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**Notice of Meeting
UNIVERSITY OF HAWAI'I**

BOARD OF REGENTS COMMITTEE ON INTERCOLLEGIATE ATHLETICS

Members: Regents Acoba (Chair), Bal (Vice-Chair), Acopan, Haning, and Wilson

Date: Thursday, March 3, 2022

Time: 8:30 a.m.

Place: Virtual Meeting

In light of the evolving COVID-19 situation, protecting the health and welfare of the community is of utmost concern. As such, this will be a virtual meeting and written testimony and oral testimony will be accepted in lieu of in-person testimony. See the Board of Regents website to access the live broadcast of the meeting via livestream: www.hawaii.edu/bor. Mahalo for your consideration.

AGENDA

I. Call Meeting to Order

II. 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 the board's website through the testimony link provided on the [Meeting Agendas, Minutes and Materials](#) page. Testimony may also be submitted via email at bor.testimony@hawaii.edu, U.S. mail at 2444 Dole Street, Bachman 209, Honolulu, HI 96822, or facsimile at (808) 956-5156. All written testimony submitted are public documents. Therefore, any testimony that is submitted for use in the public meeting process is public information and will be posted on the board's website.

Those wishing to provide oral testimony for the virtual meeting may register [here](#). Given constraints with the online format of our meetings, individuals wishing to orally testify must register no later than 7:00 a.m. on the day of the meeting in order to be accommodated. It is highly recommended that written testimony be submitted in addition to registering to provide oral testimony. Oral testimony will be limited to three (3) minutes per testifier.

III. Agenda Items

- A. Recommend Board Approval of Revisions to Regents Policy 7.208, Intercollegiate Athletics
- B. Recommend Board Approval of Amendments to the Bylaws of the Board of Regents, Article II.D.2.f., Committee on Intercollegiate Athletics

- C. Recommend Board Approval of Proposed Terms for the Independent Assessment of University of Hawai'i at Mānoa Athletics Department Operations Relating to Student-Athlete Welfare and Communications

IV. Adjournment



February 25, 2022

DTS-1255

MEMORANDUM

TO: Randolph Moore
Chair, Board of Regents

FROM: Simeon Acoba
Chair, Committee on Intercollegiate Athletics

SUBJECT: Recommend Board Approval of Amendments to Regents Policy (RP)
7.208, Intercollegiate Athletics

SPECIFIC ACTION REQUESTED:

It is requested that the Committee on Intercollegiate Athletics (“ICA Committee”) recommend that the Board of Regents (“Board”) approve the proposed changes to RP 7.208, Intercollegiate Athletics.

BACKGROUND:

During the Board meeting held on January 20, 2022, the administration presented information on a number of issues and concerns with respect to University of Hawai‘i (“UH”) at Mānoa (“UHM”) Athletics that were raised through various public forums, reviewing each of the pertinent issues raised as well as efforts to address, or clarify misconceptions about, each issue.

Subsequent to the Board meeting, the ICA Committee held a meeting on February 3, 2022, during which time the administration reviewed the process used by UHM Athletics for the hiring of head coaches in light of concerns raised during the January 20th Board meeting. The administration also presented a comparative analysis of this process to that which was used in the hiring of the three most recent head football coaches. Discussions ensued on various aspects of the hiring process and the impacts of actions taken during this process on the interests and reputation of the university.

Attached for the consideration of the ICA Committee are proposed amendments to RP 7.208 specific to the selection procedures used for a head coach that are intended to protect the interests and reputation of the university in the hiring process. Highlights of the proposed revisions include specifying that:

- The selection procedures for a head coach are delegated to the president and the athletic director at UHM, and the chancellor and the athletic director at UH at Hilo, in expectation of the prudent and reasoned exercise of their discretion;
- The hiring process should be conducted in a straightforward and respectful manner;
- The president is responsible and accountable for the university meeting several established principles including that the process shall adhere to high standards that bring credit to the athletic program and the reputation of the university; the selection procedure and application forms be set forth in writing; and that the university shall not conduct negotiations in public;
- The convening of an advisory committee to assist the athletic director in making a head coaching selection is unnecessary. However, if the athletic director chooses to convene such a committee, the names of the members shall be made public at the time the hiring of the new head coach is announced;
- Any pronouncements during the hiring process that an applicant has not been hired should be limited to that fact; and
- In public communications during the hiring process, the university should endeavor to be factual and non-judgmental.

ACTION RECOMMENDED:

The ICA Committee is requested to recommend Board approval of the aforementioned revisions to RP 7.208.

Attachments:
RP 7.208 original
RP 7.208 redline
RP 7.208 clean



Regents Policy Chapter 7, Student Affairs

Regents Policy RP 7.208, Intercollegiate Athletics

Effective Date: February 20, 2020

Prior Dates Amended: Oct. 17, 1963; July 16, 1974; Oct. 20, 1978; Dec. 12, 1986; Aug. 23, 1996; Oct. 31, 2014 (recodified)

Review Date: August 2023

I. Purpose:

Well-managed intercollegiate athletics competition, conducted under the fundamental principles of fair play and amateurism, is 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.

II. Definitions:

None.

III. Policy:

Responsible administration and oversight are fundamental to the management of intercollegiate athletics. Each campus that participates in intercollegiate athletics must have in place written procedures to provide careful and thorough scrutiny of its sports programs and deliver required information to ensure appropriate oversight.

