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April 8, 2020

Report #19-202

Dr. Mary A. Papazian, President
San José State University
One Washington Square
San José, CA 95192

Dear Dr. Papazian:

Pursuant to a request from your office and approval from the Chair of the Board of Trustees' Committee on Audit on May 22, 2019, Audit and Advisory Services has conducted an investigative audit in response to allegations raised in a campus student newspaper's article related to donor funds intended for athletic scholarships. Specifically, we investigated whether donor funds intended for athletic scholarships were used for other purposes, including to improperly pay for vehicle allowances for coaches and athletic staff, and whether donors were misled about how their donations would be used. We also investigated whether athletic scholarships were canceled without cause and whether endowment accounts were not being properly managed. Our investigative audit covered the time frame of July 1, 2013, through June 30, 2019, unless otherwise noted in the report.

We found that scholarship funds were not used to pay for vehicle allowances. Instead, vehicle allowances were paid out of the athletics department's (Athletics) general expense account, the Spartan Athletics Fund (SAF). However, we did find that Athletics did not always honor donor intent. Specifically, we reviewed a selection of 178 donation instances and found that Athletics did not designate the correct account for 29 donations totaling \$83,341. Further, we found that a former athletics director instituted a policy inconsistent with donor intent. The policy required coaches to fund-raise for their sport improvement funds and then transfer at least a portion of that money to the SAF. Money donated for specific sports and then transferred to the SAF totaled \$493,662 for the six years we reviewed. That policy is no longer in effect.

Although marketing materials for the Spartan Foundation, and later the SAF, presented mixed messages to donors in previous years, Athletics clarified its 2018/19 marketing materials to communicate to donors that their donations provide funding for more than just athletic scholarships. Additionally, we found that student-athletes generally received the athletic scholarships they were promised, and none of the canceled athletic scholarships we reviewed were canceled without an appropriate reason. Regarding endowment accounts, we found that the campus did not consistently collect and award proceeds from athletic scholarship endowments. When the campus did award the proceeds, it was not able to demonstrate that the proceeds were awarded directly to eligible student-athletes.

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Included within the report are the results of the investigation and audit work, along with specific recommendations that we believe would benefit the campus's fiscal and operational management.

Sincerely,



Larry Mandel
Vice Chancellor and Chief Audit Officer

c: Jack McGrory, Chair, Committee on Audit
Timothy P. White, Chancellor

INVESTIGATIVE AUDIT
SAN JOSÉ STATE UNIVERSITY
ATHLETICS DONATIONS, SCHOLARSHIPS AND ENDOWMENTS

Investigative Report 19-202
March 10, 2020

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ABBREVIATIONS

Athletics	San José State University’s Division of Intercollegiate Athletics
ABO	Athletics Business Office
Campus	San José State University
NCAA	National Collegiate Athletic Association
SAF	Spartan Athletics Fund
Tower Foundation	Tower Foundation, San José State University

EXECUTIVE SUMMARY

ALLEGATIONS

Allegations were made related to donor funds intended for athletic scholarships. It was alleged that:

- Donor funds intended for athletic scholarships were used improperly to pay for vehicle allowances and stipends for coaches and Athletics staff.
- Donors were misled about how their donations would be used.
- Donations collected on behalf of the Spartan Foundation for athletic scholarships were not used for scholarships.
- Athletic scholarships were pulled from student-athletes without cause.
- Endowment accounts were not properly managed.

In addition to investigating the allegations, we performed audit work pertaining to campus financial records with respect to Athletics fund-raising and use of donor gifts.

INVESTIGATIVE AUDIT RESULTS

Scholarship Funds Were Not Used to Pay for Vehicle Allowances

Athletics paid the majority of vehicle allowances to coaches and Athletics staff out of its general expense account, the Spartan Athletics Fund (SAF). The SAF, formerly known as the Spartan Foundation Operations fund¹, is composed of funds raised from donors for general support of the Athletics program. Vehicle allowances were not paid from the fund designated for scholarships.

Athletics Did Not Always Honor Donor Intent

Athletics did not always designate the correct account in which to deposit athletic donations. We reviewed a selection of 178 donation instances totaling \$1,455,290 to various athletic accounts and found that Athletics deposited the donations into accounts that did not match the donor's intent for 29 donations totaling \$83,341. ^{2,3}

¹ We discuss the evolution of this fund in the background of the report.

² University Advancement grouped donations into batches, which we refer to as an instance. Consequently, each instance can include multiple individual donations.

³ When checks were received, the intent was written on the check. Although there were times when Athletics did have documented intent for cash or credit card donations, our focus in this section is on the times the intent was not documented.

Athletics Policy Did Not Honor Donor Intent

The former athletics director instituted a policy inconsistent with donor intent. The policy required coaches to fund-raise a minimum of \$10,000 annually into their sport improvement funds. Donations were made to a specific sport and then transferred to the Athletics department's general fund-raising account (the SAF). Money donated for specific sports and then transferred to the SAF totaled \$493,662 for the six years we reviewed.

