

**SECOND ANNUAL 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
AND AS EXTERNAL MONITOR APPOINTED BY
THE PENNSYLVANIA STATE UNIVERSITY**

George J. Mitchell
DLA PIPER LLP (US)
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I. INTRODUCTION AND SUMMARY

This is the second annual 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. This report also includes our second annual account of the University’s progress in implementing the recommendations made in the report by Freeh Sporkin & Sullivan LLP dated July 12, 2012 (the “Freeh Report”), pursuant to our separate role as the external monitor under the Freeh Report.¹

In my first annual report, I stated: “Penn State has demonstrated its commitment to fulfilling the requirements of the AIA and to implementing the recommendations made in the Freeh Report. The amount of resources, time, and energy devoted to these efforts has been notable.”² Through the second year of the Consent Decree, Penn State has not wavered in this commitment. The initiatives undertaken in the first year have begun to take root as a result of Penn State’s continuing focus on these reforms. We have continued to enjoy unfettered access to information and candid and prompt communication with personnel at every level of the University. Where we have identified concerns, they have been of the type that occurs within every large educational institution, they have not been chronic, and they have been quickly addressed. Moreover, Penn State has maintained its consistent performance over the past

¹ One of the recommendations in the Freeh Report was for the University to appoint an external monitor to evaluate the implementation of the other recommendations made in that report. *See* Freeh Report, ch. 10, recommendation 8.2. The University requested that I perform this additional role rather than retaining a separate monitor, and the NCAA consented to that arrangement. This second annual review in my capacity as external monitor fulfills Freeh Report recommendation 8.4.

² Monitor’s Annual Report at 1.

12 months during which there have been changes in senior leadership, including the hiring of Dr. Eric Barron as president and Sandy Barbour as athletic director, and amidst continued public scrutiny and debate about the Consent Decree and its impact.

Chief among the University's accomplishments has been the institution of a wholly new and comprehensive compliance program that places oversight of athletics compliance outside of the Athletics Department and ensures direct access to the University's senior leadership and Board of Trustees. That compliance function is supported by the athletics integrity officer, an ethics specialist, and a youth programs specialist, among others.

In the last year, Penn State also made significant strides toward completing the implementation of the three most challenging long-term projects that were included in the Freeh Report recommendations: 1) installing a new human resources information system; 2) fostering an ethical culture; and 3) enhancing security at athletics and recreational facilities. While each of these projects will require sustained effort, the work remains on track, and Penn State's commitment to completing these projects is apparent.

After our last annual report, at my recommendation, the NCAA and Big Ten Conference reduced some of the Consent Decree's sanctions. Specifically, they allowed an acceleration in the restoration of Penn State's football grants-in-aid. At that time, I also "recommended that the NCAA hold out the prospect of further mitigation in postseason eligibility" to encourage Penn State's new leadership to "stay the course."³

Since I made those recommendations, Penn State has continued to fully comply with the AIA and has continued its commitment to reform. I am therefore once again recommending reductions in the Consent Decree's sanctions affecting student-athletes. First, I recommend that

³ Transcript, NCAA Executive Committee Announcement of the Gradual Restoration of Penn State Scholarships dated September 24, 2013.

the NCAA restore Penn State's bowl eligibility for the 2014-15 football season. Second, I recommend that the NCAA restore Penn State's football grants-in-aid to the maximum number permitted under NCAA regulations (25 for one year, not to exceed 85 in total) for the 2015-16 football season. Finally, the AIA set the term of the Monitorship at five years, but left open the opportunity to recommend that the term be shortened. Should 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 Big Ten Conference conclude the Monitorship substantially earlier than scheduled.

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 ICA Facilities and AD73 working group, and the Advisory Council for Continued Excellence ("ACCE"). We also continued to participate in quarterly meetings of the Athletics Integrity Council, as well as meetings of the Ethics and Compliance Council, the Compliance Training Committee, the Ethics Committee, and the Youth Programs Council. We attended meetings regarding the renovation of a building on campus to house in one location the Morgan Academic Support Center for Student-Athletes and with Commonwealth Campus representatives about physical security renovation projects currently underway. We observed the first meeting of the Sexual Assault and Sexual Harassment Task Force. We also attended the Board of Trustees meetings this quarter held on July 10-11, 2014 and August 13, 2014, and the special meeting of the Board's Committee on Governance and Long-Range Planning held on August 15, 2014.

Persons we met with since our last report include, among others: 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; Vice President for Human Resources Susan Basso; 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 Timothy R. Balliett; Faculty Athletics Representative Linda Caldwell; Associate Athletic Director and Senior Woman Administrator Charmelle Green; Associate Athletic Director for Compliance Matthew Stolberg; Associate Athletic Director for Facilities and Operations Mark Bodenschatz; Director of Internal Audit Daniel Heist; Clery Compliance Coordinator Gabriel Gates; Director of Sports Camps Ed Franks; Associate Athletic Director for Business Relations and Communications Tom McGrath; Mark Pavlik (men's volleyball head coach); and Amanda Lehotak (softball head coach).

On August 26, 2014, I spoke with Athletic Director Sandy Barbour. She pledged that I would continue to receive the full cooperation of the Athletics Department under her leadership. Prior to her selection, President Barron expressly informed her that continued cooperation with the Monitor was a prerequisite for her appointment to the position.

We continued working with Guidepost Solutions, LLC to monitor progress in the deployment of access controls and other enhancements to physical security at Penn State's athletics and recreational facilities at University Park and at the Commonwealth Campuses. Our combined efforts included facility tours and 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.