Overall leadership of intercollegiate athletics will be taken into account in the annual evaluations of the chief executive officer of the University of Hawai'i at Mānoa (UHM CEO) or the chancellor of the University of Hawai'i at Hilo (UHH Chancellor).

Campuses shall establish standards and benchmarks against which the success of its intercollegiate athletics program may be assessed.

A. Guiding Principles for Intercollegiate Athletics

1. Health and safety

The health and safety of student-athletes shall be the highest priority of the entire athletics program.

2. Commitment to academics

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 expectations for the academic as well as athletic success of student-athletes.

3. Equal opportunity

Gender equity in athletics shall be respected and honored, and athletics programs shall be operated in compliance with Title IX, the Patsy T. Mink Equal Opportunity in Education Act.

4. Compliance with NCAA and conference requirements

The UHM CEO and UHH Chancellor are 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), and of all NCAA or conference investigations into all major NCAA infractions (Level I or II).

The use of performance enhancing drugs or prohibited substances undermines the integrity of intercollegiate athletics and may harm the individual student-athlete. The president will develop and institute a drug and prohibited substances testing policy in accordance with NCAA rules and applicable state and federal law. 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.

5. Broad and enthusiastic campus and community support

Enthusiastic campus and community support, especially that of students, is a prime indicator of a successful athletics program. The athletics program and campus leadership should proactively reach out to students and faculty as well as to the wider community to encourage interest in and support for intercollegiate athletics.

B. Board of Regents Oversight

1. Board approval shall be necessary to establish or abolish an entire intercollegiate athletic program on a particular campus.
2. The board shall be kept aware of the overall state of intercollegiate athletics programs through regular reports on academic, compliance, and financial issues including but not limited to:
 - a. student-athlete health and welfare;
 - b. gender equity/Title IX;
 - c. academic standing and progress of student-athletes; and

-
- d. overall financial condition.
3. The board shall be notified by the president or the president's designee of events or situations that might reasonably be expected to draw unusual public attention to the athletics program, a particular team, a student-athlete, or a department employee.
 4. The board shall be notified by the president or the president's designee of events or situations that might reasonably be expected to have a significant negative impact on financial performance.
- C. Responsibilities of the UHM CEO and UHH Chancellor
1. Each intercollegiate athletics program shall develop a mission statement, approved by the UHM CEO and UHH Chancellor, respectively, that reflects the values of the University of Hawai'i. Annual plans and budget for athletics shall contain realistic and measurable goals that advance the mission.
 2. Financial management
 - a. Transparency in financial reporting is mandatory.
 - b. The campus athletics department will prepare an annual budget. Should the athletics department end a fiscal year in a deficit, meaning that total expenses exceed total revenues, including institutional support and student fees, this shall be noted in the annual financial report of the campus along with plans to reconcile the deficit and to account for its costs. The UHM CEO or UHH Chancellor may eliminate a deficit of their respective athletics department by providing funds from other sources, as permitted by law, to offset such a deficit.
 - c. To the extent allowable under NCAA regulations, the UHM CEO or UHH Chancellor may exempt the nonresident portion of tuition for nonresident student-athletes, graduate assistants, and team managers in accordance with Regents Policy 6.208.
 - d. All funds or gifts, either monetary or in-kind, generated by the athletics department 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 Ānuenuē, both of which have 501(c)(3) status, unless otherwise approved by the president. Funds or gifts shall be used in accordance with the donor's intent, and shall be subject to all applicable policies, procedures, and regulations.
 - e. An external audit of "Agreed-Upon Procedures" will be conducted at least as frequently as required by the NCAA and furnished to the board.

3. The UHM CEO or UHH Chancellor may convene an Athletic Advisory Board in accordance with NCAA bylaws to advise the UHM CEO or UHH Chancellor and athletics director on policies and matters relating to the conduct of intercollegiate athletics on campus and to perform other functions as may be stipulated by the NCAA, by a conference to which the institution belongs, or as assigned by the UHM CEO or UHH Chancellor.
4. The UHM CEO or UHH Chancellor shall appoint a faculty athletics representative to perform such functions as may be stipulated by the NCAA, by a conference to which the institution belongs, or as assigned by the UHM CEO or UHH Chancellor.

IV. Delegation of Authority:

The board delegates to the president, UHM CEO, and UHH Chancellor the authority to carry out the actions set forth in this policy, except as reserved by the board.

V. Contact Information:

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

VI. References:

- <http://www.hawaii.edu/offices/bor/>

Approved as to Form:

Kendra Oishi
Executive Administrator and
Secretary of the Board of Regents

Date



Regents Policy Chapter 7, Student Affairs

Regents Policy RP 7.208, Intercollegiate Athletics

Effective Date: February 20, 2020

Prior Dates Amended: Oct. 17, 1963; July 16, 1974; Oct. 20, 1978; Dec. 12, 1986; Aug. 23, 1996; Oct. 31, 2014 (recodified)

Review Date: August 2023

I. Purpose:

Well-managed intercollegiate athletics competition, conducted under the fundamental principles of fair play and amateurism, is 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.

II. Definitions:

None.

III. Policy:

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4. Compliance with NCAA and conference requirements

The UHM CEO and UHH Chancellor are 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), and of all NCAA or conference investigations into all major NCAA infractions (Level I or II).

