Notice of Meeting

UNIVERSITY OF HAWAI'I BOARD OF REGENTS COMMITTEE ON INTERCOLLEGIATE ATHLETICS Members: Regents Portnoy (Chair), Yuen (Vice-Chair), Higa, Higaki,

Members: Regents Portnoy (Chair), Yuen (Vice-Chair), Higa, Higaki, and Shinsato

- Date: Thursday, October 4, 2018
- Time: 8:15 a.m.
- Place: University of Hawai'i at Mānoa Information Technology Building 1st Floor Conference Room 105A/B 2520 Correa Road Honolulu, Hawai'i 96822

AGENDA

- I. Call Meeting to Order
- II. Approval of Minutes of the May 18, 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, 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 Eran Ganot, University of Hawai'i at Mānoa Men's Basketball Coach
- B. For Review and Approval:
 - 1. Committee Goals and Objectives
- C. For Information and Discussion:
 - 1. Regents Policy 7.208, Intercollegiate Athletics
 - 2. New Association of Governing Boards of Universities and Colleges (AGB) Proposal
 - 3. Student Athletic Fees
- V. Adjournment

Item IV.A. Coaches Corner – Eran Ganot

NO MATERIALS

Item IV.B.1. Review & Approval Committee Goals & Objectives

IV.C.1.

Regents Policy RP 7.208, Intercollegiate Athletics





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Regents Policy Chapter 7, Student Affairs Regents Policy RP 7.208, Intercollegiate Athletics Effective Date: Aug. 23, 1996 Prior Dates Amended: Oct. 17, 1963; July 16. 1974; Oct. 20, 1978; Dec. 12, 1986; Oct. 31, 2014 (recodified) Review Date: August 2018

I. <u>Purpose</u>

To set forth policy regarding intercollegiate athletics.

II. Definitions:

No policy specific or unique definitions apply.

III. <u>Policy:</u>

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.

The board shall establish or abolish intercollegiate athletic programs 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
 - 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 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
 - (1) The health and safety of student athletes shall be the athletics department's highest priority.
 - (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. Contacts 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
 - (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
 - (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
 - (1) Transparency in financial reporting is mandatory. The board shall be informed 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
 - 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, potential or actual, and of all NCAA or conference investigations.

(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. 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.

C. Reports to the Board

- 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. 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 inform the board, of any events or situations that might 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. Financial Matters and Management
 - The 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 in accordance with RP 6.208.
- 3. All funds or gifts, either monetary or in-kind, generated by 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. Funds or gifts shall be used in accordance with the donor's intent, and as assets of the foundation shall be subject to its policies and procedures.
- 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 and furnished to the board.
- 5. The chancellor may convene an Athletic Advisory Board in accordance with NCAA bylaws to advise the chancellor and athletic 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 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).

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. <u>References:</u>

- 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:

Cynthia Quinn Executive Administrator and Secretary of the Board of Regents Date

Item IV.C.2. New AGB Proposal





AGB BLOG

PREVIOUS POST

NEXT POST >

For Comment: AGB Draft Statement on Board Responsibilities for Intercollegiate Athletics

POSTED BY AGB EDITOR ON JULY 20, 2018

Intercollegiate athletics programs comprise a long and valued tradition in higher education. Today, the many opportunities athletics convey to colleges, universities, and the students they serve are also accompanied by heightened strategic challenges and risks (financial, legal, and reputational). For nearly 20 years, AGB has offered guidance on best practices in the governance of intercollegiate athletics.

AGB recently convened a working group to <u>help revise</u> its existing *Statement on Board Responsibilities for Intercollegiate Athletics*. We invite your help now, to review and comment on a draft of this fresh guidance. <u>Please download the statement</u> and **email your comments to <u>messages@agb.org</u> by August 3**.

Thank you in advance for your time and insights.

