

## MINUTES

### BOARD OF REGENTS COMMITTEE ON INTERCOLLEGIATE ATHLETICS MEETING

FEBRUARY 3, 2022

**Note:** On January 26, 2022, Governor David Y. Ige issued a proclamation related to the COVID-19 emergency that temporarily suspended Section 92-3.7, Hawai'i Revised Statutes (HRS), "only to the extent necessary to suspend the requirement to have at least one meeting location that is open to the public".

#### I. CALL TO ORDER

Chair Simeon Acoba called the meeting to order at 11:53 a.m. on Thursday, February 3, 2022. The meeting was conducted virtually with regents participating from various locations.

Committee members in attendance: Chair Simeon Acoba; Regent Kelli Acopan; Regent William Haning; and Regent Ernest Wilson.

Committee members excused: Vice-Chair Eugene Bal.

Others in attendance: Board Chair Randy Moore; Regent Wayne Higaki; Regent Benjamin Kudo; Regent Alapaki Nahale-a; Regent Diane Paloma; Regent Robert Westerman (ex officio committee members); President David Lassner; Vice President (VP) for Community Colleges Erika Lacro; VP for Legal Affairs/University General Counsel Carrie Okinaga; VP for Research and Innovation Vassilis Syrmos; VP for Information Technology/Chief Information Officer Garret Yoshimi; UH Mānoa (UHM) Provost Michael Bruno; UH Hilo (UHH) Chancellor Bonnie Irwin; UH West O'ahu Chancellor Maenette Benham; Executive Administrator and Secretary of the Board of Regents (Board Secretary) Kendra Oishi; and others as noted.

#### II. APPROVAL OF MINUTES

Chair Acoba stated that the minutes of the October 7, 2021, committee meeting had been distributed and inquired as to whether committee members had any recommended corrections. Hearing none, the minutes were approved.

#### III. PUBLIC COMMENT PERIOD

Board Secretary Oishi announced that one individual submitted written comments related to the selection and hiring process for head coaches and that no one signed up to provide oral testimony.

Written comments may be viewed at the Board of Regents website as follows:

[Written Testimony Comment Received](#)

#### IV. AGENDA ITEMS

##### A. Coaches Corner: Rich Hill, UHM Baseball Head Coach

UHM Athletic Director (AD) David Matlin introduced Rich Hill, the new UHM baseball head coach who will serve as only the third coach in program history. He noted Coach Hill's numerous accomplishments over his 35-year collegiate coaching career including winning over 1000 games and leading his teams to several National Collegiate Athletic Association (NCAA) national championship tournament appearances.

Coach Hill spoke about some of his reasons for pursuing the head coaching position at UHM including his affinity for the culture of Hawai'i, the storied history of the UHM baseball program, the passion and high baseball acumen of Hawai'i's baseball community, AD Matlin's vision for the baseball program, and the notion that the team represented the entire island-state. Although his coaching philosophy is multi-dimensional and dynamic, he stated that it is based upon his personal creed of "what is it like to be coached by me" which provides him with a foundation for developing student-athletes. While part of a collegiate coach's job is to help a student-athlete achieve their dreams of athletic success, particularly at the professional level, he shared his belief that the most important aspect of his job is to create an impactful environment that supports a student-athlete and provides them with the necessary tools to succeed in life. He also expressed his enthusiasm for the game of baseball and his excitement to begin his UHM career.

Chair Acoba thanked Coach Hill for his uplifting presentation and expressed his belief that his coaching credentials, as well as enthusiasm, will lead to a successful career at UHM.

**B. Update on Health and Safety Matters Relating to Student Athletes: UHM and UHH**

UHH AD Patrick Guillen provided an update on health and safety issues involving UHH Athletics reviewing COVID-19 protocols regarding screening, testing, isolation, return-to-play, fan attendance at athletic events, and travel that are currently in place and have been highly effective in limiting community spread. He noted that 99.8 percent of the 231 student-athletes at UHH are fully-vaccinated and provided statistics related to COVID-19 testing stating that most of the recent increase in positive cases detected was related to holiday travel. While impacts from the COVID-19 virus' Omicron variant have been minimal, UHH Athletics will continue to monitor the situation and maintain the flexibility to address challenges should the situation change.

