

MINUTES
BOARD OF GOVERNORS
STATE UNIVERSITY SYSTEM OF FLORIDA
AUDIT AND COMPLIANCE COMMITTEE MEETING
FLORIDA GULF COAST UNIVERSITY
FT. MYERS, FL
AUGUST 28, 2019

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Chair Tim Cerio convened the meeting of the Audit and Compliance Committee on August 28, 2019, at 2:32 p.m., in the Cohen Center Ballroom on the campus of Florida Gulf Coast University in Ft. Myers, Florida. The following Audit and Compliance Committee members were present: Tim Cerio, H. Wayne Huizenga, Jr., Patricia Frost (phone), Alan M. Levine, Charles H. Lydecker, Edward A. Morton, Eric Silagy, and Kent Stermon. The following members of the Board were also present: Shawn Felton, Zenani D. Johnson, Darlene Jordan, Sydney Kitson, Brian Lamb, Ned C. Lautenbach, Steven Scott, and Norman D. Tripp.

1. Call to Order

Mr. Cerio called the meeting to order.

2. Approval of Minutes

Mr. Huizenga motioned that the Committee approve the minutes of the Audit and Compliance Committee meeting held June 13, 2019, as presented. Mr. Morton seconded the motion. The minutes were approved.

3. SUS Audits Summary, Fiscal Year 2018-2019

Ms. Julie Leftheris, Board of Governors Inspector General and Director of Compliance, presented a summary of fiscal year 2018-2019 audit coverage for the state's 12 public universities. Audit coverage includes reports from the Auditor General, Independent Certified Public Accountants (CPAs), and university chief audit executives (CAEs).

The auditor general produced 21 system related audits. One of the twelve auditor general's financial audits indicated a material weakness and an instance of non-compliance in financial reporting at the University of Central Florida (UCF). Auditors concluded that university controls were ineffective to prevent, or timely detect and correct, the unallowable use of the legislatively appropriated carryforward funds for construction activities. Three of the auditor general's findings during the year were considered "three-peat" findings, which occurs when a university fails to take full corrective action in response to a recommendation included in two preceding audit reports. The universities who had "three-peat" findings include Florida Agricultural and

Mechanical University (FAMU), Florida Atlantic University (FAU), and UCF. UNF and USF received letters from the Joint Legislative Auditing Committee during the 2018-2019 fiscal year. An amendment to section 1008.322(3)(b), Florida Statutes, now requires the Chancellor to report out on statutory violations of universities found in Auditor General audit reports. On the chancellor's behalf, Ms. Leftheris reported on the universities that were found to have statutory violations. FAU and UCF had findings relating to textbook affordability; Florida State University (FSU), relating to information technology user access privileges specifically related to student information; and UCF, relating to the misuse of education and general carryforward funds for new building construction. USF had a finding related the research and financial aid cluster in the Auditor General's Statewide Federal Awards Audit during the fiscal year. Mr. Cerio expressed concern regarding the timeliness of the implementation of university corrective actions relating to three-peat findings and statutory violations, and he requested a status update on these corrective actions at the next Audit and Compliance Committee meeting.

Approximately 90 audits were produced relating to affiliated support organizations within the university system. Five of these audits indicated a material weakness or significant deficiency. In regards to intercollegiate athletics reports, most findings were immaterial with the exception of FAMU, which noted a significant deficiency. Ms. Leftheris noted FAMU's most recently available intercollegiate athletics program's audit is from the fiscal year ended 2017.

Ms. Leftheris noted that there are two vacant CAE positions at University of Florida (UF) and FAU and emphasized the importance of these roles. Mr. Tripp asked if there were appointees responsible for the vacant CAE positions currently. Ms. Leftheris explained that both universities do have interim-CAEs. Mr. Tripp asked if the Board of Governors regulation provides a time limit for vacancies. Ms. Leftheris said that it does not. Mr. Levine explained that the regulation requires that someone fill the function of the CAE position and that they must report functionally to their Audit and Compliance Committee and administratively to their president. He noted that the regulation presumes that somebody would be in the CAE role and requires it. Mr. Tripp pondered whether the regulation should have a time limit on CAE position vacancies. Ms. Leftheris noted that the regulation can be reviewed. UF President, Mr. W. Kent Fuchs encouraged the Board to not impose a time limit. He explained that UF has an effective interim CAE and that the university was not given much notice regarding their previous CAE stepping down. Mr. Fuchs said that the university has continually been interviewing candidates for the position.