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B. Board of Regents Oversight

1. Board approval shall be necessary to establish or abolish an entire intercollegiate athletic program on a particular campus.
2. The board shall be kept aware of the overall state of intercollegiate athletics programs through regular reports on academic, compliance, and financial issues including but not limited to:
 - a. student-athlete health and welfare;
 - b. gender equity/Title IX;
 - c. academic standing and progress of student-athletes; and

- d. overall financial condition.
 3. The board shall be notified by the president or the president's designee of events or situations that might reasonably be expected to draw unusual public attention to the athletics program, a particular team, a student-athlete, or a department employee.
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1. Each intercollegiate athletics program shall develop a mission statement, approved by the UHM CEO and UHH Chancellor, respectively, that reflects the values of the University of Hawai'i. Annual plans and budget for athletics shall contain realistic and measurable goals that advance the mission.
 2. Financial management
 - a. Transparency in financial reporting is mandatory.
 - b. The campus athletics department will prepare an annual budget. Should the athletics department end a fiscal year in a deficit, meaning that total expenses exceed total revenues, including institutional support and student fees, this shall be noted in the annual financial report of the campus along with plans to reconcile the deficit and to account for its costs. The UHM CEO or UHH Chancellor may eliminate a deficit of their respective athletics department by providing funds from other sources, as permitted by law, to offset such a deficit.
 - c. To the extent allowable under NCAA regulations, the UHM CEO or UHH Chancellor may exempt the nonresident portion of tuition for nonresident student-athletes, graduate assistants, and team managers in accordance with Regents Policy 6.208.
 - d. All funds or gifts, either monetary or in-kind, generated by the athletics department 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 Ānuenuē, both of which have 501(c)(3) status, unless otherwise approved by the president. Funds or gifts shall be used in accordance with the donor's intent, and shall be subject to all applicable policies, procedures, and regulations.
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3. The UHM CEO or UHH Chancellor may convene an Athletic Advisory Board in accordance with NCAA bylaws to advise the UHM CEO or UHH Chancellor and athletics director on policies and matters relating to the conduct of intercollegiate athletics on campus and to perform other functions as may be stipulated by the NCAA, by a conference to which the institution belongs, or as assigned by the UHM CEO or UHH Chancellor.
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5. The selection procedures for a head coach are delegated to the president and the athletic director at UHM, and the chancellor and the athletic director at UHH, in expectation of the prudent and reasoned exercise of their discretion. The hiring process should be conducted in a straightforward and respectful manner. The president is responsible and accountable for the university meeting the following principles:
 - a. The process shall adhere to high standards that bring credit to the athletic program and the reputation of the university.
 - b. The selection procedure and application forms shall be set forth in writing.
 - c. The university shall not conduct negotiations in public.
 - d. There is no requirement of an advisory committee to the athletic director because the ultimate selection decision remains with the president and the athletic director at UHM, and the chancellor and athletic director at UHH; however, if the athletic director chooses to convene such a committee the names of the members shall be made public at the time the hiring of the new head coach is announced.
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 - c. The university shall not conduct negotiations in public.
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 - e. Any pronouncements during the hiring process that an applicant has not been hired should be limited to that fact.
 - f. In public communications during the hiring process, the university should endeavor to focus on facts, without being judgmental.

IV. Delegation of Authority:

The board delegates to the president, UHM CEO, and UHH Chancellor the authority to carry out the actions set forth in this policy, except as reserved by the board.

V. Contact Information:

Office of the Board of Regents, (808) 956-8213, bor@hawaii.edu

VI. References:

- <http://www.hawaii.edu/offices/bor/>

Approved as to Form:

Kendra Oishi
Executive Administrator and
Secretary of the Board of Regents

Date



February 25, 2022

DTS-1283

MEMORANDUM

TO: Randy Moore
Chair, University of Hawai'i Board of Regents

FROM: Simeon Acoba
Chair, Committee on Intercollegiate Athletics

SUBJECT: Amendments to the Bylaws of the Board of Regents of the University of Hawai'i: Article II.D.2.f.2. (Committee on Intercollegiate Athletics)

SPECIFIC ACTION REQUESTED:

It is requested that the Board of Regents ("Board") approve the proposed changes to the Bylaws to include oversight of the selection procedures for athletic head coaches as part of the responsibilities of the Committee on Intercollegiate Athletics ("ICA Committee").

The proposed amendment can be found on page 8 of the Bylaws.

RECOMMENDED EFFECTIVE DATE:

Effective upon adoption by the Board of Regents.

BACKGROUND:

During the Board meeting held on January 20, 2022, the administration presented information on a number of issues and concerns with respect to University of Hawai'i ("UH") at Mānoa ("UHM") Athletics that were raised through various public forums, reviewing each of the pertinent issues raised as well as efforts to address, or clarify misconceptions about, each issue. Subsequent to the Board meeting, the ICA Committee held a meeting on February 3, 2022, during which time the administration reviewed the process used by UHM Athletics for the hiring of head coaches in light of concerns raised during the January 20th Board meeting.

As a result of these discussions, and in conjunction with proposed revisions to Regents Policy 7.208 relating to intercollegiate athletics, attached for the

Memorandum to Board Chair Moore

February 25, 2022

Page 2 of 2

consideration of the ICA Committee is a proposed amendment to the Bylaws to specify oversight of the selection procedures for athletic program head coaches.

