

**FIFTH QUARTERLY REPORT OF THE
INDEPENDENT ATHLETICS INTEGRITY MONITOR
PURSUANT TO THE ATHLETICS INTEGRITY AGREEMENT AMONG
THE NATIONAL COLLEGIATE ATHLETIC ASSOCIATION,
THE BIG TEN CONFERENCE AND
THE PENNSYLVANIA STATE UNIVERSITY**

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I. INTRODUCTION AND SUMMARY

This is the fifth quarterly report of the independent athletics integrity monitor (“Monitor”) pursuant to section III of the Consent Decree between the National Collegiate Athletic Association (“NCAA”) and The Pennsylvania State University (“Penn State” or the “University”), and article IV of the Athletics Integrity Agreement (“AIA”) among the NCAA, Penn State, and the Big Ten Conference.

Penn State has continued to comply with its obligations under the AIA. Since our first annual report in September, Penn State has continued to make progress toward the completion of the handful of recommendations made in the report by Freeh Sporkin & Sullivan LLP dated July 12, 2012 (the “Freeh Report”) that have not yet been implemented completely. In addition, the University has released a plan for its second phase of efforts to improve the University in ways that go beyond the recommendations of the Freeh Report while ensuring that changes put into place since the Consent Decree and the AIA will become embedded in the University’s structure and culture.

During this most recent period, Penn State’s director of university ethics and compliance expanded his staff and distributed a survey to collect information about the institution’s core values. The recently hired youth programs compliance specialist continued her effort to understand the breadth of activities relating to minors and to establish a network for sharing information about youth programs and the security of their participants. Penn State hosted its second annual conference on child maltreatment, and through this and many other initiatives during the quarter the University continued to further its commitment to prevent child abuse and assist its victims.

The University's athletics integrity officer, Julie Del Giorno, presided over the quarterly meeting of the Athletics Integrity Council and has taken a leadership role in addressing hotline complaints related to Penn State athletics. Demonstrating Penn State's growing leadership in this area, Ms. Del Giorno and the athletics compliance staff also made a presentation to their peers at a conference of compliance officers from across the Big Ten Conference. She also has worked on further integration of the operations of the Morgan Academic Support Center for Student-Athletes. The sports medicine staff has maintained the quality of the healthcare delivered to Penn State's student-athletes while working to streamline the delivery of their services. Penn State also continues to implement electronic access controls at several athletic and recreational facilities and is moving forward with renovation and construction plans that will enhance their safety and security.

We also have continued to monitor other events, such as pending litigation, proposed legislation, and the debate that has arisen between the student body and some alumni related to the Board of Trustees' response to the Sandusky scandal. Our work remains focused on Penn State's fulfillment of its obligations under the Consent Decree and AIA and its continuing adherence to those obligations.

II. THE MONITOR'S ACTIVITIES THIS QUARTER

This reporting period, we continued to visit the University Park campus to meet with Penn State administrators, faculty, and staff. We participated in regularly scheduled meetings of the administration response team, the Freeh Response Advisory Council, and the Subcommittee on Ethics and Core Values. We also participated in quarterly meetings of the Athletics Integrity Council and the Ethics and Compliance Council, and we attended the Second Annual Child Maltreatment Conference held at University Park.

Persons we met with since our last report include, among others: President Rodney Erickson; Executive Vice President and Provost Nicholas Jones; Vice President and General Counsel Stephen S. Dunham; Senior Vice President for Finance and Business David Gray; Vice President for Administration Thomas Poole; Athletic Director David Joyner; Director of University Ethics and Compliance Regis Becker; Athletics Integrity Officer Julie Del Giorno; Youth Programs Compliance Specialist Sandy Weaver; Faculty Athletics Representative Linda Caldwell; Corporate Controller Joseph Doncsez; Associate Athletic Director for Facilities and Operations Mark Bodenschatz; Associate Athletic Director for Finance Rick Kaluza; Clery Compliance Coordinator Gabriel Gates; Professor Emeritus John Nichols; Director of the Morgan Academic Support Center for Student-Athletes Russell Mushinsky; all of the academic counselors in the Morgan Center; and several head coaches of Division I varsity teams, including new head coaches Rob Cooper (Baseball), Wes Glon (Men's & Women's Fencing), Amanda Lehotak (Softball), and Tim Murphy (Men's & Women's Swimming & Diving).

We also attended both meetings of the Board of Trustees this quarter which were held on September 20, 2013 and November 22, 2013. I personally addressed a public session of the November meeting to discuss my impressions at the commencement of the second year of the Monitorship and my recent recommendation that the NCAA and the Big Ten Conference modify sanctions in light of Penn State's progress since it entered into the AIA. I also met with President Erickson, several administrators and several trustees during that visit.

Over the past two quarters, we met multiple times with those responsible for Penn State's athletic medicine program, including the sports medicine professionals who attend to the football team. Those we met with include: Dr. Harold Paz, Chief Executive Officer of the Penn State Milton S. Hershey Medical Center; Dr. Kevin Black, Chairman of the Department of

Orthopaedics and Rehabilitation at the Hershey Medical Center; Dr. Wayne Sebastianelli, Director of Athletic Medicine; Dr. Philip Bosha, a primary care sports medicine physician who works with many of Penn State's varsity athletic teams and formerly the football team; Dr. Peter Seidenberg, the primary care sports medicine physician for Penn State's football team; Dr. Scott Lynch, the orthopaedic surgeon who attends to Penn State's football team; Tim Bream, Director of Athletic Trainer Services; and David Joyner, M.D., Penn State's athletic director. Our meetings focused on understanding the structure of the sports medicine program, its changes over the course of the past year, and the processes and procedures surrounding those changes.

We continued to collaborate with Guidepost Solutions, LLC to monitor developments in the deployment of access controls and other enhancements to physical security at Penn State's athletics and recreational facilities. Our combined efforts this quarter included participation in meetings with Athletics Department administrators, design and construction professionals from the Office of Physical Plant, and others to discuss the status of projects Penn State has undertaken and to which it has committed. We toured the facilities to review changes that have been instituted this quarter.

We continued to collect and review pertinent documents from Penn State and publicly available sources, and we have issued supplemental document requests as needed based on the University's reported activities. To date, Penn State has produced more than 47,500 pages of documents in response to our requests and continues to cooperate fully.