Athletics Marketing Materials Have Been Clarified

Athletics marketing materials for the Spartan Foundation, and later the SAF, including brochures, newsletters, and various iterations of their website from 2013/14 to 2018/19, reflected a mix of messaging to donors. Some materials indicated donor funds would go only to scholarships, while other materials were more ambiguous. In August 2018, the campus rebranded its Athletics fund-raising effort and clarified in its 2018/19 marketing materials that donations provide funding for more than just athletic scholarships.

The Spartan Athletics Fund Contributed Minimal Amounts to Athletic Scholarships

The majority of athletic scholarships were not paid out of the SAF or the Spartan Foundation Scholarships fund. Instead, athletic scholarships were paid out of Athletics' stateside accounts; primarily from a financial aid trust account designated for athletic scholarships. In 2018/19, Athletics awarded 368 student-athletes more than \$7.3 million worth of scholarships.

Student-Athletes Received the Athletic Scholarships They Were Promised

In general, student-athletes received the athletic scholarships they were promised. We found that two of the 73 student-athletes we reviewed who accepted scholarships did not receive the full amount offered. Together, the two student-athletes should have received an additional \$2,905 in athletic scholarships.

Scholarships Were Not Canceled Without Reason

Athletics canceled 53 scholarships between 2016/17 and 2018/19. Reasons for canceling scholarships included the student-athlete voluntarily quitting the team or not meeting academic eligibility requirements. We reviewed a sample of these cancellations and found that Athletics handled them appropriately.

Athletics Could Have Offered Additional Scholarships

We reviewed the number and amounts of scholarships for each sport and compared them to the allowed NCAA maximums. We found that Athletics did not maximize its scholarship budget for three sports, but it was not required to do so.

Endowment Scholarship Documentation Was Insufficient to Demonstrate That Eligible Student-Athletes Received Awards

The campus did not consistently collect and award proceeds from athletic scholarship endowments. Although all student-athletes who were awarded scholarships received them, the campus could not demonstrate when those scholarships were funded through scholarship endowments. Recordkeeping and tracking of the distributions from endowed scholarship funds did not clearly show which student-athletes were the beneficiaries of these funds.

The Documentation for the Establishment and Administration of Accounts Held at the Tower Foundation Was Incomplete or Outdated

Account authorization documents were not updated as authorized signers changed, and some had inconsistencies in the stated purpose, intent, and possible restrictions of the donated funds.

Cash-Handling Procedures in the Athletics Business Office Needed Improvement

Staff in the athletics business office were not provided cash-handling training, did not require a completed remittance form indicating the source and intent of donations from the person delivering donations in person, and did not produce a receipt for the funds delivered. Consequently, donor intent sometimes had to be ascertained from verbal instructions or informal notes that could not be corroborated.

INTRODUCTION

BACKGROUND⁴

Athletics

The campus's division of Intercollegiate Athletics (Athletics) is responsible for managing the athletics program for the campus. Among other things, Athletics aims to recruit and retain top athletes by providing financial incentives through scholarships and create a supportive environment to ensure the academic success of student-athletes. The athletics director has overall responsibility for the administration of Athletics and reports to the campus president. Athletics has three main sources of revenues: the California State University (CSU) operating fund, instructionally related activity (IRA) student fees, and generated revenues. Generated revenues include funds from ticket sales, conference and National Collegiate Athletic Association (NCAA) distributions, licensing and facilities, and donations. In its 2018/19 budget, Athletics total revenues and allocations were \$28,757,244. That same year, Athletics only received \$642,870 (about 2 percent) in Spartan Athletics Fund donations.

Spartan Foundation

The Spartan Foundation was established in 1958 to provide supplemental resources to advance the objectives of campus athletics. The Spartan Foundation was an active non-profit organization⁵, exempt from federal income tax under the Internal Revenue Code 501(c)(3). According to its annual tax filings, the Spartan Foundation's stated mission was to raise funds for athletic scholarships for student-athletes. However, in June 2012, the Spartan Foundation revised its bylaws to expand its primary purpose to include raising funds to assist with Athletics' operations; to build, renovate, and maintain facilities; and to support academic center staff. The Spartan Foundation did not update its stated mission on its annual tax filings to reflect the expanded mission.

The Spartan Foundation's fund-raising for scholarships and other uses centered on several events, including an annual fund drive and golf and bocce ball tournaments. Since the Spartan Foundation did not have any employees, these events were put on by member volunteers with the support of staff in Athletics. Funds raised were deposited in a campus stateside trust fund and later transferred to the Tower Foundation in January 2014. In January 2018, the campus restructured Athletics fund-raising by creating an athletics advancement unit within the division of University Advancement. Athletics advancement reported to the Tower Foundation rather than the athletics director. The purpose of the reorganization was to standardize and streamline fund-raising. The four primary areas of support for Athletics are endowments, capital projects, sport-specific fund-raising, and the Spartan Athletics Fund.