As described in our quarterly reports over the past two years, the Monitor's team has conducted regular interviews of key personnel and leaders to discuss their work first-hand. To

further satisfy ourselves that Penn State remains committed to the many recommendations it already completed and to verify the activities it claimed to have undertaken, we requested and received documentation and back-up files related to numerous projects. We worked with Penn State's Office of Internal Audit on a number of issues: examining the effectiveness of background checks, records retention, and employee roll-off and access revocation protocols; verifying the maintenance and accuracy of Penn State's youth programs inventory and Clery Act "campus security authority" list; and confirming that all "Covered Persons" completed their annual training, received the Athletics Department policies and procedures supporting the "Integrity Program," and signed the Athletics Department's Code of Conduct within 30 days.⁴

III. OBSERVATIONS AS TO SPECIFIC AREAS

A. President Barron and The University's Focus on Continuous Improvement

Since his arrival on campus, President Barron has affirmed his commitment to the many reforms underway at Penn State that are managed on a daily basis by the administration response team. In his initial meeting with head football coach James Franklin, he reinforced Penn State's commitment to the principles of institutional responsibility and control, including with respect to the football program. President Barron met with Mr. Becker and Ms. Del Giorno before he took office to receive a briefing on the activities of the ethics and compliance office and the

⁴ 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.

The AIA does not specifically define "Integrity Program." Rather, the AIA refers to the "Integrity Program" as including the "elements" reflected in Section III of that document, namely: implementation of the recommendations in Chapter 10, Section 5.0 of the Freeh Report; appointment of an athletics integrity officer; institution of an athletics integrity council; adoption of internal accountability certification procedures, including the appointment of Team Monitors; promulgation of written standards; annual delivery of training and education; a disclosure program; and investing day-to-day responsibility for athletics compliance in the associate athletics director for compliance.

University's obligations under the AIA. At that meeting, he expressed his full support for their work and his availability to assist with any issues they felt necessary to bring to his attention. On September 5, 2014, the University's leadership electronically issued a letter to the Penn State community promoting civil and respectful discourse between those with differing opinions about the sanctions and the events surrounding them. President Barron reinforced this call for civility in a video message that accompanied the letter.

During his first months in office, President Barron has been examining six major priorities that he describes as imperatives for the future of Penn State and higher education in general. These issues, which in many ways align with the principles included in the AIA and in the Freeh Report's recommendations, are: excellence; student engagement; economic development and student career success; diversity and demographics; access and affordability; and technology and curriculum delivery. In his first report to the Board of Trustees as president of Penn State on July 11, 2014, President Barron focused attention on access and affordability and described a proposal to better use part-time university employment for students to mitigate student debt. Penn State's various compliance initiatives, including the ACCE and the Ethics and Compliance Council, have been reviewing ways to incorporate these six priorities into their ongoing efforts.

B. Penn State's Institutionalization of an Effective Compliance Function

At the conclusion of the second year of the Monitorship, Penn State has made great strides not only to comply in good faith with the University's obligations under the AIA, but to leverage this opportunity to effect comprehensive changes and improvements across the entire University. This includes the establishment of a now-entrenched and expanding compliance function to oversee its many obligations and ensure that the improvements instituted during the first year of the Monitorship take root.

In the span of barely more than a year, an independently functioning compliance unit with direct reporting lines to the Board of Trustees and direct oversight of athletics compliance as well as all other University-wide compliance functions has become a fixed presence. The creation of the Office of Ethics and Compliance allows for the increased manpower, resources, and attention required to uphold oversight of the many changes instituted in response to the Freeh Report recommendations and to implement evolving best practices. Establishment of the Office of Ethics and Compliance is one of Penn State's most significant achievements over the course of the past two years. This Office's coordination with legal and other functions has enhanced greatly Penn State's ability to comply not only with regulations that affect athletics, but also regulations that touch upon most University activities. Beyond its educational mission, Penn State is also a large health care system, exports and imports sophisticated technology, and conducts cutting edge research, sometimes with human subjects, among many other activities. The University's efforts to develop an integrated, state of the art compliance function have been essential and timely, regardless of the events that initially led to this focus.

1. The Office of Ethics and Compliance

a) Expansion of the Compliance Function at Penn State

Since his arrival at Penn State on April 1, 2013, Director of University Ethics and Compliance Regis Becker has built an ethics and compliance program that provides oversight, guidance, and training regarding significant regulated activities on all University campuses. The Office of Ethics and Compliance now directly oversees staff and activities responsible for six compliance areas: athletics integrity; athletics compliance; ethics; export control; privacy; and youth protection. The Office of Ethics and Compliance works closely with other compliance-oriented functions, such as student conduct, human resources, research compliance, affirmative action, Clery Act compliance, and the Penn State Hershey College of Medicine, and these units

are represented on the Office of Ethics and Compliance's many committees. Mr. Becker maintains a direct reporting line both to the senior vice president for finance and business and the Board of Trustees' Committee on Legal and Compliance. That committee's charter provides that he will attend all committee meetings to update its members on important ethics and compliance matters, including an annual report on the results of the ethics and compliance hotline and on instances of misconduct learned through other sources. We have observed these reports made by Mr. Becker to the committee.

Athletics Integrity Officer Julie Del Giorno reports directly to Mr. Becker, as does Associate Athletic Director for Compliance Matthew Stolberg (while maintaining a dotted line report to the athletic director). As a result, Penn State has established independence from the Athletics Department for all athletics compliance functions to avoid any potential conflicts of interest. At the same time, both Mr. Stolberg and Ms. Del Giorno maintain strong relationships and fluid channels of communication within the Athletics Department and with one another. Mr. Becker also hired Youth Programs Compliance Specialist Sandy Weaver and Ethics Specialist Tim Balliett during the past year, and he consolidated the export control and privacy functions under his office. He continues to expand his team, and he currently is considering the addition of an investigations specialist and a communications specialist.

