



REPORT ON COMPLIANCE  
NCAA SUBSIDY PERCENTAGE REQUIREMENTS  
FOR THE YEAR ENDED  
JUNE 30, 2019

Auditor of Public Accounts  
Martha S. Mavredes, CPA  
[www.apa.virginia.gov](http://www.apa.virginia.gov)  
(804) 225-3350





Martha S. Mavredes, CPA  
Auditor of Public Accounts

# Commonwealth of Virginia

*Auditor of Public Accounts*

P.O. Box 1295  
Richmond, Virginia 23218

September 16, 2020

The Honorable Ralph S. Northam  
Governor of Virginia

The Honorable Kenneth R. Plum  
Chairman, Joint Legislative Audit  
and Review Commission

Please find enclosed a summary of compliance by Virginia's institutions of higher education with the provisions of § 23.1-1309 of the Code of Virginia. We have prepared this summary by reviewing a Schedule of Revenues and Expenses for Intercollegiate Athletics Programs at each institution for the fiscal year ended June 30, 2019. We have performed calculations in accordance with the provisions of § 23.1-1309, which have been included in Appendix A below. Should you have any questions, please contact Eric Sandridge, Higher Education Programs Audit Director, or me.

Sincerely,

Martha S. Mavredes  
Auditor of Public Accounts

EMS/vks

## Subsidy Percentage Compliance Results

Per the requirements of subsection C of § 23.1-1309 of the Code of Virginia, the subsidy percentage shall not exceed certain thresholds. Table 1 summarizes each institution's compliance with the applicable subsidy percentage.

Table 1

	Applicable Subsidy Percentage <sup>1</sup>	Meets Subsidy Percentage Requirement
<b>Division I</b>		
<u>I-A Power 5 (Football Bowl Subdivision):</u>	20%	
University of Virginia		✓
Virginia Polytechnic Institute and State University		✓
<u>I-A G5 (Football Bowl Subdivision):</u>	55%	
Old Dominion University		✓
<u>I-AA (Football Championship Subdivision):</u>	70%	
James Madison University		✓
Norfolk State University		☒ <sup>2</sup>
William & Mary		✓
Virginia Military Institute		✓
<u>I-AAA (Non-Football Institutions):</u>	78%	
George Mason University		✓
Longwood University		✓
Radford University		✓
Virginia Commonwealth University		✓
<b>Division II</b>		
<u>Football Institutions:</u>	81%	
University of Virginia's College at Wise		✓
Virginia State University		✓
<b>Division III</b>		
<u>Football Institution:</u>	89%	
Christopher Newport University		✓
<u>Non-Football Institution:</u>	92%	
University of Mary Washington		✓

1 Subsidy Percentage defined by Code of Virginia § 23.1-1309 as shown in Appendix A

2 Norfolk State University does not comply with the subsidy percentage requirement for Division I-AA institutions. Please see the calculation in Table 2 below.

The following calculation supplements Table 1 by showing the detailed calculation used to determine compliance with the provisions of subsection C of § 23.1-1309 of the Code of Virginia. We obtained all amounts for the purposes of this calculation from Norfolk State University’s fiscal year 2019 Schedule of Revenues and Expenses of Intercollegiate Athletics Programs found at <http://www.apa.virginia.gov/reports/NorfolkStateUniversityNCAA2019.pdf>.

Table 2

Norfolk State University	Fiscal Year 2019
Direct Institutional Support	\$ 3,590,345
Indirect Institutional Support	286,348
<b>School Funds<sup>1</sup></b>	<b>\$ 3,876,693</b>
School Funds	\$ 3,876,693
Student Fees	7,170,443
<b>Subsidy<sup>2</sup></b>	<b>\$11,047,136</b>
<b>Allowable Exclusions:</b>	
(Less) Spirit Group Expense	-
(Less) Indirect Cost Policy Requirements Expense	\$ 1,052,854
(Less) Previously Approved Debt Service Expense	286,348
<b>Adjusted Subsidy<sup>3</sup></b>	<b>\$ 9,707,934</b>
Adjusted Subsidy	\$ 9,707,934
Athletics Revenue	\$13,751,299
<b>Subsidy Percentage<sup>4</sup></b>	<b>70.60%</b>
Required Percentage	70.00%
% Overage	0.60%

- 1 School funds defined by subsection A of Code of Virginia § 23.1-1309 as shown in Appendix A
- 2 Subsidy defined by subsection A of Code of Virginia § 23.1-1309 as shown in Appendix A
- 3 Subsidy exclusions defined by subsection A of Code of Virginia § 23.1-1309 as shown in Appendix A
- 4 Subsidy percentage defined by subsection A of Code of Virginia § 23.1-1309 as shown in Appendix A