4. USF Carryforward Funds Corrective Actions Follow-up from June 2019 Meeting

In response to Committee members' concerns expressed in the June 2019 meeting regarding USF's misuse of Education and General (E&G) funds for the Patel Center, Ms. Leftheris followed up with USF CAE Ms. Virginia Kalil and provided an update on the university's corrective actions. She explained that all recommendations have now

been completed. Ms. Leftheris noted that for the recommendation for Board of Governors guidance on the allowable uses of Education and General funds on construction projects, two Board of Governors regulations were being proposed for amendment (9.007 and 14.0025) during this meeting series. Mr. Cerio asked if all monies had been repaid, and Ms. Leftheris confirmed that they had.

5. Board of Governors Investigative Report, UCF E&G Funds Misuse

At the January 31, 2019 Board of Governors meeting, the Board of Governors approved a motion to continue the investigation into the misuse of E&G funds for capital projects beyond the Trevor Colbourn Hall project. Ms. Leftheris oversaw this investigation, which was conducted by the Bryan Cave Leighton Paisner (Bryan Cave) law firm.

Mr. Joey Burby, lead investigator and partner, provided an overview of the investigation's results. He noted that Bryan Cave was assisted by the firm PricewaterhouseCoopers (PwC). Mr. Burby explained that those who were key decision makers in the misuse of funding declined to be interviewed by the firm, which hindered the investigation. He explained that ten capital projects were improperly funded with E&G funds from July 1, 2010 to December 31, 2018, not including Trevor Colbourn Hall. An eleventh capital project was identified, Global UCF, which was improperly funded with investment earnings, derived in part from the investment of E&G funds. Bryan Cave found that UCF transferred a total of \$61.3 million of E&G funds to the eleven capital projects; \$55 million of which were E&G carryforward funds. Including Trevor Colbourn Hall, Mr. Burby explained that the total amount of E&G funds transferred to capital projects was over \$99 million.

Mr. Burby identified and explained each capital project where UCF transferred E&G funds, which are listed in Bryan Cave's presentation (slide 2). Mr. Burby explained that Bryan Cave did not find evidence of UCF's Board of Trustees knowledge or approval of the misuse of E&G funds. Mr. Burby explained that the investigation found evidence that UCF transferred E&G carryforward funds to avoid reporting the funds to the Board of Governors, which influenced funding requests to the legislature. He added that \$17.3 million in E&G funds remain to be repaid by UCF.

6. UCF Corrective Actions and Response to Investigative Reports

Ms. Beverly Seay, UCF's Board of Trustees Chair presented to Committee members the details of UCF's corrective actions in response to the investigative findings. Ms. Seay explained that during the previous year, UCF corrected \$41.3 million of E&G funds and intends to restore the remaining \$17.3 million by the end of the 2019 calendar year.

Ms. Seay noted that as part of corrective action, UCF hired an enterprise risk manager and is following 82 recommendations that address the non-allowable spending. She explained that UCF has completed 20 of the recommendations thus far as part of their post-investigation action plan and that nearly all of the remaining recommendations are in-progress or ongoing. UCF categorized the recommendations into high, medium, and

low risk items; Ms. Seay noted that highest risk items will be completed by the end of the year. Ms. Seay also provided an overview of several actions UCF has taken to improve their processes and procedures to avoid future non-allowable spending.

7. FAMU Misuse of Auxiliary Funds for Athletics, Investigative Report Update

At the previous Audit and Compliance Committee meeting, the Committee learned that auxiliary funds were continuing to be transferred to the university's athletics program budget to fill gaps, which is contrary to established procedures implemented to avoid this specific issue. FAMU hired the accounting firm Carr, Riggs, & Ingram to conduct an investigation into this matter.