On May 8, 2014, the Board of Trustees approved Mr. Becker's comprehensive compliance plan for the University, which addresses: standards of conduct; governance; reporting lines and delegation of authority; training and education; monitoring and auditing; program promotion; discipline; and remediation. He and Dr. Balliett continue to refine a draft Code of Responsible Conduct which will clarify the obligations of all faculty, staff, and students to comply with the law and University policies, report wrongdoing, and not retaliate against

those who do so. Mr. Becker and Dr. Balliett also continue to lend support to the ACCE as it hones its draft statement of values and presents it to key University constituencies. Mr. Becker meets informally on a monthly basis with the general counsel, director of internal audit, and the University's risk officer to discuss current matters of concern or interest and to maintain open channels of communication. His office's website expresses the expectations and activities of the ethics and compliance staff and provides links to reporting mechanisms, policies, and information on all six of its units.⁵

Penn State's development of a compliance program has received national attention. Over the course of the past year, Mr. Becker and members of his staff have been invited to present their work at national conferences. Examples include:

- Mr. Becker, Ms. Del Giorno, and Ms. Weaver were asked to make a presentation on their work establishing the Office of Ethics and Compliance and implementing the Freeh Report recommendations and AIA at the Society for Corporate Compliance and Ethics Higher Education Compliance Conference in Austin, Texas on June 3, 2014 to 500 higher education compliance officers.⁶
- On October 28, 2013, Ms. Del Giorno and Mr. Stolberg jointly presented their collaborative work structure and Penn State's athletics compliance efforts at a conference of Big Ten Conference compliance personnel.
- Mr. Stolberg was invited to participate in a five-person panel on proactive university reporting systems at the annual National Association of Athletics Compliance convention in Orlando, Florida on June 9, 2014. He presented Penn State's compliance model and discussed the role of the athletics integrity officer at a general session of the conference of more than 300 individuals.
- Penn State's Clery Compliance training video received a bronze Telly Award in the internet/online video training category.⁷ At least 30 higher education

⁵ See <http://www.universityethics.psu.edu/>.

⁶ See <http://complianceandethics.org/live-from-austin-texas-ethics-compliance-transformation-at-penn-state/>.

⁷ See "Three WPSU productions honored with Telly Awards," http://news.psu.edu/story/317092/2014/05/28/arts-and-entertainment/three-wpsu-productions-honored-telly-awards?utm_source=newswire&utm_medium=email&utm_term=317191&utm_content=05-29-2014-10-50&utm_campaign=arts%20and%20entertainment%20newswire.

institutions have requested access to the training video to tailor it to their own programs.

- Ms. Weaver delivered the keynote address at two Atlanta-area events promoting awareness and prevention of child abuse and Penn State's efforts in the area of youth programs and the development of the Network on Child Protection and Well-Being.
- Along with counterparts at Georgetown University and the University of Florida, Ms. Weaver presented "How Three Universities Manage the Protection of Minors: Great Ideas You Can Use" at the University Risk Management and Insurance Association's 2014 Mid-Atlantic Regional Conference in Baltimore, Maryland.

b) Ethics and Compliance Council Activities

Over the course of the year, Mr. Becker's team formed several committees and councils to support his department's endeavors. Mr. Becker chairs the Ethics and Compliance Council, a senior advisory council overseeing and coordinating all ethics and compliance matters. It includes 21 members representing a broad spectrum of University compliance areas. The Council is supported by three subcommittees, including the Youth Programs Council, the Compliance Training Committee, and the University Privacy Council, and it coordinates with the Ethics Committee. In each of the ten meetings held by the Council during the year, it reviews in detail one major element of the compliance program. So far in 2014, the Council has reviewed youth protection activities, student aid, environmental health and safety, the Penn State Hershey Medical Center's compliance program, and research protections. The Council also is developing a new Policy AD86 to address compliance obligations related to the acceptance of gifts or entertainment by faculty and staff, which will augment the conflicts of interest policy instituted last year.

c) Athletics Integrity Officer

(1) General Activities

Penn State's administration has provided Athletics Integrity Officer Julie Del Giorno the latitude to operate freely and demonstrated repeatedly that it values her input. She participates in the weekly administration response team meetings as well as a number of relevant committees such as the ACCE and the Sexual Assault and Sexual Harassment Task Force, while at the same time developing relationships and initiatives within the Athletics Department. The athletics integrity officer position has proven an effective conduit for communication and collaboration among the Athletics Department, the Office of Ethics and Compliance, the administration, and the faculty at Penn State. Ms. Del Giorno also maintains open channels of communication with the Monitor. The athletics integrity officer model has added value to Penn State's compliance program.

Ms. Del Giorno has complied with the mandates of the AIA. She made herself available for required quarterly meetings with Penn State's presidents, the NCAA, and the Big Ten Conference. On July 10, 2014, Ms. Del Giorno presented her activities to the Board of Trustees' Committee on Legal and Compliance, provided an overview of the AIA's requirements and reported on the completion of the AIA's annual team monitor and athletic director certifications of compliance. Ms. Del Giorno also served on several national search committees, including the search committee for the new athletic director. On August 4, 2014, she met with incoming Athletic Director Barbour to discuss the AIA's requirements and her role within athletics.

Ms. Del Giorno proactively established the role of the athletics integrity officer this year, creating new programs to support her responsibility "for developing and implementing policies, procedures, and practices designed to ensure the Athletics Department's compliance with all applicable NCAA and Big Ten rules and regulations and with the requirements set forth in [the]

AIA.”⁸ She attended numerous rules education meetings, working closely with the Athletics Compliance Office. Ms. Del Giorno also conducted five head coaches forums throughout the academic year.

