



Oregon State
University

The Board of Trustees of Oregon State University

Regular Meeting of the Executive & Audit Committee

May 26, 2022

8:00 – 10:05 am

Horizon Room, Memorial Union Room 049
Corvallis, Oregon

MINUTES

Committee Members Present: Patty Bedient (vice-chair), Julia Brim-Edwards, Darry Callahan, Becky Johnson (*ex officio*), Preston Pulliams, Kirk Schueler (chair)

Other Trustees Present: Rani Borkar, Susan Clark, Maria Chávez-Haroldson, Román Hernández, Michele Longo Eder, Jax Richards, Inara Scott

University Staff Present: Shanon Anderson, Mike Bamberger, Jackie Bangs, Scott Barnes, Shari Brumbach, Bill Draper, Ed Feser, Becca Gose, Brigitte Graham, Mike Green, Jen Humphreys, Zach Leingang, Paul Odenthal, Julee Otter, Katrina Robson, Melanie Rose, Shelly Signs, Patti Snopkowski, Scott Vignos

1. Call to Order/Roll/Declaration of a Quorum

Chair Schueler called the meeting to order at 8:01 a.m. and Board Secretary Jackie Bangs called role. A quorum was noted and Chair Schueler conducted a land acknowledgment.

2. Consent Agenda

a. Minutes of the April 7, 2022 Executive & Audit Committee Meeting

A motion was made and seconded to approve the consent agenda. The motion carried.

3. Action Items

a. Office of Audit, Risk and Compliance Progress Report

Chief Audit, Risk and Compliance Executive Patti Snopkowski began by noting that most of the quarterly reports focus on internal audit activity. The Office of Audit Risk and Compliance (OARC) is working on enterprise risk management summary reports and a forthcoming lookback report that will highlight progress made over the past five years. Snopkowski announced plans to inform the Board about the compliance and ethics program and OARC's full three-year audit plan at the October 2022 Board meeting.

Snopkowski provided a summary of the IT audit plan noting that IT is one of the university's nine major functional units for auditing purposes. Snopkowski said that each unit's major functions and processes are identified, and a risk assessment and audit plan is done for each one. Snopkowski said that for the IT plan, the control structure was reviewed, and high-risk areas were reviewed to determine whether strategic planning was being done for those areas. Snopkowski said that if there is strategic planning around the initiatives, OARC consults with management and comes in after implementation to provide

assurance that the initiative is functioning effectively. Snopkowski informed the Board of the focus areas and projects planned for IT in 2022 and 2023, adding that Research Computing will be an audit area in 2024.

Snopkowski said that the structure of the OARC team is in line with best practices and they are in a good position to respond to risks and threats as they arise, in addition to continuing the audit plan for the functional areas of the university.

Snopkowski moved on to a discussion of construction auditing, asking Mike Green, vice president for finance and administration, and Paul Odenthal, associate vice president for finance and administration, for an overview of construction activities.

Green underscored the high level of current construction activity, noting that different contract types and money-saving initiatives are being considered. Green said that a new contract manager has been brought in to help modernize policies and practices, including contract language and staffing levels.

Odenthal spoke about regular auditing of contracts, both early and later in the contract process, noting that labor rates are not currently part of contracts, and that the issue is being addressed. Odenthal said that there will be some automated tools in place later in the year to assist staff in making sure charges coming from contractors are appropriate and working on reimbursement from contractors.

Chair Schueler asked about contractors who refuse to respond to audit requests. Odenthal said that adequate language exists in the contracts, but some contractors felt that the information is proprietary to their business. Odenthal noted that these contractors have been good partners, and that the language addressing what is expected of contractors is being tightened up to ensure more communication moving forward. Snopkowski said that a risk analysis was conducted. Odenthal said that for contractors currently on campus, audits will be conducted on projects that are underway, and the audit clause on the contracts will be enforced.

4. Education/Discussion Items

a. Public Safety Update

Associate Vice President for Public Safety and Chief of Police Shanon Anderson introduced Cedar, the wellness dog recently adopted by the Department of Public Safety. Chief Anderson and Officer Liengang explained how Cedar will interact with students to provide stress relief support. Anderson added that Liengang is the first public safety officer to apply for entry level police officer training. She then introduced Officer Robson, a police officer with the OSU police who shared her work history prior to coming to OSU. Both Robson and Liengang shared their positive experiences working in Public Safety. Chief Anderson then shared Department of Public Safety metrics related to calls handled, incident reports, motor vehicle collisions, traffic warnings/citations and arrest information.