As outlined in subsection E of § 23.1-1309 of the Code of Virginia, “when necessary, each institution shall submit to the Governor and the General Assembly for approval a plan that reduces the subsidy in accordance with targets outlined in the plan over a five-year period until the subsidy percentage complies with the requirements of subsection C.” The fiscal year 2018 report cited Norfolk State University (NSU) for noncompliance with the subsidy percentage requirements of subsection C. While NSU’s subsidy percentage decreased from fiscal year 2018 to fiscal year 2019, it is still above the allowable limit per Code of Virginia § 23.1-1309.

In accordance with subsection E, NSU will prepare a plan for submission to the Governor and General Assembly for reducing its subsidy percentage below the required threshold. NSU did not prepare the required plan for fiscal year 2018, but management intends to prepare and submit its plan based on the results of the fiscal year 2019 report. The Auditor of Public Accounts will review NSU's progress in achieving the requirements of its plan as part of the report on fiscal year 2020.

## **Increases in the Subsidy – Preliminary Analysis**

Per the requirements of subsection D of § 23.1-1309 of the Code of Virginia, “any percentage increase in the subsidy at an institution that complies with subsection C shall be matched by a like percentage increase in generated revenue, except that each institution shall utilize a rolling average of the change in generated revenue and student fees over the immediately preceding five years for the purposes of such calculation.” Fiscal year 2019 is the third reporting year following the effective date of the regulation, and as such, five years of data is not available to develop a rolling average. Table 3 utilizes data for fiscal years 2017 through 2019 to develop a three-year rolling average. Table 3 is informational only and should not be used to determine compliance with subsection D, as the data is incomplete. Complete data will be available for the fiscal year 2021 report. However, institutions should use this information for monitoring purposes to ensure by 2021 they have met the requirements of the Code.

The change in student fee revenue in Table 3 represents a rolling average of the change in student fee revenue reported in each institution’s Schedule of Revenues and Expenses for Intercollegiate Athletics Programs for fiscal years 2017 through 2019. subsection D of § 23.1-1309 of the Code of Virginia requires the use of the student fee revenue line in calculating compliance with subsection D. However, increases in student fee revenue may result from several factors, including changes in the per student allocation of an institution’s mandatory non-educational and general (E&G) fee and fluctuations in an institution’s enrollment. For several institutions, such as George Mason University (GMU) and Virginia Tech (VT), significant increases in enrollment resulted in larger increases to student fee revenue allocated to the institution’s respective athletics departments without substantial increases in fees assessed to students. These two institutions allocate the lowest portion of their mandatory non-E&G fee, in both dollars and on a percentage basis, to their respective athletics departments when compared to other public four-year institutions in Virginia.

As noted in the State Council of Higher Education in Virginia’s (SCHEV) report [TF06: Full-Time Undergraduate Mandatory Non-Educational and General Fees by Auxiliary Program](#) for the 2017-2018 and 2018-2019 academic years, GMU increased the preliminary allocation that its Athletics Department received from its mandatory non-E&G fee from fiscal year 2018 to fiscal year 2019 by \$3 per student or 0.6 percent. While GMU’s total enrollment increased by over 1,000 full-time equivalent students (3.7% increase) per SCHEV’s report [E05E: Five-Year Annualized Student FTE Enrollment Trends by Student Level Group](#), the institution’s student fee revenue reported in the Schedule of Revenues and Expenses for Intercollegiate Athletics Programs increased by 11.4 percent from the prior year. The remainder of this increase reflects additional allocations from GMU’s comprehensive fee to its intercollegiate athletics department. Similarly, while VT increased its per student allocation to athletics by \$9 in fiscal year 2019 when compared to fiscal year 2018, the increase represents just 2.9 percent of the 7.5 percent increase in student fee revenue reported in Table 3. VT also experienced an increase of just under 1,000 total full-time equivalent students from fiscal year 2018 (an increase of 2.6 percent). When considering the per student increase in the comprehensive fee and increase in enrollment, the total increase approximates the year over year increase in student fees reported in VT’s Schedule of Revenues and Expenses of Intercollegiate Athletics Programs. Significant year over year increases in enrollment can have large fluctuations in student fee revenue allocated to Athletics; however, the user of this information should consider the per student increase in fees, in addition to the total student fee allocation reported in the Schedule of Revenues and Expenses of Intercollegiate Athletics Programs.