III. OBSERVATIONS AS TO SPECIFIC AREAS

A. Penn State's Efforts to Implement the AIA

Penn State focused this quarter on maintaining its many ongoing obligations under the AIA. These continuing obligations include annual training for all "Covered Persons," maintenance of its disclosure log and reporting mechanisms, the quarterly meeting of Penn

State's Athletics Integrity Council, and certification by "Covered Persons" of their compliance with the Code of Conduct for Intercollegiate Athletics, among other requirements.¹

1. Activities of the Athletics Integrity Officer

a) General Activities

Athletics Integrity Officer Julie Del Giorno continued her work with coaches and athletics administrators this quarter. In addition to the many standing meetings and committee obligations for the athletics integrity officer, Ms. Del Giorno met with the newly appointed coaches for the baseball and swimming and diving teams, and she conducted informal lunch meetings with eight other coaches. She also met with Provost Jones and all Commonwealth Campus athletic directors at their October conference at University Park to gain their perspectives on athletics compliance. Ms. Del Giorno conducted her regular, quarterly meeting with President Rodney Erickson in accordance with the AIA's requirements and also reported to the Board on her progress and activities. Ms. Del Giorno interacted with student-athletes as a guest speaker in kinesiology courses and attended several sport competitions and team practices.

b) Athletics Integrity Council Quarterly Meeting

On September 11, 2013, Ms. Del Giorno chaired the quarterly meeting of the Athletics Integrity Council. Chad Hawley, Associate Commissioner of Compliance for the Big Ten Conference, attended the meeting. The Council reviewed and discussed all new content in the Quarterly Monitoring Report, which constitutes the disclosure log required under the AIA for tracking athletics-related compliance reports and investigations. Ms. Del Giorno updated the Council on the status of ongoing investigations and the resolution of pre-existing investigations.

¹ The AIA defines "Covered Persons" to include all student-athletes participating in NCAA-sanctioned intercollegiate athletics teams, coaches, team managers, University staff and employees who directly interact with those teams, the Board of Trustees, the president of the University, and members of the athletics director's executive committee.

Ms. Del Giorno also reviewed the newly established private website where Council members will be able to review relevant documents and meeting materials, including the regularly updated disclosure log.

The Council also reviewed the process for obtaining annual athletics compliance certifications from all Team Monitors and the athletic director. Associate Athletic Director for Compliance Matthew Stolberg provided an update on compliance training for student-athletes and new employees and explained his plan to conduct quarterly training sessions for “Covered Persons” to ensure completion of the AIA’s annual training requirement before the June 30, 2014 deadline.

c) Team Monitor Annual Certifications

One of the issues raised during the meeting was the Council’s desire to strengthen and clarify the language used in the Team Monitor Annual Certifications.² The Council agreed to incorporate language defining the disciplinary ramifications of a failure to meet those obligations. The amended certification adds an acknowledgment by the team monitor that failure to properly monitor their program, report issues, and fulfill their duties will be reported to the Council, the Board of Trustees, or an appropriate Board committee. It also includes an acknowledgement that such failures may result in disciplinary measures against the team monitor or the program. In October 2013, Ms. Del Giorno trained team monitors about this change to the certification’s language. The revised Team Monitor Annual Certification form will be used in the 2014 annual certification process.

² AIA § III.B.3 requires Penn State to appoint a team monitor for each of the University’s 31 NCAA-sanctioned, intercollegiate athletics teams. The team monitors must annually certify to the athletic director and the Athletics Integrity Council their teams’ compliance with NCAA and Big Ten Conference rules and principles. Penn State appointed its head coaches to serve as the team monitors.

d) Code of Conduct Certifications

The AIA requires all “Covered Persons” to review and certify their compliance with Penn State’s Code of Conduct for Intercollegiate Athletics within 30 days of commencing work.³ This quarter, Mr. Stolberg and Ms. Del Giorno discovered a minor breach of this obligation. Two new managers for a sports team failed to complete the certification within 30 days. While the managers signed the Code on October 18, 2013, they did so after the required deadline.

Penn State handled the situation appropriately. Mr. Stolberg informed Ms. Del Giorno and athletics administrators of the breach, and those notified conferred about the appropriate response. Ms. Del Giorno, in turn, notified the Monitor. There was a consensus that the breach was not egregious and did not warrant disciplinary action but that it revealed the need for an improved notification procedure to ensure that head coaches, sport supervisors, and the athletic director are apprised of any supervisor’s inaction related to “Covered Person” obligations in the future.

As a result of this incident, Ms. Del Giorno developed the “Athletics Code of Conduct Notification Procedures.” This document outlines steps for obtaining Code certifications from individuals who do not participate in the traditional Penn State human resources onboarding process, such as student-athletes, managers, and volunteer coaches. The procedure provides for three stages of notification to relevant supervisors, coaches, and athletics administrators over the course of the 30-day period in which a new “Covered Person” must certify compliance with the Code. Ms. Del Giorno has used this example to remind head coaches and athletics administrators of their responsibility to ensure that the employees they supervise meet all “Covered Persons” requirements.

³ AIA § III.C.1.

e) AD67 Training for Head Coaches

On September 25, 2013, Ms. Del Giorno provided an educational presentation to all head coaches and sport supervisors on the content and obligations of Policy AD67, “Disclosure of Wrongful Conduct and Protection from Retaliation.” In her presentation, the athletics integrity officer: explained the Pennsylvania Whistleblower Law and the obligations of Policy AD67; defined retaliation and prohibited behaviors; described what conduct is protected under the policy and law; explained who can raise a retaliation claim; and outlined the process that follows a report of wrongful conduct or a report of subsequent retaliation. The training session encouraged discussion of the challenges to fostering a non-retaliatory environment, provided a forum for airing concerns about potential misuse of the hotline by disgruntled employees, and offered participants the chance to engage with each other to build trust in the reporting and investigation process.

f) Coaches Forum

This quarter, Ms. Del Giorno introduced a monthly coaches forum open to all head coaches. The purpose of the forum is to create an opportunity to benchmark best practices that many of the coaches have instituted in their programs to meet the challenges of the changing landscape of intercollegiate athletics. The forum provides an informal opportunity for discussion where coaches can learn from one another. It also offers coaches the chance to raise concerns they may have about the implementation of policies or the general sports environment and to offer suggestions.

