

The Regents of the University of California

COMMITTEE ON COMPLIANCE AND AUDIT

September 17, 2014

The Committee on Compliance and Audit met on the above date at UCSF–Mission Bay Conference Center, San Francisco.

Members Present: Regents Engelhorn, Makarechian, Ruiz, Saifuddin, Sherman, and Zettel; Ex officio member Varner; Advisory members Gilly and Oved; Staff Advisors Acker and Coyne

In attendance: Regents Blum, De La Peña, Gould, Island, Leong Clancy, Lozano, Napolitano, Newsom, Pattiz, and Reiss, Regents-designate Davis and Gorman, Faculty Representative Hare, Secretary and Chief of Staff Shaw, General Counsel Robinson, Chief Compliance and Audit Officer Vacca, Provost Dorr, Executive Vice President and Interim Chief Financial Officer Brostrom, Senior Vice President Dooley, Vice Presidents Allen-Diaz, Brown, Budil, Duckett, and Lenz, Chancellors Block, Blumenthal, Dirks, Hawgood, Katehi, and Wilcox, Interim Chancellor Gillman, and Recording Secretary Johns

The meeting convened at 3:35 p.m. with Committee Chair Zettel presiding.

1. APPROVAL OF MINUTES OF PREVIOUS MEETING

Upon motion duly made and seconded, the minutes of the meeting of July 16, 2014 were approved.

2. INTERNAL AUDIT ACTIVITIES REPORT

[Background material was provided to Regents in advance of the meeting, and a copy is on file in the Office of the Secretary and Chief of Staff.]

Systemwide Audit Director Matthew Hicks provided a brief update on internal audit activities for the first quarter of the fiscal year. He drew attention to progress on Management Corrective Actions (MCAs) that had been open for 300 days or more. Over the previous two years, the number of such MCAs was reduced by half.

Certain advisory projects had a particularly positive impact for management. One was a fraud risk assessment at the Office of the President, focused on retirement programs and services. There were also advisory projects on aspects of the UCPath implementation at UC Santa Barbara; one of them identified relevant information technology interfaces of which the UCPath team had been unaware. A project at UC Merced helped to clarify budget roles and responsibilities.

Mr. Hicks concluded with mention of significant external audit activity. Audits by the National Science Foundation's Office of Inspector General had been in progress at four campuses, and the California State Auditor was investigating the University's response to incidents of sexual harassment and assault.

Committee Chair Zettel emphasized the importance of advisory activities and drew attention to the fact that the Office of Inspector General audit at UC Santa Barbara had examined \$6.3 million in costs and found that only a very small fraction of this amount, \$44,000, was disallowed. She acknowledged Chancellor Yang and the UCSB faculty for their effective work in this area.

3. **EXPORT CONTROL PROGRAM AND FOREIGN CORRUPT PRACTICES ACT ACTIVITIES REPORT**

[Background material was provided to Regents in advance of the meeting, and a copy is on file in the Office of the Secretary and Chief of Staff.]

Chief Compliance and Audit Officer Vacca noted that the campuses had requested a few years earlier that a systemwide export control officer position be established.

Export Control Officer Brian Warshawsky observed that globalization presents challenges for UC researchers and entrepreneurial faculty. The Office of Ethics, Compliance and Audit Services provides export control guidance for faculty and other stakeholders in a complex regulatory area to allow them to pursue research effectively. The University's export control website has been updated, transformed from what Mr. Warshawsky described as a regulatory encyclopedia into an international toolkit that provides answers to questions in areas such as international shipping, hand-carrying items internationally, international collaborations, hosting foreign visitors, and on-campus research. Each UC location has resources in export control, and two locations are developing campus-wide workgroups.

The Foreign Corrupt Practices Act (FCPA) is an emerging area of enforcement at the federal level. A recent opinion by the 11th Circuit Court of Appeals in *United States v. Esquenazi* concerned the definition of what constitutes a component or instrumentality of a foreign government for purposes of the FCPA. Many UC research projects abroad are carried out in collaboration with foreign universities; many of these universities would qualify as the instrumentality of a foreign government under the FCPA. In some cases, payments or gifts to individuals in other countries may be acceptable in those countries but run afoul of U.S. regulations. Working closely with an outside vendor, UC has developed an interactive online course to educate faculty and other stakeholders on these topics. Relevant UC units will be informed so that employees traveling on UC business abroad are made aware of this course.

Regent Makarechian asked if UC is obligated to take into account fair trade requirements for the procurement of anything used at UC. General Counsel Robinson stated that he could provide this information.

4. **UPDATE ON NATIONAL COLLEGIATE ATHLETIC ASSOCIATION REGULATIONS**

[Background material was provided to Regents in advance of the meeting, and a copy is on file in the Office of the Secretary and Chief of Staff.]