ACTION RECOMMENDED:

Recommend Board approval to amend the Bylaws to revise the charge for the ICA Committee by including oversight of the selection procedures for athletic program head coaches as part of the committee's responsibilities.

Attachment:

Bylaws of the Board of Regents of the University of Hawai'i (Redline)

BYLAWS OF THE BOARD OF REGENTS OF THE UNIVERSITY OF HAWAI'I
(as of ~~May 20 XXX XX, 2021~~2022)

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**BYLAWS OF THE BOARD OF REGENTS
UNIVERSITY OF HAWAI'I**

ARTICLE I. Definitions

As used in these Bylaws:

“Board” or “BOR” means the Board of Regents of the University;

“HRS” means the Hawai'i Revised Statutes, as may be amended from time to time;

“Meetings” shall not include rule-making hearings, declaratory rulings or contested cases under Chapter 91, HRS;

“Chairperson” means the chairperson of the board;

“President” means the President of the University;

“Secretary” means the Executive Administrator and Secretary of the Board; and

“University” means the University of Hawai'i system and its various campuses.

ARTICLE II. Membership and Organization

- A. Membership. The membership of the Board shall be as required by Chapter 304A-104, HRS. The members of the Board shall serve without pay, but shall be entitled to reimbursement for necessary expenses while attending meetings and while in the discharge of duties and responsibilities.

Notwithstanding the term of office, the term of a Board member shall expire upon the failure of the member, without valid excuse, to attend three consecutive meetings duly noticed to all members of the Board. The Chairperson or acting Chairperson of the Board shall determine if the absence of the member is excusable. The expiration of the member's term shall be effective immediately after the third consecutive unattended meeting and unexcused absence.

- B. Officers, Organization. As required by Section 304A-104, HRS, the Officers of the Board shall consist of a Chairperson, up to two Vice-Chairpersons, and a Secretary (who shall be appointed by the Board and shall not be a member of the Board). The Chairperson and up to two Vice-Chairpersons shall be elected at its first meeting after June 30 of the next year or thereafter until their successors are elected and have qualified and whose election shall be immediately certified by the Board to the Lieutenant Governor. The President shall act as the chief executive officer of the Board.

1. Term. The term of the office of Chairperson and up to two Vice-Chairpersons shall be for one year. A Chairperson may serve more than one term, but not more than two consecutive terms.

2. Vote. Votes for the Chairperson and up to two Vice-Chairpersons of the Board shall be by ballot if more than one person is nominated for an office.
3. Succession. In the event of a vacancy in the office of the Chairperson, the First Vice-Chairperson shall succeed as Chairperson for the unexpired term. If at that time there is a vacancy in the office of the First Vice-Chairperson, the Second Vice-Chairperson shall succeed as Chairperson for the unexpired term. If at that time there is also a vacancy of the office of the Second Vice-Chairperson, the Secretary shall succeed as Chairperson for the sole purpose of conducting an election as soon as possible for a new Chairperson to serve for the unexpired term.

C. Duties of Officers.

1. Chairperson. The Chairperson, in addition to presiding at all regular and special Board meetings, shall:
 - a. Appoint the chairperson and members of the standing committees and any other committees, except as provided under Section 304A-321, HRS.
 - b. Acknowledge communications, petitions, requests, and proposals on behalf of the Board and, except in emergencies, refer same to the President or Secretary or an appropriate Committee of the Board for action or recommendation so as not to detract from the Board's governance and fiduciary responsibilities.
 - c. Maintain liaison with the President to see that there is an effective working relationship between the University administration and the Board.
 - d. Approve all press releases and public statements made by the Board.
 - e. Approve agenda items for any regular or special meeting of the Board.
 - f. Coordinate the efforts of the Board's standing committees to strengthen the roles and functions of same.
2. Vice-Chairperson(s). The First Vice-Chairperson will assume the duties and responsibilities of the Chairperson in the absence of the Chairperson and will undertake such other duties as may be assigned by the Chairperson. If there is a second Vice-Chairperson, he/she will assume the duties and responsibilities of the First Vice-Chairperson in the absence of the First-Vice Chairperson and will undertake such other duties as may be assigned by the Chairperson or First Vice-Chairperson.
3. Secretary. The Secretary shall serve under the direction of the Board through the Chairperson and shall provide the necessary administrative support services to the Board. The Secretary shall:

- a. Prepare and distribute the agenda for each of the regular and special Board and standing and other committee meetings.
 - b. Schedule regular and special Board meeting dates in consultation with the Chairperson.
 - c. Record and prepare minutes and reports for each of the regular and special Board and standing and other committee meetings.
 - d. Be responsible for securing information from the University administration.
 - e. Acknowledge and answer routine correspondence directed to the Chairperson and/or Board.
 - f. Serve as liaison between the University administrative staff and the Board.
 - g. Review policy proposals submitted by the University administration.
 - h. Maintain a calendar of the Board's unfinished business.
 - i. Conduct research and analysis of policies relating to the governance of the University by the Board.
 - j. Review rules and regulations affecting the University in accordance with the Hawai'i Administrative Procedures Act.
 - k. Maintain, collect, and preserve the official records of the Board.
 - l. Collate and index policies which are adopted by the Board.
 - m. Serve as "Records Officer" under the State archives program.
 - n. Serve as "Certifying Officer" of official University documents.
 - o. Perform additional duties as assigned by the Chairperson and the various standing and other committee chairpersons.
- D. Standing Committees of the Board.
1. Establishment of Standing Committees. To facilitate consideration of policy matters that must be approved by the Board, seven standing committees are established. Authority to act on all matters is reserved for the Board, and the functions of each standing committee shall be to consider and make recommendations to the Board.
 2. Standing Committees. The following are the standing committees of the Board and their functions:
 - a. Committee on Academic and Student Affairs