RELATED

BOARD OVERSIGHT OF INTERCOLLEGIATE ATHLETICS

TRUST, ACCOUNTABILITY, AND INTEGRITY: BOARD RESPONSIBILITIES FOR INTERCOLLEGIATE ATHLETICS

AGB STATEMENT ON BOARD RESPONSIBILITIES FOR INTERCOLLEGIATE ATHLETICS



AGB Statement on Board Responsibilities for Intercollegiate Athletics

Introduction

The 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 guidelines, data, advocacy efforts, direct consulting, and other initiatives, AGB has been encouraging boards and presidents—as well as organizations such as the NCAA, athletics conferences, and others—to engage in effective fiduciary practices regarding intercollegiate athletics. The previous statement of AGB's Board of Directors on the board's role regarding athletics, issued in 2009, was seen as a valuable guide to help governing boards, working in collaboration with institutional leadership, to be appropriately accountable for their institutions' athletic programs.

Yet, challenges associated with college sports have continued to increase dramatically—including growing costs and revenues, complexities related to conference play, student-athlete academic performance and health and safety risks, problematic coaching contracts, and more high-profile scandals and ethical violations. No governing board can afford to ignore its ultimate responsibility for that part of the institution's business carried out by the athletics department. Effective board engagement and oversight is imperative in college sports.

Since at least the 1980s, college sports have constituted an enrollment strategy in both large and small institutions. In many institutions, athletic events are important occasions for campus engagement with local, regional, and even national publics. The risks—financial and reputational—associated with college sports require consistent attention from higher education's leaders, including governing boards. The role of college sports extends beyond the field of competition; governing board members must temper their dispositions as fans in light of their formal fiduciary responsibilities.

While this report is appropriately focused on those specific areas of institutional and system board engagement, the AGB Board of Directors believes it important to encourage those external bodies that hold substantial influence in the business of intercollegiate athletics—athletic conferences, the NCAA, NAIA, and perhaps others—to recognize that higher education's fiduciary bodies remain legally responsible for the governance of intercollegiate athletics.

This revised statement was approved by AGB's Board of Directors, which is itself composed predominantly of college and university board members, in August 2018. It presents three principles for effective governing board engagement and oversight of intercollegiate athletics. We commend it as sound governance practice to boards and institutional leadership across all athletic divisions:

- 1. While delegating administrative responsibility to chief executive officers, governing bodies are ultimately accountable for athletics policy and effective fiduciary oversight.
- 2. The governing body must ensure the integrity of the institution's educational mission and ensure the institution's athletics program contributes to it.

3. Members of the governing body must understand their responsibilities when it comes to athletics, and apply themselves diligently to that work.

Principle 1. While delegating administrative responsibility to the chief executive officer, the governing body is ultimately accountable for athletics policy and effective fiduciary oversight.

A governing board's responsibility to ensure the adequacy and implementation of policies related to intercollegiate athletics is just as essential as board oversight of programs, finances, and academic outcomes. The nature of the board's fiduciary responsibilities for athletic programs should not be distinct from its policy responsibilities for other areas of its authority. The board should delegate the conduct and control of the athletics department to the institution's chief executive officer while not

presuming that such a delegation limits its responsibility. This guidance applies equally to governing boards of multi-campus systems, though their processes for policy implementation and oversight may be distinctive.

As part of the governing body's accountability, it must ensure that the institution's chief executive officer is attentive to the strategy and operations of athletic programs. To do this, the board must periodically receive information about the primary areas of athletics policy: finance, student-athlete health and safety, academic standards and progress, institutional compliance, ethical behavior, and athletics personnel. It should further ensure that the mission of the athletic department is being met. The mission and goals of the athletic department must contribute to, and be accounted for, within the institution's strategic plan.¹ From the vantage of the governing board, which holds the entire institution in trust, none of an institution's programs should be an end unto itself, including athletics.

