

**TENTH 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 tenth quarterly report of the independent athletics integrity monitor (“Monitor”) pursuant to article IV of the Athletics Integrity Agreement (“AIA”) among the National Collegiate Athletic Association (“NCAA”), The Pennsylvania State University (“Penn State” or the “University”), and the Big Ten Conference.

On January 16, 2015, the NCAA and Penn State resolved a lawsuit brought by a Pennsylvania state senator and the Commonwealth’s former treasurer that resulted in the dissolution of the Consent Decree between the NCAA and the University, cancellation of the remaining punitive sanctions that the NCAA imposed on the University, and restoration of vacated victories achieved by the Penn State football team between 1998 and 2011. Penn State, the NCAA, and the Big Ten Conference will enter into a new athletics integrity agreement that memorializes the University’s commitment to continue to work with the Monitor in the areas of compliance, ethics, and integrity. As I stated when the settlement was announced, “I am pleased to learn that financial resources to help child sexual abuse survivors will soon become available. I remain impressed with Penn State’s progress to date and look forward to its many reforms and improvements continuing to take root.” On February 11, 2015, the Big Ten Conference decided to restore the University’s share of conference bowl revenue starting with the 2015-16 football season.

During the reporting period, Penn State maintained its focus on compliance with the AIA and made progress on projects undertaken in response to recommendations proposed in the report by Freeh Sporkin & Sullivan LLP dated July 12, 2012 (the “Freeh Report”) and other initiatives undertaken as part of the University’s plan for continuous improvement. The Task Force on Sexual Assault and Sexual Harassment issued its report to President Barron addressing the history, current status of, and recommendations to enhance Penn State’s response to incidents

of sexual assault and harassment. The Task Force's proposals address oversight and responsibility for Penn State's Title IX program, adjustments to the student conduct process, educational programs, and victim resources, among other topics.

Within the Office of Ethics and Compliance, Youth Programs Compliance Specialist Sandy Weaver oversaw the revision of several policies, employee screening procedures, and training programs bearing on child abuse, the protection of minors on campus, and youth programs to ensure compliance with new state child abuse laws. Ethics Specialist Timothy R. Balliett led efforts to advance the promotion of Penn State's proposed new values statement and began meeting with units across the University to review customized reports of information taken from the values and culture survey. Athletics Integrity Officer Julie Del Giorno fulfilled her quarterly obligations under the AIA and represented the University at the NCAA annual convention.

The Athletics Department filed its annual financial report with the NCAA this quarter. According to the report, Penn State Athletics broke even for the 2013-14 academic year, with revenues and expenses both slightly exceeding \$117 million. Athletics Department administrators and staff continued work to enhance security at several athletics and recreational facilities and in support of the relocation of the Morgan Academic Support Center for Student-Athletes. The full Board of Trustees met once this quarter, during which meeting the trustees received information about Penn State's mandatory training programs, the University's Clery Act compliance program, and their annual "Covered Persons" training on athletics compliance. The Board also voted unanimously to approve the litigation settlement referred to above. Throughout this most recent reporting period, we have continued to monitor external events

bearing on the University's fulfillment of its obligations under the AIA and with respect to the now-repealed Consent Decree that give context to our work.

II. THE MONITOR'S ACTIVITIES THIS QUARTER

This reporting period, the Monitor's team conducted several visits to the University Park campus to meet with Penn State administrators, faculty, and staff. We continued to participate in regular meetings of the administration response team and the Advisory Council for Continued Excellence and to monitor the teams of Athletics Department and Office of Physical Plant administrators and staff and other University personnel overseeing security upgrades at selected athletics and recreational facilities and the relocation of the Morgan Academic Support Center for Student-Athletes. We also continued to observe the quarterly meetings of the Athletics Integrity Council and meetings of the Ethics and Compliance Council, the Compliance Training Committee, the Ethics Committee, and the Youth Programs Council. We participated in a statewide youth programs meeting on January 22, 2015 and observed a head coaches forum held on January 21, 2015. We also attended the Board of Trustees meetings held on January 15-16, 2015.

Persons we met with since our last report include, among others: President Eric Barron; Vice President and General Counsel Stephen S. Dunham; Associate General Counsel Frank Guadagnino; Senior Vice President for Finance and Business David Gray; Vice President for Administration Thomas Poole; Athletic Director Sandy Barbour; Vice President for Student Affairs Damon Sims; Director of University Ethics and Compliance Regis Becker; Athletics Integrity Officer Julie Del Giorno; Youth Programs Compliance Specialist Sandy Weaver; Ethics Specialist Tim Balliett; Communications and Training Specialist Denise Shivery; Director of the Center for Workforce Learning and Performance Susan Cromwell; Associate Athletic Director for Facilities and Operations Mark Bodenschatz; Associate Athletic Director for Finance Rick

Kaluza; Associate Athletic Director for Compliance Matthew Stolberg; and Sport Camps Director William Mincer. We also continued to work with Guidepost Solutions, LLC to monitor the introduction of access controls and other enhancements to improve physical security at Penn State's athletics and recreational facilities.

III. OBSERVATIONS AS TO SPECIFIC AREAS

This quarter the Task Force on Sexual Assault and Sexual Harassment completed its mission and released a comprehensive final report to President Barron and the Penn State community. In addition, Penn State, led by the Office of Ethics and Compliance, published updated versions of its policies and training programs on reporting child abuse and youth programs on campus to ensure compliance with Pennsylvania's new child abuse laws.

A. Sexual Assault and Sexual Harassment Task Force

Soon after taking office, President Barron appointed a 17-member Task Force on Sexual Assault and Sexual Harassment and charged its members with studying and reporting on Penn State's policies and practices on the subject and any recommended improvements to them. On January 29, 2015, the task force published its 267-page report.

After a review of the nature of the problem and existing policies and University resources devoted to the issue, the report offers 18 recommendations. These recommendations address the structure of Penn State's Title IX oversight, the student conduct process, reporting obligations, education and awareness activities, victim resources, and external partnerships. On February 17, 2015, President Barron accepted all 18 recommendations and outlined an implementation plan.¹

¹ See "President accepts all 18 recommendations presented by sexual assault task force," February 17, 2015, available at <http://news.psu.edu/story/345185/2015/02/17/health-and-safety/president-accepts-all-18-recommendations-presented-sexual>.

Chief among the recommended actions will be the establishment of a Title IX office and Title IX coordinator within the Office of Student Affairs. This office will oversee Penn State's response to allegations of sexual assault and sexual harassment at all campuses. The Title IX coordinator also will establish a Title IX review panel and written guidelines to help the University determine the appropriate balance between disclosure of reports of sexual misconduct and protection of victim confidentiality. The coordinator will collaborate with the review panel to evaluate the current disciplinary regime for substantiated instances of sexual misconduct and consider guidelines for the use of a restorative justice program where feasible. In the future, Athletics Integrity Officer Julie Del Giorno will be responsible for reporting and coordinating Title IX gender equity issues related to intercollegiate athletics.

The Title IX coordinator also will be responsible for undertaking a comprehensive review of all relevant policies and procedures to ensure they are effective, fully comply with the law, and are consistent with the recommendations of the task force. The Title IX coordinator will design an initiative to encourage bystander intervention by members of the community when witnessing any inappropriate or dangerous situation, especially sexual misconduct.² He or she also will be responsible for supporting and addressing any weaknesses in the University's victim support services, creating an expert advisory committee to support the Title IX office, promoting a more vigorous partnership with local sexual assault service providers in State College, and establishing a day dedicated as a call to action to prevent sexual assault.