Ms. Del Giorno presided at the first two forums on October 30, 2013 and November 20, 2013. Fourteen head coaches attended the first session, which was focused on recruiting issues, and a similar number attended the second session on expectations for coaches’ behavior. During the first meeting, several coaches expressed concern about the safety of teams traveling by van

because of a perceived prohibition against volunteer coaches serving as relief drivers when coaches are tired. After a review of University policy and discussions with University Risk Officer Gary Langsdale, it was determined that volunteer coaches may serve as relief drivers and that such usage is preferable in situations where teams travel in 15-passenger vans. The volunteer coach must meet all requirements related to driving on University business in advance, including possessing a valid driver's license, successfully passing a motor vehicle record check through human resources, completing online training through Fleet Services, and being over the age of 25. Other topics planned for the year include communicating with and leading "Generation Y," handling stress, and the changing landscape of the NCAA and student-athlete rights.

g) Presentation at Big Ten Conference Compliance Meeting

On October 28-29, 2013, Ms. Del Giorno, Mr. Stolberg, Director of Athletic Compliance Andrew Banse, and Assistant Athletic Director for Compliance Bruce Ellis attended a meeting of compliance personnel from all members of the Big Ten Conference. Ms. Del Giorno took the opportunity to introduce herself to the Big Ten Conference's compliance teams and describe her role as the only athletics integrity officer within the conference. Ms. Del Giorno and Mr. Stolberg made a joint presentation about their collaborative working relationship, explained the content and obligations of the Consent Decree and the AIA, and described how Penn State has put into effect the requirements of both documents. They also discussed the significance of a commitment to a retaliation-free environment and the difficulties faced in creating such an environment. Several attendees expressed particular interest in the establishment of Penn State's new Office of Ethics and Compliance and the role of its new director of ethics and compliance.

h) Symposium with UNC and USADA

Together with Dr. Joyner and Professor of Exercise and Sport Science Scott Kretchmar, Ms. Del Giorno also is involved in planning of a two-year conference series among Penn State, The University of North Carolina at Chapel Hill, and the U.S. Anti-Doping Agency's TrueSport Initiative, under the general theme "Beyond Compliance," in which representatives of the three organizations will discuss the relationship between ethics and sport.⁴ The conference will bring together national leaders in sport to discuss issues relating to parents, fans, youth coaches, sportsmanship, high school athletic programs, college sports, athletic administrators, university presidents, and trustees. On May 2-3, 2014, the University of North Carolina at Chapel Hill will host the first conference on "The Impact of College Athletics on Education, Youth Sport, and American Culture." Penn State is scheduled to host the second conference in 2015 and is in the early stages of planning for that event.

i) Ethics and Compliance Hotline Reporting

Ms. Del Giorno handled seven complaints during the course of this reporting period. Six of the seven complaints derived from anonymous hotline calls, and one she personally observed. Two calls related to club sports, and Ms. Del Giorno assisted with their investigations. The other reports related to: an unaccompanied minor in a facility; a student-athlete conduct issue; a coach conduct issue; and a student-athlete medical issue. Four of the seven complaints have been resolved and the other three are still under investigation.

B. Penn State's Efforts to Complete the Recommendations in the Freeh Report

As we previously have reported, most of the recommendations in the Freeh Report have been implemented by Penn State. Several of those recommendations require ongoing attention.

⁴ TrueSport is the U.S. Anti-Doping Agency's educational outreach division.

In addition, other recommendations, including the adoption of a Human Resources Information System (“HRIS”), the institution of physical security measures, and a review of the University’s culture and ethics, remain outstanding because of the significant time, effort, and expense required to implement them. Penn State has continued to make progress toward fulfilling those obligations this quarter.

1. Director of Ethics and Compliance (Recommendations 2.1, 4.1)

Director of University Ethics and Compliance Regis W. Becker continued to organize and develop the Office of Ethics and Compliance. On November 18, 2013, he chaired the quarterly meeting of the Ethics and Compliance Council at which he summarized his current activities and plans for the coming year.

Mr. Becker’s team continues to formalize job descriptions for the various positions within the office. Mr. Becker hired Senior Export Control Compliance Specialist Wayne Mowery. In addition, all members of Mr. Becker’s organization, with the exception of Mr. Stolberg, soon will be located in the same work space to better facilitate the coordination of their activities. This will allow the Privacy Office, which now reports to Mr. Becker, to be housed in the same location as the compliance team. Mr. Becker coordinated a webinar for ethics and compliance staff, human resources staff, and athletics compliance staff entitled “How to Decrease Compliance Risk by Rewarding Employees’ Moral Courage.” Mr. Becker also is working on reconstructing the ethics website to reflect developments and activities within his office. During the strategic planning process, each unit that files its own plan must describe how it adheres to high ethical standards in the conduct of its programs and activities. In addition, the University’s 2014-19 Strategic Plan has been amended to include a section on ethics and integrity.

Mr. Becker completed his search for an ethics specialist by selecting Timothy R. Balliett for the role. Mr. Balliett was an affiliate assistant professor of education in Penn State's College of Education and also has served as an academic advisor, an education professor in the Department of Educational Psychology, Counseling & Special Education, and an instructor in the former Office of Pre-Service Teaching Experiences. Previously, he served in parish and education ministries for the Roman Catholic Diocese of Erie. Dr. Balliett earned a B.A. in Psychology and Social Sciences from Gannon University, an S.T.B. and M.Div. from St. Mary's Seminary in Baltimore, Maryland, and a Ph.D. and M.S. in Educational Psychology from Penn State. As the ethics specialist, he will help develop and communicate the University's ethical values, standards, and policies to all University constituents and will report to Mr. Becker. He also will work with a sub-committee on ethics that will include both administrators and academics who specialize in relevant subjects to improve coordination of ethics activities across all campuses.

Mr. Becker presented to the Board an abbreviated compliance plan in September 2013 and a more comprehensive draft compliance plan in November 2013 in which he outlined the University's commitment to ethical conduct and compliance and set forth guidelines to prevent, detect, and deter violations of law, uphold accreditation standards, and comply with University policies. The plan has seven areas of focus: standards of conduct; compliance program governance; reporting; delegation of authority; training and education; monitoring and auditing; promotion of the program; and discipline for compliance violations. The plan includes a description of all offices with compliance responsibilities, all methods of reporting, relevant training programs, all units responsible for overseeing and monitoring compliance, and a list of policies governing disciplinary procedures.

