



THE UNIVERSITY OF TENNESSEE
BOARD OF TRUSTEES

MINUTES OF THE AUDIT AND COMPLIANCE COMMITTEE

October 22, 2021
Knoxville, Tennessee

The Audit and Compliance Committee of The University of Tennessee Board of Trustees met at 8:30 a.m. (EDT) on Friday, October 22, 2021, in the Student Union Ballroom, at the University of Tennessee, Knoxville, Tennessee.

I. Call to Order and Roll Call

Ms. Amy Miles, Committee Chair, called the meeting to order. Board Secretary, Cynthia C. Moore, called the roll, and the following members of the Committee were present: Amy E. Miles, Committee Chair; Bradford D. Box; John C. Compton, Board Chair; D. Crawford Gallimore; and Decosta E. Jenkins. In addition, the following trustees were in attendance: Christopher L. Patterson; Donald J. Smith; Kim H. White; and Jamie R. Woodson.

Others present included: President Randy Boyd; Brian Daniels, Chief Audit and Compliance Officer; David Miller, Senior Vice President and Chief Financial Officer; Ryan Stinnett, General Counsel; Chancellor Steve Angle (UT Chattanooga); Chancellor Keith Carver (UT Martin); Chancellor Donde Plowman (UT Knoxville); Chancellor Mark La Branche (UT Southern); Chancellor Steve Schwab (UTHSC); Mark Wharton, Vice Chancellor and Director of Athletics (UT Chattanooga); Ashley Bynum, Associate Athletic Director for Compliance and Academics (UT Martin); staff members from the Office of Audit and Compliance; and other members of the UT senior leadership and administrative staff.

The meeting was webcast for the convenience of the University community, the general public, and the media. Ms. Moore addressed the Open Meetings Act requirements for meetings conducted with members participating electronically and announced the presence of a quorum.

II. Opening Remarks of the Committee Chair

The Committee Chair opted to forego providing any opening remarks and moved directly into the agenda in order to allow more time for the Athletics update.

III. Requests to Address the Board

No requests to address the Board were assigned to be heard by the Committee.



IV. Approval of the Minutes

Committee Chair Miles noted that the minutes of the last meeting (held on June 24, 2021) were included in the meeting materials (Tab 1). She asked for any corrections to the minutes. Hearing none, the minutes were accepted as presented.

V. UT System-wide Athletics Update

Committee Chair Miles emphasized the Board's oversight responsibilities for intercollegiate athletics and highlighted certain best practices recommended by the Association of Governing Boards of Universities and Colleges (AGB), especially in light of recent developments that are anticipated to have significant impacts on the landscape of collegiate athletics.

Brian Daniels, Chief Audit and Compliance Officer, introduced the panelists – Ashley Bynum, Associate Athletic Director for Compliance and Athletics (UT Martin); Mark Wharton, Vice Chancellor and Director of Athletics (UT Chattanooga); and Donde Plowman, Chancellor (UT Knoxville). Mr. Daniels indicated that the focus of the presentation would be on emerging topics from a National Collegiate Athletics Association (NCAA) perspective. More information regarding the National Association of Intercollegiate Athletics (NAIA), of which UT Southern is a member, will be provided at a future meeting.

The topics covered as part of the presentation included the following items:

- Alston Case
- Name, Image and Likeness
- NCAA – Governance
- Shifting Landscape – Other Emerging Topics

Alston Case

It was explained that, in deciding the *NCAA v. Alston* case, the Supreme Court ruled that NCAA student athletes are entitled to education-related benefits for such things as laptops, science equipment, musical instruments, scholarships for graduate school, and financial support for academic achievements (currently, up to a maximum of \$5,980 per year). The presenters discussed potential implications regarding: (i) financial budgets for funding these education-related benefits, and (ii) the ability to attract student athletes, including transfers, depending on differences in the amount/type of awards offered from conference to conference and from school to school.