Table 3  
For Informational Purposes Only as of June 30, 2019

Institution	Subsidy Increased over Prior Year <sup>1</sup>	Rolling Average Change in Student Fees <sup>2</sup>	Rolling Average Change in Generated Revenue <sup>3</sup>	Generated Revenue Increased More than Student Fees
University of Virginia	Yes	1.8%	8.0%	Yes
Virginia Polytechnic Institute and State University	Yes	7.5%	5.2%	No
Old Dominion University	Yes	0.2%	2.3%	Yes
James Madison University	Yes	5.9%	8.1%	Yes
Norfolk State University	N/A <sup>4</sup>	N/A <sup>4</sup>	N/A <sup>4</sup>	N/A <sup>4</sup>
William & Mary	Yes	2.8%	0.1%	No
Virginia Military Institute	Yes	3.5%	5.9%	Yes
George Mason University	Yes	11.4%	-11.6%	No
Longwood University	No	N/A	N/A	N/A
Radford University	No	N/A	N/A	N/A
Virginia Commonwealth University	Yes	3.3%	0.7%	No
University of Virginia's College at Wise	No	N/A	N/A	N/A
Virginia State University	Yes	0.9%	-11.2%	No
Christopher Newport University	Yes	4.2%	-2.2%	No
University of Mary Washington	Yes	1.9%	9.7%	Yes

- 1 Subsidy defined by Code of Virginia § 23.1-1309 as shown in Appendix A
- 2 Student fees defined by Code of Virginia § 23.1-1309 as shown in Appendix A
- 3 Generated revenue defined by Code of Virginia § 23.1-1309 as shown in Appendix A
- 4 subsection D of Code of Virginia § 23.1-1309 as shown in Appendix A requires this calculation for institutions in compliance with the subsidy percentage requirements of subsection C. As Norfolk State University is not compliant with subsection C, these calculations are not applicable under subsection D.

### **COVID-19 Pandemic Impact**

As the COVID-19 pandemic continues to disrupt normal athletic department activities, we expect that many institutions may not be compliant with subsection C and/or subsection D of § 23.1-1309 of the Code of Virginia by the end of fiscal year 2021 without specific legislative relief.

*Code of Virginia § 23.1-1309. Boards of visitors; baccalaureate public institutions of higher education; intercollegiate athletics programs.*

A. As used in this section:

"Athletics revenue" means the total revenue received by an institution that is generated by any of the institution's intercollegiate athletics programs. "Athletics revenue" includes contributions; game guarantees; income received from endowments and investments; income received from the sale of food, game programs, novelties, and other concessions at an intercollegiate athletics contest; income received from intercollegiate athletics conferences for participation in bowl games, tournaments, and other intercollegiate athletics contests; income received from the provision of parking at intercollegiate athletics contests or other events associated with intercollegiate athletics; rights and licensing; school funds; student fees; support from third parties guaranteed by the institution, such as income received from athletics camps, income received from television, and housing allowances; and all other income from any other source generated by the institution's intercollegiate athletics programs.

"Contributions" means any income received directly from individuals, corporations, associations, foundations, clubs, or other donors for the operation of an institution's intercollegiate athletics programs. "Contributions" includes amounts paid in excess of the face value of an admissions ticket to an intercollegiate athletics contest or any other event associated with intercollegiate athletics; cash; marketable securities; income generated from preferential seating arrangements at intercollegiate athletics contests or other events associated with intercollegiate athletics; and in-kind contributions such as cars provided to an intercollegiate athletics program by car dealers at no cost and apparel and sports drink products provided to intercollegiate athletes and coaches at no cost.

"Generated revenue" means all athletics revenue with the exception of the subsidy.

"Institution" means a baccalaureate public institution of higher education.

"Intercollegiate athletics program" means any athletics program for a particular sport that is operated by an institution and governed by the National Collegiate Athletic Association (NCAA).

"Rights and licensing" includes income from radio and television broadcasts; Internet and e-commerce rights resulting from institution-negotiated contracts; revenue-sharing agreements with the NCAA or an intercollegiate athletics conference; licensing; the sale of advertisements, trademarks, or royalties; corporate sponsorships; and the value of in-kind contributions of products and services provided to an intercollegiate athletics program at no cost as part of such corporate sponsorship, such as equipment, apparel, isotonic sports drinks, other sports drink products, or water.

"School funds" means the direct and indirect financial support provided by the institution to any of its intercollegiate athletics programs. "School funds" includes state funds, tuition, tuition waivers, federal work awards for student athletes, administrative costs, facilities and grounds maintenance, security, risk management, utilities, and depreciation and debt services.