2. Oversight of Programs for Minors (Recommendation 7.3)

During her first two months at Penn State, Youth Programs Compliance Specialist Sandy Weaver has focused her attention on reviewing Penn State's current policies and procedures governing programs for youth and building contacts across University Park, the University's Commonwealth Campuses, and with external stakeholders to collect and disseminate information and share best practices. She has conducted over 75 introductory meetings to gather information about current youth programs and practices and suggestions for improvement.

Ms. Weaver conducted three sessions to gather feedback on summer sport camps at Penn State with representatives from the Office of Sports Camps, the Center for Workplace Learning and Performance, and the Office of Ethics and Compliance. Sub-groups have been established to support improvements to those programs. Ms. Weaver also is working with the University Park Student Affairs Office to ensure that student organizations conducting events involving minors adhere to University policies and procedures. She is collaborating with Penn State's Network on Child Protection and Well-Being and is a participant in the Child Care Task Force to review all child care arrangements and policies on campus. She also serves as co-chair of the Facility Access Workgroup that reviews implementation of Policy AD73 governing access to athletic and recreational facilities.

This quarter, Ms. Weaver formed a Youth Programs Council that convened for the first time on November 12, 2013. The purpose of the Council is to review current Penn State practices, develop and benchmark best practices, and identify priorities for oversight and improvement. This will include reviewing suggestions and developing a plan for improving oversight and procedural efficiency of youth program policies and procedures. The Council will be responsible for evaluating the success of improvements that have been made during the past year. The Council includes individuals involved in youth programs through Sport Camps,

Business Services, 4-H clubs, continuing education, conference services, and recreational and academic camps. It includes sub-groups focused on research activities related to minors, childcare centers, and student affairs activities. The Council's advisory board is composed of parents, a pediatric specialist, and representatives from the Office of the General Counsel, the University Police, and the Offices of Risk Management and Human Resources.

Ms. Weaver's additional activities include collaborating with peers at several universities through monthly meetings to review and share best practices relating to the oversight of minors on campus. As an indication that Penn State's compliance efforts are setting trends among higher education institutions, Vanderbilt University created a comparable administrative position this past summer entitled "Director for the Protection of Minors." This position was created as part of Vanderbilt's April 2013 implementation of a new Protection of Minors Policy, which the new director for the protection of minors acknowledged to have been prompted in part by the events at Penn State surrounding Jerry Sandusky's conviction.⁵

3. Tracking Training (Recommendation 2.2.10)

Freeh Report recommendation 2.2.10 requires Penn State to provide and track mandated employee training. Penn State has been using online modules developed by SkillSoft to fulfill its obligation to provide and track compliance training for "Reporting Child Abuse" and the Clery Act. Penn State's Ethics and Compliance Council is developing a comprehensive inventory of all mandated training programs and a tracking method that will be incorporated into the new HRIS once it is operational in January 2015.

⁵ See "Background checks on campus: new personnel for a new policy," available at http://www.insidevandy.com/news/administration/article_be56681c-1b0c-11e3-ae93-0019bb30f31a.html.

To date, 16,882 employees and students and 2,057 volunteers have completed the “Reporting Child Abuse” online training. Another 18,266 individuals completed in-person, classroom training in 2012 and 2013. Similarly, 2,801 employees, students, and volunteers have completed online Clery Act training in addition to approximately 3,000 individuals who completed in-person, classroom training on Clery Act compliance in 2012 and 2013.

Penn State is in the process of finalizing a new version of its Clery Act training. This video training will replace the current online Clery Act training by January 1, 2014. The video includes comments from national leaders on Clery Act compliance and a message from the Clery family. Every individual designated a campus security authority will be required to complete this video training annually, and the compliance system automatically will track which individuals have fulfilled this obligation and trigger reminder messages to those whose obligation remains outstanding. We will review the new video training method once it has been put into place.

4. Clery Act Compliance

On September 25, 2013, Clery Act Compliance Coordinator Gabriel Gates published the 2013 Annual Security and Fire Safety Reports for all Penn State campuses. The reports were made available to all current students and employees via email and also are available publicly online.⁶ Penn State timely filed its Clery Act reports with the United States Department of Education, and that agency has accepted the reports as complete. Our review of the reports corroborates that they meet statutory standards.

⁶ See <http://www.police.psu.edu/clery/security-reports/index.cfm>.

During this quarter, Penn State hired Clery Compliance Specialist Sherry Nolan to support Mr. Gates in his efforts to build and maintain a comprehensive Clery Act compliance program.

5. Penn State Culture (Recommendation 1.1)

Starting on October 29, 2013, Penn State issued the values and culture survey jointly developed by the subcommittee on ethics and core values and the Ethics Resource Center to gain a better understanding of various views about Penn State's culture and shared values. The survey was tailored to four constituencies: undergraduate students; graduate students; faculty; and staff. Its issuance was preceded by heavy media coverage on the student, faculty, and staff newswires, a full page advertisement in the Daily Collegian newspaper, a promotional video, and several mass e-mail communications targeted at specific constituencies. These e-mails included an October 28, 2013 message from President Erickson to the Penn State community explaining the survey's purpose. More than 110,000 individuals received the survey, which closed on November 22, 2013. Penn State received a response rate of 13 percent, and the Ethics Resource Center is now analyzing the survey responses. The Ethics Resource Center plans to report its analysis to Penn State once it has been completed.

6. Human Resources Information System (Recommendation 2.2.7)

The Freeh Report recommended that Penn State adopt a new HRIS with sufficient growth capacity to use at University Park and all of the Commonwealth Campuses. As previously reported, Penn State has combined this project with a larger initiative called the Human Resources Transformation Project, which involves broader changes to the human resources function.

This past quarter, Penn State issued an RFP to potential vendors of the HRIS. It is reviewing responses with the goal to present the selected vendor for the Board's approval in January 2014. This would allow the system to be in place by January 2015.

As part of the Human Resources Transformation Project, Penn State identified 15 human resources-related processes for review and potential amendment. Working groups have been established to evaluate these processes and work on improvements. The groups began work on November 1, 2013. Human Resources, with the assistance of the Office of the General Counsel, also is in the process of identifying relevant policies across the University system for harmonization and potential amendment.