Chair Acoba commended AD Guillen for his efforts in achieving a 99.8 percent vaccination rate among UHH's student-athletes. AD Guillen replied that this achievement was due to the outstanding work and collaborative efforts of athletic administrators, coaches, and staff to underscore the importance of vaccination.

Regent Nahale-a left at 12:24 p.m.

Jonathan Sladky, M.D., UHM's team physician, stressed the importance of ensuring the mental well-being of student-athletes in addition to their physical well-being and underscored UHM Athletics' strong emphasis on addressing these issues. He stated that there were no major updates to report since this matter was last presented to the board on January 20, 2022, although it was noted that efforts are underway to initiate a

baseline mental health screening program as well as expand currently available mental health services and resources to better meet the needs of student-athletes. He also provided data on vaccination rates among UHM student-athletes, including a breakdown of this information by sport and vaccination status, underscoring that UHM Athletics has an overall vaccination rate of around 97 percent when considering the initial sequence of vaccinations and 83 percent when adding in booster shot data.

Chair Acoba requested clarification on the terms “fully vaccinated with primary series at minimum” and “fully vaccinated and up-to-date” used in the vaccination data. Dr. Sladky replied that “fully vaccinated with primary series at minimum” refers to student-athletes who have received at least their first two vaccination doses. The phrase “fully vaccinated and up-to-date” referred to student-athletes who received their primary series of vaccinations and either received a booster shot, were within the specified time period prior to attaining eligibility to receive a booster shot, or contracted COVID-19 and were within a 90-day post-COVID window of immunity.

Citing vaccination data provided in the materials, Chair Acoba questioned the reasoning behind the lower vaccination rates among some UHM teams and asked whether unvaccinated or under-vaccinated students posed a greater health risk than student-athletes who were fully vaccinated. Dr. Sladky replied that some of the lower vaccination rates among the different university sports can be attributed to the diversity of the student-athletes on those teams and differences in cultural, personal, and religious beliefs. Greater pursuit of religious and medical exemptions has also played a role in lower vaccination statistics among several teams. He also stated that an individual who is unvaccinated or under-vaccinated may pose a higher infection risk and are therefore subject to more stringent COVID-19 protocols including weekly testing.

President Lassner introduced Dr. Scott Sinnett, the UHM Faculty Athletics Representative (FAR), stating that the functions of the FAR are governed by the NCAA and Regents Policy (RP) 7.208. He explained that the UHM FAR reports directly to the President, is selected in consultation with the UHM Faculty Senate, serves as the eyes and ears of the university administration within UHM Athletics, engages directly with student-athletes, and holds regular meetings with the administration on areas of interest or concern within UHM Athletics.

Dr. Sinnett provided information on his personal background, noting that he is a former student-athlete, has been a faculty member of the university since 2008, and was selected as the FAR in 2019. It was noted that every NCAA institution is required to employ a FAR, which, in essence, serves as a resource to assist student-athletes in navigating challenging educational situations to ensure that they receive the best academic experience possible. The FAR also serves as an additional confidential resource available to student-athletes for reporting any issues or concerns. He spoke about his roles as the UHM FAR, as well as several other aspects of the position, stressing that his primary duty was to serve as an advocate for student-athletes. While regular meetings are held with the AD, Associate Athletic Director (AAD), and university President to discuss any issues discovered or concerns raised and ways in which they can be addressed, he emphasized that the FAR operates separate and apart from UHM Athletics and reports directly to the President.

Regent Kudo asked if the role of the FAR differed among institutions. Dr. Sinnett replied that the role of the FAR was uniform across all NCAA institutions. However, differences do exist in the approach used by each FAR to carry out their role as well as the FAR's level of involvement with their respective athletic department.

Expressing his concern that the position appeared to be more akin to a conduit between a student-athlete and the President as opposed to an advocate, Regent Kudo questioned whether the allegiance of the UHM FAR rested with the student-athlete or the university. Dr. Sinnett replied that, although he is charged with representing the best interests of the student-athlete, his authority with UHM Athletics is limited in that he does not have license to take corrective action directly. This is unlike his authority on the academic side of the equation where he can personally interact with a faculty member to remediate a situation. He reiterated that any matter brought to his attention is taken seriously and he advocates with the administration on behalf of a student-athlete to try to resolve the issue.