AD Mark Wharton advised that, while \$5,980 is set forth as a maximum amount, there is a concern that awarding anything less may place schools at a competitive disadvantage. Additionally, Ms. Bynum highlighted equity considerations in the administration of these awards across athletics programs within an institution, in light of Title IX requirements. Chancellor Plowman advised that the Southeastern Conference has taken formal action whereby each SEC member institution is now empowered and has the discretion to determine the criteria and methods to provide education-related benefits and academic achievement awards for their student-athletes. No decisions have been made by the other conferences yet.

Name, Image, and Likeness (NIL)

There was a lengthy discussion focused on recent state laws and the interim policy adopted by the NCAA that now permit student athletes the opportunity to earn money from their name, image, and likeness (NIL). The panelists shared their insights on the some of the positives associated with the recent changes (e.g., student education, including further development of life skills programs and new courses focused on entrepreneurship, marketing, branding, etc.). As to challenges, the panelists explained that there are certain tax and visa consequences that student athletes need to be aware of in connection with NIL deals. It was reported that state laws vary widely in terms of requirements with some states being substantially more lenient than others. Further, certain states have no applicable laws applicable to NIL. General Counsel Ryan Stinnett provided an overview of the key provisions of the Tennessee NIL statute that will become effective on January 1, 2022. Mr. Stinnett advised that federal legislation in this area is preferred. While there are bills pending, there has been no significant movement to uniformly address what is increasingly becoming an uneven playing field. From a compliance perspective, all of the UT campuses with NCAA intercollegiate athletics programs reported that they are evaluating their existing compliance programs in light of the new NIL requirements and will be assessing their staffing needs.

NCAA - Governance

The members of the Committee were briefed on the current efforts of the NCAA to reconsider its constitution, which project is being led by a special committee that includes presidents, commissioners, athletics directors, students from Divisions I, II and III, and independent members of the NCAA Board of Governors. The special committee has been charged with proposing a new system of governance and rules enforcement that further contemplates the role of national oversight and places appropriate responsibility at the school and conference levels. A governance proposal is to be presented at a special convention meeting in November for consideration and comment by the members and the public. In this regard, the campuses are monitoring these developments and are focused on items that may



adversely impact financial distributions or potentially increase other operating costs (e.g., compliance, investigation and enforcement responsibilities).

Shifting Landscape – Other Emerging Topics

Each panelist shared information on: (i) changes impacting their particular conference (shifts in membership), (ii) potential conference realignments and other affiliations, and (iii) matters impacting scheduling both in the short-term (covid) and the long-term (conference size, non-conference games, etc.).

In connection with the presentation, members of the Committee raised a variety of questions, including seeking clarification on the definition of what constitutes “pay for play” and how such term is being interpreted in Tennessee and elsewhere. Committee Chair Miles reinforced the significance of these recent developments and the emerging risks associated with this amount of disruption and change. It was emphasized that there are more questions than answers at this time. Accordingly, future updates will be provided.

VI. Consent Agenda

Committee Chair Miles called the Committee’s attention to the Consent Agenda (Tab 3). She noted that the items presented are informational in nature and would not be discussed, unless there was a request to remove an item from the Consent Agenda. There were no requests to remove any of the information items from the Consent Agenda. (A complete list of the Consent Agenda items appears at the end of these minutes.)

Chair John Compton requested that the annual safety reports be reviewed at the full Board of Trustees at the upcoming February meeting. Committee Chair Miles highlighted that the final Quality Assurance Review Report was included in the Consent Agenda materials. As previously reported, the University received the highest marks possible. On behalf of the Committee, Committee Chair Miles congratulated Mr. Daniels and the entire team.

VII. Other Business, Closing Remarks and Adjournment

There being no further business to come before the Committee, the Committee Chair adjourned the public session of the meeting.

Respectfully Submitted,

A handwritten signature in blue ink that reads "Cynthia C. Moore".

Cynthia C. Moore
Secretary and Special Counsel



List of Information Items Presented to the Committee

- 2021 Audit Plan Update
- Outstanding Audit Issues
- Campus Annual Safety Report Update
- Institutional Compliance Program Update
- Travel Exception Report
- Discretionary Expenditure Report
- Internal Audit - Quality Assurance Review Report