Mr. Joe Maleszewski, FAMU Vice President for Audit, introduced Mr. Sparkman from Carr, Riggs, & Ingram to give a summary of the report. Carr, Riggs, and Ingram identified six fund transfers that were not in compliance with Board of Governors regulations. Mr. Sparkman explained that the transfers to university athletics were divided into two categories: auxiliary non-athletic concession transfers and auxiliary transfers. The non-athletic concession funds had been transferred due to the university's reliance on an outdated attorney general ruling to justify the transfers. These four transfers were approved by both the university president and chief financial officer (CFO); however, after receiving an auditor general's report stating that noted the funds were unallowable, the university stopped making that type of transfer. Two auxiliary funds transfers were made without the president's approval during the time period reviewed for the investigation. These transfer were, however, authorized by both the CFO and controller. Mr. Sparkman noted that his firm found no evidence of fraud or personal gain from the illegal transfers. He explained that the firm found that management overrode the controls in place to prevent these kinds of transfers.

8. FAMU Intercollegiate Athletics Cash Deficit Update

FAMU Board of Trustees Chair, Mr. Kelvin Lawson, provided an update on FAMU's long-standing athletics budget cash deficit and provided follow-up relating to the Carr, Riggs, and Ingram investigative report. Mr. Lawson confirmed that transferred funds owed back to auxiliaries has increased to \$8.9 million due to the additional wrongful transfers.

Mr. Lawson explained that FAMU covered the 2018-2019 estimated deficit (approximately \$1 million) in the athletics budget with funds from the president's discretionary funds within the Foundation. Mr. Cerio asked for clarification regarding the university staff's approval of a 2019-2020 budget with a one million dollar deficit. Mr. Lawson confirmed that is true and explained that the 2019-2020 budget more accurately reflects the expenses they know they will incur and the revenue they believe they will be able to generate. Mr. Lawson added that the budget has risks, but they have mitigated them by identifying funds that already exist. He referred to the "Gap Action Plan/Update" slide in his presentation to explain the details. For example, in their revenue generation predictions, they believe they will over-deliver in one specific fund-

raising campaign; they have an investment commitment from the Boosters Club along with commitments from smaller support organizations, from the National Alumni Association, from appropriate auxiliary accounts, and from the Foundation. He clarified that some of these revenue sources are either pending approval or verification.

Mr. Cerio asked FAMU's President Robinson to clarify how the misuse of funds occurred despite the years of focus on the recurring athletics budget deficit. President Robinson responded that he and his staff are working to understand how the inappropriate funds transfer happened and how to ensure it does not happen again. He said that FAMU has already implemented a notification and approval system in PeopleSoft for any transfers. Additionally, they are working to instill a culture of accountability among the staff so that they are aware of what is appropriate or not.

Governor Huizenga expressed his concerns that the university continues to underestimate its expenses each year. He said moving funds from one auxiliary or support organization to support the athletics program might be better spent on student scholarships or other student support efforts. If the athletics program has not made money in the past 10 years, it will not make money now. He encouraged the university to remember its primary mission is to educate students.

Mr. Lawson responded that he agrees with Mr. Huizenga's comments, which is why they are trying to make the athletics budget and fund-raising predictions more realistic. They are asking themselves the tough question such as if they have done all they can to reduce expenses and increase revenues. They are also questioning if the information they are being provided is accurate.

Mr. Sparkman, from Carr, Riggs, and Ingram, approached the podium to add that during his firm's investigation (refer to the preceding agenda item) found upon President Robinson's appointment as university president, several forums were established to manage this issue and implement better communication channels. They found that a small group of staff had provided him inaccurate information. At the various monthly meetings, they did not disclose the deficit funding. Rather than saying this information was "hidden," Mr. Sparkman said the (financial) reports were inaccurate. Mr. Huizenga said that someone, likely not the CFO but a lower level staff person, input the numbers into a spreadsheet. Although some staff have left, are those staff members who input the numbers into the spreadsheets, resulting in inaccurate financial information, still employed? He expressed his concern that we still have not gotten to the bottom of this issue. Mr. Sparkman responded that he believes they have identified those staff.

Mr. Morton concurred with Mr. Huizenga's comments and added that athletics is part of the fabric that makes up a university and the student experience. However, he said that the university's Board of Trustees has a difficult decision to make about continuing to support an athletics program that cannot sustain itself.