Regardless of the size or complexity of their finances, almost all athletic departments are subsidized by the institution's operating budget.² Board members must monitor the running average and current-year subsidies to athletic departments from all sources, and they need to engage substantively in the questions of appropriate student fees and transfers from institutional operating budgets for support of athletics programs. Athletic programs can benefit college and university missions in many ways, but many of the benefits arising from investments in athletics are indirect. Prestige, political capital, donor support, and student enrollment, for example, may be affected positively by the athletics program. But it is up to boards, working with chief executives, to ultimately determine the most appropriate application of resources in pursuit of the institution's mission.

At all levels of competition, the governing board should express curiosity and become familiar with the policy agendas of membership groups organizing intercollegiate play, including relevant athletics conferences, the NCAA, the NAIA, and perhaps others. As fiduciaries, boards can help set their institutions up for success by insisting these partner organizations maintain high policy standards.

QUESTIONS FOR BOARDS TO CONSIDER:

¹ 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.

² See: <u>https://www.knightcommission.org/finances-college-sports/</u>

- 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 committee or process that assumes responsibility for board members who 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 athletic department is expected to contribute to 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?
- How do the policies of relevant athletics conferences, the NCAA, or the NAIA complement the work of our board and administration (financial, educational, student well-being)?

A Note on Proper Governing Board Role

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

Appropriate	Inappropriate				
Ensuring institutional budgets and their major components are well-aligned with annual and longer-term strategy	Seeking special appropriations for favored teams or facilities, or inserting themselves into conference or broadcasting negotiations				
Charging the chief executive with vigorous, continuous pursuit of student safety and educational quality; monitoring progress	Making special allowances or otherwise exempting any program or department from ethical and educational principles that guide the institution				
Ensuring clear, unconflicted reporting lines— all coaches report to the athletic director (AD) and compliance officers assigned to athletic departments report to a university chief compliance officer (where applicable)	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 athletics personnel	Becoming involved in individual contract negotiations for any employee of the institution below the level of chief executive, including coaches and ADs				

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

Principle 2. The governing body must ensure the integrity of the institution's educational mission and ensure the athletics program contributes to it.

The most important measure of success for an intercollegiate athletics program should be the degree to which the program contributes to 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 academic values and does not undermine them.

The governing body must also ensure that student-athletes are held to the same academic and behavioral standards that all students are required to meet, and that athletes benefit with all others from genuine opportunities for a well-balanced academic, social, and athletic experience. Special facilities and dedicated support for student-athletes should reflect the institution's strong commitment to these students' academic success, 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 substantial impediments to student learning.

The periodic review of data that indicates academic progress of all student-athletes, including those in major revenue sports, forms a basic responsibility of the governing board. Academic progress and graduation rates and other indicators of educational quality adopted by the institution should be provided for board review by department, team, and student-athlete composition (race/ethnicity, gender, major/college, and perhaps others). Where students' educational experiences appear to be inequitable, including when athletes appear to be concentrated in certain majors or courses, it is the board's responsibility to ensure the institution addresses those concerns effectively and expeditiously.

Some governing bodies 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 make-up of the student body, campus climate, and ultimately the nature of educational effectiveness both inside and outside the classroom.

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?

Principle 3. *Members of the governing body must understand their responsibilities when it comes to athletics, and apply themselves diligently to that work.*

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 impact the educational mission in meaningful ways. Effective fiduciary governing bodies cannot be content to go uninformed about these programs, and they cannot afford to shirk their work.

Some governing bodies have developed ad-hoc or standing committees charged with dedicated responsibility for athletics oversight, with uneven results. Establishing an ad-hoc committee can be an effective mechanism for board oversight. In such cases, a firm timeline or milestone triggering the conclusion of that committee's work is advisable. Where standing athletics committees are established, the governing body needs to be keenly aware of the need to: a) ensure impartiality toward athletics by all members of the committee; and b) share discussion of financial, academic, reputational, risk assessment and mission considerations, whose impact extend well beyond the athletics department even if that is their origin. The way in which a board positions itself for accountability in this area is an important decision, and one that should not be considered lightly.³

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

- Account for the currency and implementation of policies related to the use of campus athletics facilities or the scope of engagement of athletics personnel in their official capacities (including engagement with minors, faculty, development personnel, the board, and perhaps others).
- Ensure that institutional policy accounts for physical safety risks inherent to sport (e.g., those involving concussions and other serious injuries), and that there are periodic board-level discussions of the relevant medical research, as well as summary data on the institution's athletics-related student injuries.
- 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.
- Ensure that donor and sponsorship support of intercollegiate athletics reflects institutional priorities, and that those revenues remain under institutional control.

