraction for European student-athletes to come to UHM. Coach Wade indicated that the academic reputation of UHM is the main attraction. He noted that the volleyball program goes after high-achieving students locally, nationally, and internationally.

A question was raised regarding whether the addition of the Big West Conference to Men's Collegiate Volleyball last year has made a difference. Coach Wade said the change in the league was great for men's volleyball and for the first time, the Big West Conference has representation in the National Collegiate Athletic Association (NCAA) and is a full-fledged Division I league. The ability to play in the post-season championship helps keep players motivated and engaged.

Committee Chair Portnoy thanked Coach Wade for attending today's meeting and commended him for the program's athletic and academic achievements, and the student-athletes integration into the community.

UHM Athletics Director (AD) David Matlin noted that the men's volleyball program has been in two final four volleyball championships in the last 4 years and received many academic awards. AD Matlin noted that Coach Wade is a leader in the athletics department for developing a team culture and assisting others in doing the same, which makes a difference for student-athletes, the athletics department, the university, and the state.

### **C. For Information and Discussion**

#### **1. Student Athletic Fees: Data, Analysis, and Next Steps**

Committee Chair Portnoy took this agenda item out of order. There was no objection by the other committee members. He noted that the committee requested the athletics department and administration to review options to increase revenues to support athletics, including student athletic fees. AD Matlin was asked to present a detailed analysis of the student athletic fee.

Director for External Affairs (DEA) Joel Matsunaga presented an overview of UHM athletics department financials; initiatives the athletics department has undertaken towards financial sustainability, including institutional and government support; a history of the UHM student athletic fee; the student athletics benefits package; an update on facilities improvements, expanded programs, and student engagement, including the H Rewards app; benchmark comparison of student athletics fees with peer institutions; and conceptual alternatives for student athletic fee adjustments.

A question was raised regarding what makes Hawai'i's student-aid unique. DEA Matsunaga explained that tuition costs in Hawai'i are higher, especially for non-resident students. Approximately 75% of UHM student-athletes are non-residents, which is proportionally higher than other schools.

A question was raised regarding whether the revenue performance numbers were an average, specifically the \$2.7 million in direct governmental support. DEA Matsunaga explained that the numbers shown are for 2017, and that the athletics department hoped the \$2.7 million legislative appropriation would continue.

Questions were raised regarding whether there had been prior efforts to have the fringe benefit costs covered by changing the source of funding for positions from special funds to general funds. DEA Matsunaga explained that there was an effort last year that was unsuccessful. This year's board-approved budget also included the request, but the Governor did not include it in the budget request that was submitted to the Legislature.

A question was raised regarding whether the athletics department taking over management of student engagement from the Student Athletic Fee Committee resulted in cost savings. DEA Matsunaga explained that the overall budget remained the same, but there are management cost savings, which are directed into other benefits that students enjoy.

Regent Higa commented that communication needs to occur with student leaders regarding the value of the athletic fee and benefits that are included. He heard positive feedback from students who have enjoyed the H-Zone application.

A question was raised regarding funding for intramural sports and a suggestion made that the athletics department consider administering the program and funding it through the athletics fee as an added value for students. President Lassner explained that intramural sports are under the jurisdiction of the UHM student recreation services and are funded by general funds and tuition.

Questions were raised regarding the student's perceived underperformance in philanthropy for athletics. AD Matlin explained that there is room for improvement, but UHM is generating more revenues than peers such as the Group of Five and Big West. This year, 'Ahahui Koa Ānuenue (AKA) will contribute between \$400,000 and \$500,000 more to athletics than last year. There have been improvements under the new leadership of AKA.

Questions were raised regarding the average student attendance in the last three years for football, volleyball, baseball, and basketball. AD Matlin explained that student attendance has increased this year, but football attendance decreased after the first few games despite the team's winning performance. There needs to be more student engagement and improved marketing, but overall attendance has increased slightly this year.

Questions were raised regarding whether non-student ticket revenues go back to the athletic department, and whether tickets prices have increased. AD Matlin explained

that approximately \$5.8 million in ticket revenues was generated, which is \$1.2 million above the Mountain West. The athletics department utilizes a supply and demand model and has performed analysis regarding ticket pricing; some ticket prices have increased while others decreased.

The committee commended AD Matlin and the athletics department for their efforts to increase revenue and decrease the deficit. Suggestions were made to include more information on student-driven investments, annual enrollment projections, and how projected revenues will be invested, and to include an expense performance summary similar to the revenue performance summary that itemizes expenses that are directly comparable to other athletics departments, and the benefits that students receive as part of the athletic fee at other institutions.

Regent McEnerney pointed out that the accounting rules related to other post-employment benefits that are now in place resulted in an assignment of just under \$1 billion to the university's financial statements. Fringe benefit costs are still a university obligation even if they are not specifically in the athletics department budget.

A question was raised regarding the percentage of the athletic fee that directly benefits students. AD Matlin explained that 92% of the fee supports the general athletics program and 8%, or \$130,000, is reinvested into student initiatives.

A question was raised regarding the timeline for any proposed adjustments to the athletic fee. AD Matlin responded that the plan is to have more discussions with stakeholders and return to the board with a proposal in the near future.

## **B. For Review and Approval**

### **1. Committee Goals and Objectives**

The committee goals and objectives were taken up in conjunction with the AGB articles on board responsibilities for intercollegiate athletics (see below). There were no objections.

## **C. For Information and Discussion**

### **2. Association of Governing Boards Articles on Board Responsibilities for Intercollegiate Athletics**

The committee reviewed the articles and discussed whether the board had an appropriate vision and view of the role of the board in intercollegiate athletics, and areas where current practice and regents policies may vary from recommendations. Specific items from the articles will be put on agendas for discussion at upcoming committee meetings, along with consideration for revisions to Regent Policy 7.208.

Discussion occurred on the need for a matrix of measurements of success for the athletics program; the importance of current issues relating to concussions and health, and the role the board plays; the meaningfulness of metrics on academic performance; identifying what the university can learn from other schools; and receiving

recommendations and feedback from the administration. President Lassner commented that public interest has caused some boards to interfere in internal management, and noted that he meets at least monthly with AD Matlin, who alerts him to potential issues.

**V. ADJOURNMENT**

There being no further business, Regent Higa moved to adjourn and Regent Yuen seconded, and with unanimous approval, the meeting was adjourned at 10:02 a.m.

Respectfully Submitted,

Kendra Oishi  
Executive Administrator and Secretary  
of the Board of Regents

Item IV.A.  
Coaches Corner –  
Gene Okamura

**NO MATERIALS**

# Gender Equity Update

University of Hawai'i

Board of Regents Committee Meeting on Intercollegiate Athletics

March 20, 2019

University of Hawai'i at Mānoa Intercollegiate Athletics



# Report/Plan History

- Gender Equity Plan (1994)
- Six-Year Gender Equity Plan (1996-2002)
- Just Do It (2002)
- Believe It, Achieve It (2007-2012)
- If You Let Us Play (2010-2016)
- **Beyond Gender (2017-2022)**

# Title IX Equitable Participation Opportunities

- **Prong I (Substantial Proportionality)**
  - Provide opportunities for participation in intercollegiate sports by gender in approximate proportion to undergraduate enrollment
- **Prong II (Continued Expansion)**
  - Demonstrate a history of continuing practice of expanding opportunities for the underrepresented gender
- **Prong III (Full Accommodation)**
  - Demonstrate that the university is fully and effectively accommodating the athletic interests of the underrepresented gender

# Scholarships

- GOAL: To award the percentage of female scholarship dollars to within less than 1% of the female unduplicated participation percentage

Year	Scholarship Expenses (Men)	Scholarship Expenses (Women)	% Scholarship Expenses (Women)	Unduplicated Participants (Men)	Unduplicated Participants (Women)	% Unduplicated Participants (Women)	Scholarship % vs. Participation %
1415	\$4,344,739	\$3,502,731	44.64%	249	242	49.29%	-4.65%
1516	\$4,644,431	\$3,857,590	45.37%	248	242	49.39%	-4.02%
1617	\$5,015,692	\$4,220,161	45.69%	260	234	47.37%	-1.68%
1718	\$4,620,387	\$4,510,777	49.40%	239	246	50.72%	-1.32%