The task force further recommended that the University replace its student conduct hearing process with an investigative model, including hiring a professional investigator and establishing procedures so that victims and accused will not be required to testify in each other's

² See The Pennsylvania State University Task Force on Sexual Assault and Sexual Harassment Report, January 23, 2015, at 34.

presence or repeat their story before a hearing panel. These changes are consistent with emerging best practices at institutions of higher learning nationwide.

Another initial step will be administration of a climate survey this semester to gauge the scope and nature of the problem of sexual misconduct at Penn State. Penn State plans to conduct the survey annually to measure the effects of changes as they are introduced. The University also will publish an annual report of aggregate data on sexual misconduct (to be separate from the Annual Security and Fire Safety Report), which will include information on any sanctions imposed.

Another recommendation to be implemented is the designation of employees as either “responsible” or “confidential,” thereby clarifying an individual’s legal obligation to report observed or disclosed instances of sexual misconduct. The task force recommended that all employees be designated “responsible” employees with the exception of those few whose professional roles impose an obligation of confidentiality, such as health care professionals, clergy, and counselors. All employees will be required to take annual training on the resources available on campus and in the greater community, their reporting obligations, and the sensitivities inherent in incidents of alleged sexual misconduct. The task force recommended disciplinary action for employees who fail to fulfill their reporting obligations. Penn State further will develop training specific to advocates, clinicians, and other employees who work with victims, with a particular emphasis on including victims of all genders, race, sexual orientation and identification, and nationality.

Penn State also plans to replace the current hotline for sexual assault, which is underutilized and designed to connect callers with local victim resources as opposed to intake of claims of misconduct. The report’s recommendation called for the use of a single hotline for all

forms of misconduct on campus, including the ability to make anonymous reports. An RFP for a new ethics and compliance hotline provider already has been issued and will be expanded to include coverage of sexual assault services.

The assistant vice president for police and public safety and the director of campus police and security programs will coordinate with the Title IX coordinator and the director of student conduct to review Penn State's memoranda of understanding with the police departments serving Penn State's campuses to ensure that current agreements include appropriate references to management of sexual assault cases. For locations where no such memoranda of understanding currently exist, they also have been tasked with implementing such agreements.

Among other recommended educational enhancements, the vice president and dean for undergraduate education will coordinate with Vice President Sims and the chair of the Faculty Senate to develop a required course for first-year students to explore issues of student safety and well-being, with a focus on preventing sexual misconduct and addressing alcohol abuse.

The University is developing a formal implementation plan to guide the process and clarify ownership of responsibilities. Since its release, Penn State has issued video testimonials from members of the task force explaining the challenges surrounding the issue of sexual misconduct, their process, and their expectations for improvements at Penn State as a result of

their work.³ President Barron issued his own video endorsing the recommendations and affirming his support of the task force's conclusions and the work ahead.⁴

B. The Office of Ethics and Compliance

1. Oversight of Programs for Minors (Recommendation 7.3)

a. Recently Implemented Child Abuse Legislation

On December 31, 2014, Pennsylvania's new child protective services laws went into effect. The new laws redefine child abuse and who qualifies as a mandated reporter, govern reporting obligations, prescribe the content and frequency of relevant training, and significantly broaden background check obligations. These changes apply to all institutions of higher education in Pennsylvania. All University employees who have direct contact with minors are now mandated reporters of child abuse under state law. Penn State's policy, however, requires all employees to report observed or suspected child abuse.⁵ This quarter, Penn State issued updated policies, procedures, and training programs related to the protection of minors to ensure continued compliance with the new state laws. Youth Programs Compliance Specialist Sandy Weaver spearheaded this effort.

The new laws require employees who have direct contact and routine interaction with minors (persons under age 18) to complete three separate background checks every three years: (1) a Pennsylvania State Police Criminal Background Check; (2) a Pennsylvania Child Abuse

³ See "Sexual Assault Task Force Member Voices: The Student Perspective," February 9, 2015, available at <http://news.psu.edu/story/344063/2015/02/09/administration/sexual-assault-task-force-member-voices-student-perspective>; see also "Sexual Assault Task Force Member Voices: Education and Action," February 8, 2015, available at <http://news.psu.edu/story/343883/2015/02/08/administration/sexual-assault-task-force-member-voices-education-and-action>.

⁴ See "President accepts all 18 recommendations presented by sexual assault task force," February 17, 2015, available at <http://news.psu.edu/story/345185/2015/02/17/health-and-safety/president-accepts-all-18-recommendations-presented-sexual>.

⁵ See Policy AD72, available at <http://guru.psu.edu/policies/AD72.html>.

History Clearance Form; and (3) an FBI Fingerprint Background Check. Penn State already requires all newly hired and current employees who work in traditional youth programs to complete the background checks before working with minors. In addition, however, all new, full-time employees, whether or not they typically work with minors, also are subject to the three background checks. Offer letters to new, full-time employees or any employees who have direct contact with minors will include instructions for completion of background checks, and provisional hiring will be permitted on a limited basis until checks can be completed. The University is covering the expense of these background checks, which cost over \$45 per person to obtain. Last year, Penn State had approximately 6,400 new, full-time hires, which translates to a roughly \$293,000 expense exclusive of background check costs for an untracked number of part-time employees who have direct contact with minors.

Penn State's plan also includes a three-tier implementation process for completing background checks on current employees who do not work in traditional youth programs. Phase I, which began in mid-February, includes completion of background checks for staff in health services, student recruitment, museums, libraries, instructional and recreational services, and residence life assistants working in graduate student housing where minors live. Phase II will begin in April 2015 and will include background checks for business and auxiliary staff who support summer youth programs, such as dining services, and hotel and restaurant employees who interact with minors. Phase III, to begin in September 2015, will include background checks for all faculty, teaching assistants, undergraduate academic advisors, student affairs staff, residence life staff, and anyone else identified as working with minors. These categories of employees will likely be modified as the process evolves.

Mr. Becker, Ms. Basso, and Ms. Weaver are in the process of notifying affected personnel of the decision to include them in the background check process. Ms. Weaver has posted a resource on the Office of Ethics and Compliance's website with instructions on how to obtain each of the three clearances, including links to external resources, and she is drafting a frequently-asked-questions document to assist employees completing the process.⁶

Penn State continues to discuss with the Pennsylvania Department of Human Services several issues. These include: some undergraduate students are under 18 years of age and therefore are subject to protection under the new statute; individuals who have current clearances cannot transfer them but must obtain further clearances to work with other organizations in the State of Pennsylvania, such as high school coaches who wish to coach at a Penn State sport camp; and the State's authorization of only a single vendor to fulfill one of the required screenings, which has led to backlogs.⁷ It is likely that implementation will present challenges for all institutions of higher learning in Pennsylvania, as may be expected with legislation of this scope. Already there have been reports of a backlog of background checks resulting from a deluge of requests from across the state and concerns that the Department of Human Services is understaffed to handle its increased workload.⁸

⁶ See <http://www.universityethics.psu.edu/UniversityEthics/background-checks.cfm>.

⁷ See 23 PA. CONS. STAT. § 6344.3(f) (transferability of clearances).

⁸ See Jan Murphy, "State agency 'drastically underestimated' workload from new child protection laws, state lawmaker suggests," The Patriot-News, February 4, 2015, available at http://www.pennlive.com/politics/index.ssf/2015/02/child-abuse_backlog_at_state_a.html; see also Jan Murphy, "Child-abuse calls go unanswered as new regulations cause personnel problems for Pa. agency," The Patriot-News, February 4, 2015, available at http://www.pennlive.com/politics/index.ssf/2015/02/laws_aimed_at_increasing_child.html#incart_m-rpt-2.