7. Recommendations Concerning Facilities Security

With Guidepost's support, we have continued to monitor Penn State's progress in implementing access controls at its recreational and athletic facilities. The University made incremental progress this past quarter toward the completion of Phase I security projects—the installation of electronic card swipe access technology and security cameras—at the highest priority facilities. Further work remains to complete these projects at all selected athletic and recreational facilities, to train the staff who oversee these buildings, and to integrate the various technology needed to ensure that the security measures work properly. Penn State continues its planning and design work to support Phase II renovation and construction projects, which will reduce the number of entry points and further secure access to selected buildings.

8. Educational and Training Events Promoting Child Protection

Penn State sponsored a number of events during this reporting period in support of the protection of minors and advancements in the field of preventing child maltreatment. Many of these events were sponsored by Penn State's Network on Child Protection and Well-Being,

which was launched in 2012 to oversee the University's academic activities to combat child maltreatment. The Network's goal is to increase awareness of child abuse and of methods for its prevention and detection and for treatment of its victims.

The Network is a part of Penn State's Children, Youth, and Family Consortium ("CYFC"), which brings together more than 400 faculty members to promote interdisciplinary research projects, outreach, and teaching on relevant topics.⁷ Dr. Susan McHale, Professor of Human Development, directs the program, which is a unit of the Social Science Research Institute. The CYFC co-funds tenure-track positions on child maltreatment. It has issued requests for proposals to conduct interdisciplinary research on child abuse, and it supports related conferences and workshops.⁸ The CYFC also called for proposals for a targeted Faculty Fellows Program on Child Maltreatment, which will support study and training by social science faculty members to extend their research to include issues relating to child maltreatment.⁹ The program will provide grants to support two tenure-track faculty members' training activities.¹⁰

On September 25, 2013, Penn State hosted its Second Annual Child Maltreatment Conference, which a member of our team attended. The conference focused on promoting the expansion of multi-disciplinary investigative teams and child advocacy centers to protect the children of Pennsylvania. Approximately 260 child advocates from around the state participated in the day-long conference, which included several panel discussions concerning county-level partnerships and the development of standards for child abuse intervention and investigation. Speakers included district attorneys, law enforcement officers, child advocacy center

⁷ <http://www.ssri.psu.edu/cyfc>.

⁸ <http://www.ssri.psu.edu/cyfc/funding>.

⁹ <http://www.ssri.psu.edu/cyfc/funding/cyfc-faculty-fellows-program-on-child-maltreatment>.

¹⁰ <http://www.ssri.psu.edu/cyfc/about>.

representatives, county children and youth administrators, and Penn State faculty members. Penn State already is planning the third annual conference, which is scheduled to be held on May 5-6, 2014 and will focus on parenting, family processes, and intervention.¹¹

Two Penn State faculty members—Chief of the Division of Child Abuse Pediatrics at the Penn State Hershey Children’s Hospital Dr. Lori D. Frasier and Professor of Human Development and Family Studies Jennie G. Noll—spoke at this year’s conference. Drs. Frasier and Noll joined Penn State this fall, along with Assistant Professor of Human Development and Family Studies Chad Shenk, as the first hires of the planned cluster hire of 12 new faculty members to join the Network over the next three years. A fourth faculty member, Assistant Professor of Biobehavioral Health Idan Shalev, is scheduled to join the Network this spring.¹² Dr. Shenk represented Penn State at the National Youth Protection Symposium hosted by the Boy Scouts of America on October 14, 2013.¹³

Other Network-related events this quarter included the October 10, 2013 annual de Lissovoy Lecture entitled “Keeping Children Safe: Continuing the Dialogue,” a Penn State-sponsored joint lecture on the prevention of child maltreatment and the elimination of the stigma that hinders its prevention.¹⁴ John Soubik, a former county child welfare investigator, made a

¹¹ See “Third annual conference on Child Protection and Well-Being set for May 2014,” available at <http://news.psu.edu/story/282422/2013/07/22/research/third-annual-conference-child-protection-and-well-being-set-may>.

¹² *Id.*

¹³ See “Network Psychologist Joins Panel at National Youth Protection Symposium,” available at <http://protectchildren.psu.edu/content/network-psychologist-joins-panel-national-youth-protection-symposium>.

¹⁴ See “Advocates, Experts Continue Dialogue on Keeping Children Safe,” available at <http://protectchildren.psu.edu/content/advocates-experts-continue-dialogue-keeping-children-safe>; see also, “Students, Faculty and Community Members join dialogue on prevention of child maltreatment,” available at http://www.collegian.psu.edu/news/campus/article_2234a77e-322b-11e3-aab6-0019bb30f31a.html.

presentation about his experiences working in child protection services and his hope that the conference would raise awareness and lead others to take action. Sheldon Kennedy, a former National Hockey League player, abuse survivor, and child abuse prevention advocate, also addressed the conference.¹⁵

Penn State students also demonstrated initiative in acting to prevent child abuse. On September 25, 2013, Penn State held its second Walk for Prevention, a student-run annual fundraiser that raised a record \$8,000 for Darkness to Light, a national nonprofit organization that concentrates on child abuse prevention.¹⁶ Walk for Prevention has been an official University club since spring 2013. On September 21, 2013, Penn State also held its third annual “Blue Out” event during a football game against Kent State University, filling Beaver Stadium with blue shirts to raise awareness of child abuse.¹⁷ The event was organized by the One Heart Campaign, a student group supporting education on child sexual abuse prevention that has raised approximately \$120,000 to date in support of the Pennsylvania Coalition Against Rape’s Vision of Hope fund. The student organization One Heart: Penn State Students Against Child Sexual Abuse also held a Stewards of Children abuse prevention training event on November 14, 2013.¹⁸

Among the many other educational events, webinars, and workshops offered this quarter, the Penn State Justice Center for Research held a “Campus Sexual Assault Education

¹⁵ See “Students, Faculty and Community Members join dialogue on prevention of child maltreatment,” available at http://www.collegian.psu.edu/news/campus/article_2234a77e-322b-11e3-aab6-0019bb30f31a.html.

¹⁶ See “Second Student-Run Walk for Prevention Sets New Record,” available at <http://protectchildren.psu.edu/content/second-student-run-walk-prevention-sets-new-record>.

¹⁷ See “Third annual ‘Blue Out’ set for Kent State game,” available at <http://news.psu.edu/story/288155/2013/09/18/academics/third-annual-blue-out-set-kent-state-game>.