Women's Unduplicated Count/Total Unduplicated Count = %

Women's Scholarship Expenses/Total Scholarship Expenses = %

Difference of two percentages = Variance

# Program Areas

- Participation and Scholarships
- Laundry List
  - Equipment & Supplies
  - Scheduling
  - Travel
  - Opportunities for Academic Services
  - Opportunities to receive quality coaching
  - Provision of Facilities (locker rooms, competition)
  - Provisions of medical and training services and facilities
  - Publicity
  - Recruiting
  - Support Services

# Master Facility Plan

## Completed Projects

- Rainbow Wahine Softball Stadium Phase II
- Duke Kahanamoku Aquatic Complex Diving Well Repair
- Football Practice Field Video Platforms
- Les Murakami Stadium Home Locker Room Renovation
- Gym 2 Renovation

# Rainbow Wahine Softball Stadium Phase II

- Replace field with synthetic surface
- Painting in various areas
- Added safety netting
- Added fencing
- Added padding to outfield wall
- Added graphics



# Duke Kahanamoku Aquatic Complex Upgrade

- Resurfaced diving well
- Repaired/Replaced light fixtures
- Repaired/Replaced drain covers



# Football Practice Field Video Platforms

- Constructed concrete platforms for scissors lifts



# Les Murakami Stadium Home Locker Room Renovation

- Constructed new home locker room



# Gym 2 Renovation

- Floor Replacement
- Installed HVAC and PV systems
- Lighting Replacement
- Graphics



# Master Facility Plan

## Projects In Progress

- Gym 1 Renovation
  - Work began January 2019
  - On schedule for completion in June 2019
- Clarence T.C. Ching Complex Phase II
  - In design
- Rainbow Wahine Softball Stadium Phase IIa
  - In design

# Master Facility Plan

## Projects In Progress

- Track Replacement
  - Bids submitted
- Duke Kahanamoku Aquatic Complex Pool Repair
  - Begins May 2019 for completion in August

# Gender Equity Facilities Review

MEN	WOMEN	MUTUAL
Football Video Platforms (\$300K)	Rainbow Wahine Softball Stadium Phase 2 (\$3M)	Gyms 1 and 2 Renovation (\$10M)
Les Murakami Stadium Home Locker Room Renovation (\$1.2M)	Clarence T.C. Ching Complex Track Replacement (\$2.5M)	Duke Kahanamoku Aquatic Complex Diving Well Repair (\$1.1M)
	Clarence T.C. Ching Complex Phase 2 (\$2.5M)	Duke Kahanamoku Aquatic Complex 50M Pool Repair/Improvements (\$3M)
	Rainbow Wahine Softball Stadium Phase IIa (\$3M)	
\$1.5M	\$11M	\$14.1M

## In Conclusion

- Moving in right direction
- Continue to move closer to within 1% of scholarships and participation
- Continue to monitor all areas on the Laundry List
- Continue with intentional effort on Master Facilities Plan
- Living document

# Title IX Update

University of Hawai'i

Board of Regents Committee Meeting on Intercollegiate Athletics

March 20, 2019

University of Hawai'i at Mānoa Intercollegiate Athletics



# Title IX Education

- Mandatory NCAA Pre-Season Meeting
  - Deputy Title IX Coordinator for Athletics;
  - Role of the Deputy is outlined.
- SA Handbook (located on website) covers the following information:
  - Gender Equity (page 7, 14)
  - Diversity and Inclusion in Intercollegiate Athletics (page 7)
  - Sexual Harassment (page 14, 23)
  - Sexual Assault (page 23)
  - Relationship Violence and Stalking (page 24)
  - EP 1.204 (page 16)

# Title IX Education

- Training for SAs and Athletic Department Staff
  - Yearly training mandated by the NCAA
    - Since 2017-18 academic year
      - UHM Office of Title IX
      - Women's Center/PAU Violence
  
- Title IX Deputy Trainings attended:
  - ATIXA
  - Clery
  - VAWA

Investigator

  - Trauma Informed



University of Hawai'i at Mānoa Department of Intercollegiate Athletics



# Report on Gender Equity/Title IX in Intercollegiate Athletics

*Presentation to*  
University of Hawai'i  
Board of Regents  
Committee on Intercollegiate Athletics

Patrick Guillen  
Director of Athletics  
March 20, 2019

## How Do We Address Potential Title IX Inequities?

- (Prong I) Participation opportunities are proportionate to enrollment at an institution.
- (Prong II) An institution demonstrates a history and continuing practice of program expansion for the underrepresented gender.
- (Prong III) Effectively showing that the accommodations of athletic interests and abilities for underrepresented gender are being met.
- Equivalent percentages of female and male student-athletes are provided equivalent quality and quantities of benefits and services.



*University of Hawai'i, Hilo is compliant via the "substantial proportionality" test. In the last reporting period of Fall 2017, 61.7% of our full-time undergraduate students were female and 57.5% of UHH student-athletes are currently female thus meeting Prong I of Title IX Federal Regulations of proportionality.*



UNIVERSITY OF HAWAI'I AT HILO  
**Vulcans Athletics**

Women's Sports	Men's Sports
Volleyball (17)	Soccer (22)
Soccer (32)	Basketball (12)
Cross Country (9)	Baseball (31)
Basketball (13)	Tennis (11)
Softball (26)	Golf (9)
Tennis (8)	
Golf (10)	
Total Participants = 115	Total Participants = 85



## UH Hilo Gender Equity Plan

- The goal of the gender equity plan at UH Hilo is to ensure that equity is an everyday practice.
- Fiscal resources will be used to maximize student-athlete participation, while promoting student-athlete's health and safety.
- UH Hilo will take a proactive approach in ensuring similar benefits and opportunities for all student-athletes.

## Scholarships

Scholarship Expenses (Men)	Scholarship Expenses (Women)	Participants (Men)	Participants (Women)	Participant % (Men)	Scholarship % (Women)	Scholarship % Variance
\$807,959	\$1,006,238	85	115	44.5%	55.5%	10.0%



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## Title IX Training (current & ongoing)

- Mandatory VAWA training for ALL coaches & staff
- Mandatory sexual violence prevention training for student-athletes
- Work closely with Student Health & Wellness with regular educational sessions for our students, coaches and staff (i.e. Sexual Assault; Alcohol & Other Drugs (AOD) as it relates to domestic and dating violence; stalking).
- Guest Speakers at coaches meetings and for our students.

## Laundry List (8 items)

- Budget and provision of equipment and supplies
- Continued equitable scheduling of games and practice times
- Travel and per diem expenses
- Locker rooms and competitive facilities (soccer)
- Restrooms at softball facility
- Athletic training and medical service facilities
- Support services
- Publicity
- Recruiting

## Areas of Progress

- Travel and Per Diem
- Addition of Academic Support Services
- Addition of Academic Advisor
- In process hiring new men's soccer coach
- Publicity
- Facilities

## Areas for Further Assessment – In Progress

- Equipment and supplies
- Facilities
- Scheduling
- Coaching Staff - Salaries
- Marketing
- Publicity

# Item III.C.

AGB Statement & Articles on  
Governing Boards'  
Responsibilities for  
Intercollegiate Athletics and  
RP 7.208

AGB BOARD OF DIRECTORS' STATEMENT ON

**Governing Boards' Responsibilities for**

**INTERCOLLEGIATE**

**ATHLETICS**

*governing board's fiduciary responsibilities for athletic programs are **co-equal** and indistinct from those that apply to other **components** of an institution's work. The board should delegate the conduct and control of the athletic program to the institution's chief executive office, but to **fulfill** its **fiduciary** role the board must ensure the **adequacy** and implementation of institution policies, including those related to **intercollegiate athletics**. **This guidance** applies equally to governing boards of **multi-campus** systems, though their processes for policy making may be **distinctive**.*

## ABOUT AGB

Since 1921, the Association of Governing Boards of Universities and Colleges (AGB) has had one mission: to strengthen and protect this country's unique form of institutional governance through its research, services, and advocacy. Serving more than 1,300 member boards, 1,900 institutions, and 40,000 individuals, AGB is the only national organization providing university and college presidents, board chairs, trustees, and board professionals of both public and private institutions and institutionally related foundations with resources that enhance their effectiveness.