The University also has extensively revised Policy AD72: “Reporting Suspected Child Abuse” to bring it into conformity with the new laws.⁹ The section on the reporting process was updated to reflect the law’s new obligation that mandated reporters immediately and directly contact ChildLine by telephone or online with any reported information instead of first consulting their supervisors. The revised policy also requires individuals reporting suspected child abuse to send a subsequent e-mail to the University and to forward any communications received from the Department of Human Services in response to their report. Several tools on the Office’s website are available to educate employees on the new reporting process and to facilitate its use.¹⁰ A provision on protection from employment discrimination was added to the policy that refers to Penn State’s policy against retaliation. The education and training section also now reflects Penn State’s new expectation that the majority of employees complete the “Reporting Child Abuse” training within 30 days of employment and update that training every three years. Employees who interact routinely with minors must complete the training before beginning work and annually thereafter. The policy also discusses the statutory training obligations of professional licensees and other specialists.

On January 1, 2015, Penn State also published a revised version of Policy AD39: “Minors Involved in University-Sponsored Programs or Programs Held at the University and/or Housed in University Facilities.”¹¹ Changes included redefining a child as a person under the age of 18 and removing the exemption from the policy for enrolled minors. Section 13 on background clearances was amended to reflect the State’s new three-check process. Section 16,

⁹ See Policy AD72, available at <https://guru.psu.edu/policies/AD72.html>.

¹⁰ See <http://www.universityethics.psu.edu/UniversityEthics/reporting-child-abuse.cfm>.

¹¹ See Policy AD39, available at <https://guru.psu.edu/policies/AD39.html>.

covering the reporting obligations of mandated reporters and the reporting process, was brought into conformity with the revised language in Policy AD72.

b. Youth Programs

The Youth Programs Council met three times this quarter. Its subcommittee reviewing Policy AD39 “Minors Involved in University-Sponsored Programs” is considering additional revisions designed to clarify various aspects in response to repeated questions from staff. The Council designated improvements to the policy and completion of a youth programs guidebook as priorities for 2015.

On January 22, 2015, Ms. Weaver, in conjunction with Penn State’s continuing education department, also held a statewide youth programs meeting for approximately 60 individuals responsible for overseeing youth programs on their respective campuses. The purpose of the meeting was to educate the University’s many youth program leaders on the changes to Pennsylvania’s child abuse laws and Penn State’s internal policies and to explain the resources available to support compliance with the changes. These leaders are expected to disseminate this information to their teams on each campus.

On January 12, 2015, new Sport Camps Director William Mincer began his work at University Park. Prior to joining Penn State, Mr. Mincer worked for fifteen years as the athletic director for the Jersey Shore School District in Lycoming County, Pennsylvania. Since his arrival in early January, Mr. Mincer has focused on preparing for the summer camp and events season. He also participated in Youth Programs Council meetings and the statewide youth programs meeting, met with athletic trainers to discuss the new medical treatment authorization procedure, and reviewed brochures for camp programs and campus housing contracts.

2. Board of Trustees Report

Director of University Ethics and Compliance Regis Becker made a presentation concerning his Office's activities to the Board's Committee on Legal and Compliance during its meeting on January 15, 2015. Mr. Becker's report reviewed recent changes to Pennsylvania's Child Protective Services Act and their implications for Penn State's policies, background check obligations, and training requirements related to minors on campus and reporting child abuse.

He further provided detailed analysis of current ethics and compliance hotline usage and investigations, including trends emerging from data collected since 2012. Hotline calls have steadily increased in the past three years. In 2012, 2013, and 2014, Penn State's ethics and compliance hotline received 202, 259, and 425 calls, respectively.¹² In 2014, the majority of hotline calls resulted in counseling or efforts at improved communication, while some were determined to be unfounded. Over those three years, the Office of Ethics and Compliance significantly reduced the median number of days investigations remain open from a high in excess of 160 days in 2012 to approximately 10 days now. Mr. Becker reviewed data on reportable cases of privacy breaches involving personally identifiable information, which demonstrated a decline from 99 in 2013 to 22 in 2014. He discussed youth protection activities on campus as well as efforts to analyze and present the values and culture survey results by unit.

3. The Ethics and Compliance Council

Mr. Becker chaired two meetings of the Ethics and Compliance Council this reporting period at which he summarized the activities of the Privacy Council, Youth Programs Council, Compliance Training Committee, and Ethics Committee. The Council heard presentations about

¹² On February 25, 2015, the Office of the President issued an e-mail reminding the Penn State community of the University's resources for reporting wrongdoing and for victim assistance, referencing the University's policy against retaliation.

the Human Resources Transformation Project from Vice President for Human Resources Susan Basso and the final report of the Task Force on Sexual Assault and Sexual Harassment from Vice President for Student Affairs Damon Sims. The Council also discussed ongoing activities in response to the new Pennsylvania legislation on child abuse, the new compliance learning management system to be implemented in July 2015, the status of the ethical decision-making model, the process of educating the Penn State community about the new statement of values, and the development of new metrics based on the values and culture survey.

4. Communications and Training Specialist

New Communications and Training Specialist Denise Shivery now chairs the Compliance Training Committee, coordinating training activities among the University's many relevant constituencies. She worked closely with Ms. Weaver this quarter to revise the "Reporting Child Abuse" training to bring it into conformity with revised Policies AD72 and AD39 and with Pennsylvania's new child abuse legislation.

The revised online training module went into effect on January 1, 2015. All employees, volunteers, and contractors must take the training this year. In 2015 to date, more than 5,000 employees and almost 1,700 volunteers have taken the revised training. Those who interact with children must complete the training before they begin work; those who do not routinely work with children must complete it within 30 days of employment. Individuals without direct oversight of minors need only take it every three years thereafter, while individuals who interact routinely with minors must take it annually.

The training has been moved to a more user-friendly platform to resolve many of the technological difficulties people faced when taking it in the past. The changes mirror the changes to Policy AD72 and bring it into conformity with the new laws. The training incorporates new, real-life scenarios demonstrating red flag situations. It links users to a flow

chart of the reporting process and a checklist to help individuals determine whether they are a mandated reporter under Pennsylvania law.¹³ The training also includes interim mini-tests with a final test offered at the end requiring a score of 80 percent to obtain a completion certificate. A member of the Monitor's team reviewed the training program and found it to be thorough and effective.

Ms. Shivery also coordinated the Office's communications strategies and maintained its website. On February 2, 2015, she and Ms. Weaver published an article distributed via *Penn State Today* that outlined the changes made to Policy AD72 as well as Pennsylvania's child abuse laws, advised the community of the revisions made to the "Reporting Child Abuse" training, and publicized the new training schedule.¹⁴ Ms. Shivery also collaborated with Dr. Balliett to prepare customized presentations for University units analyzing data from the values and culture survey.

5. Tracking Training (Recommendation 2.2.10)

Penn State continued to provide and track mandated employee training as prescribed by Freeh Report recommendation 2.2.10. As previously reported, in November 2014, the Office of Ethics and Compliance sent targeted emails to the remaining group of noncompliant employees directing them to complete the training by December 12, 2014. In December 2014, Ms. Weaver, Mr. Gates, and Director of the Center for Workplace Learning and Performance Susan Cromwell continued their concerted effort to promote completion of the "Reporting Child Abuse" and

¹³ These documents also are available on the Office of Ethics and Compliance's website at <http://www.universityethics.psu.edu/UniversityEthics/reporting-child-abuse.cfm>.

¹⁴ See "Penn State's mandated reporter training, policy revised in response to new law," February 2, 2015, available at http://news.psu.edu/story/343131/2015/02/02/administration/penn-states-mandated-reporter-training-policy-revised?utm_source=newswire&utm_medium=email&utm_term=343095_HTML&utm_content=02-02-2015-21-56&utm_campaign=Penn%20State%20Today.