In response to Mr. Silagy's question regarding what makes up the "Interest from Appropriate Auxiliary Accounts," which is the biggest source of funds to be used in covering the \$1 million gap in the budget, Mr. Richard Schweigert, FAMU's interim CFO,

approached the podium. He explained that the contribution will come from the interest earnings from the principle on those (auxiliaries) accounts. The corpus of those accounts may be approximately \$40 million in reserves which come from profits from the housing and dining services, for example. They are still in the process of identifying all appropriate funding sources. He noted that it was previously proposed to use these accounts to cover the athletics deficit and that it was considered acceptable.

Mr. Levine added that when he was the Audit and Compliance Committee chair several years ago, FAMU made an agreement with the Board of Governors that the deficit would not grow and that the university would develop a repayment plan. He said the real question now is if FAMU is going to honor that commitment. The deficit has grown almost \$2 million since that agreement was made. He said they are still at risk of growing the deficit based on the risk they just explained in their current budget in filling the budgetary gap. Mr. Levine recognized the board of trustees' engagement in trying to do the right thing in resolving this issue.

Ms. Jordan responded to Mr. Levine's comment by saying the university has just explained they cannot keep that agreement as the deficit is continuing to grow. How can we (the Board) trust this will not happen again?

Mr. Lawson said that they doing several things to prevent a backslide. They are creating a more realistic budget than they have in the past three years; they know they have a \$1.2 million gap between their identified expenses and anticipated revenues, and have a plan to bring those numbers closer together; and they have already identified the funding sources in that plan. Ms. Jordan asked what checks and balances are now in place to prevent any staff from inputting wrong information into a spreadsheet. Mr. Lawson responded that they now have the ability to alert the president and the VP for Audit via PeopleSoft if a financial transfer (from an unauthorized auxiliary account, for example) is done outside of policy. Before, this internal control was on paper only and could be bypassed. PeopleSoft provides a transactional history of what transactions were done as well.

Mr. Morton said they have predicable revenues of about \$4 million from fees and encouraged the board of trustees to look at what the real revenues are. They may have to make some very tough decisions about the football team. What can be altered to bring the budget back into balance? This is a tough question, but not looking at the budget in this way may result in more deficit.

Chancellor Criser suggested the university not try to simplify the information. In looking at last year's budget and this year's projection, he noted there is one budget category that is 20% of the expenses, but it is rolled up into one category. It could be more informative to break that larger "expense" category into more discrete items, which will permit better transparency. Mr. Lawson said they could make the information more granular and share it with our Board.

Mr. Cerio thanked Mr. Lawson and Dr. Robinson and said the Board of Governors will continue to monitor the benchmarks the university reaches in resolving the deficit. He said that although this agenda topic is an informational item, the Board of Governors may also need to think about the tough decisions it may have to make. He committed to the university that the Board of Governors Audit and Compliance Committee will partner with them to turn this situation around.

9. Board of Governors Investigative Report, NCF Admissions Practices

Ms. Leftheris presented the results of her office's investigation regarding New College of Florida's (NCF) admissions practices. The OIGC received a complaint in March alleging that a prior university investigation into concerns about discriminatory practices was inadequate and that NCF was still engaging in discriminatory admissions practices.

The investigation looked into two allegations. The first allegation was against the Dean of Enrollment Management and alleged that she instructed admissions staff to engage in admissions practices that were discriminatory against applicants who disclosed mental health or disability related issues in the personal essay portion of their applications. The second allegation related to admissions practices in general, alleging that the discriminatory practices encouraged by the Dean of Enrollment Management were still being applied in the current admissions process. The investigation found evidence to support both allegations and provided four recommendations.

NCF President Mr. Donal O'Shea presented the steps NCF has taken since its receipt of the report. He noted that the leadership of the Enrollment Management department has been changed and that NCF is also commissioning an independent review of applications submitted for the 2018-2019 admissions cycle who self-disclosed a mental illness or disability. NCF will take appropriate action as necessary.

10. OIGC Updates

Due to time constraints, Mr. Cerio asked Ms. Leftheris to provide her report regarding OIGC updates at a later Audit and Compliance Committee meeting.

11. Concluding Remarks and Adjournment

Mr. Cerio asked Board members if anyone had any questions or comments. Hearing none, the Audit and Compliance Committee was adjourned at 5:12 p.m.

Timothy Cerio, Chair

Lori Clark, Compliance and Audit Specialist