

The Regents of the University of California

SPECIAL COMMITTEE ON ATHLETICS

October 11, 2023

The Special Committee on Athletics met on the above date at the UCSF–Mission Bay Conference Center, San Francisco campus, and by teleconference in accordance with California Government Code §§ 11133.

Members present: Regents Ellis, Hernandez, Sherman, and Tesfai; Ex officio members Drake and Leib; Chancellors Block, Christ, and May; Advisory member Steintrager

In attendance: Regent Raznick, Faculty Representative Cheung, Staff Advisor Emiru, Secretary and Chief of Staff Lyall, General Counsel Robinson, Chancellor Wilcox, and Regents Analyst Sheridan

The meeting convened at 1:45 p.m. with Special Committee Chair Hernandez presiding.

1. **COMMITTEE CHARTER, ADVISORY MEMBERS, AND FUTURE ITEMS**

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

Special Committee Chair Hernandez stated that the Special Committee was established to serve as a sounding board for major decisions in the athletics area. The first item on the agenda provided the opportunity for members to review the Special Committee Charter, consider the potential to add advisory members, and propose future agenda items.

Special Committee Chair Hernandez reviewed the purpose of the Special Committee, which included ensuring the health, safety and academic success of student-athletes; providing oversight of compliance and audit activities to assess the effectiveness of athletics departments' governance, internal controls, and risk management; providing guidance and making recommendations to the Board on matters that affect student-athletes and athletic programs; and reviewing systemwide policies on intercollegiate athletics. He noted that the Special Committee will meet at least three times per year and will report to the Board on an annual basis.

Regent Sherman proposed adding two advisory members: an athletic director and at least one student-athlete from a different campus. President Drake suggested inviting external experts to address specific issues and noted that no one advisor could be an expert on multiple sports and conferences. Chancellor Gillman noted that different conferences have very different dynamics and an athlete or advisor from a multi-million dollar conference would not reflect the broader experience of student-athletes on the campuses.

Regent Ellis suggested exploring the disability accommodation process should a student-athlete be injured.

Regent Tesfai suggested discussing how each campus and the student-athlete experience would be affected by conference realignment.

Special Committee members proposed the following potential agenda items: an analysis of pending legislation relevant to athletics; collective bargaining and the unionization of student-athletes; UC Merced's prospective move from the National Association of Intercollegiate Athletics to the National Collegiate Athletics Association; and the impact of media rights on athletics.

2. **OVERVIEW OF UNIVERSITY OF CALIFORNIA ATHLETICS DELEGATIONS OF AUTHORITY**

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

General Counsel Robinson introduced Managing Counsel Maria Shanle, who displayed a chart depicting delegations of authority from the California Constitution through the Board of Regents to other University leaders and entities. She stated that Article IX Section 9 of the State Constitution vests the Board of Regents with full powers of governance over the University and allows the Board to delegate its authority as it deems appropriate. The Board has delegated broad authority to the President and the Chancellors to manage the day-to-day administrative operations of the University. The Board has also delegated authority to the Principal Officers of the Regents (the Secretary and Chief of Staff, General Counsel, Chief Compliance and Audit Officer, and Chief Investment Officer) and to the Academic Senate in their areas of expertise. Finally, the Board has delegated to Board leadership the ability to act on matters which require action between regularly scheduled Board meetings due to time sensitivity. Such interim actions are reported to the Board, but do not require ratification or further action. She noted that the Board can revoke authority that it has delegated or choose to take action on matters for which authority has already been delegated. The Board could overturn decisions made by University administrators under their delegated authority, although this could pose financial, legal, or political challenges.

Ms. Shanle stated that Bylaw 22.2 lists matters of particular importance that the Board has expressly reserved to itself, such as approving the University's budget, executive compensation, capital projects over specified dollar thresholds, and setting tuition.

Ms. Shanle reported that athletics has not been reserved to the Board. However, Bylaws 30 and 31, which outline the broad responsibilities of and delegations to the President and the Chancellors, require that they implement the policies of the Board and keep the Board informed of significant developments affecting the University. She explained that most athletics matters are handled by the President or Chancellors under their general delegated authority.