Clery Act training by employees with no record of having completed the training in the past. By year end, a total of 37,802 employees, students, and volunteers had completed the “Reporting Child Abuse” online training, and 11,518 employees, students, and volunteers had completed the online Clery Act training, including 2,009 “campus security authorities” (“CSAs”).

Nonetheless, there remained no record for over 3,200 employees that they have taken the “Reporting Child Abuse” training or for 144 CSAs that they have ever completed the Clery Act training. Those targeted employees who failed to complete the “Reporting Child Abuse” training received an email on January 6, 2015 attaching a copy of the newly revised training, “charg[ing them] with knowledge of the information contained in the attached transcript,” and including a link to the new online training which they were directed to complete. On January 27, 2015, the Compliance Training Committee discussed at length a plan to bring the remaining 144 CSAs into compliance with their training requirements. The efforts to provide training to all CSAs remain ongoing.

6. University Ethics

a. Advisory Council for Continued Excellence (“ACCE”)

The ACCE met on December 16, 2014. At this meeting, the body elected to move to a quarterly meeting schedule in light of completion of the values and culture survey and creation of the new Penn State values statement. At each quarterly meeting, the ACCE will hear a presentation on a topic related to significant change at the University, such as information technology changes being instituted or considered and initiatives undertaken in connection with the University’s plan for continuous improvement. The ACCE also discussed Dean Ann Crouter’s decision to rotate off of the council and recommended that Dean of Communications Marie Hardin join in her place. Dr. Jennifer Eury spoke on “Fostering a Community of Integrity and Ethical Behavior.”

b. Ethics Specialist

Ethics Specialist Timothy R. Balliett chaired two meetings of the Ethics Committee at which he reviewed Penn State's progress in socializing the Penn State values statement, maximizing use of the values and culture survey data, advancing the "Ethical Culture Plan," drafting the ethical decision-making model, and re-crafting Policy AD47.

The University determined this quarter that the formal order of the values is: integrity; respect; responsibility; discovery; excellence; and community. To date, Dr. Balliett has scheduled 31 town hall meetings between February 19, 2015 and April 16, 2015 to publicize and educate Penn State students, faculty, and staff at all of Penn State's campuses on the proposed new values statement. In each hour-long meeting, Dr. Balliett will present the values, facilitate breakout sessions to address questions on each value, and conclude with a joint discussion.

The town halls are being publicized through flyers, posters, and e-mail announcements. *Penn State Today* also published a story on February 18, 2015 to promote attendance.¹⁵ The Office of Ethics and Compliance also updated its website, posting the values statement, information about the scheduled town halls, and descriptions of upcoming values-related events.¹⁶ The website includes a web form allowing members of the community to communicate feedback. Individuals also may email feedback directly to values@psu.edu.

Dr. Balliett has produced 16 unit-specific breakdowns of relevant data gathered in the values and culture survey. He has met with nine units to review this customized analysis and discuss strategies and changes each unit may implement in response to issues identified through

¹⁵ See "Town hall meetings on the Penn State Values to begin this month," February 18, 2015, available at <http://news.psu.edu/story/345388/2015/02/18/town-hall-meetings-penn-state-values-begin-month>.

¹⁶ See www.values.psu.edu; also available at <http://www.universityethics.psu.edu/UniversityEthics/values/values.cfm>.

the survey. Some units, such as the Penn State Alumni Association and the Athletics Department, decided to conduct a targeted follow-up survey focused on their most problematic areas to gather more data from greater participation. Other units are considering restructuring their leadership models or their divisions based on survey results and further conversations with employees. Dr. Balliett is providing support to the units as they consider their next steps.

Penn State continued to implement elements of the “Ethical Culture Plan,” the University’s response to President Barron’s direction to address survey results demonstrating fears of potential retaliation for reporting wrongdoing, lack of understanding of reporting mechanisms, and incidents of workplace intimidation and bullying. As previously noted, the plan includes three components: (1) education; (2) communication; and (3) structural changes. This quarter, Dr. Balliett advanced the plan’s education component by developing a two-hour seminar for administrators focused on combatting fears of retaliation that was piloted in the Finance & Business Office in February 2015. That seminar will be modified and offered this spring to leaders in Information Technology Services, the Academic Leadership Council, the President’s Council, and the Board of Trustees.

The structural component has advanced through the first draft of the ethical decision-making model described in Freeh Report recommendation 1.1. Individual units will be permitted to expand upon the basic model and tailor it to specific needs. Both meetings of the Ethics Committee this quarter involved in-depth discussion of, and edits to, the draft model. The model will identify six decision-making steps and be accompanied by a separate worksheet detailing questions to consider at each step. The Committee continues to fine-tune the model.

Dr. Balliett has convened the majority of the consultative group to assist the Ethics Committee’s efforts to revamp Policy AD47: “General Standards for Professional Ethics.” This

quarter, he met with representatives from Corporate Executive Board, an advisory-based company that assists organizations with issues such as compliance and provides benchmarking data. He is working with Corporate Executive Board to identify sample policies in the private or public sector that mirror his goal of developing a document that is aspirational, concrete, and more focused on ethics than compliance. He shared a preliminary draft of the policy with the Committee for comment. In addition, Provost Jones approved the establishment of a separate task force to review Penn State's policies related to faculty misconduct and to make recommendations for improvements.

Dr. Balliett also is collaborating with Vice President Sims on development of a Center for Character, Conscience, and Public Purpose at Penn State. The Center is slated to open in late spring. An idea born in the Office of Student Affairs in response to the Sandusky scandal, the Center will serve as a resource to sponsor speakers and house visiting scholars and student interns who will organize civic engagement activities among the student body and otherwise promote ethical leadership.

7. Clery Act Compliance

This quarter, Clery Compliance Manager Gabriel Gates added mass e-mails to the methods of communicating "Timely Warnings" on campus.¹⁷ As a result, in addition to sending text messages and distributing physical posters around campus, his office will issue mass e-mails to the Penn State community alerting them to Clery Act crimes that continue to pose a potential threat.

¹⁷ As defined in Policy AD74: "Compliance with the Clery Act," a "Timely Warning" is defined as "an announcement made to alert the campus community about Clery Crimes and other serious incidents in the event that a reported crime may pose a serious or continuous threat to the campus and surrounding community."

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

This reporting period, Penn State continued to implement a Human Resources Information System ("HRIS") and institute physical security measures at athletic and recreational facilities.

1. Human Resources Information System (Recommendation 2.2.7)

Penn State made significant progress this quarter in its combined efforts to introduce a HRIS and a larger initiative (called the Human Resources Transformation Project) to completely restructure the human resources function. As previously reported, the University procured Workday, Inc. as the provider of the new human capital management system. The University also selected Cornerstone On-Demand as the provider of its new learning management system. This quarter, the University met with potential implementation partners to collaborate with Workday, Inc. and is evaluating its options. Vice President for Human Resources Susan Basso anticipates presenting the Board with its selection of an implementation partner in March 2015.

Initially, Penn State intended to implement the human capital management system prior to the learning management system. In late fall of 2014, however, Penn State decided to advance implementation of the Cornerstone On-Demand learning management system in its HRIS implementation timeline. This decision was made because of a recognized urgent need to improve tracking of the University's many training programs and to provide training on Workday, Inc.'s human capital management system before its activation. On February 23, 2015, training leaders on topics such as compliance, human resources, research, and environmental safety began meeting with Cornerstone On-Demand's implementation team to assist in the design and development of the new learning management system. The system is intended to incorporate all University training programs into one, comprehensive program that can deliver and track training and notify personnel when they need to complete required courses. Penn State

intends to begin transitioning all staff and volunteer training programs to its new learning management system on July 1, 2015, starting with the “Reporting Child Abuse” and Clery Act training courses.