Ms. Del Giorno partnered with Jennifer Eury, Director of Honor and Integrity at the Smeal College of Business, to teach an interactive ethics training module for student-athletes. The course is designed to assist head coaches in meeting their obligation under the AIA to promote adherence to the Code of Conduct. She offered the pilot course to five teams including approximately 70 student-athletes in the spring of 2014, and she already has scheduled sessions with several more teams this fall. The course provides participants several scenario-based ethical dilemmas and reviews potential consequences of failing to adhere to ethical obligations. Ms. Del Giorno is now collaborating with Ms. Eury on a Team Core Values workshop for individual sports programs. In addition, this fall Ms. Del Giorno will teach a mandatory course in the Biobehavioral Health Department designed to assist first-year student-athletes in their transition to college life.

(2) Athletics Integrity Council Quarterly Meeting

As required by the AIA, the Athletics Integrity Council continued to meet quarterly to support Ms. Del Giorno in overseeing athletics compliance issues. On June 12, 2014, Ms. Del Giorno chaired the quarterly meeting of the Athletics Integrity Council. The Council discussed all new content in the Quarterly Monitoring Report, which serves as Penn State’s disclosure log of athletics-related compliance reports and investigations under the AIA, and reviewed the status of all ongoing investigations. Mr. Stolberg provided an update on the status of his efforts to comply with the AIA’s annual requirement that all “Covered Persons” be trained

⁸ AIA § III.B.1.

on NCAA, Big Ten Conference, and Penn State athletics compliance policies. He reported that his office communicates to athletics supervisors their responsibility in ensuring that all employees complete the training. He also reported on his progress in training newly elected trustees. The Council discussed requiring newly hired coaches to certify their review and understanding of the training materials during orientation in addition to requiring new coaches to attend the next available group training session.

Mr. Stolberg updated the Council on the status and process of obtaining required annual certifications from team monitors. He also reviewed for the Council the secondary violations and suggested including the Council in the secondary infraction review team. The Council adopted this suggestion. The Council concluded with a discussion of the nomination of Associate Professor of Biobehavioral Health Linda Wray as its new faculty member. She since has been appointed to that position by President Barron.

(3) Disclosure Log and Hotline Reporting

Ms. Del Giorno maintained the required disclosure log of athletics-related complaints received throughout the year. She received 11 new complaints during this reporting period. One of the reports derived from an anonymous letter, one complaint was received from the police, and two were received anonymously through the hotline. Ms. Del Giorno also directly received six complaints in person, by email, or by phone call, and she discovered one violation independently. The reports related to issues including: violations of Policy AD73 (Accessing Athletic and Recreational Facilities); concerns about coaches' behavior; a complaint requesting an investigation into several aspects of a men's sports program; reports of inappropriate conduct by student-athletes and graduate assistants; a report of potential underage drinking by student-athletes; communications issues among staff; inquiry into athletic trainer responsibilities at

summer camps; and concerns about the tour guide protocol used by the football team. Four of the complaints have been resolved and closed, and seven remain under review and investigation.

There were incidents involving the football team during the past year, one of which constituted a potential NCAA violation. Two student-athletes allegedly were involved in disorderly conduct and refusing to leave a fraternity party when asked to do so. Others allegedly harassed a University traffic officer after she ticketed their mopeds, which had been parked illegally on campus. The son of a football team administrator practiced at a University facility in violation of University Policy AD73 and, possibly, NCAA regulations. This matter was reported to the NCAA, and Penn State addressed the violation of its administrative policy. To better address compliance issues arising out of this sport, the athletics integrity officer will be meeting bi-weekly with the football team's chief of staff this fall.

d) Athletics Compliance

Over the course of the past two years, the Athletics Compliance Office has instituted improvements to support adherence to the Freeh Report's recommendations and NCAA compliance. The office has expanded to include seven full-time employees. As noted, Mr. Stolberg now reports directly to Mr. Becker, which affords his office appropriate independence from the Athletics Department. It introduced a software application to enhance compliance with applicable rules and streamline records management. Mr. Stolberg also secured a place for an athletics compliance column in the Lion Club's quarterly newsletter, and he presented his work to a group of Alumni Association leaders this year for the first time. All AIA annual training certifications are now maintained electronically in an organized, easily accessible manner. Quarterly annual training sessions also were organized and scheduled far in advance to better facilitate timely attendance by "Covered Persons." The Athletics Compliance Office trained 1,379 "Covered Persons" during the 2013-14 academic year. As described in Section

III.C.3 below, Mr. Stolberg was forthcoming about the few individuals who were late in completing their training requirement or failed to do so, and in each instance remedial action was taken.

Over the past two years, the number of secondary NCAA or Big Ten Conference rules violations has increased at Penn State, including the number of self-reported violations.⁹ In 2012-13, Penn State committed 24 secondary violations, nine of which were self-reported by teams. In 2013-14, that number increased to 33 secondary violations, 23 of which were self-reported by teams. Over the past six years, the University has seen a steady rise in the overall number of secondary violations reported to the NCAA, from 13 in 2008-09 to this year's 33 reports. These statistics show the growing strength of compliance efforts, increased awareness of NCAA and Big Ten Conference rules and reporting obligations, and the integrity of the athletics coaching staff. The NCAA considers self-reporting of secondary violations to be indicative of a healthy athletics compliance program.