She disclosed that the Board has, however, reserved authority for aspects of compensation for athletic directors and coaches. The Board has delegated authority to the President to approve athletic contracts within certain detailed parameters. The parameters restricting the President's authority include that contracts which are retention offers or to fill vacant positions cannot offer an increase of more than 30 percent of the prior contract's annual guaranteed compensation. Similarly, a one-time signing bonus cannot exceed 33 percent of the first year's guaranteed compensation. Other restrictions limit incentive compensation, deferred compensation, revenue from sports camps, and more. Compensation that does not fall within these parameters must be approved by the Board and compensation approved under the delegation of authority is reported to the Board annually. The President has re-delegated authority to approve contracts within the parameters to the Chancellors, with the exception that compensation for any employee who reports directly to the Chancellor is reserved to the President.

Ms. Shanle noted that Regents Policy 3501 – Policy on Student Athletes places limitations on the general delegation of authority to the Chancellors in order to ensure important protections for student-athletes. It requires that athletic directors of Division 1 and Division 2 programs must report directly to the Chancellor; that student-athletes must receive priority class registration; and that student-athletes who sustain injuries do not lose their athletic scholarships or aid. It also provides guiding principles for the support of student-athletes' health and welfare and makes student-athlete academic success a performance goal for athletic directors and coaches.

Special Committee Chair Hernandez noted that the delegations of authority enable the University to be nimble in circumstances such as contract negotiations when time is of the essence.

3. **STRATEGIC CAMPUS ATHLETICS OVERVIEW: UC DAVIS AND UC IRVINE**

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

Chancellor Gillman stated that UC Irvine is part of the Division 1 Big West Conference, which consists mainly of UC and California State University (CSU) campuses and does not include football. He noted that the average operating budget of an institution in the Big West is \$27.8 million compared to the budgets for institutions in the Big Ten or Pac 12, which average over \$145 million. This is proportionally reflected in the distributions that each institution receives from the National Collegiate Athletic Association (NCAA). UC Irvine receives approximately \$281,000 annually compared to tens of millions received by institutions in the Big Ten. He added that he appreciates that UC Irvine offers students the opportunity to compete in amateur athletics, not corrupted by large amounts of money.

Chancellor Gillman introduced UC Irvine Athletic Director Paula Smith. Ms. Smith provided an overview of UC Irvine Athletics. She reported that over 350 athletes compete in 18 varsity sports, 56 students have competed in the Olympics, and last year both the men's and women's basketball teams won the Big West title. She noted that both the

graduation rate and the grade point average of student-athletes is comparable to all undergraduates. She stated that UCI is committed to a financially solvent program, but that costs outpace revenues. Challenges include deferred maintenance, a low student referendum fee in support of athletics, and changes in NCAA requirements. In particular, the NCAA has mandated expanded student benefits, new rules regarding student control over their Name, Image, and Likeness, and changes in the ability for students to transfer, creating competition for student-athletes among institutions. Ms. Smith highlighted several accomplishments such as hiring a new Associate Director for Health, Wellness, and Sports Performance to promote student-athletes' mental and physical health, and the creation of a freshman course focused on academic success strategies and fostering a sense of belonging. She was proud that UCI athletes are successful both on the field and in the classroom.

Chancellor May informed the Special Committee that UC Davis is home to one of the largest Division 1 athletics programs with 25 varsity sports and nearly 700 student-athletes. He introduced UC Davis Athletic Director Rocko DeLuca. Mr. DeLuca explained that UC Davis focuses on post-graduate student success and has invested in diversity, equity, and inclusion programs. He highlighted that Intercollegiate Athletics (ICA) raises the visibility of UC Davis by engaging in community building in the Davis area and with alumni and by pursuing partnerships with campus groups. He noted that the Edwards Family Athletics Center, a newly built facility, includes an auditorium and large classrooms, a sports medicine clinic available to the public, and access to a weight room for students participating in club sports. He reported that UC Davis student-athletes have similar graduation rates and grade point averages as the general student population. In addition to achieving a graduation rate of 91 percent, UC Davis student-athletes have a "launch rate" of 88 percent. This measurement is the percentage of graduating students who either have a job post-graduation or who enroll in graduate school. He expressed pride in the fact that approximately one-third of student-athletes are science, technology, engineering or mathematics (STEM) majors, which are time-intensive majors and which reflect the coaches' dedication to the academic mission. He asserted that the program's academic strength attracts student-athletes to UC Davis. Mr. DeLuca stated that Intercollegiate Athletics has significantly increased revenue through fundraising, ticket sales, and partnerships and operates frugally. He listed ICA's strengths, including that the Big West conference is stable and that coaches are invested in remaining at UC Davis. He agreed with Ms. Smith that the challenges facing athletics programs include mandated investments in student-athlete wellness and many other factors out of the control of the campuses, particularly transformations in NCAA rules and governance.