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1133 20th St. NW, Suite 300, Washington, DC 20036

[agb.org](http://agb.org)



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AGB Board of Directors' Statement on  
**Governing Boards' Responsibilities for  
Intercollegiate Athletics**

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**Introduction**

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**T**he Association of Governing Boards of Universities and Colleges (AGB), which provides counsel to higher education governing bodies and chief executive officers, has been formally engaged in addressing best practices in the governance of intercollegiate athletics since 2001. Through a series of well-considered formal statements and guidelines, data, advocacy efforts, direct consulting, and other initiatives, AGB helps boards—alongside institutions' chief executives and organizations such as the NCAA, athletics conferences, and others—understand and engage in effective fiduciary practices regarding intercollegiate athletics. Earlier AGB Board of Directors' statements on governing boards' accountability for athletics, issued most recently in 2009, have provided valuable guidance to governing boards for being appropriately accountable for their institutions' athletics programs.

Yet challenges associated with college sports have continued to increase dramatically—including growing costs, complexities related to conference play, student-athlete academic performance and health and safety risks, and rising tolerance for long-term liabilities in coaching and athletics personnel contracts, as well as some high-profile athletics scandals and ethical violations. Many in higher education perceive an ever-widening gulf between athletic and academic cultures. No governing board, regardless of its institution's athletics division, can afford to ignore its ultimate fiduciary responsibility for that part of the institution's business carried out by the athletics department. Effective board engagement and accountability is imperative for bridging that gulf.

Since at least the 1980s, college sports have constituted an enrollment strategy at both large and small institutions. Athletic events are often important occasions for campus engagement with local, regional, and even national stakeholders. At virtually all institutions offering athletics, those programs present high-value opportunities for community-building on campus. The prospective benefits attached to these programs are prodigious. Nonetheless, the risks associated with college sports, both financial and reputational, require consistent attention from higher education's leaders, including governing boards.

Some of the highest-profile failures in contemporary higher education leadership are related to college sports. Instances of sexual misconduct by athletics department personnel or within athletics facilities—and serious injury or even the death of a student-athlete—violate these institutions’ recognized missions and purposes. Among the fundamental responsibilities of higher education’s leaders, at any level of athletic competition, none is greater than the protection of students and minors on campus. The role of college sports extends well beyond the playing field in any institution, and governing boards cannot afford to miss the bigger picture. Board members must temper their dispositions as fans and boosters in light of their formal fiduciary responsibilities.

*Among the fundamental responsibilities of higher education’s leaders, at any level of athletic competition,*

*none is greater than the protection of students and minors on campus.*

While the present AGB statement is appropriately focused on institution and multi-campus system board engagement, the AGB Board of Directors believes it is important to encourage those external bodies holding substantial influence in the business of intercollegiate athletics—the NCAA, NAIA, athletic conferences, and perhaps others—to recognize that higher education’s fiduciary bodies remain as accountable for intercollegiate athletics as they are for institutional finances, academic quality, and student success. The AGB Board of Directors continues to call upon these bodies to include voices from among higher education’s 40,000 fiduciaries within their own governance structures.

The AGB Board of Directors, which is composed predominantly of college and university board members, approved this statement in August 2018. The statement presents three principles for governing board accountability for intercollegiate athletics.

We commend the following principles as a framework for sound governance practice to boards and institutional leadership.

1. While delegating administrative responsibility to the institution’s chief executive officer, the governing board is ultimately accountable for athletics policy in keeping with its fiduciary responsibilities.
2. The governing board must accept accountability for upholding the integrity of the athletics program and ensuring it advances the institution’s educational mission.

3. Governing boards must develop systematic approaches for upholding their responsibilities regarding athletics and apply themselves diligently to that work.

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**Principle 1. While delegating administrative responsibility to the institution's chief executive officer, the governing board is ultimately accountable for athletics policy in keeping with its fiduciary responsibilities.**

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The board's fiduciary responsibility regarding athletics programs is not distinct from its fiduciary responsibility for other aspects of an institution or system. A governing board's responsibility to ensure the adequacy and implementation of policies related to intercollegiate athletics is just as essential as its responsibilities for academic programs, institution finances, and education quality and student success. A governing board should formally delegate the conduct and control of the athletics department to the institution's chief executive officer but should not presume that this delegation limits the board's scope of accountability. This guidance applies equally to governing boards of public systems, though their processes for policy implementation and review will differ from those of single-institution boards.

*The board's fiduciary responsibility regarding athletics programs is*

*not distinct  
from its fiduciary  
responsibility*

*for other aspects of an  
institution or system.*

Part of the governing board's accountability is to ensure that the institution's chief executive officer is attentive to the strategy and operations of athletics programs. To do this, the board must periodically review information about the primary areas of athletics policy: finance, student-athlete health and safety, admissions and academic policies and progress, institutional compliance, ethical behavior, and athletics personnel. The mission and goals of the athletics department must contribute to, and be accounted for, within the institution's overall strategic plan,<sup>1</sup> and the governing board must be assured that the mission of the athletics department is being met. From the vantage of the governing board, which holds the entire institution in trust, none of an institution's programs, including athletics, should be an end unto itself.

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<sup>1</sup> Some institutions have found a strategic plan for the athletics department, aligned in a subsidiary way with the institution's strategic plan, to be beneficial.

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Regardless of the size or complexity of their finances, almost all athletics departments are subsidized by the institution's operating budget.<sup>2</sup> Board members must monitor the running average and current-year subsidies to athletics departments from all sources, and they need to engage substantively with questions about appropriate student fees and transfers from institutional operating budgets for support of athletics programs. These programs can benefit college and university missions in many ways, but many of the benefits arising from investments in athletics are indirect. For example, athletics programs can have positive effects on prestige, political capital, donor support, and student enrollment. Ultimately, it is up to the board, working with its chief executive, to determine the most appropriate application of resources in pursuit of the institution's mission. A thoughtful agenda of board member orientation and ongoing education is indispensable to fulfillment of these responsibilities.

No matter what the level of intercollegiate competition, the governing board should express curiosity and become familiar with the policy agendas of membership groups organizing intercollegiate play, including the NCAA, the NAIA, relevant athletics conferences, and perhaps others. As fiduciaries, boards can help set their institutions up for success by insisting these partner organizations maintain high policy standards and good governance policies.

## QUESTIONS FOR BOARDS TO CONSIDER

- Does our institution orient trustees to their responsibilities concerning intercollegiate athletics? What does this program include?
- How can the board make clear its support for the chief executive officer's management of the institution's athletics program? Is the chief executive officer providing the leadership necessary to implement the standards and expectations articulated by the board?
- How does the board monitor its members' engagement related to athletics? Is there a process for addressing situations in which board members exceed their proper authority in the area of intercollegiate athletics?
- Has the board approved a strategic plan that makes explicit the ways in which the athletics department is expected to advance the institution's mission? Does it include meaningful benchmarks for the board to monitor, and does the board make use of the data and updates it receives?<sup>3</sup>
- Are the policies of the NCAA, the NAIA, or relevant athletics conferences consistent with the work of the board and administration regarding finance, academic integrity, and student well-being?

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<sup>2</sup> See [knightcommission.org/finances-college-sports/](https://knightcommission.org/finances-college-sports/).

<sup>3</sup> At the Division I level, governing board chairs should be aware of—and ask to review—university-level data collected through the Institutional Performance Program (IPP), which replaced the NCAA Athletics Certification Program. See [ncaa.org/governance/division-i-institutional-performance-program-ipp](https://ncaa.org/governance/division-i-institutional-performance-program-ipp). It would be entirely appropriate for the board chair to have that access.

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**Principle 2. The governing board must accept accountability for upholding the integrity of the athletics program and ensuring it advances the institution's educational mission.**

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While intercollegiate athletics programs must be sensitive to the institution's business model, the most important measure of success for such programs should be the degree to which they further the institution's overall educational mission. Only the governing body can hold the chief executive responsible for establishing expectations for the athletics department that go beyond wins and losses. The board must be confident that the athletics program reflects the institution's values and does not undermine them.

The governing body must also ensure that student-athletes are held to the same academic and behavioral standards all students are required to meet, and athletes have the same opportunities as other students for a well-balanced academic, social, and athletics experience. The board must be confident that admissions policies set student-athletes up for educational success. Special facilities and dedicated support for student-athletes should reflect the institution's strong commitment to these students' learning, rather than separate and special treatment. Athletic commitments that require significant time away from class or away from campus life, or those that effectively preclude participation in internships, service-learning, and other educational experiences, should be understood as impediments to student learning.