Mr. Stolberg's staff began student-athlete trainings for the 2014-15 academic year in August 2014, enhancing and customizing the training module based on lessons learned from and knowledge gaps identified in the past year. The compliance staff plans to continue to conduct quarterly "Covered Persons" training sessions for staff. In the coming year, the compliance staff plans to track the dates on which each "Covered Person" takes the training on its spreadsheet to ensure that newly hired coaches do not postpone taking the training until the end of the year. The compliance office further plans to require all new coaches to sign an acknowledgment of

⁹ Self-reported secondary violations are those reported by a member of an athletic program. All other secondary violations discovered by the Athletics Compliance Office, athletics integrity officer, or other channel outside of a Penn State athletic team are considered externally reported violations.

their “Covered Persons” requirements during their orientation and to request that they attend the first available group training session.

e) University Ethics

Penn State hired Ethics Specialist Tim Balliett on December 2, 2013. Dr. Balliett supports Mr. Becker and the ACCE in their development of a new values statement and the Code of Responsible Conduct. He chairs the Ethics Committee, which is a stand-alone committee independent of the Ethics and Compliance Council but with representation on the Council. The Ethics Committee includes eight administrators and faculty with responsibilities for and experience with ethics, and it meets monthly to coordinate ethics activities across the University and advise Penn State’s leaders on the matters within its responsibility. With the committee’s assistance, Dr. Balliett will be responsible for developing a communications plan for the new values statement.

At the request of President Barron, the Ethics Committee is developing a plan of action to promote the University’s anti-retaliation policy. The plan includes: developing ethics-related supervisory and leadership training in conjunction with the Center for Workplace Learning and Performance and the vice provost for academic affairs; marketing and education about the Ethics and Compliance Department; communication and enhancement of anti-retaliation protections; establishment of uniform tracking and investigatory protocols across the University; encouragement of hotline use by undergraduate and graduate students; collaboration with Penn State’s task forces on sexual assault and bystander intervention; and promotion of increased emphasis of the anti-retaliation policy by University leaders. The committee also is amending Policy AD47: “General Standards for Professional Ethics” to more clearly explain the ethical responsibilities of all faculty and staff and describe the consequences for failing to meet these standards. In addition, this academic year the committee plans to focus its attention on an

assessment of the populations on campus most vulnerable to potential retaliation, and developing an ethical decision-making model for the University as recommended in the Freeh Report.

Dr. Balliett's additional activities include serving as one of the reviewers of the strategic plans submitted by each University unit for Penn State's 2014-19 Strategic Plan. He will review the units' plans for addressing ethics and integrity and make recommendations for revisions as needed. Dr. Balliett also is working with the Center for Workplace Learning and Performance to revise the ethics components of four management training courses.

From an academic perspective, Penn State demonstrated its commitment to integrating ethics and integrity into its educational mission and research activities by announcing a plan to make 12 ethics-related, tenure-track appointments across a range of disciplines over the course of the next three years. All 12 appointees will work in their own academic departments but have partial appointments to Penn State's Rock Ethics Institute. The purpose of this initiative is to promote the integration of ethics into research projects in all academic disciplines, including the sciences, engineering, humanities and social sciences, to enhance collaborations among colleges, to integrate ethics throughout the curriculum, and to incorporate ethical analyses into research.

f) Oversight of Programs for Minors and Youth Protection

Youth Programs Compliance Specialist Sandy Weaver's duties include maintaining the inventory of youth programs that Penn State runs, chairing the Youth Programs Council, overseeing implementation of and changes to University policies related to child protection, abuse awareness training, and general oversight of youth programs affiliated with Penn State. There are 816 youth programs on the current inventory. Ms. Weaver also oversees over 100 sports camps at University Park and over 2,000 4-H clubs and groups affiliated with the University but tracked outside of the inventory. Her activities can be viewed on the Ethics and Compliance Department's website, which includes a page dedicated to youth programs. The

page includes separate tabs for policies, training, resources, the Youth Programs Council, information for parents, and youth program opportunities.¹⁰

Penn State's inventory of youth programs allows Ms. Weaver to track sanctioned activities at all Penn State campuses. Ms. Weaver also uses the inventory, which is maintained in a database, as a resource for new programs under development. Training materials, guidebooks, program websites, and manuals can now be shared among programs on different campuses, enabling the sharing of pre-existing resources and more consistent practices across different campuses and youth-related programs. The database also better facilitates her ability to communicate policy changes and guidelines to all youth programs.

Ms. Weaver has been focusing a great deal of attention this year on the review and update of Penn State's policies related to the protection of minors, as required by Freeh Report recommendation 7.3.2. Pennsylvania Governor Tom Corbett signed into law 18 new bills designed to enhance the Commonwealth's child abuse laws on December 18, 2013. Penn State is now bringing its policies, procedures, and trainings into conformity with those new laws, many of which go into effect as early as December 31, 2014. The University is in the process of amending Policies AD72: "Reporting Suspected Child Abuse," AD39: "Minors Involved in University-Sponsored Programs or Programs Held at the University and/or Housed in University Facilities," HR99: "Background Check Process," as well as making any required changes to the University's mandated reporter training. The group also is considering other possible changes to the policies based on feedback from the stakeholders directly involved in managing youth programs.

¹⁰ See <http://www.universityethics.psu.edu/UniversityEthics/Units/YouthPrograms/index.cfm>.

The Policy Compliance Implementation Committee originally tasked with overseeing youth programs and related facilities security changes on all campuses prior to her arrival is now transitioning all responsibilities directly to Ms. Weaver and the Youth Programs Council. Chaired by Ms. Weaver, the Youth Programs Council met six times since November 2013. It supports Ms. Weaver in the continued implementation of Freeh Report recommendations 7.1 and 7.3 regarding oversight of children's camps and other programs for minors. The Youth Programs Council studies best practices, reviews the Youth Programs website, and updates and develops forms for daily use in the operation of youth programs.