⁴ The information in this section comes from the campus and Athletics websites, and from interviews with campus and Tower Foundation staff.

⁵ The Spartan Foundation 501(c)(3) became dormant around 2014 when, as explained in the following section, the Tower Foundation became the clearinghouse for all philanthropic gifts to Athletics. The Tower Foundation continued using Spartan Foundation in its account names because donors were familiar with that name and continued writing their donations to the Spartan Foundation.

Tower Foundation

The Tower Foundation was established in 2004 as a non-profit public benefit corporation dedicated solely to philanthropy and assisting with the development, investment, administration, and banking for all campus philanthropic donations. It is the official clearinghouse for all gifts to the campus. In 2014, the campus determined that gifts to Athletics would be processed through the Tower Foundation like all other philanthropic gifts. As an independent legal entity, the Spartan Foundation became dormant without a need to have a separate foundation dedicated solely to the purpose of processing Athletics donations.

Spartan Athletics Fund

In July 2013, the Tower Foundation established a Spartan Foundation fund in anticipation of the transfer of the funds from the campus stateside trust fund. At that time, Tower Foundation management analyzed Spartan Foundation activity and determined that, in order to honor donor intent, there should be two separate accounts: one used for general expenses (Spartan Foundation Operations) and one used for scholarships (Spartan Foundation Scholarships). The separation into two accounts allowed the Tower Foundation to segregate donations made specifically for scholarships from those that allowed for broader application to other Athletics expenses. As mentioned above, Athletics transferred the Spartan Foundation funds held in its stateside account to the Tower Foundation in January 2014. The Spartan Foundation Operations account was renamed in August 2018 to Spartan Athletics Fund (SAF), which is the current name of the account. Athletics described the SAF as its annual fund and the primary philanthropic vehicle for growing its base of support. Gifts to the SAF are supposed to provide support and resources for the entire Athletics department, including, but not limited to, coaching leadership, recruiting budgets, sports performance, and scholarships.

Athletic Scholarships

The campus website indicated that the campus had more than 470 student-athletes playing 22 sports. The campus is a member of the Mountain West Conference and is subject to the rules and regulations set forth by the campus, the NCAA, and the conference. The NCAA sets forth detailed and strict policies on providing student-athlete scholarships, such as how many scholarships may be awarded per sport and how much money may be awarded. In 2018/19, Athletics awarded 368 student-athletes with partial or full scholarships totaling more than \$7.3 million. A full scholarship typically includes tuition and fees, housing, books, and other cost-of-living expenses.

Coaches are responsible for recruiting student-athletes to their teams. Once they are ready to make an offer, they work with an Athletics compliance staff person who creates an athletic financial aid agreement. The agreement sets forth the dollar amount and expenses covered by the scholarship and describes the conditions of the award. Agreements typically last one academic year and must be renewed annually. If Athletics chooses to cancel or reduce a scholarship mid-year, they are required by NCAA policy to notify the student-athlete in writing and provide an opportunity for the student to appeal. Athletics is also required to notify all student-athletes by July 1 each year whether their scholarships will be renewed.

CAMPUS ACTIONS AND NOTIFICATIONS

On May 15, 2019, a campus student newspaper published an article titled “San José State allegedly mishandled \$6.3 million per documents.” The article made several allegations against the Athletics department related to misuse of donor funds and Athletics fund-raising practices. On May 21, 2019, the campus president requested that the Office of the Chancellor conduct an examination of the alleged misuse of donations noted in the article and audit of financial records with respect to Athletics fund-raising and use of donors’ gifts. The request was endorsed by the chancellor on May 21 and approved by the chair of the Board of Trustees’ Committee on Audit on May 22.

SCOPE AND METHOD OF INVESTIGATIVE AUDIT

To investigate the allegations and perform our audit work, we reviewed applicable policies and procedures and obtained various financial records from the campus, Tower Foundation, and Spartan Foundation’s accountant. In addition, we obtained current and historical online information about the Spartan Foundation and its related activities. Furthermore, we interviewed current and former campus and Tower Foundation staff members, including both the former athletics director and former Tower Foundation CEO named in the article. We reviewed information for the time frame of July 1, 2013, through June 30, 2019, unless otherwise noted in the report.

We conducted additional audit work pertaining to Tower Foundation financial records with respect to Athletics fund-raising and use of donor gifts. Specifically, we conducted testing to determine whether financial accounts were set up properly and had appropriate documentation related to sources and uses of funds and whether the authorized signers on the accounts were up to date. We also reviewed and assessed cash-handling processes and controls for receipt of donations.