¹⁸ <https://www.eventbrite.com/event/8914861591>.

Conference” on October 15, 2013 at University Park. The conference was aimed at educating students about campus sexual assault through a day of workshops covering topics such as rape prevention methods, the role of men in preventing domestic and sexual violence, how to report a sexual assault, and bystander intervention training.

9. Monetary Support for Youth Causes

As we last reported, the Big Ten Conference members donated a total of \$2.3 million to child protection and advocacy programs of their choosing this past summer. Recipient organizations included local United Way chapters, Boys and Girls Clubs, family services organizations, centers for youth advocacy, children’s hospitals, YWCAs, mentoring and reading programs, court appointed special advocate programs, rape advocacy programs, and child advocacy centers. Penn State gave its portion of the donated funds to the Centre County United Way, which allocated the money equally between Mount Nittany Health’s Children’s Advocacy Center and the Stewards of Children program, an organization which trains adults on how to recognize, prevent, and report child sexual abuse.¹⁹

Penn State awarded a three-year, \$1.5 million grant to the Pennsylvania Coalition Against Rape (“PCAR”). This summer, PCAR issued its first report about its collaboration with Penn State under this grant. As part of this relationship, PCAR assisted Penn State in developing its mandated reporter training program. Penn State and PCAR also worked together to strengthen partnerships between Penn State Extension and Continuing Education offices and the 50 rape crisis centers in Pennsylvania. PCAR initiated a Parent Involvement Project in seven counties. PCAR devoted \$50,000 of the Penn State grant to communities to support “Special

¹⁹ Annual Report at 41-42; *see also* “Big Ten schools aid children’s agencies with bowl revenues,” available at <http://news.psu.edu/story/293328/2013/10/30/impact/big-ten-schools-aid-childrens-agencies-bowl-revenues>.

Initiative” prevention activities in Erie, Beaver, Clearfield, Clarion, and Jefferson Counties in connection with campus-based prevention efforts. It plans to make a similar commitment this coming year. Penn State funding also has allowed PCAR to expand its staff as needed, which has made it possible for PCAR to revive its quarterly newsletter and website blog.

PCAR also has been working with Penn State’s Athletics Department. With the assistance of Dr. Joyner, football coach Bill O’Brien, and others, PCAR is developing ideas for education regarding sexual violence awareness and developing mentors and leaders in the effort to prevent child sexual abuse.

10. Cooperation with Law Enforcement Investigation

Penn State earned praise from the Montgomery County, Pennsylvania district attorney’s office for its cooperation in an investigation concerning a recently retired professor from the Penn State Abington campus who was charged with possession of child pornography, unlawful contact with a minor, and other charges. Prosecutors have said that they “could not have asked for more” from Penn State in terms of its cooperation with their investigation.²⁰

C. Phase II—The Plan for Continuous Improvement

Having substantially completed the initial implementation of the recommendations made in the Freeh Report, Penn State is entering a second phase in which it will introduce and implement its plan for continuous improvement.²¹ The group of administrators who led the University’s response to the Consent Decree have mapped the many ongoing projects related to the Freeh Report’s recommendations along with other initiatives that are no less important to the

²⁰ See “Former Penn State Abington Professor Arrested on Child Porn Charges,” available at <http://philadelphia.cbslocal.com/2013/10/11/former-penn-state-abington-professor-arrested-on-child-porn-charges/>.

²¹ http://progress.psu.edu/assets/content/Phase_II_update_Nov_2013.pdf.

University's future. The administration response team will retain oversight responsibility and provide continuity in leadership for the Phase II initiatives.

IV. OTHER EVENTS DURING THE REPORTING PERIOD

A. Lawsuits and Legislative Activity

We continue to monitor the various legislation proposed and legal proceedings initiated in the aftermath of Jerry Sandusky's conviction that relate to the sanctions in the Consent Decree or the work of the University to fulfill its obligations under the AIA.

As previously reported, the NCAA, its president, and the former chairman of its executive committee filed a motion to dismiss a lawsuit filed against them by the Paterno family and others currently or formerly associated with Penn State. This past quarter, the parties to that civil action completed briefing their positions on that motion, and the presiding judge heard oral argument. The court's decision remains pending.

In a separate lawsuit, the NCAA seeks to strike down the Pennsylvania Institution of Higher Education Monetary Penalty Endowment Act, which would place restrictions on the use of the \$60 million fine imposed under the Consent Decree.²² The Court has taken the Governor's motion to dismiss that lawsuit under consideration, and that decision also remains pending.²³

The NCAA unsuccessfully sought to appeal an order dismissing its preliminary objections to a state court lawsuit challenging its intended use of the monetary penalty assessed against Penn State. State Senator Corman, who initiated that litigation and sponsored the legislation it implicates, then moved for judgment on the pleadings. He later withdrew that

²² 24 P.S. §§ 7501-05 (2013).

²³ See Docket, *Nat'l Collegiate Athletic Ass'n v. Corbett*, 1:13-cv-00457-YK (M.D. Pa. Feb 20, 2013).

motion after the Court directed the NCAA to submit papers explaining its position that the Endowment Act is unconstitutional and set a schedule to brief that issue.²⁴

On September 19, 2013, Pennsylvania Attorney General Kane gave notice that her Office will jointly prosecute the criminal actions against Graham Spanier, Timothy Curley, and Gary Schultz, who are Penn State's former president, athletic director, and senior vice president for finance and business, respectively. Discovery is underway, and a pre-trial hearing is scheduled for December 17-20, 2013. No trial date has been set.²⁵

There has been no further action on any of the bills introduced in the Pennsylvania General Assembly to enact governance reforms affecting Penn State's Board of Trustees. Representative Conklin hosted a town hall meeting in Western Pennsylvania in October to encourage support for the reform legislation he proposed and to discuss the University's governance structure. One member of the Board of Trustees participated in the discussion. On November 20, 2013, State Senator John Yudichak announced legislation he intends to introduce that would affect the size and composition of the Board of Trustees.

Legislation that would affect the University's status under the Commonwealth's "Right-to-Know Law" remains under consideration in the Pennsylvania House of Representatives.

No further action has been taken on the National Collegiate Athletics Accountability Act, which Pennsylvania Congressman Dent co-sponsored and introduced in the U.S. House of Representatives last August.