Ms. Weaver remains directly involved in the improvements being made to facility security at Commonwealth Campus athletics and recreational facilities through her leadership of the Facilities Access Subcommittee. Nearing completion, these projects involve the installation of security cameras and card swipe technology on all campuses. Penn State has held two statewide meetings with representatives from each campus to answer questions about the process, operation of the new electronic security systems, and the requirements of Policy AD73, as well as to facilitate completion of the renovations. As part of this project, Ms. Weaver developed and distributed earlier this year guiding principles for the implementation of Policy AD73 as well as facility analysis questions to clarify changes required based on the policy. A subcommittee including Ms. Weaver, Mr. Bodenschatz, University Risk Officer Gary Langsdale, and Assistant Vice President of University Police and Public Safety Steve Shelow is drafting additional guidance in response to questions from the Commonwealth Campuses to further clarify application of Policy AD73 in practice.

Penn State also is developing standardized facility reservation forms for use internally and for rental of facilities by non-Penn State parties. Individuals reserving facilities for

programs involving minors are bound by agreement to abide by all relevant University policies. Parties to the reservation agreement must certify that all employees or volunteers interacting with minors at the facilities have completed background checks and have attended annual training on misconduct reporting requirements and on conduct to protect participants from abusive emotional and physical treatment. The agreements require two authorized adults to supervise locker rooms for events involving minors. These draft agreements are in the process of being finalized now.

In addition to athletics facilities, Penn State has addressed the frequent presence of minors in places such as University libraries and the Arboretum at University Park. Penn State established Policy UL-AD28: “Safety and Well-Being of Children in the University Libraries” which governs establishment of a secure environment for all library users and covers supervision of minors and young adults using the libraries. University Park’s Arboretum also opened a children’s garden in the summer of 2014. Ms. Weaver and Mr. Langsdale met with the director of the children’s garden to discuss policy and procedural guidelines that needed to be established, and they provided training in May 2014 to volunteers who will be working in the garden.

Ms. Weaver observed 23 sports and academic camps and recreational programs offered by Penn State this summer and acted to correct one incident of non-compliance she witnessed first-hand. She also participated in several camp staff, coach, and camper orientation meetings, including her May 6, 2014 joint presentation with Penn State Sports Camps Director Ed Franks to the University’s varsity athletic coaches on youth protection policies during their camp orientation session. She worked with the Sports Camps Office to finalize the 2014 staff manual, which was distributed to all directors of University Park sports camps.

The Sports Camps Office reported that the use of a new background check vendor resulted in speedier and more efficient completion of background checks. More than 750 sports camp staff received mandated reporter and Clery Act training. Those who were not able to complete the required training remotely did so at the camp site before beginning work. They also received a two-page handout outlining Penn State's youth protection policies and expectations during each camp orientation session.

In response to the report issued on January 9, 2014 by the Presidential Task Force on Child Care at Penn State on which Ms. Weaver served, President Barron has implemented two of the task force's recommendations. He has moved oversight of child care from the College of Health and Human Development to the Office of Human Resources. He further established a Child Care Advisory Committee and announced that Penn State will hire a Director of Child Care Program Services. Ms. Weaver was asked to join the Child Care Advisory Committee to support Ms. Basso and the new director once hired.

g) Continued Training Activities

Freeh Report recommendation 2.2.10 suggested that Penn State provide and track mandated employee training. The Compliance Training Committee oversees completion of mandated training and ensures communication and cooperation between all individuals engaged in conducting and tracking compliance training. Its purpose is to promote University-wide collaboration, ensure consistency, reduce redundancy, and share knowledge and resources across departments. The committee's current focus is on completing an awareness video regarding mechanisms for reporting wrongdoing as well as Title IX and Violence Against Women Act ("VAWA") training. They also are discussing the best means of tracking ongoing training, overseeing new employee orientation, and discussing potential consequences for failure to complete required trainings.

Penn State continues to use Skillport software as its current management and tracking system for compliance training, including the online mandated reporter training entitled “Building a Safe Penn State: Reporting Child Abuse” and the online Clery Act training course. A July 1, 2014 upgrade to Skillport resolved technological barriers which, as discussed in our first annual report, previously resulted in a number of complaints from users who had difficulty accessing the training programs.¹¹ Penn State’s compliance tracking system also is now fully functional and continues to support the University’s efforts to track completion of the training. The system sends automated notifications to employees who must complete training modules.

In 2013, 30,531 individuals completed mandated reporter training. So far in 2014, 24,650 individuals have taken this training. In 2013, 3,241 employees, students, and volunteers completed the online Clery Act training, and 3,217 individuals completed the training in-person. Since January 1, 2014, 4,968 employees and 2,285 non-employees have completed Penn State’s new online Clery Act training course.¹²

In addition to the mandated reporter and Clery Act training modules, the Office of Ethics and Compliance and its Compliance Training Committee also oversee training conducted by several other departments, including Environmental Health and Safety, the Office of Student Conduct, the Athletics Compliance Office, the Office for Research Protections, and the Export Compliance Office. Of relevance, the Office of Student Conduct trained 203 employees on Title IX, Policy AD 85, and the Student Code of Conduct. In addition, 1,726 employees received training on sexual harassment in 2014 to date. This training defines sexual harassment, teaches the legal and procedural process to follow in sexual harassment situations, and identifies appropriate steps to be taken to help prevent, report, and resolve relevant issues.

¹¹ See Monitor’s Annual Report at 18.