The periodic review of data that show academic progress of all student-athletes, including those in major revenue sports, forms a basic responsibility of the governing board. Boards need to evaluate graduation rates and other indicators of educational quality adopted by the institution, and athletes should be among the groups for distinct analysis. The board must hold the chief executive accountable for delivering insightful information on trends and anomalies in student-athlete enrollment, academic progress, and degree completion.

Some governing boards perceive intercollegiate athletics programs to be somewhat removed from the educational mission of the institution. Governing boards must be confident that all stakeholders understand these programs are integral to that mission. They affect the makeup of the student body, campus climate, and ultimately the nature of educational effectiveness both inside and outside of the classroom.

*The governing body must ensure that*  
***student-athletes  
are held to the  
same academic  
and behavioral  
standards***

*all students are required to meet.*

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## QUESTIONS FOR BOARDS TO CONSIDER

- What benchmarks should be used to gauge the success of the athletics department? Are they consistent with the institution's mission and values?
- What is the impact of intercollegiate athletics on campus climate? How does athletics affect admissions, social life, academic values, and the composition of the student body?
- Is the board or a board committee monitoring the fundraising efforts for intercollegiate athletics programs? Is the institution maintaining an appropriate balance in its fundraising priorities for athletics and academics? Are fundraising efforts for athletics and academics integrated with or discrete from one another?

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**Principle 3. Governing boards must develop systematic approaches for upholding their responsibilities regarding athletics and apply themselves diligently to that work.**

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Intercollegiate athletics programs are in various ways cost centers, revenue centers, and risk centers for colleges and universities. And while they are not of themselves mission centers, they influence the educational mission in meaningful ways. Effective fiduciary governing bodies must become broadly informed about these programs and must accept ultimate accountability for them. Perhaps nowhere has this been more tragically proven over the past decade than in a small number of institutions that have had athletics-related ethical violations affecting student safety. Boards must organize their accountability for athletics to deliver consistent and reliable results.

Most governing boards do not maintain committees focused exclusively on athletics.<sup>4</sup> If the board decides to have a standing or ad hoc committee on intercollegiate athletics, then it must be keenly aware of the need to: a) ensure impartiality toward athletics among all members of the committee and b) share discussion of financial, academic, reputational risk assessment, and mission considerations, whose impact extends well beyond the athletics department and therefore becomes relevant to other committees of the board. The way in which a board positions itself for accountability in this area is an important decision, and one that should be made with awareness of the risks and rewards of having a single board committee for an area of the institution's work holding broad implications.

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<sup>4</sup> AGB survey data suggest about 7 percent of public governing boards and 6 percent of independent institution governing boards maintain a standing committee on athletics. A majority of those institutions are engaged in Division I intercollegiate athletic competition.

Among the areas in need of regular attention, boards must:

- Identify and manage personnel and facilities risks by ensuring the currency and implementation of policies related to the use of campus athletics facilities (including youth camps and other activities that are adjunct to the intercollegiate athletics program and imply athletics staff engagement with minors, faculty, development personnel, the board, and perhaps others).
- Ensure that institutional strategy accounts for risks inherent to sport (e.g., those involving concussions and other serious injuries) and periodic board discussions of student well-being are informed by relevant medical research, as well as summary data on the institution's athletics-related student health risks.
- Review year-end balances to inform annual intercollegiate athletics budgeting and ensure that process occurs as a component of the institution's budgeting process, not separately.
- Review and monitor outcomes related to the institution's plans for gender equity in athletics programs under Title IX—and make certain that the institution, its personnel, and its facilities are complying at all times with laws and regulations pertaining to sexual misconduct.<sup>5</sup>
- Ensure that donor and sponsorship support of intercollegiate athletics reflects institutional priorities, and those revenues remain under institutional control.
- Consider for approval all proposals for significant athletics capital expenditures, including any future debt service commitment as part of the regular financial planning of the governing board.

For governing boards of institutions with revenue-generating sports, head coaches' contracts in those sports have become increasingly fraught with high-dollar guarantees and buy-out clauses that amount to long-term financial liabilities for the institution. Boards responsible for these institutions must have policies that require governing board approval of the institution's largest salaries, and they should strongly consider including meaningful athlete academic success goals within coaches' incentive structures. Governing boards concerned

*...higher education leaders, including boards, must guarantee, above all,*

*the safety of  
students and  
minors on  
campus.*

<sup>5</sup> For further guidance, see [agb.org/statements/2015/agb-statement-on-sexual-misconduct](http://agb.org/statements/2015/agb-statement-on-sexual-misconduct).

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that their policies are inadequate or potentially risky should require a post-audit of the institution's financial commitments to the athletics department's highest-paid personnel. Further, it is the board's responsibility to make certain that institutional policies governing extramural consulting, sponsorships, and outside business interests of employees are applied consistently across the institution. At whatever level of athletics the institution competes, higher education leaders, including boards, must guarantee, above all, the safety of students and minors on campus.

## **QUESTIONS FOR BOARDS TO CONSIDER**

- With which committee(s) of the board does the monitoring of intercollegiate athletics reside? Who is responsible for providing the board with information pertaining to intercollegiate athletics? When and how is that information provided?
- Does the chief executive officer convey to the athletics director expectations concerning compliance and ethical conduct? How effectively is the commitment to compliance with institutional, conference, and NCAA rules and regulations communicated to coaches, administrators, students, faculty, boosters, and alumni?
- Are thorough background checks, including records of NCAA compliance, conducted of prospective athletics department employees? Is there a clear policy that protects whistleblowers from punitive action, and are students, employees, and others aware of it?
- What is the philosophy concerning the background, qualifications, and compensation of our coaches and athletics director? Is it well-aligned with other institutional policies?
- Do coaches and administrators accept their responsibilities to be educators? How is this communicated to them?

## A NOTE ON PROPER GOVERNING BOARD ENGAGEMENT WITH INTERCOLLEGIATE ATHLETICS

Governing boards and board members must understand the scope and limits of their authority related to intercollegiate athletics. The governing board can add best value to the institution through diligence at the policy level, not operational activity. Unless explicitly empowered to act on behalf of the full board, no committee, subgroup, or individual board member holds legal authority to direct action or promulgate a specific policy. Select examples of appropriate and inappropriate board behavior include:

APPROPRIATE	INAPPROPRIATE
Reviewing and approving institutional budgets in alignment with annual and longer-term strategy	Seeking special appropriations for favored teams or facilities, or inserting board members into conference or broadcasting negotiations
Charging the chief executive with vigorous, continuous pursuit of student safety and educational quality; monitoring progress on benchmarks	Making special allowances or otherwise exempting any program or department from ethical and educational principles that guide the institution
Ensuring clear and consistent reporting lines such that: 1) all coaches report to the athletics director and 2) compliance officers with responsibility for athletics report to a university chief compliance officer	Developing expectations of specific employees, explicitly or implicitly; seeking program-level information or assurances of any kind outside the boardroom
Verifying that employment and compensation policies are being implemented consistently and with full fidelity; where such policies exist, reviewing and considering for approval employee compensation above set thresholds, including for athletics personnel	Becoming involved in individual contract negotiations for any employee of the institution below the level of chief executive, including coaches and athletics directors
Working closely with the chief executive to refine a holistic and aspirational set of goals and indicators of success for the athletics program overall	Encouraging the chief executive to make a coaching personnel change related to insufficient athletic success

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## Conclusion

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**G**overning boards are neither more nor less accountable for intercollegiate athletics programs than for any other aspect of a college or university. In consideration of the significant financial, mission, and reputational risks associated with these programs today, boards are pressed to attend more substantively to athletics than ever before.

While the vast majority of colleges and universities are committed to a program of intercollegiate athletics, the goals and strategies underlying those programs vary widely. Where the value of intercollegiate athletics is taken for granted, these programs are capable of distorting, rather than enabling, the educational mission of the institution—and in some instances, student-athletes have suffered while benefitting the institution. It is ultimately the board's responsibility to ensure the athletics program reflects and advances the institution's mission.

AGB's 2012 report, *Trust, Accountability, and Integrity: Board Responsibilities for Intercollegiate Athletics*<sup>6</sup>, concluded:

The findings of our survey and insights of our advisory group have strengthened our conviction that the presence of administrative or managerial oversight alone is not sufficient to counter the forces that cause athletics to equal and even overshadow the academic purposes of an institution. Boards are the natural agents to provide that presence because of the fiduciary responsibility they have for their institutions.