In January 2015, Vice President for Human Resources Susan Basso conducted an assessment of the initial pilots of the Office of Human Resources’ new service delivery model in the College of Education and College of Arts and Architecture, meeting with the deans of both colleges to get their feedback. The pilot, which concludes on June 30, 2015, continues to receive positive reviews. The Office of Human Resources also has proposed replacing 43 policies that contain human resources elements with 13 new, more comprehensive policies to improve accessibility and clarity.

2. Facilities Security (Recommendation 5.2)

With support from Guidepost Solutions LLC, this quarter we monitored Penn State’s continued work with the Pennsylvania Department of General Services to finalize a delegation agreement relating to ongoing security enhancements at selected athletics and recreational facilities. Once the delegation agreement is in place, Phase II projects will proceed through Penn State’s internal design review process and will be presented to the Board of Trustees for approval before construction begins. The University continues to make more modest adjustments to security at athletics and recreational facilities through training, the installation of signage, and the reduction of the number of doors that may be opened from the outside.

D. Penn State’s Efforts to Implement the AIA

Penn State continued to adhere to its ongoing obligations under the AIA, including annual training for all “Covered Persons,” maintenance of its disclosure log and reporting

mechanisms, and the quarterly meeting of Penn State’s Athletics Integrity Council, among other requirements.¹⁸

1. Activities of the Athletics Integrity Officer

a. General Activities

Athletics Integrity Officer Julie Del Giorno conducted her quarterly meeting with Big Ten Conference Representative Chad Hawley on January 17, 2015 and with President Barron on January 14, 2015. She also met with Provost Jones on December 10, 2014. Ms. Del Giorno represented Penn State at the NCAA Convention in Washington, D.C. on January 15-17, 2015. She also collaborated with Director of Risk Management Gary Langsdale, Mr. Stolberg, and representatives from the Office for Commonwealth Campuses to assess and develop recommendations to support intercollegiate athletics at the Commonwealth Campuses.

b. Educational Activities

Together with Director of Honor and Integrity at the Smeal College of Business Jennifer Eury, Ms. Del Giorno provided ethics awareness training to the men’s and women’s track and field team on January 7, 2015 and to the men’s golf team on January 19, 2015. Ms. Del Giorno also led an ethics awareness training session for Athletics Department staff members on December 12, 2014.

On January 21, 2015, Ms. Del Giorno held the first Head Coaches Forum of the academic year. The main topics discussed in the meeting included new legislation passed at the January NCAA Convention and the repeal of the Consent Decree (discussed below in section IV.A.1.a). Twenty-two of twenty-five head coaches attended the forum where Athletic Director Sandy

¹⁸ 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.

Barbour and Ms. Del Giorno led discussions on the practical and financial implications of these two developments. The coaches had an opportunity to express their personal reactions to the repeal of the Consent Decree, and Ms. Barbour discussed the importance of being appropriately thoughtful, sensitive, and deliberate in any public comments concerning the issue.

2. Athletics Integrity Council Quarterly Meeting

On December 10, 2014, Ms. Del Giorno chaired the quarterly meeting of the Athletics Integrity Council. The Council reviewed the Monitor's Ninth Report, which had been published the previous week. Its members also discussed several ongoing investigations and all new content in the Quarterly Monitoring Report that serves as Penn State's disclosure log for athletics-related compliance reports and investigations.

Mr. Stolberg updated the Council on his efforts to comply with the AIA's annual requirement that all "Covered Persons" be trained on NCAA, Big Ten Conference, and Penn State athletics compliance policies. Mr. Stolberg further reviewed recent secondary violations of NCAA rules and their outcomes. The group discussed the need to appoint a new academic member of the Council in June and agreed to consider appropriate faculty for the role. Ms. Del Giorno concluded the meeting by suggesting that the Council consider how to further formalize its role in overseeing athletics compliance after the conclusion of this Monitorship to ensure continuation of the many positive changes beyond the Monitor's term.

3. Ethics and Compliance Hotline Reporting

Ms. Del Giorno received five new complaints during the course of this reporting period. The reports involved: arrest of a student-athlete for possession of controlled substances; possession by a student-athlete of an airsoft pistol, which is prohibited on campus; employee concerns about management of a sports facility; inappropriate behavior by a member of the Athletics Department student staff; and shoplifting by a student-athlete. While all five of these

complaints remain under investigation by Penn State, the student arrested for possession of drugs has been indefinitely suspended from his sports program, and the student in possession of the airsoft pistol will face the University's standard disciplinary process.

Last quarter, we reported that Ms. Barbour, Vice President Sims, and other administrators sought to amend the student disciplinary process in response to several allegations of student-athlete misconduct, including three separate sets of criminal charges brought against a student-athlete in a single calendar year, during which time the student-athlete remained eligible to participate in his sport. As a result of these efforts, the student disciplinary process has been altered to empower the Office of Student Affairs to exclude students from co-curricular activities such as intercollegiate athletics as a disciplinary sanction in certain circumstances. This policy applies not only to student-athletes but to all Penn State students. In the case of varsity athletic programs, each team's head coach, in consultation with Athletics Department leadership, remains responsible in the first instance for imposing disciplinary sanctions immediately following a violation. The student disciplinary process administered by the Office of Student Affairs will consider the punishment the head coach imposed when deciding whether additional sanctions are warranted. Any decision to remove a student-athlete from a team would be made in consultation with the head coach and athletic director. Having received the approval of President Barron, Vice President Sims plans to present the new process to the Faculty Senate, President's Council, and head coaches this semester.

IV. OTHER EVENTS DURING THE REPORTING PERIOD

A. The Athletics Department

1. Sanctions

As a result of a settlement this quarter, the remaining punitive sanctions imposed on Penn State under the Consent Decree were ended.

a. The NCAA

The settlement of a lawsuit brought by State Senator Jake Corman and former State Treasurer Rob McCord against the NCAA and Penn State resulted in the termination of the Consent Decree and cancellation of the remaining punitive sanctions. The terms of the settlement agreement include: the restoration of Penn State football team victories between 1998 and 2011; Penn State’s commitment of a total of \$60 million to prevent and treat the victims of child abuse (the University specified it will dedicate \$12 million of that sum to the creation of an endowment that will support its “research, education, and public service programs to help eradicate child sexual abuse”); and the development of a new athletics integrity agreement between the NCAA and Penn State, with the concurrence of the Big Ten Conference, that “includes best practices with which the university is committed to comply and that provides for the university to continue to retain the services of Sen. George Mitchell and his firm to support the university’s activities under the Athletics Integrity Agreement and in the areas of compliance, ethics, and integrity.”¹⁹

On January 29, 2015, following the announcement of the settlement of the Corman/NCAA litigation, President Barron published an open letter entitled, “On the Challenges Facing Penn State University Post-Sandusky.”²⁰ Dr. Barron reaffirmed that, “[o]ur commitment to combatting child sexual abuse is unwavering.”²¹ He also stated:

¹⁹ See “NCAA reaches proposed settlement in Corman lawsuit,” January 16, 2015, available at <http://www.ncaa.org/about/resources/media-center/news/ncaa-reaches-proposed-settlement-corman-lawsuit>; “Board of Trustees approves terms of proposed NCAA lawsuit settlement,” January 16, 2015, available at <http://news.psu.edu/story/341060/2015/01/16/board-trustees/board-trustees-approves-terms-proposed-ncaa-lawsuit>.