- (1) Review the academic mission and strategic direction of the system and its major units.
 - (2) Periodically review to what extent programs support the mission and strategic direction of the University.
 - (3) Monitor the quality and effectiveness of educational programs.
 - (4) Develop and maintain policies governing academic and student affairs.
 - (5) Review actions proposed by the President which fall under current board policies and procedures, including requests for exceptions.
- b. Committee on Budget and Finance
- (1) Work in concert with the University administration relating to the operating budget.
 - (2) Examine the budgetary process, budget proposals, expenditure plans, and development plans.
 - (3) Discuss the implementation of the budgetary decisions with the University administration, especially amendments thereto or when circumstances require deviations from expenditure plans.
 - (4) Review matters related to business affairs, and exercise fiduciary oversight of endowment funds and other financial assets of the University.
 - (5) Exercise general oversight and policy direction over the University's financial systems and programs.
- c. Committee on Planning and Facilities
- (1) Review, study, and make recommendations to the Board relative to the long-range plans for the development of the University, considering academic needs, priorities, and fiscal capabilities of the State.
 - (2) Review, study, and make recommendations to the Board relative to the physical facilities master plans for each campus in the University system and to periodically review approved campus master plans in order to recommend revisions, if necessary, to meet the needs of the University.
 - (3) Review proposals relative to naming of University improvements and facilities and make its recommendations to the Board.

- (4) Review policies and make recommendations to the Board on matters pertaining to the use of University facilities and ensure an environment that is complementary to the educational mission of this institution.
 - (5) Work in concert with the university administration relating to the capital improvement budget.
 - (6) Provide general oversight of the University's land-related strategic initiatives and partnerships program.
- d. Committee on Personnel Affairs and Board Governance
- (1) Review and consider policies and practices relating to university personnel.
 - (2) Ensure board statutes, bylaws, policies, and rules are being reviewed and updated on a routine and regular basis.
 - (3) Ensure board education and board member development is provided for board members.
 - (4) Provide recommendations to the board regarding best practices for board effectiveness.
- e. Committee on Independent Audit
- (1) Advise the Board regarding the Board's responsibilities to oversee:
 - (a) the quality and integrity of the University's compliance with legal, regulatory and policy requirements, financial reporting and financial statements, and internal controls related to risks;
 - (b) the function, disclosures, and performance of the University's compliance, internal control, and risk management systems regarding ethics and compliance, risk, finance, and accounting, and the adequacy of such systems; and
 - (c) the independent certified public accountant's qualification, independence and performance, as well as performance of the internal audit function.
 - (2) Review the annual internal audit plan and the extent to which it addresses high risk areas.
 - (3) Review the annual report of the internal audit department and discuss significant issues of internal controls with the Internal Auditor and management.

- (4) Discuss the planned scope of the annual independent audit with the independent certified public accountants and review the results of the audit with the independent certified public accountants and management.
 - (5) Receive and review the annual certified financial reports with the independent certified public accountants and management.
 - (6) Recommend to the Board the certified public accountants to serve as the independent auditor, and their fees.
 - (7) Revise the scope of the annual audit, and approve any services other than audit and audit related services provided by the certified public accountants.
 - (8) Provide recommendations to the Board regarding approval of the internal audit mission statement, the committee's charter, and other governance documents related to both internal and external compliance and auditing activities at the University.
- f. Committee on Intercollegiate Athletics
- (1) Serve as a liaison between the Board and the respective campuses and their athletic departments.
 - (2) Advise the Board regarding its responsibility to oversee:
 - (a) the health, safety and academic progress of student-athletes;
 - (b) fiscal integrity and budgetary concerns;
 - (c) compliance with NCAA and conference requirements; ~~and~~
 - (d) any event or situation that may draw unusual public interest to the athletics program, a particular team, student athlete, or department employee; and
 - ~~(d)~~(e) selection procedures for athletic program head coaches.
 - (3) Review annual reports on the academic standing and progress of student athletes, including, but not limited to, the Academic Progress Rate report.
 - (4) Recommend policies governing all aspects of Intercollegiate Athletics at the University.
- g. Committee on Research and Innovation

- (1) Evaluate and approve long range plans that establish the strategic goals and objectives for research, innovation, and technology transfer at the University.
 - (2) Review and make recommendations regarding investments, policies, and practices relating to University research, innovation and technology transfer programs.
 - (3) Review and make recommendations on proposals to establish or to terminate Organized Research Units (ORU) and research centers.
 - (4) Work in concert with Administration to establish performance goals and metrics to evaluate progress against the strategic goals and objectives.
3. Appointment of Committee Members. The chairperson and voting members of each standing committee shall be appointed by the Chairperson and shall serve for one year or until the appointment of their successors. The Chairperson shall be an ex-officio, voting member of all standing committees. All board members who are not voting members of a committee or committees shall be ex-officio, nonvoting members of such committees. The President, as chief executive officer of the University, shall assign a member of the University administrative staff to each standing committee who shall be the administrative liaison with the chairperson of the committee.
- The Committee on Academic and Student Affairs shall include Regents from the four major islands.
4. Meetings. Each standing committee shall schedule meetings as appropriate. The Committee on Academic and Student Affairs meetings shall be held on each of the islands with community college campuses, to the extent practicable.
 5. Referrals to Committees. Each standing committee shall consider all matters referred to it by the Chairperson and shall make appropriate recommendations within a reasonable time to the Board.
 6. Progress Reports. Each standing committee shall make progress reports to the Board periodically or when requested by the Chairperson.
 7. Task Groups. Task groups may be established by the Chairperson upon authorization by the Board, and with such powers and duties as determined by the Board. The tenure of a specific task group shall expire at the completion of its assigned task.