RESULTS OF INVESTIGATIVE AUDIT

ALLEGATIONS AND FINDINGS

Allegations were made related to donor funds intended for athletic scholarships. It was alleged that:

- Donor funds intended for athletic scholarships were used improperly to pay for vehicle allowances and stipends for coaches and Athletics staff.
- Donors were misled about how their donations would be used.
- Donations collected on behalf of the Spartan Foundation for athletic scholarships were not used for scholarships.
- Athletic scholarships were pulled from student-athletes without cause.
- Endowment accounts were not properly managed.

In addition to investigating the allegations, we performed audit work pertaining to campus financial records with respect to Athletics fund-raising and use of donor gifts.

Athletic Donations and Donor Intent

Scholarship Funds Were Not Used to Pay for Vehicle Allowances

Although vehicle allowances were paid from Athletics funds at the Tower Foundation, they were not paid from the fund designated for scholarships.

Prior to 2013/14, donations to Athletics were routed to accounts either at the Tower Foundation or to a campus trust fund used for donations received by the Spartan Foundation. In February 2013, a campus task force recommended that all Athletics donations be received, deposited, and managed by advancement services. In July 2013, the campus established a Spartan Foundation fund at the Tower Foundation. Tower Foundation management at that time analyzed the Spartan Foundation donor activity and determined that the Spartan Foundation donations required two separate accounts: one used to fund general expenses and one used to fund scholarships. The creation of two separate accounts allowed the Tower Foundation to segregate donations made specifically for scholarships from those that allowed for broader application to Athletics expenses. It was out of the general expense account – initially named the Spartan Foundation Operations fund and later renamed the Spartan Athletics Fund (SAF) – that Athletics paid the majority of vehicle allowances and other supplemental compensation to coaches and Athletics staff. Table 1 below shows the amount of donations received and spent on supplemental compensation and scholarships out of the SAF and scholarships accounts between 2013/14 and 2018/19. The stated purpose of the SAF was to pay for the Athletics department's greatest needs, and the athletics director has discretion over how to spend the money.

RESULTS OF INVESTIGATIVE AUDIT

Consequently, using the SAF to pay supplemental compensation was an allowable use of the funds.⁶ Athletics did not pay for supplemental compensation using the scholarship fund.

Table 1

	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19
Spartan Foundation Operations/Spartan Athletics Fund						
Donations	\$1,026,633	\$1,187,160	\$1,014,078	\$990,310	\$683,013	\$642,870
Supplemental Compensation	\$3,804,414	\$977,945	\$1,042,661	\$1,417,478	\$1,709,376	\$1,355,566
Transfer out to Scholarships	\$0	\$0	\$0	\$0	\$600	\$500
Spartan Foundation Scholarships Fund						
Donations	\$102,427	\$122,203	\$72,557	\$78,055	\$9,526	Account Closed
Supplemental Compensation	\$0	\$0	\$0	\$0	\$0	
Transfer out to Scholarships	\$0	\$0	\$70,000	\$0	\$339,792	

Athletics Did Not Always Honor Donor Intent

Athletics did not always designate the correct account in which to deposit Athletics donations. We reviewed a selection of 178 donation instances to various Athletics accounts totaling \$1,455,290, and we found that Athletics designated the donations to accounts that did not match donors’ intent for 29 donations, totaling \$83,341.⁷ For example, in 2018/19, three donations totaling \$39,500 were made to Spartan Athletics or SJSU Athletics that should have been deposited into the SAF but were instead deposited into the athletics director’s discretionary fund. This also occurred in 2016/17 when two donations to Spartan Athletics and sports medicine totaling \$3,600 were deposited in the athletics director’s discretionary fund. The purpose of the athletics director’s discretionary account is to support Athletics programs, which is similar to the purpose of the SAF which is for the discretionary use of the Athletics department. However, the athletics director told us she differentiated between the two accounts. She said that donations to her discretionary account were from donors who gave her money with the understanding that she would use it in a manner she felt best served Athletics.

For three other donations totaling \$791, checks were written out to specific sports, but deposited into the SAF. The reverse also occurred: Five checks totaling \$600 were written out to the Spartan Foundation but deposited into the men’s football account. We also noted a \$5,000 donation made to Spartan Athletics in 2015/16 that was improperly deposited in the football operations building fund. For 15 additional donations totaling \$33,850, donors contributed funds as part of the President’s Cup golf tournament. The golf tournament was an annual event marketed as a fundraiser for student-athlete scholarship assistance until 2015/16, when Athletics changed its marketing materials to reflect

⁶ However, as noted in the next section, there were instances when donations from an event to raise money for scholarships were improperly deposited into the SAF.

⁷ University Advancement grouped donations into batches, which we refer to as an instance. Consequently, each instance can include multiple individual donations.