Mentioning that the UHM FAR was not referenced in recent public statements asserting a lack of action by UHM Athletics with respect to various reported claims, Regent Kudo asked if the FAR was aware of these claims. Dr. Sinnett replied that he did receive anonymous claims related to the university's football team and was the first individual to bring these matters to the attention of President Lassner at which time AD Matlin was notified and action to address the issues commenced. While appropriate information regarding steps being taken to deal with the situation was relayed to some of the student-athletes who sought his assistance, Dr. Sinnett stated that improvements could be made to the feedback system, particularly with respect to communicating actions that were being taken. Regent Kudo concurred with Dr. Sinnett's assessment and suggested that the FAR needs to do a better job of communicating actions that are being taken with respect to the concerns of a complainant as long as it does not violate any law, agreement, rule, or policy.

Chair Acoba asked whether RP 7.208 defined actions that could or could not be taken by the FAR. Dr. Sinnett replied that he was not aware of the contents of RP 7.208. Chair Acoba summarized the contents of RP 7.208 and suggested Dr. Sinnett familiarize himself with this policy. President Lassner stated that RP 7.208 defers to the NCAA with respect to the role of the FAR. Chair Acoba questioned which of the actions stipulated by the NCAA is the FAR responsible for carrying-out. President Lassner replied that the FAR is required to perform the actions mentioned in the NCAA's constitution and briefly reviewed them. In addition, athletic conferences can establish supplementary obligations for the FAR at member institutions.

Chair Acoba stated that the NCAA requirement for a FAR to be independent of an athletics department while simultaneously obligating the FAR to report directly to the chief executive of an institution that is ultimately responsible for oversight of its athletics department appears contradictory. President Lassner stated that the intent of this provision was to prevent undue influence over the actions of a FAR by an athletic department.

Chair Acoba requested clarification on comments made regarding the “institutional oversight authority” of the FAR and asked what document provided this authority. Dr. Sinnett replied that the term “institutional oversight authority” may be a misnomer. He noted that the charges of a FAR are contained within the NCAA’s constitution and also stated that the UHM FAR does have an oversight role on some UHM Athletics’ issues including signing-off on NCAA eligibility waiver requests on behalf of the university.

Citing the concerns raised by student-athletes at a recently held Senate informational briefing, Chair Acoba asked whether, in his role as the FAR, Dr. Sinnett was made aware of these concerns, and if so, when they were first brought to his attention. Dr. Sinnett replied in the affirmative stating that concerns were first brought to his attention in September 2021. He provided a timeline of events that occurred after the initial concerns were raised which included discussions, reports, and meetings. Dr. Sinnett stated he and AD Matlin reviewed the concerns raised with the former head football coach in November 2021, and an action plan was developed to address the noted issues. Chair Acoba asked when the regents were informed of these issues. Dr. Sinnett responded that he was unaware of when this matter was brought to the attention of regents.

Chair Acoba asked Dr. Sinnett whether he believed, as the FAR, anything could have been done to prevent what occurred with the UHM football team. Dr. Sinnett expressed his belief that nothing else could have been done to prevent the situation with the football team from occurring stating that the reporting process was carried out; concerns were brought to the attention of, and discussed with, the appropriate parties; advisement was given to the head football coach; and an action plan developed and implemented to address the matter. Unfortunately, the situation did not improve to the satisfaction of the complainants which led to the holding of public forums on this issue. He opined that only a change in the former head coach’s behavior, which is beyond any other individual’s control, could have prevented the occurrence of these events.

Regent Kudo reiterated his belief that the situation could have been diffused if a system had been in place to provide better feedback to a complainant on actions that were being taken with respect to their concerns. Dr. Sinnett agreed stating that communication is key in these types of situations.

Board Chair Moore remarked that another way of diffusing the situation and ensuring that complainants felt they were being heard would have been to conduct follow-up by inquiring as to whether any changes were observed with respect to the complaint.

Regent Paloma asked whether there was only one FAR at UHM for all sports. Dr. Sinnett replied in the affirmative.

Regent Nahale-a returned at 12:54 p.m.