"Student fees" means any fees assessed by an institution against a student that are used to support any of the institution's intercollegiate athletics programs.

"Subsidy" means the sum of school funds and student fees.

"Subsidy percentage" means the subsidy divided by the athletics revenue, provided that revenues allocated to (i) support spirit groups associated with any intercollegiate athletics program, (ii) meet any indirect cost policy requirements, or (iii) debt service for previously approved intercollegiate athletics capital outlay projects may be excluded from the subsidy for the purposes of such calculation.

"Ticket sales" means the sale of the right to gain admission to an intercollegiate athletics contest or any other event associated with intercollegiate athletics. "Ticket sales" includes sums received from any associated shipping and handling charges and includes sales to the public, faculty, and students. "Ticket sales" does not include (i) amounts paid in excess of the face value of an admissions ticket to an intercollegiate athletics contest or any other event associated with intercollegiate athletics such as preferential seating arrangements or (ii) pass-through sales transactions such as sales for admission tickets to bowl games and conference and national tournaments.

- B. The Auditor of Public Accounts, in collaboration with the Council, State Comptroller, Department of Planning and Budget, and each institution, shall develop and implement a standardized reporting format for each institution to annually report its intercollegiate athletics revenue and expenses to the Auditor of Public Accounts that shall include treatment of student fees and classification of specific intercollegiate athletics programs and shall require expenses for spirit groups, indirect cost policy requirements, and debt service for previously approved intercollegiate athletics capital outlay projects and other intercollegiate athletics capital outlay projects to be reported on separate lines.
- C. The subsidy percentage shall not exceed:
1. 20 percent for NCAA Division I-A institutions affiliated with the Atlantic Coast Conference, Big Ten Conference, Big 12 Conference, Pac-12 Conference, or Southeastern Conference;
  2. 55 percent for NCAA Division I-A institutions affiliated with conferences other than the Atlantic Coast Conference, Big Ten Conference, Big 12 Conference, Pac-12 Conference, or Southeastern Conference;
  3. 70 percent for NCAA Division I-AA institutions;
  4. 78 percent for NCAA Division I-AAA institutions;
  5. 81 percent for NCAA Division II institutions that operate intercollegiate football programs;
  6. 85 percent for NCAA Division II institutions that do not operate intercollegiate football programs;

7. 89 percent for NCAA Division III institutions that operate intercollegiate football programs;  
and
  8. 92 percent for NCAA Division III institutions that do not operate intercollegiate football programs.
- D. Each fiscal year, any percentage increase in the subsidy at an institution that complies with subsection C shall be matched by a like percentage increase in generated revenue, except that each such institution shall utilize a rolling average of the change in generated revenue and student fees over the immediately preceding five years for the purposes of such calculation.
  - E. When necessary, each institution shall submit to the Governor and the General Assembly for approval a plan that reduces the subsidy in accordance with targets outlined in the plan over a five-year period until the subsidy percentage complies with the requirements of subsection C.
  - F. The Auditor of Public Accounts shall annually review each institution's progress towards meeting the requirements of each plan approved pursuant to subsection E as part of his annual audit pursuant to § [30-133](#).
  - G. Failure to meet the progress requirements of each plan approved pursuant to subsection E for one year, as determined by the Auditor of Public Accounts, shall result in such reduction of the financial and administrative operations authority granted to the institution pursuant to the Restructured Higher Education Financial and Administrative Operations Act (§ [23.1-1000](#) et seq.) as the Governor or General Assembly determines.
  - H. Failure to meet the progress requirements of each plan approved pursuant to subsection E for two consecutive years, as determined by the Auditor of Public Accounts, shall result in revocation of all financial and administrative operations authority granted to the institution pursuant to the Restructured Higher Education Financial and Administrative Operations Act (§ [23.1-1000](#) et seq.).
  - I. The board of visitors of any institution that seeks to add a major intercollegiate athletics program such as football or basketball or change the division level of any of its existing intercollegiate athletics programs shall first submit to the Intercollegiate Athletics Review Commission (Commission) established pursuant to Chapter 57 (§ [30-359](#) et seq.) of Title 30 a plan and recommendations for financing the addition or change. The institution shall not in any way undertake any such addition or agree or commit to any such change until it has received the findings and recommendations of the Commission pursuant to § [30-360](#). Any such addition or change is subject to the approval of the General Assembly expressed in the general appropriation act. The board of visitors of any institution that adds a non-major intercollegiate athletics program shall report such decision within 15 days of the board's action.