RESULTS OF INVESTIGATIVE AUDIT

the event's broader purpose of general student-athlete support. However, in 2013/14 and 2014/15, Athletics designated these donations for deposit into its Athletics special events account. Athletics used the special events account to pay for the golf tournament expenses and transferred a majority of the remaining balance to the SAF. Because the tournament was advertised as a fund-raiser for student-athlete scholarships, we concluded that the proceeds should have been deposited in the scholarship account. Aside from these 15 donations, we did not find that donations specifically identified for scholarships were deposited inappropriately.

Also, in 46 instances totaling \$288,577, we were unable to determine whether donor intent was honored, generally because donations were made with cash or credit card, and Athletics did not obtain documentation from these donors indicating their intent.⁸ Our review of the cash receipt process in Athletics indicated that the individuals remitting donations were not asked to complete a donation form or other informational document indicating the source and intent of the funds and that Athletics often relied on staff to research or make a best estimate.

Athletics Policy Did Not Honor Donor Intent

A fund-raising policy instituted by the former athletics director resulted in transfers of donor funds inconsistent with donor intent. According to the former athletics director, Athletics was trying to raise money all the time and had to make a decision about allowing coaches to raise funds. Some donors wanted to give only to specific sports (each sport has its own "sport improvement fund"), and not to the general Athletics account. Consequently, Athletics decided to allow coaches to raise funds with a stipulation that coaches were required to raise a minimum of \$10,000 annually into their sport improvement funds and at year-end, would transfer \$10,000 to the Athletics department's general fund-raising account (the SAF) used to pay for Athletics operations. The former athletics director turned the stipulation into Athletics policy.

Money donated for specific sport improvement funds and then transferred to the SAF totaled \$493,662 for the six years we reviewed. The former athletics director said that transferring money to the SAF helped all sports by indirectly by ensuring that Athletics would not have to reduce funding to specific sports; therefore, donor intent was honored despite the transfer of funds. However, when donors gave money to a specific sport, it was reasonable for them to expect that their donation would be used by and for that sport specifically, rather than being transferred to and spent on general Athletics operations. As a result, we determined that transferring donations from the sport improvement funds to the SAF did not honor donor intent. The current athletics director changed this policy at the start of the 2017 academic year, causing these blanket transfers to stop.

Athletics Marketing Materials Have Been Clarified

Through discussions with various individuals associated with the Spartan Foundation and review of early marketing materials, we determined that the initial intent of the Spartan Foundation was to raise scholarship funds. For example, the Spartan Foundation formerly hosted an annual golf tournament

⁸ Although some donation deposit forms noted a donor intent, the information was not completed or verified by the donor. As a result, we could not determine the donor intent based on the information available.

with the stated purpose of providing scholarship funds to student-athletes, and a fund-raising letter referred to the Spartan Foundation Annual Scholarship Drive. Additionally, several individuals we spoke with indicated that it was their understanding that donated funds would be used for scholarships.

In 2012, the Spartan Foundation board revised its bylaws to broaden its purpose. The revised bylaws specified that donations could fund a variety of Athletics support activities, including scholarships, operating expenses, facilities, and academic support for student-athletes. Numerous individuals stated that senior Athletics management, including the former athletics director, routinely communicated to staff that it was inaccurate to state to any donor that Spartan Foundation fund-raising was solely for athletic scholarships. The former athletics director said that each time he spoke to donors, he made it very clear that funds were used for the general benefit of the Athletics program for legitimate department expenses, and he believed most donors understood that.

We reviewed Athletics marketing materials for the Spartan Foundation, and later the SAF, including brochures, newsletters, and various iterations of the website from 2013/14 through 2018/19. We found there was a mix of messaging to donors. Some materials indicated that donor funds would be used specifically for scholarships, while other materials were more ambiguous, saying that funds would go to support student-athletes, or towards the “student-athlete experience.” In August 2018, Athletics published a press release announcing its new annual fund-raising platform called the SAF. This rebranding along with other updated materials from 2018/19 have clarified that donations provide funding for more than just athletic scholarships.

Athletic Scholarships

The Spartan Athletics Fund Contributed Minimal Amounts to Athletic Scholarships

In 2017/18, Athletics awarded 357 student-athletes with partial or full scholarships totaling \$8.1 million. The majority of athletic scholarships were paid out of Athletics’ stateside accounts, primarily from a financial aid trust account designated for athletic scholarships. That same year, the Tower Foundation transferred \$339,792 towards athletic scholarships from the Spartan Foundation Scholarships fund held at Tower Foundation. After the transfer in 2017/18, the account was closed as part of a campuswide initiative to centralize all scholarship administration in financial aid, a decision made based on a recommendation from a 2015 Scholarships audit. Despite the account closure, donors wanting to make donations to athletic scholarships were still able to do so by writing “athletic scholarship” on their check memos or online donation field. These funds were deposited into the Tower Foundation scholarship clearing account, and then transferred to the financial aid office. Currently, athletic scholarships are paid primarily from the financial aid trust account, with additional funding from the scholarship donations deposited into the Tower Foundation scholarship clearing account or from endowment distributions discussed later in the report. In 2018/19, Athletics awarded 368 student-athletes with partial or full scholarships totaling over \$7.3 million.