### **C. Update on the Athletic Budget and Financial Integrity of the UHM and UHH Athletic Departments**

AD Guillen provided a snapshot of revenue and expenditure projections for UHH Athletics stating that an anticipated surplus of approximately \$66,000 is expected for

fiscal year (FY) 2022 but noting that the reduction in expenditures was largely attributable to reduced travel. Although UHH Athletics continues to take steps to reduce expenditures, including initiating maximum cutbacks in non-conference related travel expenses and increasing its fundraising efforts, he remarked that this is not a sustainable fiscal model to remain competitive and maintain adequate schedules for athletic competition. UHH Athletics is hopeful that legislative reductions in general fund appropriations made in FY 2021 will be restored this year.

AD Matlin provided a report on revenue and expenditure projections for UHM Athletics noting that fiscal impacts of the COVID-19 pandemic were severe with several major revenue sources witnessing dramatic decreases. He stated that the receipt of COVID-19 federal relief funds and additional actions taken to reduce expenses were the main drivers behind UHM Athletics experiencing a reduced net deficit of \$1.4 million for FY 2021. However, UHM is projecting a net deficit of \$6 million primarily attributable to decreased fan attendance due to COVID-19 concerns, and/or related attendance restrictions, and the closure of Aloha Stadium, which itself resulted in the loss of approximately \$3.4 million in annual net contributions. Other issues that UHM Athletics anticipates will impact its future budgets were also reviewed including the expansion of the Clarence T.C. Ching Athletics Complex (Ching Complex) to meet NCAA and conference requirements for minimum attendance at football games to maintain Division I status. Nevertheless, UHM Athletics will continue to search for opportunities to decrease expenses and enhance revenues.

President Lassner provided an overview of the long-term outlook for the financial integrity of UHM Athletics, reviewing some of the factors and challenges that will impact future budgets. Despite successful initiatives to generate revenues and decrease expenditures, UHM athletics continues to experience annual deficits. He discussed possible remedies to address this issue including actions to improve institutional and governmental support in addition to developing new opportunities to increase revenues and contain costs. Additionally, he noted that the construction of a full-sized football stadium with first-class fan amenities, which remains in limbo, is the single, largest financial factor that will assist UHM Athletics in eliminating future operating deficits.

Chair Acoba requested clarification on the meaning of “structural deficit” as opposed to an “accumulated” or “paper deficit”. President Lassner replied that the term “structural deficit” refers to situations where it has been determined that a unit of the university will continue to experience annual budget deficits without dramatic structural changes. An “accumulated” or “paper deficit” is deficit that has been accumulated over the years and remains in existence on financial records. He noted that the board previously directed the administration to “retire” the debt of UHM Athletics, stating that this was an accounting term and did not indicate an elimination of this debt but simply meant that the debt was removed from the UHM Athletics’ balance sheet. As such, the university continues to pay down this debt on an annual basis. He remarked that the conversations currently occurring on the “structural deficit” include a focus on how to effectively eliminate annual deficits.

Regent Paloma left at 1:44 p.m.

**D. Update on Compliance with NCAA Policies and Conference Requirements Including Policies Related to Student Athlete Compensation for the Use of Name, Image, or Likeness (NIL), and Transfers**

AD Guillen explained that UHH Athletics is a NCAA Division II member subject to rules and regulations which differ slightly from those imposed on Division I members. He reviewed the Division II transfer portal process stating that minor modifications were made in January 2022 to simplify the process and institute several additional safeguards to protect student-athletes, including a requirement that a student-athlete contemplating entrance into the transfer portal complete an educational module which explains the process and its impacts on their athletic and academic status.

Chair Acoba asked about the impacts of entering the transfer portal on a student-athlete's scholarship. AD Guillen replied that a student-athlete's scholarship is rescinded once they enter the transfer portal. The rescinded scholarship can then be provided to another individual.

AD Guillen also reported on some of the processes, rules, and regulations established by the NCAA with respect to NIL stating that UHH Athletics has adopted the same NCAA policy as UHM Athletics since no laws pertaining to NIL exist in Hawai'i. He stated that UHH Athletics, similar to other Division II members, has not experienced significant impacts from this policy and that only one student-athlete at UHH has initiated the NIL process thus far.