E. New Board Member Orientation

New Board members shall be scheduled to receive an orientation within one month of the beginning of their term. The orientation shall include, among other things,

an overview of the University system, BOR responsibilities, accreditation standards for Board governance, and BOR policies and practices. New Board members shall also be provided with a Reference Guide covering these and other topics.

ARTICLE III. Advisory Committee and Consultants

- A. Creation. The Board may create an advisory committee, as necessary, which shall serve as advisory to the Board. The committee membership shall be appointed by the Chairperson, subject to approval by the Board. The tenure of the advisory committee shall expire at the completion of the assigned task.
- B. Consultant Services. The Board may engage the services of consultants as it deems necessary.

ARTICLE IV. Meetings

- A. Number and Place of Meetings. The Board shall meet not less than ten times annually (July 1, thru June 30) and may from time to time meet in each of the counties of Honolulu, Hawai'i, Maui, and Kaua'i. The Board shall at each meeting set the time and place for its next regular meeting.
- B. Special Meetings. Special meetings may be called by:
 - 1. The Chairperson;
 - 2. The Secretary, upon request by a majority of the members of the Board; or
 - 3. Any Board member, with the consent of the Chairperson.
- C. Call for Committee Meetings. Standing committee meetings shall be called by the Secretary in consultation with the committee chairperson. In the event of a joint meeting, the Chairperson shall designate the presiding committee chairperson.
- D. Public Notice of Meetings. All meetings of and public appearances before the Board and its standing committees shall comply with Chapter 92, HRS, and shall be as set forth in the Rules of Practice and Procedures of the Board of Regents (Hawai'i Administrative Rules, Title 20, Subtitle 1, Chapter 1.1).

ARTICLE V. Quorum

A majority of all voting members to which the Board or its standing committees are entitled shall constitute a quorum.

ARTICLE VI. Voting

Voting by the Board and its standing committees shall be as set forth in the Rules of Practice and Procedures of the Board of Regents (Hawai'i Administrative Rules, Title 20, Subtitle 1, Chapter 1.1).

ARTICLE VII. Legal Counsel

- A. The University General Counsel. The University General Counsel shall be designated as legal counsel for the Board. The University General Counsel or the University General Counsel's representative(s), in the capacity of legal counsel for the Board, shall be present at all regular and special meetings and certain standing committee meetings of the Board.
- B. Requests for Written Legal Opinions. Requests for any written legal opinion of the University General Counsel shall be made by the Chairperson or designee with the full knowledge of the Board. Whenever a legal opinion is rendered by the University General Counsel, such opinion shall be in writing and along with a copy of the written request for such opinion, distributed immediately to all Board members.
- C. Conflicts. By policy and organizational structure, the University General Counsel serves the Board as well as the University administration. Understandably, there may be occasions when it becomes necessary to avoid a perception of conflict, or actual conflict, or to obtain specialized legal expertise. At such times, the Board may exercise its discretion in securing the services of independent legal counsel through the Secretary.

ARTICLE VIII. Robert's Rules of Order

Meetings shall be conducted in accordance with the current edition of Robert's Rules of Order insofar as they are applicable and not inconsistent with these bylaws, or applicable statutes or rules.

ARTICLE IX. Amendments

These bylaws may be amended only by two-thirds (2/3) vote of all the members to which the Board is entitled. Any proposed amendment to the bylaws shall be submitted in writing for consideration and vote by the members at a Board meeting.

ARTICLE X. Conflicts of Interest

- A. Standard of Conduct. Members of the Board shall comply with the provisions of these bylaws and are subject to the standards of conduct and financial interest disclosure requirements of Chapter 84, HRS (State Ethics Code) and must act in accordance with Chapter 84, HRS.
- B. Fiduciary Responsibility. Members of the Board serve a public interest role and thus have a clear obligation to conduct all affairs of the University in a manner consistent with this concept. Members of the Board are expected to place the welfare of the University above personal interests, the interests of family members, or others who may be personally involved in affairs affecting the University. All decisions of the Board shall be made solely on the basis of a desire to promote the best interests of the University and the public good.

C. Disclosures. In the event the Board must consider any matter for the University which also directly involves:

1. a regent or a member of the regent's family (which shall be a spouse, parents, siblings and their spouses, children and their spouses, and any household member);
2. a public or private organization with which a regent is affiliated, as defined below; or
3. a regent's personal financial interest as defined under Chapter 84, HRS;

Any affected regent, at the first knowledge of the matter, shall fully disclose, as noted below, the precise nature of the interest or involvement.