Student-Athletes Received the Athletic Scholarships They Were Promised

We reviewed a selection of 73 student-athletes (10 percent per year) for 2017/18 and 2018/19 to determine whether they received the full amount offered in their athletic financial aid agreements

(agreements) and found that, in general, student-athletes received the athletic scholarships they were promised. We found that two student-athletes we reviewed did not receive the full amount Athletics initially offered. Together, the student-athletes should have received an additional \$2,905 in athletic scholarships. Athletics could not explain the variance for one student-athlete. For the other, the variance was due to a typo made by a former staff person. For six other students-athletes, we found minor variances between the aid amounts they were offered and the amounts they received. Athletics explained that these variances were due to changes in the student-athletes' housing and tuition rates. For example, if student-athletes chose a housing option that was less costly than the option used to calculate their award amount, their housing was still completely covered, but they received less aid. Similarly, Athletics assumes that student-athletes will enroll in 30 units per year and uses that amount when calculating the award amount. If a student-athlete chooses to enroll in fewer units, the amount of aid Athletics provides for tuition decreases, but their tuition expenses are still fully covered. Therefore, although some student-athletes chose different housing and tuition rates and received less aid than they were promised, the amounts they received were appropriate given their choices.

Further, the agreements for the student-athletes we reviewed typically stipulated that the scholarship value was an estimate and the actual scholarship value would be determined in the summer term of the academic year preceding their enrollment, which was usually after the agreement was signed. As a result, the estimated value of the award on the agreement did not always exactly match the award amount received. To address these variances, Athletics revised its agreements so that they no longer include a dollar-value estimation when a student-athlete is receiving a full scholarship.

Scholarships Were Not Canceled Without Reason

Athletics canceled 53 scholarships between 2016/17 and 2018/19. We reviewed a sample of 12 of these cancellations, and we found that coaches followed policy and did not cancel any scholarships without cause. Reasons for canceling scholarships include the student-athlete voluntarily quitting the team, failing to meet academic eligibility requirements, or violating the NCAA's drug and alcohol policy. Coaches cannot cancel an athletic scholarship during the academic year because of an athletic reason such as athletic performance or an injury that prevents participation. When coaches decide to cancel a scholarship, the student-athlete must be notified in writing that they can ask for a hearing to appeal the decision. All of the student-athletes in our review were provided with appropriate notification letters and an opportunity to appeal the decision.

Athletics Could Have Offered Additional Scholarships

For three sports, Athletics did not maximize the amounts it allocated to its scholarship budget to match the NCAA total number of scholarships allowed, but it was not required to do so. Specifically, the NCAA sets limits on the number of financial aid awards institutions may provide by sport and does not require institutions to max out the scholarship budget for each sport. The athletics director is responsible for the department's budget and for deciding how much athletic scholarship funding each sport's coach can award to student-athletes. It is then up to each coach to determine how many scholarships to award and how much to award each student-athlete. According to the athletics director, every sport's scholarship budget was fully funded to meet NCAA maximums except for men's track and field. That sport was not fully funded because Athletics planned to use donor funds to sponsor it, but could not

when it failed to raise the money. We reviewed the number and amounts of scholarships awarded for each sport and compared them to the NCAA limits for 2017/18 and 2018/19. Based on our review, it also appeared that scholarships for two other sports, men's cross country and women's beach volleyball, were not fully funded. Staff in Athletics told us that men's track and field was allocated \$83,000, which only came out to about 2.5 scholarships, and Athletics did not allocate any additional funding for men's track and field. The former women's beach volleyball coach said the sport used to offer non-resident tuition fee waivers to student-athletes, which they can no longer do. During 2017/18 and 2018/19, Athletics only awarded the equivalent of 1.1 and 0.3 scholarships, respectively, to women's beach volleyball, while the NCAA limit was 6.0 scholarships per year for that sport.

We found that six additional sports had scholarship dollars that were not awarded; however, coaches' explanations for these situations seemed reasonable. For these sports, the reason was not due to a lack of scholarship funding. According to the senior associate athletics director of compliance, it is not uncommon for coaches to hold some scholarship dollars in reserve in case they have a last-minute recruit or if one of their student-athletes who previously had a partial scholarship or no scholarship has a great season and the coach wants to reward them. The men's basketball head coach said he did not award all the available scholarships because he came on the job late in the season and did not have time to recruit. The women's basketball coach said she had a scholarship available because she wanted to allow flexibility in her recruiting strategy. The women's gymnastics coach said she had scholarship money that did not get used because two prospective recruits fell through and another athlete did not meet academic eligibility. The director of women's track and field did not award all of her sport's scholarships because several athletes transferred from the school and a few others failed academically. Even though the coaches did not offer as many athletic scholarships as they could have, their explanations for doing so seemed appropriate given the nature of college athletics.