²⁰ “President Barron: On the challenges facing Penn State University post-Sandusky,” January 29, 2015, available at <http://news.psu.edu/story/342778/2015/01/29/administration/president-barron-challenges-facing-penn-state-university-post>.

²¹ *Id.*

I would like my personal views to be clear: I am committed to compliance and ethics. When I was a faculty member at Penn State during a period of twenty years, I was proud of our commitment to excellence and to student athletes, and I am even more proud that our commitment continues today and that our programs in compliance and ethics are clearly best practices in athletics. I am proud to stack our program against any in the nation and I am fully committed to maintaining those practices.

At the same time, my view is that the limitations of the Freeh report prevent it from being the basis of any decision facing Penn State.²²

We discussed this letter with Dr. Barron. He explained that his statement “the limitations of the Freeh report prevent it from being the basis of any decision facing Penn State,” was meant to be forward looking in nature. Dr. Barron repeatedly has stressed his commitment to prior decisions relating to the implementation of the Freeh Report recommendations.

We also note that President Barron stated as follows:

I am also on record stating that I believe that the NCAA had a legitimate interest in the Sandusky matter and that I believe, from speaking with many of the presidents who make up the governance of the NCAA, they acted in good faith based on the overall principles of institutional control. I respect their views even though I believe it was inappropriate for the NCAA to step outside of its infractions process.²³

At the same time, Dr. Barron noted the inherent limitations of the Freeh Report, most notably the lack of subpoena power to compel persons to testify. Accordingly, he urged the public “to wait . . . for our judicial process to run its course . . . until a judgment based on a full set of facts is rendered.”²⁴

²² *Id.*

²³ *Id.*

²⁴ *Id.*

b. The Big Ten Conference

On February 11, 2015, the Big Ten Conference restored Penn State's share of conference bowl revenues beginning with the 2015-16 football season. For the past two football seasons, the Big Ten Conference has divided equally Penn State's share of conference bowl revenues among its member institutions, including Penn State, and directed them to donate the funds to charitable organizations of their choosing that are focused on child advocacy and wellbeing in their local communities. For the bowl seasons ending in 2013 and 2014, Penn State's share of bowl revenue donated to charity by Conference members was approximately \$2.3 million and \$2.75 million, respectively; the University's share of revenue from the recently completed bowl season is not yet known. The Conference projects member institutions will receive a distribution of approximately \$6.5 million from revenue generated during the bowl season ending in 2016. President Barron and Ms. Barbour expressed their gratitude to the Big Ten Conference and its Council of Presidents and Chancellors for their decision, noting the importance of the funds to the University's ability to support its 31 varsity athletics programs and more than 850 student-athletes. They also affirmed the University's resolve to combat child abuse and sustain the compliance and safety programs implemented over the past two and a half years.²⁵

2. Athletics Department Finances

In fiscal year 2014, the Penn State Athletics Department's total operating revenues of \$117,590,990 exceeded expenses by \$150,351. This modest surplus is due in part to its receipt of multiple, one-time payments, including payments from the Houston Texans in connection with the buyout of former head football coach Bill O'Brien's contract and for the 2013 football

²⁵ See "Statement on restoration of conference bowl revenues," February 12, 2015, available at <http://news.psu.edu/story/344532/2015/02/12/administration/statement-restoration-conference-bowl-revenues>.

game against Syracuse played at MetLife Stadium as well as the addition of the revenue stream that accompanied the men's hockey team's first season in the Pegula Ice Arena.²⁶ Additionally, during the 2014-15 football season, Penn State sold approximately 5,000 more tickets to home football games than it did the prior season, which translates to an increase in revenue of approximately \$2.2 million over that same period. Funds made available through a \$30 million loan approved by the Board of Trustees in November 2013 have helped the Athletics Department continue to invest in capital projects and its 31 varsity programs and to remain financially independent.²⁷

The Athletics Department projects that it will operate at a deficit in fiscal year 2015. The Athletics Department anticipates further increases in operating costs and staff salaries, charges related to the football game in Ireland last season, the provision of unlimited meals to student-athletes on aid (budgeted at approximately \$750,000), and disbursements totaling approximately \$1.725 million to satisfy the full cost of attendance of student-athletes on aid. These circumstances demonstrate the Athletics Department's challenge to achieve and maintain annually a balanced budget while supporting 31 varsity athletic programs.

3. The Morgan Academic Support Center for Student-Athletes

This quarter we continued to monitor the work of a committee of Penn State administrators and staff charged with overseeing the development of plans to renovate a facility on campus to house in one location the operations of the Morgan Center. At the close of the

²⁶ See Penn State's Fiscal Year 2014 NCAA Financial Report, available at <http://www.gopsusports.com/genrel/021315aaa.html>; "Penn State Athletics taking steps to remain self-supporting unit," February 13, 2015, available at <http://news.psu.edu/story/341060/2015/01/16/board-trustees/board-trustees-approves-terms-proposed-ncaa-lawsuit>.

²⁷ See "Penn State Athletics taking steps to remain self-supporting unit," February 13, 2015, available at <http://news.psu.edu/story/341060/2015/01/16/board-trustees/board-trustees-approves-terms-proposed-ncaa-lawsuit>.

prior quarter, the committee received approval to proceed with the development of architectural drawings for the layout it preferred among multiple options. Over the past three months, the committee has been working with an architect to hone the design of the selected plan within an agreed upon budget, and it adopted a phased approach to the renovation which is forecasted to be completed before the start of the fall 2016 semester. An effort is underway to identify and secure the funds required to finance this capital-intensive project. Athletic Director Barbour launched this development initiative with a personal \$100,000 gift.

B. Relevant Lawsuits

Throughout the reporting period, we observed the resolution of two civil actions that directly challenged the Consent Decree or portions of it, and we continued to monitor other lawsuits related to the Consent Decree and the University's fulfillment of its duties under the AIA. The more material developments in these proceedings are described below.

1. The Pennsylvania Institution of Higher Education Endowment Act Litigation

As reported above, on January 16, 2015, a state court civil action was resolved that had sought an order to direct satisfaction of the monetary penalty under the Consent Decree according to the terms of the Endowment Act and had been expanded to include a challenge to the validity of the Consent Decree as a whole. Three days before that settlement, a federal court presiding over a challenge to the constitutionality of the Endowment Act denied the NCAA's motion for judgment on the pleadings, granted the state elected officials' cross-motion for judgment on the pleadings, and directed that the case be closed.²⁸

²⁸ See Memorandum dated January 13, 2015, *Nat'l Collegiate Athletic Ass'n v. Corbett*, 1:13-cv-00457-YK (M.D. Pa. Feb. 20, 2013).

2. The Paterno Lawsuit

During this reporting period, the NCAA completed briefing in support of its preliminary objections to the second amended complaint filed against it by the Estate of Joe Paterno. The parties also completed briefing their respective positions concerning both the plaintiffs' motion to modify the protective order governing the exchange of confidential information in that lawsuit and the plaintiffs' desire to take the depositions of five current and former members of the NCAA Executive Committee. On February 6, 2015, the presiding judge heard oral argument on those three matters. A decision is expected in the forthcoming reporting period.