Chair Acoba inquired as to the party responsible for overseeing and enforcing NIL policies. AD Guillen replied that UHH Athletics employs an NCAA compliance officer to oversee and enforce NIL policies. However, it was noted that, under the current policy, a student-athlete is responsible for bringing a NIL request to the attention of their athletic department.

Regent Westerman asked whether NIL policies have had an impact on athletic programs as a result of aggressive boosters using lucrative offers to poach student-athletes from schools. AD Guillen replied that he was not aware of instances where a student-athlete was pilfered from a school because of monetary compensation from a booster and opined that this will not be a significant issue at the Division II level.

Amanda Paterson, AAD for Compliance and Eligibility, provided UHM's report on NCAA policies related to NIL and transfers, providing background on these policies and reviewing the changes that occurred in 2021. It was also noted that transfer rules applicable to Division I member institutions differed slightly from those applicable to Division II institutions. While the implementation of NIL and changes to transfer rules have changed the intercollegiate athletics landscape, activity witnessed by UHM with respect to these two issues is on par with what is being experienced by its Division I peer institutions. She also mentioned that NCAA and conference requirements for minimum attendance at football games to maintain Division I status will become an issue without expansion of the Ching Complex.

**E. Report on the Impacts of the COVID-19 Pandemic on Scheduling of Spring and Summer Sports**

AD Guillen reported that several athletic contests scheduled to occur in December and early January were canceled or rescheduled due to the COVID-19 related issues revolving around case exposure and positivity rates among visiting teams. He reiterated that the high vaccination rate among UHH student-athletes has been a significant contributor to UHH Athletics' ability to field teams for athletic competition. UHH Athletics is hopeful that there will be less of an impact during the seasons for the spring sports since the majority of those athletic activities and contests occur outdoors.

Referencing the 99.8 percent vaccination rate among student-athletes at UHH, Regent Haning requested clarification as to whether this rate was in reference to individuals who received the initial vaccination sequence or to those who received both their initial and booster vaccination shots. AD Guillen replied that 99.8 percent of all student-athletes at UHH have received their initial sequence. Student-athletes who are eligible to receive booster inoculations based upon established guidelines have done so and are included in the 99.8 percent figure.

Lois Manin, AAD at UHM, reported that UHM Athletics has also experienced the cancelation of athletic events due to COVID-19 related issues. She reviewed actions being taken to address challenges facing the establishment of conference and non-conference schedules at both the university and conference level, including the amending of conference bylaws, and noted some of the impacts these actions had on UHM Athletics' programs. She also spoke about a few of the challenges UHM Athletics has faced, and continues to face, with respect to team travel, travel budgets, securing competition involving visiting teams, and the conducting of athletic events. Nevertheless, UHM Athletics continues to work towards scheduling as many athletic contests as possible in which student-athletes could compete.

Agenda Item IV.G. was taken out-of-order.

#### **G. Selection and Hiring Process for Head Coaches**

AD Matlin provided an overview of the process used to hire head coaches at UHM stating that each situation may have unique circumstances that need to be considered throughout the process. However, the basic process for hiring head coaches is static and has been applied to the hiring of all head coaches since 2015. He reviewed some of the key circumstances specific to the recent hiring of the new head football coach, including those that necessitated expediting of the process; went over the process and timeline for this particular hiring in relation to the typical hiring process; and gave an update on the status of all of the contracts related to the head football coach and assistant coaches.

#### **F. Recommend Board Approval of an Independent Assessment of UH Athletic Department Operations as they pertain to Student-Athlete Welfare**

In light of issues, concerns, and allegations raised regarding UHM Athletics through various public forums, President Lassner stated that the administration was recommending that an independent assessment be conducted on the operations of UHM Athletics as they pertain to student-athlete welfare. He suggested items that



should be incorporated in the assessment and recommended that detailed findings and recommendations be included in its final report. The administration proposed that it work with the board Chair and Chair of the Committee on Intercollegiate Athletics (ICA) to procure the services of an independent assessor and formulate the parameters for the assessment.