We stand firmly behind that assertion, even as we recognize a harsh reality: athletics programs historically invite governing board and board member overreach to a greater degree than any other aspect of the institution's work. In the end, we call upon all boards to treat intercollegiate athletics programs with a level of seriousness that has been too frequently lacking.

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<sup>6</sup> See [agb.org/reports/2012/trust-accountability-and-integrity-board-responsibilities-intercollegiate-athletics](http://agb.org/reports/2012/trust-accountability-and-integrity-board-responsibilities-intercollegiate-athletics).

Across levels of competition, and regardless of the size and complexity of departmental budgets, governing boards cannot delegate their responsibility for ensuring that athletics contributes to institutions' educational missions, and no other entity can do their job. At a time of competitiveness for limited resources, heightened visibility, and declining trust in colleges and universities, attention by higher education's fiduciaries to the challenges of intercollegiate athletics is essential. Boards must develop systematic approaches to carry out informed oversight of athletics and hold themselves accountable for results.

*Governing boards cannot delegate their  
responsibility for ensuring that athletics*

*contributes to institutions'  
educational missions,*

*and no other entity can do their job.*

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## Board Statement of Commitment and Accountability for Intercollegiate Athletics

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The Association of Governing Boards of Universities and Colleges (AGB) commends this statement of commitment and accountability as principles of engagement with the important topic of intercollegiate athletics. We urge boards to review and discuss it annually—and formally commit to upholding it.

This board...

1. Delegates administrative responsibility for intercollegiate athletics to our chief executive officer but recognizes its ultimate accountability for athletics policy and effective fiduciary oversight of athletics. We hold the chief executive responsible for establishing expectations for intercollegiate athletics that go beyond wins and losses.
2. Shall monitor the finances and business model of the institution's athletics program, including compensation, fundraising, capital expenditures, and debt-service commitments.
3. Affirms its accountability for upholding the integrity of the athletics program and ensuring it advances our institution's educational mission. To that end, we shall ensure that student-athletes are held to the same academic and behavioral standards that all students are required to meet, and athletes have the same opportunities as other students for a well-balanced academic, social, and athletic experience.
4. Shall periodically review information about the primary areas of athletics policy and ensure that the mission and goals of the athletics department are consistent with our institution's overall mission and goals.
5. Shall ensure that the chief executive officer conveys to the athletics director (AD) our institutional expectations for compliance and ethical conduct—and the AD will clearly communicate these expectations to coaches, administrators, students, faculty, boosters, and alumni.
6. Shall ensure that thorough background checks, including records of NCAA/NAIA and conference compliance, are conducted of prospective athletics department employees. We further shall ensure our institution has a clear policy that protects whistleblowers from punitive action.

7. Shall monitor policies related to the use of campus athletics facilities, including youth camps and other activities adjunct to the intercollegiate athletics program.
8. Shall ensure that institutional policy accounts for physical safety risks inherent to sport and we will remain aware of the well-being of our student-athletes, informed by relevant medical research.
9. Shall review and monitor outcomes related to our institution's plans for gender equity in athletics programs under Title IX—and will closely monitor our athletics program's concerns for complying at all times with laws and regulations pertaining to sexual misconduct.
10. Shall ensure that donor and sponsorship support of intercollegiate athletics reflects our institutional priorities and those revenues remain under institutional control.

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Signature of the Board Chair

Date

AGB BOARD OF DIRECTORS' STATEMENT ON

**Governing Boards' Responsibilities for**

**INTERCOLLEGIATE**

**ATHLETICS**



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[agb.org](http://agb.org)

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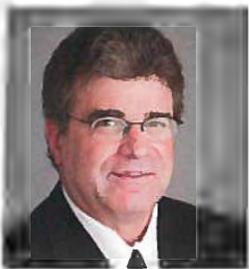
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No one ever imagined that one day U.S. higher education institutions would find themselves under attack, as they are today." p. 40



# Boards Need to Own Their Responsibilities for Intercollegiate Athletics

BY RICHARD D. LEGON

AGB PRESIDENT

**I**f persistent news stories about the eroding value of higher education aren't enough, we are now fed a steady diet of dramatic and often disturbing coverage of the repeated failures in college sports—stories that are not merely about athletic competition but also focus on issues such as sexual assault, student-athlete safety, and troubling ethical lapses. Such reports uncover some ugly failures in institutional transparency and accountability that further undermine the sector's standing and often raise the question of who is in charge.

So just where does accountability for this high-profile aspect of higher education ultimately lie? For many years, AGB has urged institutional leadership to recognize that fiduciary responsibilities must clearly encompass college sports. The NCAA expects that a governing board will delegate accountability for institution athletics programs and missions to its chief executive officer. A governing board must also recognize that its accountability for institutional athletics is much the same as its responsibility for finances, education quality, and strategic planning. Attention paid to coaches' ethical conduct and compensation, student-athlete education and safety, adherence to Title IX guidelines, athletics program mission, and financial integrity must be part of today's expectations of our citizen governing boards. College sports is not an optional responsibility; it's part of the job.

Accordingly, the AGB Board of Directors recently approved a refreshed *Statement on Governing Boards' Responsibilities for Intercollegiate Athletics*, the fourth "best practice" statement issued since the early 2000s. Three principles frame the call for effective board engagement in college sports:

1. While delegating administrative responsibility to the institution's chief executive officer, the governing board is ultimately accountable for athletics policy.
2. The governing board must accept accountability for upholding the integrity of the athletics program and ensuring it advances the school's educational mission.
3. Governing boards must develop systematic approaches for upholding their responsibilities regarding athletics and apply themselves diligently to that work.

Implementing these principles requires an intentional reporting process between a president and his or her governing board. It is clearly time for boards to recognize the risks and challenges associated with college sports and assume their rightful role in addressing them. In fact, and especially at the Division I level, presidents should seek a more informed and engaged board on policy issues related to intercollegiate athletics in today's environment. So, governing boards might appropriately expect the following in meeting their responsibilities for their institution's college sports programs:

- A periodic review of the athletics program mission;
- A formal review of all athletics department reports submitted to the NCAA;
- Reports on the academic performance of student athletes (including how such results compare with non-athlete students in the same majors); and
- Conversations with the president about athletics department performance.

While we urge leadership to review the guidelines and statement of commitment and accountability in this AGB statement, we continue to call upon the NCAA to recognize the responsibilities of governing boards and to work with AGB to identify outstanding board members to serve on that organization's governing body.

College sports bring an institution together in profound ways, contributing to a culture that is intended to be a net plus. The crises we've seen in our sports programs only reinforce the public's disdain. We must do better; boards must own their accountability.