¹² Penn State no longer conducts in-person Clery Act training.

h) Ethics and Compliance Hotline

On July 10, 2014, Mr. Becker presented to the Board's Committee on Legal and Compliance statistics related to the use of Penn State's ethics and compliance hotline in 2014. Since January 1, 2014, the hotline has received a total of 168 calls. The majority of the reports made were received anonymously and through the hotline's website. The top three categories of reports involved human resources-related issues. Four calls related to NCAA and athletics compliance (each of which is noted in the disclosure log), 10 related to child safety (including four calls to the Pennsylvania ChildLine), 12 calls related to fraud, and five related to retaliation. Most calls resulted either in counseling or the determination that complaints were unfounded. No terminations of employment have occurred in 2014 as a result of hotline complaints.

On May 15, 2014, Mr. Becker issued a memorandum promoting hotline use to 41 representatives across all University campuses. His memorandum outlined Penn State's commitment to ethical behavior and support of employees' ability to raise questions about potential misconduct or violations of University policy. He enclosed a total of 890 posters advertising the ethics and compliance hotline, instructing 41 human resources units to distribute and prominently display the poster.

On June 23, 2014 and August 27, 2014, President Barron reissued the e-mail message sent each term from the office of the president to all students, faculty, and staff detailing the resources available to the community to report wrongdoing. This summer, the e-mail was modified again to reflect the University's focus on sexual harassment and assault.

This year, Penn State already has seen an increase in the number of reports received each month, with 120 calls occurring in the first quarter of the year alone. Such an increase in hotline usage is consistent with regular, community-wide promotion and advertisement of the hotline.

i) Clery Act Compliance

Penn State has created a full-time, dedicated Clery compliance staff to ensure compliance with the Act's mandates. Clery Compliance Manager Gabriel Gates has: developed tools, auditing functions, publications, and training materials; hired Clery Compliance Coordinator Sherry Moore; and embarked on a Clery Act training program for all "campus security authorities" that has been revised several times in the past two years in a continuous effort toward self-improvement.

Mr. Gates leads the University's new Clery Act Compliance Interdisciplinary Review Team, which was formed in response to direction from the U.S. Department of Education. The team has issued a report to the Department of Education describing its intentions and plans. Mr. Gates and Ms. Moore also visited each of the Commonwealth Campuses during the course of this summer to review with representatives their current Clery Act-related statistics and ensure that their policies and procedures are accurate. Mr. Gates and Ms. Moore worked with all human resources representatives to review the "campus security authority" list and ensure that the human resources representatives are identifying "campus security authorities" consistently across University units and departments.

j) Sexual Assault and Harassment Prevention

The issue of sexual violence and harassment at institutions of higher education has become a subject of national concern, and one that President Barron identified as a priority upon his arrival. In one of his first acts as president, he appointed a Sexual Assault and Sexual Harassment Task Force to expand the University's focus beyond child maltreatment to the broader University community. The task force is composed of 17 University members with relevant responsibilities and expertise, and includes three student representatives. Dean of Students Damon Sims serves as its chair.

President Barron charged the task force with collecting, reviewing, and analyzing Penn State's current activities related to sexual assault and sexual harassment to ensure that current practices comply with Title IX obligations. He further charged the task force with making recommendations to ensure that Penn State's policies and practices are as effective as possible, taking into account best practices, new federal guidance and regulations, and drawing on the expertise of subject-matter professionals. This will include a review of Policy AD85: "Discrimination, Harassment, Sexual Harassment and Related Inappropriate Conduct," which went into effect on January 27, 2014 and covers Title IX compliance. A member of my team participated in the first task force meeting on August 7, 2014. During that meeting, President Barron expressed his expectation not only that Penn State will be in compliance with Title IX requirements but also that the task force will help make the University a national leader on the issue.

Penn State also is developing a sexual assault online training module in response to recent Title IX and VAWA legislation. The training will cover sexual assault, sexual harassment, bullying, bystander intervention, domestic violence, retaliation, and potential additional topics. This project remains in its early stages.

The Network on Child Protection and Well-Being continued to grow with the addition in June 2014 of Dr. Brian Allen, the sixth of at least 12 new co-funded, multidisciplinary faculty hires to which Penn State has committed. Dr. Allen is the director of Mental Health Services at Penn State Hershey's Center for the Protection of Children. He is an assistant professor of pediatrics who specializes in researching child abuse and trauma. He will be building the new Penn State Hershey Children's Hospital's Transforming the Lives of Children Clinic. Dr. Allen joins recent hires Drs. Lori Frasier, Kent Hymel, Jennie Noll, Idan Shalev, and Chad Shenk in

Penn State’s collaborative effort to produce new knowledge on the causes and consequences of child maltreatment and its prevention, detection, and treatment. Penn State’s Fourth Annual Conference on Child Protection and Well-Being also is scheduled for September 30 – October 1, 2015.

For a second year, the Big Ten Conference equally distributed Penn State’s share of the post-season football bowl revenues – \$2.75 million – among all 12 members. Each school must donate its share to local charitable organizations in its community dedicated to protecting children. Penn State again donated its portion to the Centre County United Way, which equally divides it between the Children’s Advocacy Center of Centre County and the Stewards of Children program. These organizations both support the recovery of young victims of sexual abuse and provide education and prevention programs.¹³

2. Phase II – The Plan for Continuous Improvement

The activities described above and in the preceding quarterly reports all support Penn State’s ongoing Plan for Continuous Improvement. This Plan, based not only on the Freeh Report’s recommendations but also on Penn State’s own initiatives, continues to be shepherded by the administration response team.