Regent Kudo sought the opinion of AD Matlin on the conducting of this assessment. AD Matlin replied that he supports and would welcome an independent assessment of the operations of UHM Athletics as they pertain to student-athlete welfare expressing his sentiments that such an assessment will help the department improve its operations. He reiterated that UHM Athletics takes all concerns it is made aware of seriously and provided information on the process involved with addressing the specific concerns raised regarding the previous head football coach and subsequent actions taken. Regent Kudo asked if football players were aware of the actions being taken by UHM Athletics to address their concerns. AD Matlin stated that he did not know if football players were aware of specific actions being taken but that they would have realized that activity was occurring with the formation of a football communications committee.

Regent Wilson supported the recommendation to conduct an independent assessment but added that a concerted effort to address the concerns raised by complainants in addition to any issues discovered by the assessment needs to occur and that these efforts must be communicated clearly, particularly with the public.

Board Chair Moore stated that this assessment was important not only to improve UHM Athletics internally but also to demonstrate to the public that these matters are taken seriously and that the university continues to search for ways in which it can improve. He also recommended that the President include the specific charge of the assessor within the official memorandum requesting board action.

Regent Westerman offered his support for conducting this assessment but opined that parameters on what will be analyzed and evaluated needed to be established so that the assessment is not overly broad.

Stating that the NCAA's constitution appeared to indicate that there should only be one FAR at each institution, Regent Westerman asked whether UHM had a FAR on staff. Chancellor Irwin replied in the affirmative. Regent Westerman questioned why a FAR existed at both UHM and UHH if both campuses were part of the same institution. AD Matlin replied that the NCAA mandates that there be one FAR at each institution that has an athletics program. Since both UHM and UHH each have its own separate athletics department, a FAR is required to exist at each campus.

Regent Higaki asked about the process for selecting an assessor. President Lassner replied that the administration was recommending that the assessor be selected jointly by the Chair of the board and Chair of ICA.

Board Chair Moore left at 1:59 p.m.

Chair Acoba requested clarification as to whether the administration will perform the assessment or if someone will be hired to do an assessment. President Lassner replied

that the university itself will not perform the assessment. The board Chair and Chair of ICA will choose an entity or individual to perform the assessment and the administration will provide background information to the assessor, as well as any necessary support.

Regent Kudo expressed his belief that, given the current situation, its better that an independent entity conduct the assessment.

Regent Wilson requested clarification as to what was meant by an independent assessor. President Lassner replied that the assessor would be an external individual or entity not presently employed by the university.

Regent Higaki stated that it was important that regents be allowed to submit recommendations for an assessor to the administration. President Lassner concurred and welcomed suggestions from regents.

Chair Acoba asked what the administration's next steps would be. President Lassner replied that a more formalized proposal and request will be presented to the board at its meeting on February 17, 2022, for this action.

Regent Wilson moved to recommend board approval of an independent assessment by a third party of UHM Athletics operations as they pertain to student welfare, seconded by Regent Haning, and noting the excused absence of Vice-Chair Bal, the motion carried with all other members present voting in the affirmative.

Prior to adjournment, Chair Acoba informed committee members that he may be drafting and submitting amendments to RPs relating to the hiring of a head coach for consideration by the board. He praised AD Matlin's past record for hiring coaches but stated that the process used for UHM Athletics' latest hire, which admittedly faced significant challenges and time constraints, raised several questions. It was his opinion that the administration lost sight of the interests of the university, particularly from the perspective of its integrity and reputation. The university needs to stay above the fray surrounding these kinds of issues and he expressed his belief that it would be helpful if this was stated in the RPs. While the hiring of a coach should be the kuleana of the AD, the board should be concerned with the hiring process in terms of its impacts on the university's integrity and reputation. President Lassner stated that the administration was equally unhappy with the way the hiring process for the new head football coach unfolded. In the spirit of continually striving to improve, the administration and UHM Athletics will be reviewing how other institutions address critical hires when facing similarly high stakes and time constraints. While the findings of this analysis may or may not impact RPs, the administration believes it is still beneficial to learn from other institutions and was in full support of his suggestion.

Several regents stated that they shared Chair Acoba's views and opined that both the board and administration have to remain cognizant of the impacts these types of situations can have on the public perception of the university which can have long-term impacts on its credibility.

## **V. ADJOURNMENT**

There being no further business, Chair Acoba adjourned the meeting at 2:18 p.m.

Respectfully Submitted,

/S/

Kendra T. Oishi  
Executive Administrator and Secretary  
of the Board of Regents