³ AGB survey data suggest about seven percent of public governing boards and six 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.

Consider for approval all proposals for significant athletics capital expenditures, including any
future debt-service commitment as part of the regular financial oversight by the governing
board.

For governing boards overseeing 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 that their policies are inadequate or potentially risky should require a post-audit of the institution's financial commitments to the athletic department's highest-paid personnel. Further, it is the board's responsibility to make certain institutional policies governing extramural consulting, sponsorships, and outside business interests of employees, are applied consistently across the institution. The board must ensure the institution's policies effectively render athletics personnel at all levels of competition accountable to the institution.

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 delegate to the athletic director expectations concerning compliance and ethical conduct? How effectively is our 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? Do we have a clear policy that protects
 whistleblowers from punitive action, and are students, employees, and others aware of it?
- What is our philosophy and policy concerning the background, qualifications, and compensation
 of our coaches and athletics director?
- Do our coaches and administrators accept their responsibilities to be educators? How is this communicated to them?

Conclusion

Governing 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 outcomes 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. 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. <u>Responsibilities for Intercollegiate Athletics</u>. We invite your help now, to review and comment on a draft of this fresh guidance. Please <u>download the draft statement</u> from our website and **email your comments to <u>messages@agb.org</u> by August 3**.

On behalf of AGB and its Board of Directors, I thank you in advance for your time and insights.

Sincerely,

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Andy Lounder Director of Programs, AGB

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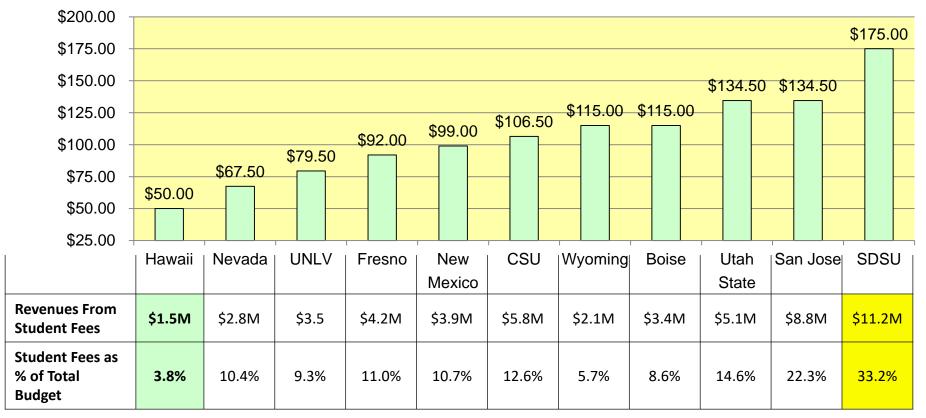
Melissa A. Matsuura Executive Assistant The University of Hawai'i Board of Regents 2444 Dole Street, Bachman 209 Honolulu, Hawaii 96822 (808) 956-5151 – direct <u>mmatsuur@hawaii.edu</u>

Item IV.C.3. Student Athletic Fees



Revenue Performance Student Fees Comparison¹

Mountain West Peers' Student Athletics Fees Per Semester



Big West Peers' Student Athletics Fees Percentage										
Student Fees as	Hawaii	UCSB	Riverside	Long Beach	UC Irvine	Northridge	Cal Poly	Fullerton	UC Davi s	
% of Total	3.8%	10.6%	11.7%	19.5%	22.9%	26.0%	28.8%	38.7%	65.0%	

¹ Data on student fees and revenues, by school, was compiled by Wyoming Athletic Department in a survey conducted during 2018. Data based on FY2018.