3. Other Pending Civil and Criminal Actions

a. The Criminal Actions

On January 14, 2015, the judge presiding over the criminal trials of Graham Spanier, Timothy Curley, and Gary Schultz issued a memorandum and order resolving multiple motions by each defendant. The defendants' motions asserted that they "were denied the right to counsel, including effective and conflict free counsel, that charges arose from violation of the attorney-client privilege, that prosecutorial misconduct interfered with the right to counsel, and that defects occurred in the grand jury proceedings, all of which denied the right to due process under the United States and Pennsylvania Constitutions."²⁹ Through their motions, the defendants sought to quash the grand jury presentment, to have the charges against them dismissed, and to suppress their own grand jury testimony and the testimony of former Penn State General Counsel

²⁹ Memorandum Opinion and Order dated January 14, 2015, at 5, *Commonwealth of Pennsylvania v. Spanier*, CP-22-CR-3615-2103 (Ct. Com. Pl. Dauphin Co. Aug. 1, 2013), *Commonwealth of Pennsylvania v. Curley*, CP-22-CR-3614-2013 (Ct. Com. Pl. Dauphin Co. Aug. 12, 2013), *Commonwealth of Pennsylvania v. Schultz*, CP-22-CR-3616-2013 (Ct. Com. Pl. Dauphin Co. Aug. 1, 2013).

Cynthia Baldwin.³⁰ The court denied the defendants' motions. Each of the defendants has appealed the court's decision.³¹ The cases remain pending with no trial dates yet scheduled.

b. Litigation Concerning the Election of Agricultural Trustees

On December 5, 2014, Jess Stairs filed suit against the Board of Trustees and Trustees Masser and Huber in the Court of Common Pleas for Centre County. Mr. Stairs claims that the delegates from one Pennsylvania county did not follow the procedures that govern the election of trustees who represent the State's agricultural societies resulting in the wrongful election of Trustee Huber instead of himself, which the board did nothing to correct. Mr. Stairs seeks declaratory and injunctive relief declaring that the agricultural trustee election held on May 8, 2014 is invalid and that Trustees Huber and Masser are not valid members of the Board of Trustees. He further asks the court either to substitute himself for Trustee Huber on the Board or to require a new election of agricultural trustees.³² The defendants filed preliminary objections to the lawsuit with respect to which briefing is now underway. The court has scheduled a hearing for March 4, 2015.

c. Employment Litigation

On December 23, 2014, the judge presiding over a civil action initiated last summer in federal court against the University and one current and one now-former administrator by the former head coach of the men's and women's fencing teams issued his decision with respect to the defendants' motion to dismiss the lawsuit. Of the plaintiff's seven causes of action, through

³⁰ *Id.*

³¹ See Docket, *Commonwealth of Pennsylvania v. Spanier*, CP-22-CR-3615-2103 (Ct. Com. Pl. Dauphin Co. Aug. 1, 2013); Docket, *Commonwealth of Pennsylvania v. Curley*, CP-22-CR-3614-2013 (Ct. Com. Pl. Dauphin Co. Aug. 12, 2013); Docket, *Commonwealth of Pennsylvania v. Schultz*, CP-22-CR-3616-2013 (Ct. Com. Pl. Dauphin Co. Aug. 1, 2013).

³² See Complaint, *Stairs v. Board of Trustees of The Pennsylvania State University*, Docket No. 2014-2556 (Centre Co. Ct. Com. Pl. Dec. 5, 2014).

which he sought to recover damages for alleged misconduct in connection with what he contends was his wrongful termination, five causes of action were dismissed in their entirety, and a sixth was dismissed as to the individual defendants only. The judge denied the University's motion to dismiss the plaintiff's claims against it for alleged violation of the plaintiff's rights to procedural due process and for claimed breach of contract.³³ The University filed its answer to those two claims on January 16, 2015. A pretrial conference is scheduled for next quarter.³⁴

On January 16, 2015, Penn State filed a motion to dismiss the first amended complaint filed by two former assistant football coaches who initiated a civil action against the University in federal court that seeks redress for what they contend were wrongful actions by Penn State related to its agreement to the Consent Decree and the termination of their employment. Briefing on that motion is now underway.³⁵

C. Penn State Governance and Board of Trustees Activities

1. December 15, 2014 Special Meeting

At the November 14, 2014 Board meeting, Trustee Anthony Lubrano introduced a resolution seeking to have Penn State realign itself with respect to the now-settled Endowment Act civil action in the Commonwealth Court of Pennsylvania in which the University was a defendant alongside the NCAA.³⁶ As previously reported, the Board voted to table discussion of

³³ See Order, *Kaidanov v. The Pennsylvania State University*, 2:14-cv-03191-GP (E.D. Pa. June 5, 2014).

³⁴ See Docket, *Kaidanov v. The Pennsylvania State University*, 2:14-cv-03191-GP (E.D. Pa. June 5, 2014).

³⁵ See Docket, *Paterno v. The Pennsylvania State University*, 2:14-cv-04365-LS (E.D. Pa. July 1, 2014).

³⁶ "Proposed Resolution Re: Commonwealth of Pennsylvania Litigation," dated November 14, 2014.

Trustee Lubrano's resolution until its January 2015 executive session where it planned to consult with University counsel.

On December 8, 2014, the alumni-elected trustees collectively called for a special meeting on December 15, 2014 to "continue consideration of the resolution presented by Trustee Lubrano" at the prior meeting.³⁷ Chair Keith Masser requested that the alumni-elected trustees withdraw their request, which they declined to do. Chair Masser instructed the Board office to send a notice of the meeting to all trustees. In a letter to all trustees on December 10, 2014, Mr. Masser noted that the Board had voted to postpone consideration of the resolution until its January 2015 meeting, stated that he did not intend to participate in the earlier meeting, and reminded the other trustees that they were free to decide whether or not to attend. His letter expressed concern with "the single-minded focus" of the alumni-elected trustees and requested that the trustees devote their time in 2015 to critical issues facing the University, such as affordability and access for its students.³⁸

Seven of the nine alumni-elected trustees met in person on December 15, 2014. One additional trustee – Allison Goldstein – was present. She stated that her presence was not an endorsement of the proceedings urged by the elected alumni trustees; she was simply monitoring these events. Two other elected alumni trustees attended by phone; no other trustees attended. As a result, the attendees failed to constitute a quorum to conduct official Board business and there was no vote on the resolution. In sometimes strong language, the alumni-elected trustees

³⁷ See Letter from Edward Brown, III, Barbara L. Doran, Robert C. Jubelirer, Albert L. Lord, Anthony P. Lubrano, Ryan J. McCombie, William F. Oldsey, Alice W. Pope, and Adam J. Taliaferro to Keith E. Masser re: Request for a Special Meeting of the Board of Trustees, dated December 8, 2014, available at <http://onwardstate.com/2014/12/10/trustees-call-for-special-meeting-anger-keith-masser/>.

³⁸ See Letter from Keith E. Masser to Trustees, available at <http://onwardstate.com/2014/12/10/trustees-call-for-special-meeting-anger-keith-masser/>.

expressed their disappointment with their colleagues' absence. One trustee compared the Board to a "sewer," contending that the University would be "better off" without any Board of Trustees.

2. January 16, 2015 Meeting

a. Settlement

On January 16, 2015, the Board met in executive session to discuss the terms of the settlement of the Endowment Act litigation. President Barron announced the University's agreement to the terms of the settlement, and the Board unanimously voted to approve it. Both President Barron and Chair Keith Masser issued statements after the vote praising the agreement and emphasizing that Penn State remains committed to the many ethics and compliance reforms it has instituted and continues to fully support.³⁹

b. Annual Training

The Trustees present at the January 16, 2015 Board meeting received presentations on the mandatory training programs, in compliance with Freeh Report recommendation 3.4.2. Clery Compliance Manager Gabriel Gates presented to the Board on the Clery Act's requirements, changes to and new guidelines for the program, and national attention garnered by Penn State's Clery Act program. He also reviewed details of and answered questions about the 2014 Annual Security and Fire Safety Report.

