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Congress of the United States

U.S. House of Representatives

COMMITTEE ON WAYS AND MEANS
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March 14, 2022

Dr. Jay Gogue
Office of the President
Auburn University
107 Samford Hall
Auburn, Alabama 36849

Dear President Gogue,

The Committee on Ways and Means of the U.S. House of Representatives has a long history of oversight of organizations granted Federal tax exemption. Much of that oversight is conducted through its Oversight Subcommittee (Subcommittee), which I chair. I understand that Auburn University (Auburn) qualifies for Federal tax exemption as a wholly-owned State instrumentality and as an organization described in Section 501(c)(3) of the Internal Revenue Code. I write today to request important information about how the university's lucrative athletics program is furthering its exempt purposes.

Educational organizations, including public universities like Auburn, comprise one of the largest segments of the tax-exempt sector. Undoubtedly, most of the activities undertaken by Auburn further the university's exempt purposes. However, reports about compensation that Auburn pays its current basketball coach have raised significant concerns about whether the university is operating consistent with its tax-exempt status. Specifically, Auburn reportedly has paid Coach Bruce Pearl an annual salary of nearly \$4 million dollars and a new contract provides that he will be paid \$5.4 million annually with a \$250,000 annual escalator, through 2030.

It is unclear how such lucrative compensation contracts further the overall educational mission of Auburn and benefit your student body as a whole. These contracts also present a stark contrast to the benefits received by the university's student-athletes, whose grants-in-aid each semester pale in comparison to their coaches' compensation. Student-athletes make an enormous commitment of time and effort as team members, but it is the coaches that are profiting handsomely from their labor.

To help us understand how Auburn sets compensation for your Division I men's basketball program, as well as how this program protects athletes and contributes to the university's exempt purposes, the Subcommittee requests answers to the questions below by no later than March 28, 2022.

Compensation:

1. How many university employees have a compensation package (amounts provided in pay and benefits) above \$1 million each year? How many of these employees work for the athletics department? What departments employ the other university employees earning in excess of \$1 million? How many employees in the athletics department are paid over \$5 million each year?
2. Who is the university's highest paid employee and how much does such employee earn?
3. What categories of employees (*e.g.*, administrators, deans, professors, development officers, athletic coaches, assistant coaches, team doctors) receive more than \$1 million in compensation each year, and how many employees are in each category?
4. Can university employees generally receive outside earnings? Is there any limit to the amount that a university employee can earn beyond his or her university salary/payroll/compensation package? From what outside activities are the head men's basketball coach and their coaching staff permitted to receive earnings?
5. Does Auburn take the position that the tax under Section 4960 of the Internal Revenue Code applies to it? If so, how much tax has the university paid under Section 4960 each year since its enactment? How many employees have triggered the tax in each of those years? For employees compensated above the Section 4960 cap, what is the median and average dollar amount of the excess above the cap?
6. What factors and criteria does the university utilize to determine the size and scope of the compensation packages for the men's basketball coach? Who within the university must approve these compensation packages? Who in the university negotiates with a potential head coach and their staff?
7. What non-cash compensation is paid to the university's men's basketball coach and his coaching staff? Please provide types of such compensation, such as health benefits, life and other forms of insurance, in-kind property (*e.g.*, houses, cars, and planes), and university benefits (*e.g.*, meals, tuition remission). Please specify by employee.
8. What compensation currently is being paid to former coaches under so-called "buyouts" of their contracts? How many coaches in each year over the past ten years have received such payments? What is the total amount of buyouts that has been paid over the past ten years? Please specify by sport.

Serving the university's educational mission:

1. How does your men's basketball program contribute to the university's educational mission (other than the production of income)?
2. Why should the Federal government subsidize the university's athletics programs and escalating coaches' salaries and other non-cash benefits?
3. With the increasing commercialization of the university's men's basketball program, how does the university distinguish its activities from professional sports leagues?

Students:

1. What is the total cost per year over the past ten years of your grants-in-aid (*i.e.*, scholarships, including non-cash benefits) to the men's basketball team members? How many full scholarships is each team allotted? How many partial scholarships? What is the average value of the scholarship? How does that average amount compare to the average amount of the scholarships received by non-student-athletes?
2. Could you provide a side-by-side comparison, by sport, of (i) the total cash and non-cash compensation received by your men's basketball coaches compared to (ii) the total aid, including cost of attendance and any other indirect benefits, including the value of training tables, tutors, and catastrophic insurance against athletic injury, received by a student-athlete on each of those teams on an annual basis over the past ten years?
3. What is the demographic makeup of students on the men's basketball teams by race and family income level? Similarly, what is the demographic makeup of the basketball coaching staff?
4. How many, and what percentage, of student-athletes playing basketball graduate from your university with a degree over four, six, and ten years?

Revenue and expenses of the athletics department:

1. What were the revenue and expenses for the university's men's basketball program over each of the past ten years? Please break revenue out by category (*e.g.*, tuition, endorsements, sponsorships, royalties, licensing, television contracts, radio programming). How much of this revenue, if any, is from booster clubs, affiliated organizations or foundations, and other alumni donations? Please separately identify recruitment expenses.
2. Does the men's basketball program generate revenues in excess of program expenses? If so, are revenues used to support the non-athletic educational operations of the university? Specifically, what other operations have these revenues supported each year in the past ten years and how much per operation per year?
3. If the men's basketball program is not self-sufficient or was not in any of the past ten years, did non-university entities, such as booster clubs or alumni donors, finance the program? What were the five biggest non-tuition sources of revenue for the men's basketball program annually over the past ten years? What percentage of the total cost of that program do those sources provide?

Governance of the athletics department:

1. How is the annual budget set for the university's athletics department? How many years in advance are included in budget projections? Who sets the budgets for the men's basketball program? To what extent is the budget coordinated with or based on representations of financial support by those outside the university (*e.g.*, booster clubs, alumni, shoe, or equipment companies)? What contracts does the athletics department have with outside contractors?

2. Who is responsible for fundraising for the athletics department? In which, if any, sports are student-athletes required to raise funds to support the team? Is it separate from the rest of the university's fundraising? Does the university's overall development program incorporate the needs of the athletics department?
3. Who makes the decision to terminate an employee in the athletics department with compensation of \$1 million or more each year? How does the need for or entitlement to a buyout factor into such a decision?

Facilities:

1. What was the cost of, and how did the university fund, the construction, renovation, or rehabilitation of its newest basketball facilities over the past ten years?
2. Are training and practice facilities and equipment available to the student body at-large? Do student-athletes with scholarships have their own training facilities?
3. How do expensive state-of-the-art sports facilities contribute to the educational mission of the university?
4. Do any student fees go towards the maintenance of the basketball facilities? If so, what percentage? Do student fees support other athletics facilities?

Your answers will assist the Subcommittee in its oversight of tax-exempt universities and colleges and their engagement in intercollegiate athletics. Thank you for your prompt attention to this matter.

Sincerely,

A handwritten signature in blue ink that reads "Bill Pascrell Jr". The signature is written in a cursive style and is positioned above a horizontal line.

Bill Pascrell, Jr., *Chair*
Subcommittee on Oversight