²⁴ See Docket, *Corman v. Nat'l Collegiate Athletic Ass'n*, No. 1 MD 2013 (Pa. Commw. Ct. Jan. 4, 2013).

²⁵ See Docket, *Commonwealth of Pennsylvania v. Spanier*, CP-22-CR-0003615-2013 (Ct. Com. Pl. Dauphin Co. Aug. 1, 2013); *Commonwealth of Pennsylvania v. Curley*, CP-22-CR-0003614-2013 (Ct. Com. Pl. Dauphin Co. Aug. 1, 2013); *Commonwealth of Pennsylvania v. Schultz*, CP-22-CR-0003616-2013 (Ct. Com. Pl. Dauphin Co. Aug. 1, 2013).

This past quarter, the University announced that it reached agreement with 26 victims of Jerry Sandusky to settle and gain release from their claims against Penn State. The aggregate dollar amount of these settlements was nearly \$60 million. The resolution of these claims combined with Penn State's prompt and sustained action to strengthen management and governance practices has been viewed positively by a debt rating agency.²⁶

B. Athletics

1. Modification of the Sanctions

The findings in our annual report in September 2013 prompted discussions with the NCAA and the Big Ten Conference about Penn State's substantial progress in fulfilling its obligations under the Consent Decree and AIA and its commitment to reform. As has been reported publicly, in the course of those discussions I recommended that the sanctions be modified.

My recommendation was not based upon any belief that the sanctions imposed were inappropriate or unduly harsh. Instead, I concluded that Penn State has made a serious, good-faith effort to embrace and adopt the changes needed to enhance its future and that it was appropriate to reward those efforts. I suggested that the NCAA and the Big Ten Conference consider a multi-phased approach that would provide immediate relief from the reduction in scholarships, to the extent the NCAA deemed appropriate, and the potential for future mitigation of the ban on post-season play. After considering that recommendation, the NCAA announced that it would accelerate the time frame for restoring the football scholarships that Penn State lost as part of the original sanctions. The NCAA also announced that it may consider modification of the post-season ban if warranted by Penn State's future progress.

²⁶ See Moody's Investors Service Rating Action: "Moody's revises Pennsylvania State University's outlook to positive; Aa2 rating affirmed," Global Credit Research (Nov. 6, 2013).

2. Finances

The University has maintained its funding of all 31 varsity athletic programs. Buoyed by reserves, the Athletics Department has continued to generate positive net income. As we have reported, however, the surplus has diminished in each of the last three years. Operating deficits are projected in the future due to the Athletics Department's reduced football revenues and its ongoing debt service for existing capital projects, its payment of safety and maintenance costs on capital projects, and the NCAA monetary penalty. As a result, and to fund new capital projects that will be undertaken for strategic reasons, at its September 2013 meeting the Board of Trustees approved a plan to borrow \$30 million to support the Athletics Department.

3. The Morgan Academic Support Center for Student-Athletes

This quarter saw the annual release of academic performance data by the NCAA. Penn State's athletic programs achieved an aggregate 88 percent graduation success rate, which is eight percentage points higher than the average of its Division I peers. Eight of the University's intercollegiate athletic programs earned perfect graduation success rates, and all of them exceeded the Division I average for their sports. The football team placed second in the Big Ten Conference and tied for twelfth among football bowl subdivision schools with an 85 percent graduation success rate, which is 15 points higher than the NCAA average for that sport.²⁷

This quarter we investigated concerns that the Morgan Center's academic counseling unit is short-staffed and having difficulty maintaining the high level of service that student-athletes

²⁷ Division- and conference-level, as well as school- and sport-specific, academic performance data is available at: <http://fs.ncaa.org/docs/newmedia/public/rates/index.html>. See also "Penn State football graduation success rate in top 10 percent among FBS schools," available at <http://news.psu.edu/story/293418/2013/10/30/athletics/penn-state-football-graduation-success-rate-top-10-percent-among>.

are accustomed to receiving. Our review of this matter confirmed that employee turnover created openings that the University has not been able to fill quickly. The unfilled positions and resulting need for the remaining staff to shoulder increased workloads have diminished morale. A new academic counselor has been hired to join the Morgan Center this winter. The Morgan Center and the University's leadership are working to fill the remaining open positions and to address morale concerns.

The separation of facilities also impedes the efforts of the Morgan Center, which delivers academic services and oversees study hall for student-athletes in four locations across the University Park campus. In response to Freeh Report recommendation 5.4, the University evaluated whether and how it may be feasible to further integrate the Morgan Center's operations. This past quarter, Penn State's athletics integrity officer convened a meeting to gain familiarity with the University's ongoing response to this recommendation. Participants included Penn State's athletic director, associate athletic director for facilities and operations, vice provost for undergraduate education, director of the Morgan Center, Morgan Center associate director for learning services and facilities, and faculty athletics representative. During that meeting, the group discussed information collected about the space allocated to academic counseling for student-athletes by Penn State's Big Ten Conference peers and options the University may consider for reducing the number of locations out of which the Morgan Center operates. A cross-disciplinary group will study the feasibility of reducing the number of facilities out of which the Morgan Center operates and will develop recommendations. We will continue to monitor these and other matters bearing on the continued academic success of the student-athletes served by the Morgan Center.

4. The Athletics Department's Sports Medicine Model

After the 2012 football season, Penn State appointed new sports medicine professionals to attend to the University's football student-athletes. This change was among others made at the request of head football coach Bill O'Brien. Last spring, media attention focused on the sports medicine personnel changes. We began to examine the matter last summer. As stated in our annual report, we deferred comment then so that we could observe how the new team of sports medicine professionals operated during the season. Consistent with our specific mandate, we limited our investigation to whether the process by which these changes were made conformed to the principles of institutional control, responsibility, ethical conduct, and integrity reflected in the NCAA Constitution and Bylaws, the Big Ten Handbook, and the Athletics Department's own policies and procedures, including its Code of Conduct for Intercollegiate Athletics.