For purposes of this article, an affiliation exists if a regent or a member of the regent's family is an owner (which shall be defined as: (1) an ownership interest valued at more than \$5,000; or (2) 10% or more ownership of the business), officer, director, trustee, partner, employee (which shall also include legal counsel, consultant, contractor, advisor, or representative) or agent of such organization.

All disclosures required under this article must be directed in writing to the Secretary who, together with the University General Counsel, shall be responsible for the administration of this bylaw.

Matters covered under this article shall be reported initially to the Chairperson for appropriate action. Should the Chairperson be the regent with a potential conflict, the matter shall be reported to the Vice Chairperson. Should both the Chairperson and the Vice Chairperson have a potential conflict, the matter shall be reported to the chairperson of a Board standing committee in the order as listed in Article II, Section D of the bylaws of the Board.

Information disclosed to the Secretary shall be held in confidence to the extent authorized by law.

This disclosure requirement shall not apply to any regent who declares a conflict of interest and recuses himself/herself from consideration of the matter before the Board.

D. Determination of Conflicts. Questions concerning possible conflicts of interest shall be directed to the Secretary. Board shall resolve the questions by majority vote at a Board meeting in compliance with Chapter 92, HRS. Where any matter covered by Chapter 84, HRS, is involved, the potential conflict shall be referred to the State Ethics Commission for disposition. Questions of potential conflict not covered by Chapter 84, HRS, may be referred to the University General Counsel for a legal opinion, except that questions of conflict under Section 78-4, HRS, shall be referred to the University General Counsel for a legal opinion.

Restraint on Participation. A member of the Board who has declared a conflict of interest and recused himself/herself or who has been found to have a conflict of interest in any matter before the Board shall refrain from participating in the consideration of the proposed matter. The regent may not vote on such matters before the Board and may not be present during the Board's deliberation and at the time of vote.

- E. Sanctions and Remedies. Any Board action favorable to a regent obtained in violation of this bylaw is voidable on behalf of the Board; provided that in any proceeding to void a Board action pursuant to this bylaw, the interests of third parties who may be damaged thereby shall be taken into account. Any proceeding to void a Board action shall be initiated within sixty (60) days after the determination of a violation under this bylaw. The Board may pursue all legal and equitable remedies and/or sanctions through the University's legal counsel. Any Board action imposing a remedy or sanction under this section must be initiated within one year after the action of the Board that is affected by a violation.



February 25, 2022

DTS-1286A

MEMORANDUM

TO: Members of the Committee on Intercollegiate Athletics

FROM: Simeon Acoba
Chair, Committee on Intercollegiate Athletics

SUBJECT: Approval of Proposed Terms for the Independent Assessment of University of Hawai'i at Mānoa Athletics Department Operations Relating to Student-Athlete Welfare and Communications

SPECIFIC ACTION REQUESTED:

It is requested that the Board of Regents ("Board") consider and approve the proposed terms contained herein for the independent assessment of University of Hawai'i ("UH") at Mānoa ("UHM") Athletics Department operations relating to student-athlete welfare and communications, recommended by the Committee on Intercollegiate Athletics ("ICA Committee").

RECOMMENDED EFFECTIVE DATE:

Effective upon adoption by the Board of Regents.

BACKGROUND:

During the Board meeting held on January 20, 2022, the administration presented information on a number of issues and concerns with respect to UHM Athletics that were raised through various public forums, reviewing each of the pertinent issues raised as well as efforts to address, or clarify misconceptions about, each issue. Subsequent to the Board meeting, the ICA Committee held a meeting on February 3, 2022, during which time the administration recommended conducting an independent assessment of UHM Athletic Department operations as they pertain to student-athlete welfare.

During the February 17, 2022, Board meeting, administration presented a proposed recommendation for an independent assessment of UHM Athletic Department operations relating to student-athlete welfare and communication (see attached memorandum). During the meeting, it was proposed that the matter be referred to

the ICA Committee for further review. The recommendation memo provided by administration presented a framework, but Regents expressed that more focused direction and parameters should be provided with regard to the assessment. As such, the ICA Committee is requested to review and consider the following proposed terms for the independent assessment of UHM Athletic Department football program operations relating to student-athlete welfare and communications, specifically during the 2021 football season, and subsequently make a recommendation to the Board:

1. The assessment will begin on or before April 15, 2022, and be completed by June 14, 2022 (60 days) via the submission of a written report from the Assessor to the Chair of the Board.
2. The due date for the report may be extended by the written mutual agreement of the Chair and Assessor for an additional 30 days, to end no later than July 14, 2022.
3. The Assessor shall be selected by the Board Chair and Chair of the ICA Committee from a list of recommendations submitted by Regents and the President.
4. The Assessor shall provide a written independent assessment of the UHM Athletic Department football program operations relating to student-athlete welfare and communications with student-athletes regarding claims made relative to the 2021 football season.
5. The Board will not resolve individual student-athlete claims. Such claims will run their course through UH administration review and follow-up and resolution, as appropriate. However, the Assessor in its report shall classify the claims into categories as determined by the Assessor, but without linking any claim to an individual student.
6. The assessment will consider the testimony, including claims, regarding student-athlete welfare that was received and/or solicited by the Senate Committees on Ways and Means and Higher Education and forwarded to the Board following the informational briefing held on Friday, January 7, 2022. Subsequent claims and communications relating to the subject matter of such testimony received by the administration and the Board will also be considered.
7. Additionally, the assessment will cover the UHM Athletic Department communications with student-athletes that were relevant to the claims made.
8. The assessment may include interviews of available persons and review of available documentation as the Assessor may consider relevant to the 2021 football program claims.
9. Conducting this assessment shall be considered a necessary part of the business of UH and shall include any necessary data privacy agreements to ensure that students' privacy rights are honored in accord with the Family

Educational Rights and Privacy Act and other applicable laws, rules, and regulations. No student shall be named or identified in the report. The administration will assist the Assessor in following this directive.