**Richard D. Legon**  
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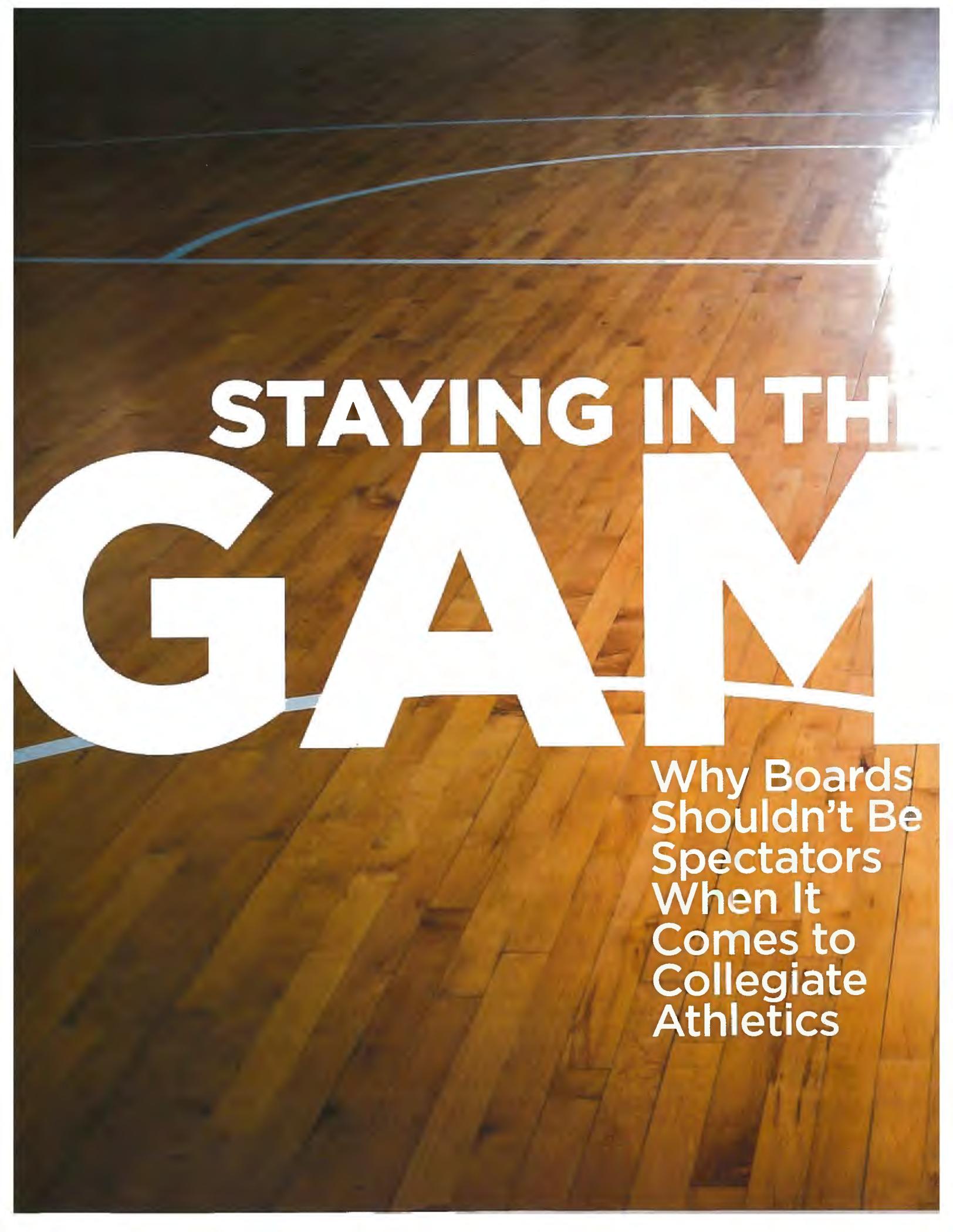
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# STAYING IN THE GAME

Why Boards  
Shouldn't Be  
Spectators  
When It  
Comes to  
Collegiate  
Athletics



BLUESKYLINE / ISTOCK / GETTY IMAGES

Frequent scandals in college sports are exposing alarming lapses in board fiduciary responsibility when it comes to the appropriate role of athletics on campus. Last April, four higher education leaders—two trustees and two presidents who are veterans of key NCAA committees—came together during AGB’s National Conference on Trusteeship for a frank conversation about student-athletes, presidents, and governing boards. Excerpts from the discussion follow.

## Panelists



**Carol Cartwright**, president emerita, Kent State University; board member, Heidelberg University; co-chair, Knight Commission on Intercollegiate Athletics; member, NCAA Division I Committee on Infractions; and senior consultant, AGB



**Richard Hunter**, board chair, Hawaii Pacific University



**Ross Mugler**, board member, Old Dominion University; board member, AGB Board of Directors



**Rod McDavis**, principal, AGB Search; president emeritus, Ohio University; and past chair, NCAA Division I Committee on Academics

## Moderator



**Richard D. Legon**, president, AGB

**Richard D. Legon:** A lot of the coverage related to college sports today is Division I-focused, but the issues we'll be talking about today factor into Divisions II and III athletics programs—how they're perceived, how they're overseen—as well as issues related to business models, academic progress, and student-athlete health issues. They cut across divisions.

We're also watching above-the-fold issues related to college sports from recent high-profile scandals, mostly in basketball this time around—ethical violations, sexual misconduct, and questions about the NCAA. What's its role? What has been its role? What will or should be its role going forward? And we are all waiting with baited breath for the report of the NCAA Commission on College Basketball,\* chaired by Condoleezza Rice.

So, when you talk to a member of the public who may have season tickets to your sports, there is always the statement that, yes, athletics are great here, but ... And there is that heightened public skepticism about our sports programs and how we conduct them, how we oversee them. Then there are many institutions that look to college sports as a front door or a branding process that facilitates enrollment and fundraising and really adds value. So how do we calibrate? How do we balance all of that?

Carol, let me begin with you. As I indicated, you've been involved in these debates [at your own institutions] and nationally for many years. Help us set the context to get this conversation going as it relates to boards and trustees regardless of division. Where are we?

\* The NCAA Commission on College Basketball issued its report on April 25, 2018.

**Carol Cartwright:** Great way to get started, focusing on board governance. Boards have a fiduciary duty to oversee intercollegiate athletics. The fiduciary duty extends to all aspects of the institution. So athletics clearly falls within that duty. And with respect to the duty of care in particular, I think it's important that boards become informed about the national context, as well as the facts of their own institutions' competitive level and practices. They need to be sure they understand the facts, but also understand the perfectly awful myth and perceptions floating around college athletics today. So get educated, have the kind of dialogue that's required under the duty of care, and be willing, as you work with your president, to set the guidelines and the parameters under which your intercollegiate athletics programs are going to operate.

You have to be willing to say no. There has to be a framework so that as you delegate to the president, and he in turn delegates to others in the institution, they know where the lines of play are and within which goalposts they're playing. Fiduciary duty of care is first and foremost.

**Legon:** What do we say to presidents about the fact that we can't allow boards to duck and cover on this?

**Cartwright:** Presidents work for boards, don't they? That's the fact of the matter. So it's a partnership. The president and the board need to work this out. But clearly the board is delegating the entire operation of the institution to the president, and that includes intercollegiate athletics. One of the problems is that in many places, intercollegiate athletics runs on the side. It's got to be integrated into the normal practices of the institution. How do you build budget for academic programs? That's how you build budget for intercollegiate athletics programs. How do you oversee success in academic programs and student learning outcomes? That's how you have to oversee success in intercollegiate athletics.

**Legon:** Rod, you, too, have touched this at the highest levels, and you've been an NCAA leader at the president's level. Are boards doing what they need to do in terms of their own accountability or fiduciary authority when it comes to this subject? Can they, should they do more?

**Rod McDavis:** I think there is probably a divideright across the nation, and that is to say I think some boards get it. I think some boards understand they have a responsibility to oversee what happens in intercollegiate

athletics. And so, from a policy perspective, they've already put in place some policies that are helpful to guide the president, the athletics director, and the others within the university who are significantly responsible for making sure that intercollegiate athletics does the right things. But I think there are other boards that, to Carol's point, have simply given that responsibility to the president and don't even ask for reports. They don't talk to the president about it. They don't talk to the athletics director about it. This is not part of what the board functioning is all about, and I think they have to come to the point where they accept this as a responsibility. Right now, they're not really taking that on.

**Legon:** Richard, your student-athletes compete in Division II. Does what Carol and Ron just shared resonate in the storyline of how you and your colleagues on the Hawaii Pacific board oversee this?

**Richard Hunter:** It most certainly does. But I would say that if our board is typical about this—and I believe it probably is—we give relatively little time to talking about athletics and relatively little focus to the risks that emanate from our athletics program. If it were not for our president bringing this to the board recently and saying, “I want you to focus on this, and there are some significant issues here that we need to protect, that need action to protect the institution, our students,” and so on, I don't think we would have given it the attention that we have in recent months. As a trustee I believe we all feel that the attention we have given [athletics] is well due and we have been able to take some actions that have been reassuring on the one hand and protective on the other.

**Legon:** Rod, how do boards own their agenda broadly but also as it relates to this? Accountability is a high-profile area.

**McDavis:** I think it is back to what Carol said. This is a partnership, and intercollegiate

athletics ought to be part of the orientation to become a board member. So if the board is well-oriented to its scope within the institution, then intercollegiate athletics ought to be part of that conversation at the outset of the tenure of a new board member, and it ought to be integral to

what the board is focused on during the course of the year. There ought to be some way to inform the board. And at some board meetings, maybe more than one, there ought to be some conversations about what's happening in intercollegiate athletics. [And board members] have to assume that as a big area of responsibility

and be sure they are asking the right questions about what's happening.