President Drake commented that nutrition support is an important issue because athletes need additional calories to perform. He declared that it is a basic needs issue for student-athletes that should be a focus for University athletics programs.

Special Committee Chair Hernandez asked if student-athletes receive the per diem amount for travel published by the federal government. Ms. Smith replied that UC Irvine matches the per diem rate provided to faculty and staff on business travel but noted that this places pressure on the athletics budget and at times reduces the number of players on a team who can travel to a tournament. Mr. DeLuca responded that recently UC Davis Athletics

increased the per diem rate by \$10 per day, which added \$250,000 of expense to their budget. President Drake remarked that previously, the NCAA had imposed limits on per diem rates so that institutions with greater resources could not use those resources as a recruiting tool. However, that limit was too low, so ten years ago, when he served on the NCAA board of directors, the NCAA lifted that limit. He applauded the Davis and Irvine campus efforts to raise per diem rates to support their student-athletes.

Chancellor Christ remarked that the Irvine and Davis campuses provide approximately the same contribution from the campus budget as UC Berkeley. While UC Berkeley athletics' total budget is far higher, the additional monies come from media contracts and conference revenue. President Drake added that when he was chancellor at UC Irvine, the campus contribution to athletics was similar to its contribution to the arts; both provide students with opportunities to pursue extracurricular activities that enrich campus life and foster a sense of community.

Regent Ellis asserted that student athletics are the "front door" to the University, as they provide alumni and community members with a sense of community and connection to the University. He asked what happens if an athlete is injured. Ms. Smith responded that the student does not lose their athletic scholarship and reported that the Irvine campus recently formed a student-athlete health and wellness committee to address injuries, connect students with disability services and other resources, help facilitate any necessary academic accommodations, and support student-athletes. Mr. DeLuca stated that the Davis campus has a similar model.

Chancellor Gillman underscored that decisions about NCAA Division 1 programs are being made by the larger, more well-resourced conferences. Schools that are interested in moving to Division 1 would need to dramatically increase investments in athletics. However, absent large media contracts, it is difficult for such programs to increase resources. He argued that decisions being made at the national level are complicating the situation for mid-level Division 1 schools such as UC Davis and UC Irvine. He surmised that this could disrupt the Big West conference, which has been very stable, because many CSU campuses do not have the resources to invest. Mr. DeLuca concurred that NCAA mandates on mental health, academic and other support, and athletic training will require that programs reallocate their resources. Ms. Smith added that the California State Legislature also may mandate that medical expenses for student-athletes be covered for several years after eligibility. She stated that while UC Irvine is committed to providing student-athletes with appropriate resources, this would cause operational expenses to grow and require hiring additional employees, without new revenue.

Regent Tesfai asked how UC Davis was able to attract and support student-athletes who pursue STEM majors. Mr. DeLuca replied that the coaches understand that academics are a priority and do not steer students toward majors that are less time-intensive, which is attractive to students interested in STEM programs.

Regent Tesfai asked for more information about deferred maintenance and whether other campus buildings take priority over addressing deferred maintenance in athletics facilities.

Mr. DeLuca replied that apart from the new facility, the next most-used facility on the Davis campus is Hickey Gymnasium, which was built in the 1930s and has seismic issues and which will not be replaced in the foreseeable future. Chancellor May added that all parts of campus have deferred maintenance issues.

Chancellor Christ inquired about recreational sports opportunities for students who do not participate in NCAA sports and whether there is competition for facilities for those purposes. Ms. Smith responded that club and recreational sports at UC Irvine are in the Recreational Division under Student Affairs and have their own facilities but that the two divisions collaborate to accommodate requests for use of space.

Special Committee Chair Hernandez concluded that sports play an integral part in the student experience and school pride. He remarked that the Davis and Irvine campuses are doing an admirable job of balancing academics and athletics.

The meeting adjourned at 3:10 p.m.

Attest:

Secretary and Chief of Staff