10. In conducting the assessment, the Assessor shall comply with relevant personnel policies and collective bargaining agreements that are implicated by the Assessor's review. The administration will assist the Assessor in following this directive.
11. In conducting the assessment and in the final report, the Assessor shall not identify a person who does not wish to be identified, but may identify as it believes necessary, those non-students who had provided public testimony, and only with respect to that public testimony.
12. Parts, if any, of the Assessor's report may be redacted if necessary.
13. The Assessor shall render findings as to its assessment, including a recounting of the claims by category and shall recommend any necessary changes to regent policies ("RP") (e.g., RP 7.208, Intercollegiate Athletics), policies or procedures relating to student complaints, and changes to UHM Athletic Department rules, procedures, and policies, if any, with the objectives of improving the athletic program, and of preventing a recurrence in the future of the type of student-athlete claims referred to herein. The Assessor may consider other relevant rules or policies.
14. The Vice-Chair of the ICA Committee may, as needed, act in place of the Chair of the ICA Committee.
15. The President shall provide a written response to the assessment after it is completed and the administration may submit its own recommendations for adjustments to RPs and UHM Athletic Department rules, procedures, and policies.
16. The assessment and recommendations of the Assessor and of the administration shall be considered by the Board for action, as appropriate.

ACTION RECOMMENDED:

Approval of the proposed terms for the independent assessment of UHM Athletics Department operations relating to student-athlete welfare and communications, recommended by the ICA Committee.

Attachment:

February 10, 2022 Action Memo from President Lassner



February 10, 2022

*22 FEB 11 AM 11:52

MEMORANDUM

TO: Randolph G. Moore
Chair, Board of Regents

Simeon Acoba
Chair, Committee on Intercollegiate Athletics
Board of Regents

FROM: David Lassner
President

A handwritten signature in black ink that reads "David Lassner".

SUBJECT: RECOMMENDATION FOR INDEPENDENT ASSESSMENT OF
UNIVERSITY OF HAWAII AT MĀNOA ATHLETICS DEPARTMENT
OPERATIONS RELATING TO STUDENT-ATHLETE WELFARE AND
COMMUNICATION

SPECIFIC ACTION REQUESTED:

It is recommended that the Board of Regents (BOR) direct an independent assessment of University of Hawaii at Manoa (UHM) Athletics Department operations relating to student-athlete welfare and communication. This independent assessment was recommended by the Committee on Intercollegiate Athletics at its meeting conducted on February 3, 2022.

RECOMMENDED EFFECTIVE DATE:

Upon Board of Regents approval.

ADDITIONAL COST:

It is intended that the cost be no greater than \$75,000, but cost will be one factor considered in the process described below.

PURPOSE:

To provide the BOR with an independent assessment of UHM Athletics Department operations relating to student-athlete welfare and communication.

BACKGROUND:

Given all that has transpired over the past two months, with continuous improvement as a goal, it is recommended by the Committee on Intercollegiate Athletics (ICA) and the University of Hawai'i (UH) administration that the BOR approve and direct an independent assessment of UHM Athletic Department operations relating to student-athlete welfare and communication.

The assessment will consider the testimony regarding student-athlete welfare that was received and/or solicited by the Senate Committees on Ways and Means and Higher Education and forwarded to the BOR following their Senate informational briefing on Friday, January 7, 2022. And as discussed at the ICA meeting on February 7, 2022, the assessment will also cover UHM Athletics Department communication with student-athletes once the Department was aware of complaints being made.

The assessment shall include: review of the aforementioned testimony, including claims made, and any follow-up communications between claimants and the UHM Athletic Department; review of relevant policies and procedures pertaining to student complaints; and identification of any specific matters directly relating to student-athlete welfare and communication arising during the assessment. The assessment should include interviews of available parties and any available documentation.

Conducting this assessment shall be considered a necessary part of the business of the UH and shall include any necessary data privacy agreements to ensure that students' privacy rights are honored in accord with the Family Educational Rights and Privacy Act and other applicable laws, rules and regulations.

A final report shall be submitted to the BOR summarizing the findings of the assessment, including recount of claims by category with any recommendations for improvement. While the assessment will be of UHM Athletics, some of the recommendations may also be useful to UH Hilo Athletics. The report should be redacted as necessary to allow for public disclosure in whole or part.

If the Regents approve this independent assessment, Regent recommendations for an appropriate party to conduct the assessment should be submitted by close of business on February 21, 2022, to the BOR Secretary, who will forward the names to the BOR Chair and ICA Chair. The UH President may provide additional names as needed. The

Board Chair Moore
Committee Chair Acoba
February 10, 2022
Page 3

BOR Chair and ICA Chair will determine the appropriate party to conduct the independent assessment.

ACTION RECOMMENDED:

It is recommended that the BOR direct an independent assessment of UHM Athletic Department operations as they pertain to student-athlete welfare and communication.

c: Kendra Oishi, Executive Administrator and Secretary of the Board of Regents