**Cartwright:** And let's not forget the role of board committees because boards do get their work done through committees, and in some way intercollegiate athletics oversight ought to be assigned to one of the committees. So that committee should be working out an annual work plan and an agenda for the year, and the chair of the board ought to understand what is likely to flow through from a committee. Now the danger is that some committees can devolve into booster groups. You have to really guard against that because there is a fan element but there also has to be a fiduciary element.

**Legon:** Ross, you have that athletics needs to be part of the institution's overall strategic direction—strategic plan perhaps—that the board ultimately owns. Assuming that, does it heighten the potential for board accountability for this issue? Or does it perhaps mute it a little bit because it's part of a bigger thing?

**Ross Mugler:** No, I think it raises the profile. What I'm finding from talking to a lot of people here is that

there's really not a lot of opportunity for engagement of board members. Having a strategic plan for athletics gives you an opportunity to really focus on all the important aspects of it: academic excellence, competitiveness, funding, student welfare. Not only do we have a strategic plan, but we also have regular updates of the strategic plan during the athletics committee meetings.

**Legon:** Carol, how does the public's perception about how we push athletes to safe harbor on academic programs feed the narrative? How does that have to be adjusted? And is it squarely just a Division I issue?

**Cartwright:** It's definitely not just a Division I issue. Those kinds of problems exist at all levels. I serve on the NCAA Committee on Infractions [for Division I]. But I also see the agendas for the other divisions. These issues are across all divisions, [but] not at the high-profile level that we typically see in Division I. So the public perception is significant. Mark Emmert, the president of the NCAA, recently reported publicly that 79 percent of the public in the association's survey thought [the situation] was out

**Intercollegiate athletics ought to be part of the orientation to become a board member.**



of control, and 50 percent thought that the NCAA could not manage the change that was necessary. I think the real test is coming [from] the Rice Commission report. The extent to which the NCAA membership takes [the commission] seriously is going to be a real test of whether the NCAA can be a part of the change process or a part of the problem.

One of the things I hope the [Rice Commission] will recommend is independent directors. If there were more independent voices that spoke to the good of the enterprise, I think we would see more faith in what the NCAA could do—and see more change.

**Mugler:** I think it's really critical that as board members we encourage our college presidents to get involved at the NCAA level and at the conference level. This has paid huge dividends for us at Old Dominion. It has given us a different look at athletics.

**Legon:** Richard, you [have] talked about the culture assessment that was done at your place, looking at the health and welfare of your student-athletes. In brief, what brought you and your colleagues to do that? Was it the board? Did you have any engagement with it at that level? What did you learn?

**Hunter:** We had discussions at the board level and with our president and senior administrators on the whole question of the risks that come out of our athletics program, and we talked about how we have training, we have policies, we have all of those good things. But in the end, when you really think about it, it's the culture not only within the athletics program but also within the whole university that dictates the level of risk that you are exposed to.

We decided to bring in an outside firm to audit the culture within our athletics program and indeed within our campus. It was a very, very interesting exercise. The firm sent four top-quality people to visit us [for two days]. Prior to visiting, they received a lot of documentation.

They interviewed faculty.

They interviewed coaches. They

interviewed students. They interviewed administrators. They interviewed a lot of people. They worked very hard. At the end of [the process], they sat down with us and basically said, "Look, you're not in a bad position. Your culture is reasonably healthy. But we've got a number of suggestions that we would like you to consider." And they gave us a list of recommendations having to do with our policies and training and that sort of thing.

Perhaps it was reassuring, but I also think it sent a message around the university that the board members were concerned about these issues, that we were prepared to spend significant [sums of] money on making sure ... that the culture was in good health.

**Legon:** Ross, in Virginia, you did something with the speaker of the House of Delegates, Kirk Cox, that I think was really cutting edge. Cox put forward a piece of legislation to control the increased student fees that we've seen a lot of institutions charge to help support intercollegiate athletics programs. Virginia has done something fresh and new. Tell us about that briefly.

**Mugler:** In 2013, the joint audit agency of the Virginia General Assembly issued a financial report for the previous fiscal year. It must have been a 60-page document. We had schools in the commonwealth with student fees that ranged from \$400 to \$2,000. On average, [the fees were] 12 percent of tuition. This really was upsetting.

In my institution, we had founded the current football program in 2009. Seventy percent of our student fees were going to support athletics. Kirk Cox—who at the time was the House majority leader—was really horrified by the findings of the report, and all the schools in Virginia had to roll back the student fees going to athletics to 55 percent or less by the year 2020. It was a daunting report. My school has already complied. We are under 55 percent already before the 2020 [deadline]. So we looked long and hard at those numbers.

**Legon:** Rod, let's go back to some of the high-profile issues. How do we deal with questions of conference play,



coaches' contracts, and the media feeding frenzy? How do we get hold of this, and what do folks on boards, as part of their accountability, have to do?

**McDavis:** I think it comes down to a question of balance. Within the university there's got to be a sense of balance between everything else you're doing and what you're doing within intercollegiate athletics. So, for an example, if the primary focus of the university ought to be on graduating its students or on student success, then that ought to spread across the entire university. If that's not occurring in intercollegiate athletics, then there's a focal point. There's a place where the board can step up and say, you know, we want you to spend more time focusing on student success.

You mentioned coaches' salaries. That's a huge issue, and I think we have to rein those in. I think coaches' salaries are getting out of control. But in that context, I think what we have to look at is the market. You look at some of the programs that consistently win every year and what they pay their coaches, but then you also look at the other side of that in terms of what those programs contribute to the overall image of those universities and the value of that. So there's a balance in there somewhere that we have to search for.

**Legon:** Carol, should boards know about the coaches' contracts?

**Cartwright:** Absolutely, they need to know. I go back to the point that I made with your very first question. The board needs to set the guidelines in terms of what's acceptable within [its] mission, value proposition, and resources.

The higher ed business model is based on cross subsidies throughout the institution. So we need to understand that the subsidies were there not just for athletics but for other programs as well. But what's the right range? That's a board responsibility, that tone at the top coming from the

board and the president. The two working in partnership is absolutely essential.

**Hunter:** Can I just add a point? I think that the board's role, if you like, is a balancing role. The board is there to ensure the long-term sustainability, success, and growth of the university within the mission that it has. Anything that affects that, the board has got to be prepared to play that balancing role with [it]. If things are out of control, bad things are happening, that's where the board needs to step in. But as a general framework, the board has to make very clear to the president and to everybody else in the university what standards it expects and what the parameters are.

**Legon:** Rod, you led the committee on academic progress and I think great strides were made during your tenure, under your leadership. In the revenue sports, can we really get there? Can we make some progress and develop these athletes into successful students? And who holds accountability for the integrity of the academic mission?

**McDavis:** Yes, I think we can and we are. If you look at the academic progress over the last 10 or 15 years, you will see a significant increase in the revenue sports, specifically football and basketball. I think what happened there is that we set the standard. We said this is what you have to achieve—not what you ought to or what you might or what you should achieve—if you're going to keep your program in good standing. So once you set the standard, then I think the boards, the presidents, the ADs, and the coaches will adhere to [it]. So we just need to keep plowing ahead and saying, well, maybe it's time to look at it again.

**Legon:** Ross, regional accreditors are especially looking at boards and governance when they come for an institution team visit. Some of them are really drilling into what the board is doing, how it is structured, and how it

is engaged. Should the accreditors look in some way at how boards deal with this issue?

**Mugler:** I think [the process] is fair, but how you deal with it is regular reporting on all the things we've talked about today.

**Legon:** But should accreditors specifically, when it comes to Old Dominion, visit with you and your colleagues and talk about what you've been sharing about the board's accountability for sports?

**Mugler:** Yes. And they don't. I've been on the board for 13 years, and I haven't met with one of them.

**Legon:** Should we lean on accreditors to do that?

**Mugler:** Yes.

**Hunter:** I agree. We had accreditors at the university a couple of years ago, and, as far as I know, there was relatively little effort put into the whole question of athletics and zero [effort] into the board's role vis-à-vis athletics.

**Legon:** And should there be?

**Hunter:** Yes. I think there absolutely should be.

**Legon:** Before all of you leave, we have enough time for quick takeaways for all our good colleagues here. What's the one thing you really want them to go home with when it comes to intercollegiate sports?

**McDavis:** Speak up. Pay attention. Be involved and support the folks who are trying to make the correct changes in intercollegiate athletics.