Endowments

Endowment Scholarship Documentation Was Insufficient to Demonstrate That Eligible Student-Athletes Received Awards

The campus did not consistently collect and award proceeds from athletic scholarship endowments and was unable to demonstrate that the funds were awarded to eligible students.

Endowments are gifts to the campus that are invested in perpetuity to provide sustained support. The donor's gift (also called the endowment corpus) is invested in the Tower Foundation's endowment investment portfolio. An annual distribution from the endowment provides spendable funds from the investment earnings that may be spent to carry out the donor's purpose. The Athletics endowment consists primarily of scholarship endowments that pay out a percentage each academic year to support the donor's stated purpose as noted in the endowment gift agreement. The Tower Foundation maintains the endowment accounts and is responsible for ensuring financial compliance with the terms of the trust, including the timing and amounts to be distributed each period.⁹ Once the Tower

⁹ Although we noted that it is the responsibility of the Tower Foundation, it is specifically the Tower Foundation board of directors and its finance and investment committee that have the legal and fiduciary responsibility for endowment oversight.

RESULTS OF INVESTIGATIVE AUDIT

Foundation determined the amount available for distribution from the endowment, it instructed the appropriate college or department (including Athletics) to determine which student would be the recipient of the scholarship.

We selected six Athletics scholarship endowments held at the Tower Foundation, and reviewed the distribution activity for a period of six academic years, from 2013/14 to 2018/19. We found that the Tower Foundation generally managed the distribution process in accordance with the terms of the endowment trust agreement and its own board-approved spending policy, although we did note one year in which an eligible distribution was not made, instead remaining in the endowment corpus, without sufficient explanation.

We further reviewed the processes conducted by Athletics to ensure that the endowment scholarships, once distributed from the endowment, were applied in a manner consistent with the trust agreement intent. We first noted that Athletics did not direct how proceeds from the 2014 distribution should be awarded, instead combining it with the 2015 distribution and applying the funds during that year. We also were informed that the distributions for 2018 and 2019, for \$208,375 and \$209,744, respectively, were not distributed, and instead the funds remained in a distribution account at financial aid. In addition, we found that Athletics identified a recipient for a particular scholarship in 2017/18. Although the student received her scholarship in accordance with the terms of the agreement, the endowment amount was returned to the endowment principal because the funds were not moved out of the distribution account before the next scheduled distribution. We were unable to determine whether communication regarding the existence of these various funds that were available for distribution failed at the Tower Foundation, the financial aid office, or at Athletics.

We then reviewed all of the actual distributions made during that time frame, a total of 19, and attempted to determine whether each was ultimately paid to an eligible student-athlete. We were able to determine that recipients had been identified, but none of these distributions were reflected in an individual student financial aid account. This was because scholarships were primarily paid from the financial aid trust account and not via specific student accounts, so we were unable to follow specific endowment scholarships all the way through the distribution process. Endowment distributions were collected and deposited by Athletics into stateside accounts, where the funds were co-mingled with all other funding sources and paid out as part of the overall scholarship award promised to the student athletes. Athletics defended this practice as appropriate given that they must remain in compliance with NCAA caps on scholarships and the caps require endowment scholarships to be paid to already-identified scholarship recipients. Otherwise, the caps could be inadvertently breached. Athletics was able to demonstrate that they had a reasonable process in place to identify which of the existing scholarship recipients were eligible to be identified as the awardee for the specialized scholarship, but neither the accounting records within Athletics nor those in financial aid would capture the student receipt of a donated endowment scholarship. Awarding scholarships from co-mingled funds may have been a factor in the years when some endowment distributions were not made, as the process does not differentiate the source of funds.

When asked how student-athlete recipients and donors are notified of scholarship awards, the athletics director told us that an annual awards breakfast or banquet served as the acknowledgement, although such an event did not take place during the 2018/19 academic year.

Tower Foundation Athletics Account Administration

The Documentation for the Establishment and Administration of Accounts Held at the Tower Foundation Was Incomplete or Outdated

We reviewed the account authorizations for 13 Athletics non-endowment accounts held at the Tower Foundation to determine whether they were complete and current. We reviewed each account authorization to determine whether the form included all required information, including a clear description of the fund purpose and appropriate uses; indication of the expected source of funds; and proper authorization from an appropriate senior member of Athletics.

For each of the accounts we reviewed, one or more of the authorized signers were individuals no longer employed by the university. Many of these accounts were older, and at some point, the Tower Foundation circulated a list of accounts with fields for authorized signer updates, but the document provided was undated, and both the responsible account holder and signers listed on this form were individuals no longer employed at the university. In addition, two of the accounts had email attachments that indicated a change in the signers, but a new form with the authorizing signatures was not obtained. We further found that at least three of the account authorization forms had unclear or inconsistent descriptions of the purpose of the fund.