Ms. Weaver also presented to the Board on the content of Penn State's child abuse training. Her presentation included a discussion of the changes made to the training and to

³⁹ See "Board of Trustees approves terms of proposed NCAA lawsuit settlement," January 16, 2015, available at http://news.psu.edu/story/341060/2015/01/16/board-trustees/board-trustees-approves-terms-proposed-ncaa-lawsuit?utm_source=newswire&utm_medium=email&utm_term=341096_HTML&utm_content=01-16-2015-16-43&utm_campaign=daily%20newswire.

University child protection policies as of January 1, 2015 to bring them into conformity with Pennsylvania's new child abuse laws. During the meeting, Ms. Weaver advised the trustees of their personal obligations as University volunteers to complete the "Reporting Child Abuse" online training before the end of the calendar year.

All but one of the trustees present completed their annual AIA-mandated "Covered Persons" training on athletics compliance.⁴⁰ The training, presented by Mr. Stolberg, included all of the substantive elements typically included for all "Covered Persons," with a special emphasis on additional topics of particular relevance to trustees: activities of boosters; recruitment of prospective student-athletes; contacts with current student-athletes; donations; fundraising activities; and what activities constitute extra benefits to student-athletes under NCAA rules. In addition to his regular complement of handouts, Mr. Stolberg also distributed a "Penn State Trustees Compliance Resource" handout summarizing the most relevant athletics compliance rules affecting the group. The document lists examples of activities in which trustees may and may not engage with respect to prospective and current student-athletes and fundraising efforts.

All trustees present certified in writing that they received this training, as mandated by the AIA.⁴¹ Trustee Lubrano left the meeting as the training session began. Mr. Lubrano informed Mr. Stolberg in advance of the meeting of his intention to leave the room during Mr. Stolberg's athletics compliance training, citing his objection to the NCAA sanctions and

⁴⁰ See AIA § III.D.1.

⁴¹ See AIA § III.D.2. On January 22, 2015, the Board office provided newly-elected Governor Wolf and his appointees to the Board Russell Redding, Cynthia Dunn, and Pedro Rivera copies of the training for their review and shortly thereafter received acknowledgment that each new trustee read and understood its contents. Each new trustee also timely certified the Code of Conduct for Intercollegiate Athletics.

Consent Decree as the basis for his refusal to comply with the University's annual training requirement.

c. Governance Reforms

On January 15, 2015, the Committee on Governance and Long Range Planning unanimously approved selection processes for the new student trustee and academic trustee positions. The selection processes were developed and presented to the Committee respectively by student government leadership and the Faculty Senate, and each is designed to result in the election of the student and academic trustees at the May 2015 full Board meeting. The Committee approved the inclusion of Chair Masser on the selection committee for the three at-large trustees, a decision the full Board approved on January 16, 2015.

Mr. Guadagnino presented to the Committee a revised procedure for the election of trustees representing agricultural interests to bring the procedure into conformity with the Board's reform package last fall. The changes are intended to build greater controls around the process and ensure that delegates who attend the election of the agricultural trustees are authorized to represent their agricultural societies.

At the January 16, 2015 Board meeting, the public comment session also was moved to 11:15 a.m., between the Board's executive session and the public session held in the afternoon. This change was made in response to concerns that the comment period had been held too late in the day to provide a chance for any deliberation about or consideration of issues raised and in response to complaints that individual trustees left the meeting early and missed the public

comment period. The University Park Undergraduate Association passed a resolution in December 2014 in support of this change.⁴²

d. Board Self-Assessment

At the conclusion of the full Board meeting on January 16, 2015, student Trustee Allison Goldstein presented a resolution calling on the Governance and Long-Range Planning Committee to conduct a self-assessment to promote healthier dialogue and interactions among Board members. Trustee Goldstein noted her agreement with healthy discourse and debate, but added that she was troubled by the continued uncivil tone of trustee discussions. The Board unanimously approved her resolution before adjourning.

3. Changing Composition

On January 15, 2015, Trustee and former Chair Karen B. Peetz resigned her seat on the Board noting scheduling conflicts and the demands of her position as president of BNY Mellon. Chair Masser appointed former Trustee Ira M. Lubert to complete Trustee Peetz's term, which concludes on June 30, 2016. Trustee Lubert, who served two previous terms as a trustee as both a gubernatorial appointee and a business and industry sector representative, resumed his service on the Board at the January 16, 2015 meeting.

Alumni-elected Trustee Adam Taliaferro announced his decision not to seek re-election to the Board this spring. Trustee Taliaferro issued a statement on January 27, 2015 confirming

⁴² See Lori Falce, "Changes to public comments at trustees meeting raise questions," Centre Daily Times, January 6, 2015, available at http://www.centredaily.com/2015/01/06/4540329_changes-to-public-comments-at.html?rh=1/.

that choice citing “additional responsibilities” he recently has assumed as the reason for his decision not seek a second term on the Board.⁴³

V. AREAS OF FUTURE FOCUS

This reporting period, we observed significant activity in the Office of Ethics and Compliance to bring Penn State’s child protection policies and training into conformity with new Pennsylvania laws that took effect on December 31, 2014. We further observed the timely completion of the work of the Task Force on Sexual Assault and Sexual Harassment, which will remain a topic of significance on campus throughout the coming year. Penn State’s administration has remained fully cooperative throughout this time.

Penn State’s administrative leadership has reiterated to me personally, and to the public, its commitment to complete and sustain both the many compliance improvements recommended in the Freeh Report as well as independent initiatives the University has undertaken over the past two years.

In the coming quarter, we will continue to monitor the challenging process of implementing the many changes to Penn State’s policies, procedures, and trainings related to child protection and background check obligations. We also will continue to observe Penn State’s efforts to develop an ethical decision-making model and socialize the new Penn State values, implement the recommendations of the Sexual Assault and Sexual Harassment Task Force, construct the HRIS, and uphold Penn State’s obligations under the AIA. We will monitor all activity related to the University’s fulfillment of its obligations under the AIA.

⁴³ See Zach Berger, “Adam Taliaferro Announces He Won’t Run In Board Election,” Onward State, January 27, 2015, available at <http://onwardstate.com/2015/01/27/adam-taliaferro-announces-he-wont-run-in-board-election/>.

VI. CHANGE OF MONITOR

While the monitor role will continue, this is my last report as Monitor. The NCAA, the Big Ten Conference, and Penn State graciously have accepted my withdrawal and appointed Charles P. Scheeler as Monitor. My decision is personal and is not related to any events at Penn State. Mr. Scheeler has been my principal assistant and lead member of the Monitorship team. We have worked closely together, on this and other matters, for a decade. I have complete confidence in his ability and judgment; he will perform his duties as Monitor with fairness and accuracy. I will remain available to Mr. Scheeler for consultation.

In my Second Annual Report, dated September 8, 2014, I said, “[s]hould Penn State continue its current course of progress during this upcoming third year, I will in my next annual report consider recommending that the NCAA and the Big Ten Conference conclude the Monitorship substantially earlier than scheduled.”⁴⁴ Mr. Scheeler has assured me that he will address this issue in the Third Annual Report due on or about September 4, 2015. Penn State has already made clear its view that the Monitorship should end well before the presumptive five year term. The NCAA and the Big Ten Conference have assured me they will give the Monitor’s recommendation, when made, their earnest and careful consideration.

It has been a pleasure for me to work with all of the parties in this matter. I am grateful to the NCAA and the Big Ten Conference for placing their confidence in me at the outset. I also am grateful to the many Penn State officials, past and present, with whom I have worked. Penn State has made a determined and good faith effort to comply with its commitments under the AIA, on which the Monitorship is based. This has been a challenging time for everyone involved, but I think that Penn State will emerge from this process better and stronger than ever.

⁴⁴ Monitor’s Second Annual Report at 3.