**Mugler:** Protect your student-athletes.

**Hunter:** Balance is a board responsibility. You've got to earn it.

**Cartwright:** Take responsibility for keeping the college in college sports. ■

**It's the culture not only within the athletics program but also within the whole university that dictates the level of risk that you are exposed to.**



Regents Policy Chapter 7, Student Affairs  
Regents Policy RP 7.208, Intercollegiate Athletics  
Effective Date: Aug. 23, 1996

**DRAFT FOR  
DISCUSSION**

Prior Dates Amended: Oct. 17, 1963; July 16, 1974; Oct. 20, 1978; Dec. 12, 1986; Oct. 31, 2014 (recodified)

Review Date: August 2018

**I. Purpose:**

To set forth policy regarding intercollegiate athletics.

**II. Definitions:**

~~No policy specific or unique definitions apply~~ "Chancellor" shall refer to the chief executive officer of each respective campus.

**III. Policy:**

A. Well-managed intercollegiate athletics competition, conducted under the fundamental principles of fair play and amateurism, can be of educational value to student-athletes as well as a source of pride and unity to the wider student body, faculty, staff, and all those in our community who cherish and support the University of Hawai'i.

~~Upon recommendation of the chancellor and president, the board shall establish or abolish an intercollegiate athletic program on a particular campus and authorize membership in intercollegiate athletic conferences or associations upon recommendation of the chancellor of the concerned campus and with the endorsement of the president.~~

~~B. Responsibilities of the Chancellor~~

1. Responsible administration and oversight by the chancellor are fundamental to the management of intercollegiate athletics. Each campus that participates in intercollegiate athletics must have in place written procedures which provide careful and thorough scrutiny of its sports programs and deliver required information to the chancellor and, as appropriate, to the president and the board. Management of intercollegiate athletics will be taken into account in the ~~president's annual~~ evaluations of chancellors. The chancellor shall establish standards and benchmarks against which the success of the campus' intercollegiate athletics program may be assessed. Among the program's priorities should be:

a. The health, safety, and academic progress of student-athletes

~~4.~~(1) The health and safety of student athletes shall be the athletics department's highest priority.

~~2.~~(2) Student-athletes are first and foremost students. Student-athletes shall be admitted under the same standards as applied to other students and their academic performance and progress shall be comparable to non-athletes. Contracts for coaches and other athletics department staff will include objectives and minimum expectations for academic as well as athletic success of student-athletes.

b. Equal opportunity

~~4.~~(1) ~~Equal opportunity is a value the university and the State of Hawai'i hold dear.~~ The chancellor will ensure that gender equity in athletics is respected and honored, and that the athletics program is in full compliance with Title IX, the Patsy T. Mink Equal Opportunity in Education Act.

c. Broad and enthusiastic campus and community support

~~4.~~(1) Enthusiastic campus-wide support, especially that of students, is a powerful indicator of a successful athletics program. The chancellor, coaches, and athletics department staff should proactively reach out to students, faculty, and the administration, as well as to the wider community to encourage interest in and support for intercollegiate athletics.

d. Financial integrity

~~4.~~(1) Transparency in financial reporting is mandatory. The chancellor shall inform the board, via the president, in advance of any long-term financial commitment or change that may affect the budget in future years.

e. Compliance with NCAA and conference requirements

~~4.~~(1) The chancellor is responsible for compliance with all National Collegiate Athletic Association (NCAA) and conference rules and regulations, and he or she will promptly notify the president, who shall inform the chairperson of the board, of all major NCAA infractions (Level I or II), ~~potential or actual,~~ and of all NCAA or conference investigations into all major NCAA infractions (Level I or II).

~~2.~~(2) The use of performance enhancing drugs or prohibited substances undermines the integrity of intercollegiate athletics and may harm the individual student-athlete. ~~The board authorizes the chancellor to institute testing of student athletes at his or her discretion for the~~

~~presence or use of performance enhancing drugs or prohibited substances in accordance with NCAA rules or applicable state and federal laws.~~ The chancellor will develop and institute a drug and prohibited substances testing policy in accordance with NCAA rules and applicable state and federal laws. Performance enhancing drugs and prohibited substances include but are not limited to the classes of drugs and related substances banned by the NCAA or prohibited by law.

G.B. Reports to the Board

1. The chancellor will ensure that the athletics department develops a mission statement that reflects the values of the University of Hawai'i and that the department's annual plan and budget contain realistic and measurable goals. The chancellor will inform the board through the president on progress in achieving those goals. The chancellor will furnish the board through the president with regular reports on academic and financial issues.
2. The chancellor will furnish the board through the president with an annual report on the academic standing and progress of student-athletes overall and by sport, including comparisons to the campus's own undergraduates and student-athletes at other peer institutions as available. The report shall include as appropriate data on the academic progress rate and the academic success rate of student-athletes.
3. The chancellor shall promptly inform the president, who may shall inform the board, with appropriate detail, of any events or situations that might reasonably draw unusual public interest to the athletics program, a particular team, student-athlete, or department employee. ~~The report should provide sufficient detail to permit the president and/or the board to respond appropriately.~~

D.C. Financial Matters and Management

1. The campus athletics department will prepare an annual budget ~~that balances expected revenues and expenses~~. Should the athletics department end a fiscal year in deficit, meaning that total expenses exceed revenues, including institutional support and student fees, the chancellor will report to the ~~Board of Regents~~ on plans to reconcile the deficit and to account for its costs. The chancellor may eliminate a deficit of the athletics department by providing funds from other sources, as permitted by law, to offset such deficit.
2. To the extent allowable under NCAA regulations, the chancellor may exempt the nonresident portion of tuition for nonresident student-athletes, graduate assistants, and team managers in accordance with RP 6.208.

3. All funds or gifts, either monetary or in-kind, generated by the athletics department 501(c)(3) booster organizations or contributed by individuals, corporations, or other entities to support an intercollegiate athletics program shall be channeled through the University of Hawai'i Foundation or 'Ahahui Koa Ānuenue, both of which have 501(c)(3) status. Funds or gifts shall be used in accordance with the donor's intent, and ~~as assets of the foundation~~ shall be subject to ~~its~~the policies and procedures of the University of Hawai'i Foundation and 'Ahahui Koa Ānuenue as applicable.
4. ~~An annual external audit of the financial statements of the athletics department will be conducted and the auditor's report will be presented to the board.~~ An external audit of "Agreed-Upon Procedures and Internal Controls and Business Issues" will ~~also~~ be conducted annually and furnished to the board.
5. The chancellor may convene an Athletic Advisory Board in accordance with NCAA bylaws to advise the chancellor and athletics director on policies and matters relating to the conduct of intercollegiate athletics on campus, ~~to help resolve conflicts that may arise with the intercollegiate athletic program,~~ and to perform other functions as may be stipulated by the NCAA, by the conference to which the institution belongs, or by the chancellor.
6. The chancellor shall appoint a faculty athletics representative to perform such functions as may be assigned by the NCAA, by the conference to which the institution belongs, or by the chancellor.
7. ~~The chancellor shall ensure that a senior women administrator (SWA) has been designated to perform such functions as may be assigned by the NCAA, by the conference to which the institution belongs, or by the chancellor.~~

#### **IV. Delegation of Authority:**

The board delegates to the president and chancellors the authority to carry out the actions set forth in this policy, and to establish standards and benchmarks against which the success of the campus's intercollegiate athletics program may be assessed by the board. ~~authorizes the chancellor to institute testing of student-athletes. See RP 7.208(B)(1)(e)(2).~~

~~To the extent allowable under NCAA regulations, the chancellor may exempt the nonresident portion of tuition for nonresident student-athletes in accordance with RP 6.208. See RP 7.208(D)(2).~~

~~The chancellor may convene an Athletic Advisory Board. See RP 7.208(D)(5).~~

~~The chancellor shall appoint a faculty athletics representative. See RP 7.208(D)(6).~~

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~~The chancellor shall designate a senior woman administrator (SWA). See RP 7.208(D)(7).~~

**V. Contact Information:**

Office of the Board of Regents, 956-8213, bor@hawaii.edu

**VI. References:**

- <http://www.hawaii.edu/offices/bor/>
- ~~<http://www.justice.gov/crt/about/cor/coord/titleixstat.php>~~
- ~~<http://www.ncaa.org>~~
- ~~RP 6.208~~
- ~~EP 7.205~~

**Approved as to Form:**

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Kendra Oishi  
Executive Administrator and  
Secretary of the Board of Regents

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Date