Cash-Handling Practices in Athletics

Cash-Handling Procedures in the Athletics Business Office Needed Improvement

Although the campus designated the Tower Foundation to process all donations, the athletics business office (ABO) continued to receive donations mailed directly to their office or delivered in person from donors or from coaches who received donations or held fund-raising events. The ABO had a process to remit these funds to the Tower Foundation for processing and deposit; we reviewed the ABO cash-handling procedures for donations received in that location. We found that the ABO staff did not require a remittance form noting the donor source and intent from individuals delivering donations and did not provide a receipt to those individuals. Athletics policy states that donations should include the donor's intent in the memo line, but staff in athletics advancement said that coaches are not trained on how to properly document donor intent. As a result, the donor source and intent information that must be reported to the Tower Foundation sometimes had to be ascertained from verbal instructions or informal notes that could not be corroborated.

RECOMMENDATIONS

Our investigation was administrative in nature. The conclusions we drew were made within that context. Recommendations that would mitigate the recurrence of similar findings are presented below.

We recommend that the campus:

1. Ensure that donor intent is honored. The Tower Foundation and Athletics should reiterate to their staff involved in receiving donations the importance of honoring donor intent. Further, Athletics and athletics advancement should train its staff on designating the correct accounts for donations. If an account is not specified, Athletics staff should attempt to contact the donors to determine and document their intent. The Tower Foundation should train its staff to reconcile account designations made by Athletics to donor intent.
2. Create and require the use of a credit card and cash donation receipt form. At a minimum, the form should include the donor's name, the fund the donor intends to support, and the donor's signature. Athletics must use this form when receiving donations.
3. Develop a policy to conduct regular reviews of Athletics' marketing materials to ensure that messaging to donors is clear and specific.
4. Develop a policy to conduct a reconciliation process to ensure that, prior to the end of each academic year, Athletics verifies that all student-athletes received or are scheduled to receive the entire amount promised in their financial aid agreement.
5. In order to provide clear satisfaction of donor intent, consider developing a policy to require that endowment scholarship awards are reflected in the individual student-athlete financial aid accounts.
6. To ensure that scholarship selections are made in accordance with the intent of the underlying endowments, develop written procedures to outline the selection process and maintain documentation to justify decisions.
7. Develop a policy to conduct regular reviews of all account authorization forms and correct noted deficiencies in authorized signers and stated purpose and intent of donations.
8. Improve cash-handling procedures in the ABO by providing training to staff involved in the cash-handling process, standardizing donation remittance forms, and issuing receipts for donations received.

CAMPUS RESPONSE

1. We concur. SJSU will ensure that donor intent is honored and will reiterate to Tower Foundation and Athletics staff involved in receiving donations the importance of honoring donor intent. Further, Athletics and athletics advancement will train its staff on designating the correct accounts for donations. If an account is not specified, Athletics staff will attempt to contact the donors to determine and document their intent. The Tower Foundation will also train its staff to reconcile account designations made by Athletics to donor intent.

Anticipated completion date: September 30, 2020¹⁰

2. We concur. SJSU will create and require the use of a credit card and cash donation receipt form. At a minimum, the form will include the donor's name, the fund the donor intends to support, and the donor's signature. Athletics will use this form when receiving donations. In addition, SJSU also will make online donations more the norm, or at a minimum strongly encourage that donations be made in this manner to ensure proper receipting and management of funds.

Anticipated completion date: September 30, 2020

3. We concur. SJSU will develop a policy to conduct regular reviews of Athletics' marketing materials to ensure that messaging to donors is clear and specific.

Anticipated completion date: September 30, 2020

4. We concur. SJSU will develop a policy to conduct a reconciliation process to ensure that, prior to the end of each academic year, Athletics verifies that all student-athletes received or are scheduled to receive the entire amount promised in their financial aid agreement.

Anticipated completion date: September 30, 2020

5. We concur. In order to provide clear satisfaction of donor intent, SJSU will develop a policy to require that endowment scholarship awards are reflected in the individual student-athlete financial aid accounts.

Anticipated completion date: September 30, 2020

6. We concur. SJSU will that ensure that scholarship selections are made in accordance with the intent of the underlying endowments, develop written procedures to outline the selection process, and maintain documentation to justify decisions.

Anticipated completion date: September 30, 2020

¹⁰ Implementation of all corrective actions may be affected by the uncertain circumstances created by the COVID-19 pandemic.

RECOMMENDATIONS

7. We concur. SJSU will develop a policy to conduct regular reviews of all account authorization forms and correct noted deficiencies in authorized signers and stated purpose and intent of donations.

Anticipated completion date: September 30, 2020

8. We concur. SJSU will improve cash-handling procedures in the ABO by providing training to staff involved in the cash-handling process, standardizing donation remittance forms, and issuing receipts for donations received.

Anticipated completion date: September 30, 2020