As part of our inquiry, we reviewed documents received from multiple sources. We also spoke with: President Erickson; Coach O'Brien; Dr. Joyner; Dr. Paz; Dr. Black; the pair of physicians now assigned to work with the Penn State football team (Dr. Seidenberg, a primary care sports medicine physician, and Dr. Lynch, an orthopaedic surgeon); the pair of physicians that Drs. Seidenberg and Lynch replaced (Dr. Sebastianelli, an orthopaedic surgeon, and Dr. Boshka, a primary care sports medicine physician); Mr. Bream; Ms. Del Giorno; and lawyers with Duane Morris LLP, the firm retained by the University to conduct an independent investigation into specific accusations about medical care allegedly provided to student-athletes and coaches. We also consulted with Dr. James Andrews, an orthopaedic surgeon experienced in treating Division I football teams who is not affiliated with the University.

Penn State's new football healthcare model adopts a primary care physician-led paradigm. Benchmarking data that the University compiled confirmed that a coverage model led by a primary care sports medicine physician supported by a consulting orthopaedic surgeon,

while a change from the past, is consistent with the approach taken by Penn State's Big Ten Conference peers and other institutions with football teams of national prominence.

We spoke to Dr. Andrews, whose physician group provides care for the football teams of the University of Alabama and Auburn University. He knows Dr. Joyner well from their common work with Olympic teams, and he knows both Drs. Sebastianelli and Lynch by reputation and thinks highly of them both. Dr. Andrews was informed of the new Penn State football healthcare model, and he advised that it was consistent with the models used at both Alabama and Auburn. Both teams receive orthopaedic coverage one day a week and at games. Student-athletes also are transported to Dr. Andrews' offices in Birmingham, Alabama or Florida for medical attention as needed. He noted that the model followed by Alabama and Auburn, and recently adopted by Penn State, was consistent with the trend in Division I college football towards a primary care-led model.

All agree that Drs. Seidenberg and Lynch are excellent, dedicated physicians who replaced a pair of excellent, dedicated physicians. Everyone associated with Penn State with whom we spoke professed a singular commitment to serve the best interests of the student-athletes. We have no reason to doubt the sincerity of that commitment. We found no evidence that replacing the physicians who attend to Penn State's football student-athletes constituted a breach of the NCAA Constitution and Bylaws, the Big Ten Handbook, or the Athletics Department's own policies and procedures, including its Code of Conduct for Intercollegiate Athletics. Most importantly, the quality of healthcare afforded the football student-athletes is consistent with the standard of care provided by comparable intercollegiate football programs.

Our examination of this issue, however, has revealed potential room for improvement with respect to the efficiency of sports medicine services provided to all of the University's

varsity athletic programs. Athletic trainers currently do not have access to the electronic medical records of the student-athletes they treat. We understand that the University's legal department has been working to provide the training staff with access to this information, subject to establishing protocols to ensure adherence to applicable privacy laws, as other universities have done. We will continue to monitor this issue.

5. The Pegula Ice Arena

In September, construction was completed on the Pegula Ice Arena, the new home to Penn State's men's and women's varsity hockey teams. In addition to serving those intercollegiate athletic programs, the facility contains ice dedicated to community use.

C. Penn State Governance

1. Board of Trustees

Penn State held two Board meetings during this reporting period, on September 20 and November 22, 2013. At the September 20, 2013 meeting, the Committee on Governance and Long-Range Planning proposed several amendments to the bylaws in accordance with the Board's desire to establish a new standing committee on compensation. The amendments included the creation of the committee on compensation, the assignment of the subcommittee on human resources to that new committee, the addition of the chair of the new committee to the executive committee, clarification of the personnel matters requiring Board approval, and revisions to the provision on indemnification intended to clarify the method of authorization for indemnification. The Board approved those amendments on November 22, 2013.

The Committee on Governance and Long-Range Planning also continued its search for a governance consultant to help facilitate discussions about possible future changes to Board composition, size, structure, and operation recommended over the past year by various internal

and external bodies. At its November 2013 meeting, the Board voted to retain Holly J. Gregory, a partner at the law firm of Weil, Gotshal & Manges LLP, to fill this role.

2. Presidential Search

Penn State continues its search to replace current President Rodney Erickson who is scheduled to step down on June 30, 2014. Trustee Karen Peetz chairs the 13-member Trustee Presidential Selection Council, which is spearheading the search with support from the 18-member Presidential Search and Screen Committee chaired by Ann Crouter, Dean of the College of Health and Human Development.²⁸ Penn State also employed the national search firm of Isaacson, Miller to support the process.

While the Board originally anticipated announcing its selection of the next president in November 2013, it instead extended its timetable to provide more time for consideration of possible candidates after holding an executive session on November 1, 2013. Penn State continues to publicly express its intention for the next president to take office in June 2014 as originally planned.

3. Debate Between Students and Alumni

On September 20, 2013, individuals critical of the Freeh Report and actions of the Board of Trustees in the wake of the prosecution and conviction of Jerry Sandusky held a “March for Truth” outside of the Penn Stater Conference Center during the public session of the Board meeting. Those assembled included outspoken alumni who continue to call for the resignation of trustees who voted to remove the late head football coach Joe Paterno.

The March for Truth sparked an ongoing debate between current students and these vocal alumni. Elected University Park Undergraduate Association leaders confronted the protestors,

²⁸ At its November 2013 meeting, Trustee William F. Oldsey joined the Trustee Presidential Selection Council.

explaining that many students prefer to focus on restoring the University's name, promoting its academic achievements, and focusing on a variety of other important issues in an attempt to move forward. The student body leaders expressed their concern that the gathered alumni's behavior runs counter to the best interests of their alma mater. In the aftermath of the March for Truth, students and alumni leaders continued to engage in this debate via e-mail, social media, and print media. The Daily Collegian, a student-run newspaper, has since published editorials concurring with the view of the student leaders and noting the need for respectful, constructive dialogue between current students and alumni. Alumni representatives have reached out to student leaders to suggest holding a town hall or other public forum to discuss their differences.

V. AREAS OF FUTURE FOCUS

This quarter, we observed continued efforts relating to the long term recommendations in the Freeh Report, attention and adherence to the obligations of the AIA, and the rollout of a second phase of initiatives designed to improve the University. Penn State's administration continues to cooperate fully with our Monitorship efforts.

In the coming quarter, we will continue to monitor progress of the enactment of the long term recommendations including procurement and installation of the new HRIS, analysis of the culture survey, and athletics facility security improvements. We also will observe efforts to protect minors on campus, updates to mandatory training, further development of the compliance function at the University, and activities demonstrating compliance with the AIA's annual obligations. In addition, we will track Penn State's progress as it develops its Phase II implementation plan and report on changes instituted through that process.