Trustees asked questions about active shooter training for officers, reasons for increased calls and how restraining orders are handled. Trustees also expressed appreciation for the Department of Public Safety's efforts.

b. Changing Landscape of Athletics

General Counsel Becca Gose discussed pay for play, an umbrella term that encompasses universities paying student athletes. She explained that Name Image and Likeness (NIL) refers to third parties paying athletes for their NIL. Gose updated the Board about the potential for student athletes to be classified as employees. She noted that the National Labor Relations Board (NLRB) General Counsel issued an opinion stating that student athletes should be considered employees under the National Labor Relations Act (NLRA). Gose clarified that OSU is not governed by NLRA, but is governed by the Public Employees Collective Bargaining Act (PECBA). She noted, however, that the NLRB General Counsel's opinion had asserted that the NLRB could exercise jurisdiction based on a "joint employer" theory whereby the public universities are joint employers with the NCAA, conferences and private universities.

Gose noted that unfair labor practice claims have now been filed against the Pac12, as well as a public university (UCLA) and a private university (USC) on the basis of this NLRB General Counsel opinion. She said that there could be Oregon legislation in the future, or the NLRB general counsel's memo could be persuasive to our own Employee Relations Board (ERB) if the issue reaches them.

Gose also spoke about wage and hour law challenges against NCAA and other universities, which are presently under appeal in federal court. Gose mentioned a potential Office of Civil Rights (OCR) filing against all Division1 schools on behalf of the National College Players Association, alleging that failure to pay student athletes has a disparate impact on Black student athletes.

Gose said that a federal fix to all of these issues would be ideal, but legislative efforts seem to have stalled for now.

Vice President and Athletic Director Scott Barnes provided the avenues available to student athletes to share their perspectives and opinions on these issues. There was general discussion about student athletes being considered employees, and whether that would apply only to revenue sports. Gose explained that there are Title IX implications, as many non-revenue sports are women's sports.

Gose reminded the Board that in summer of 2021, the US Supreme Court issued a decision on the *Alston* case that included a class of student athletes challenging the NCAA's limits on compensation under anti-trust law. Gose said the court concluded that the NCAA can no longer limit education-related compensation, and that the NCAA could not prevent schools from providing academic cash awards of up to \$5,980 per student athlete. Gose noted that more legal challenges to other NCAA limitations regarding compensation for

student athletes are likely.

Barnes said that \$5,980 per student athlete would be the likely amount when OSU implements the *A/ston* benefits. Criteria for accessing the funds are being discussed. Barnes said that the intent is to move forward in the fall, and that the benefit is important to OSU and will also be important in recruiting.

Barnes reminded the Board that Name, Image, Likeness (NIL) was part of a Oregon senate bill passed July 2021, giving athletes the opportunity to receive money for their NIL. He said that OSU is in support of this premise - that if a general student can use their NIL to make money, student athletes should be able to as well. Barnes said that the bill also allows student athletes to have an agent for NIL activity, and that student athletes must disclose their deals. Barnes said Senate Bill 1505, which takes effect July 7, is an amendment to the first bill and adds a revenue share component. The revenue share is between the student athlete and a third party, meaning they can make a deal directly with a vendor. Barnes then provided a direct example of an OSU athlete conducting NIL activity. Barnes said that there are 105 disclosures at OSU with 75% being related to social media. Barnes noted that the average deal is \$764 and the median deal is \$50. Barnes said that 13% of OSU athletes are involved, noting that number is increasing.

Barnes said work continues on group licensing – which is a group of athletes working together with a vendor to obtain OSU’s permission to use OSU trademarks and logos in the students’ NIL activities. He said the work is going well. Barnes said that one area presenting challenges is regarding “donor collectives”, where a group of donors create and help fund a separate entity/business to help student athletes obtain NIL deals. He said that many of these collectives across the country are violating NCAA rules prohibiting recruiting incentives, and this is an abuse of the system that the NCAA needs to address. He mentioned a working group that is looking at current NIL rules on the national level.

Barnes also said that most athletic directors (92%) believe that pay for play should not happen.

The board engaged in questions and discussion with Gose and Barnes about NIL. Barnes then spoke about the NCAA Transformation Committee, which will look at staffing, financial aid, issues of autonomy and differences between the divisions.

c. All Hazards Planning, including risk management report

Mike Bamberger, emergency preparedness manager and Paul Odenthal spoke about the risk management report. Bamberger said that while processes continued to be refined throughout the pandemic, the response structure has largely remained the same. Odenthal said that turnover impacts training needs and exercises. Bamberger spoke about the response structure and provided context for how each incident is handled, assigning levels of green, yellow or red. Bamberger addressed the different avenues for reporting emergencies or

incident calls. Bamberger noted that the Assessment Team providing input is comprised of the Chief of Police, Facilities Director and Emergency Manager. Bamberger also mentioned other positions and offices that can be brought in to consult depending on the level of the incident or emergency. Bamberger spoke about the IRG, the Immediate Response Group, which handles university-wide concerns and the IMT, Incidence Management Team, made up of leaders from several units across the university.

Bamberger then shared the Emergency Management Dashboard, which displays efforts and the different levels of planning, in addition to the effectiveness of outreach, drills and exercises.

5. Adjournment

With no other discussion, Chair Schueler adjourned the meeting at 10:12 a.m.

Respectfully Submitted,



Jen Humphreys
Assistant Board Secretary