Chancellor Block recalled that the National Collegiate Athletic Association (NCAA) is an extensive organization, representing over 460,000 student athletes, involved in 89 championship events, with three divisions. Governance changes have been taking place in Division I, which includes about 350 colleges and universities, 6,000 teams, 170,000 student athletes, and 32 conferences. Five of the conferences are especially well resourced: the Pacific-12 (Pac-12), the Atlantic Coast Conference (ACC), the Big 12, the Big Ten, and the Southeastern Conference (SEC). UCLA and UC Berkeley are part of the Pac-12. UC Davis, UC Irvine, UC Riverside, and UC Santa Barbara are in the Big West Conference. Since January 2013 Division I has been undergoing reform, with a goal of redesigning the governance structure of its board and council, and making changes in how conferences can address student athletes' needs. The intent is to make the NCAA more nimble.

The proposed changes include increasing the representation of presidents and chancellors on the Division I board of directors. The board would also include an athletic director, a faculty representative, a female administrator, and a student athlete. The board would focus on oversight and strategic issues, while the council would focus on working legislation. The council, the decision-making body, would have 40 members, of whom at least 19 would be athletic directors. The substructure of the council has been substantially simplified, as has the NCAA rulebook.

The major proposed change that attracted a great deal of national attention concerns greater autonomy for the five well-resourced conferences. These reforms would facilitate more independent decision-making for the conferences and, in consequence, for UCLA and UC Berkeley. The governing principles still hold, as well as the collegiate model and academic rigor, but this change would allow institutions to address student athletes' full cost of attendance. Student athletes would have an independent vote and voice within the conferences. Chancellor Block anticipated that these changes would go into effect. The entire membership could override the decisions of the Division I board, but this appeared highly unlikely. The five conferences would propose legislation by October 1, the legislation could be accepted by January 2015, and changes then implemented. The change of most importance to these conferences is the opportunity to better serve student athletes. The Pac-12 views these changes as positive.

Chancellor Dirks asserted that UC Berkeley, UCLA, and the other ten Pac-12 institutions are committed to their overarching academic mission. The Pac-12 has 7,000 student athletes. UCLA and UC Berkeley together have more than 50 intercollegiate athletic programs. Chancellor Dirks stated his view that the proposed Division I reforms were necessary. He recalled that most sports at UCLA and UC Berkeley do not produce

revenue, and are in fact partly supported by the relatively small number of high-revenue sports.

In spring the Pac-12 presidents and chancellors sent a letter to their colleagues at the other four major football conferences, outlining their priorities and objectives: to not only permit but ensure that institutions provide scholarship awards up to the full cost of attendance, to provide ongoing medical insurance, especially in the case of student athletes who suffer incapacitating injuries in competition or practice, to continue to mitigate any kinds of disabling injuries, to guarantee scholarship support for enough time to complete a bachelor's degree, provided that the student remains in good academic standing, to decrease the time demands placed on student athletes in season, and increase the time available for studies and engagement in campus life. These objectives would be accomplished by ensuring that organized voluntary practice time does not exceed the limit of 20 hours per week and making more realistic assessments of the impact on students of time spent away from campus, including travel time. Pac-12 schools are also seeking ways to decrease time demands out of season by reducing out-of-season competition and practices and by considering shorter seasons for specific sports. The schools are concerned to further strengthen the academic progress rate requirements for post-season play. In their letter, the Pac-12 presidents and chancellors also expressed support for a meaningful role for student athletes at the conference and NCAA levels. Institutions would like to adjust existing restrictions so that student athletes preparing for the next stage in their careers are not unnecessarily deprived of the advice and counsel of agents and other competent professionals in preparing for their future. Chancellor Dirks stressed that in fact only a small fraction of UC's student athletes go on to play professional sports. The University's overriding interest is to ensure that they receive the full benefit of a UC education. He concluded by observing that the cost of these recommendations might be substantial, but these reforms are consistent with the University's values.

Committee Chair Zettel emphasized the importance of protecting the safety of student athletes and concern for them as well-rounded individuals and students, not just as athletes.

Regent Newsom cautioned that while the current situation offered more autonomy, this might lead to further commercialization of certain sports. One consequence might be larger television contracts which would make it more difficult for students to balance academic studies and athletics. He praised the Pac-12 goals, but noted that action on many of the goals did not require NCAA approval. The University could already extend scholarships and decrease hours of voluntary practices. The University should act more quickly to address the needs of student athletes. He stated that 21,000 Division I football players reported practicing an average of 44 hours a week in 2007. He criticized the University for low graduation rates among African American student athletes and for increasing pressure to perform on the field. The University should not wait for action by the NCAA to take action on its own to change the culture of student athletics.

Regent-designate Davis observed that some athletic programs have good graduation rates. UC Davis' athletic programs received national recognition for graduating 87 percent of their athletes, greater than the percentage for regular students. Referring to the proposed reforms that the five conferences would carry out, he stated that it was hard to envision UC schools in the Big West Conference not adopting any reform to benefit student athletes. He encouraged UCLA and UC Berkeley to seek input from these Big West programs, even though these campuses were not taking a direct part in this discussion.

The meeting adjourned at 4:10 p.m.

Attest:

Secretary and Chief of Staff