The team oversaw creation of a working group of policy stewards under the leadership of Vice President for Administration Tom Poole. This group has been given responsibility for overseeing, reviewing, updating, and modifying University policies on a continuing basis. The group expects to complete its initial review of all policies this year. The team also is overseeing

¹³ See “Local groups reap Penn State bowl revenue to fund child abuse awareness programs,” available at <http://www.centredaily.com/2014/06/02/4205932/local-groups-reap-psu-bowl-revenue.html?sp=/99/264/&ihp=1>; see also “Big Ten schools to again use bowl revenues to support children,” available at http://news.psu.edu/story/317257/2014/05/29/big-ten-schools-again-use-bowl-revenues-support-children?utm_source=newswire&utm_medium=email&utm_term=317296&utm_content=05-30-2014-11-56&utm_campaign=daily%20newswire.

the current national search for a new vice president for strategic communications, and, on July 1, 2014, it launched *Penn State Today*, an online daily internal newsletter to enhance communications.

C. Penn State’s Compliance with the AIA

Penn State substantially met its obligations under the AIA, including 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 completion of annual certifications of compliance with NCAA, Big Ten Conference, and Penn State rules, among other requirements. As discussed below in Section III.C.5.b, internal audits of the “Covered Persons” obligations revealed a lapse in the procedure for distributing the policies and procedures that support the “Integrity Program.” Section III.C.4 discusses an administrative error resulting in untimely certification of the Athletics Code of Conduct by new Trustees elected and appointed to the Board this year.

1. Team Monitor Annual Certifications

The AIA requires Penn State to appoint a team monitor for each of the University’s 31 NCAA-sanctioned, intercollegiate athletics teams. The team monitors annually must certify in writing to the athletic director and the Athletics Integrity Council that their teams complied with NCAA and Big Ten Conference rules and principles. They also must report annually on “any issues or problems that have arisen during [the] year and any corrective action taken in response.”¹⁴ As previously reported, Penn State appointed the head coach of each varsity

¹⁴ AIA § III.B.3.

intercollegiate athletics team to serve as its team monitor.¹⁵ Their annual certifications were due by June 30, 2014. Ms. Del Giorno and the Athletics Integrity Council oversaw this process.

Penn State originally developed its Team Monitor Annual Certification form in 2013 in consultation with the Monitor.¹⁶ This year Penn State added to the certification form an acknowledgment that the team monitor's failure to properly monitor the sports program, report issues, and fulfill his or her obligations in the role will be reported to the Athletics Integrity Council and Board of Trustees or an appropriate Board committee and may result in disciplinary or corrective measures against the team monitor or sports program.

Each of Penn State's 31 team monitors provided the required certification in advance of the June 30th annual deadline. The certifications indicated a total of 33 secondary violations (noted earlier) of NCAA or Big Ten Conference rules during the 2013-14 academic year. Twenty-three of the secondary violations that were identified were self-reported by teams. The majority of the secondary violations involved infractions such as impermissible or inadvertent text messages, calls to, or contacts with potential recruits. Other infractions included participation in competitions or camps outside of Penn State without written approval, impermissible payment for meals, failure to timely complete paperwork, or administrative errors. Each infraction has been reported to the NCAA and the Big Ten Conference, with appropriate corrective measures taken internally. Responses are still pending from those organizations with respect to more recently reported violations.

2. Athletic Director's Annual Certification

The AIA requires the athletic director to review the reports submitted by team monitors and to certify in writing to the Athletics Integrity Council, the NCAA, and the Big Ten

¹⁵ See Monitor's Second Quarterly Report at 8.

¹⁶ See Monitor's Annual Report at 7 for a description of the certification form.

Conference that “the Athletics Department is in compliance with the NCAA Constitution and Bylaws and the Big Ten Handbook, and the principles regarding institutional control, responsibility, ethical conduct, and integrity reflected” in those documents.¹⁷ In a letter to the NCAA, the Big Ten Conference, and the Athletics Integrity Council dated July 8, 2014, former Athletic Director David Joyner provided that certification. The letter attached a chart detailing the secondary violations reported during the course of the 2013-14 academic year.

3. Annual Training

The AIA requires Penn State to provide annual training addressing the NCAA Constitution and Bylaws, the Big Ten Handbook, and the principles of institutional control, responsibility, ethical conduct, and integrity. The training program must cover the disclosure program required by the AIA and by the University’s and Athletics Department’s non-retaliation policy and commitment to maintaining confidentiality and anonymity with respect to disclosure. The Board of Trustees also must receive training on its specific relationship, role, and responsibilities regarding athletics. The Athletics Integrity Council is responsible for oversight of the annual training program.¹⁸ The AIA further requires each “Covered Person” who is required to receive annual training to certify in writing their completion of this obligation.¹⁹ This annual training is due to be completed by June 30 of each year. In a letter to the NCAA dated July 7, 2014, Ms. Del Giorno reported Penn State’s timely completion of these annual training

¹⁷ See AIA § III.D.1.

¹⁸ See AIA § III.D.1.

¹⁹ See AIA § III.D.2.

requirements.²⁰ The Monitor concurs that Penn State substantially met this obligation by the June 30, 2014 deadline with certain immaterial exceptions noted below.

Student-athletes received their annual training and acknowledged by signature their awareness of their athletics compliance obligations at compliance orientation meetings held in August 2013. The Monitor observed one such annual training session held on August 9, 2013, at which student-athletes completed their AIA obligations in conjunction with the completion of other required compliance training and forms. In the training, Mr. Stolberg introduced members of the compliance office staff and discussed ethics, integrity, and, among other topics, rules relating to: the Code of Conduct; Penn State's obligations under the AIA; gambling activities; interactions with local businesses and promotional activities; pro-sports counseling resources and agents; recruiting; eligibility; outside competition; employment; extra benefits; awards and memorabilia; complimentary admissions; meals; drug testing; practice hours and seasons; and best practices to avoid rules infractions. We reviewed Penn State's files containing the certifications obtained from all student-athletes. We verified that Penn State completed its annual training certification requirements for all but one student-athlete.²¹

Mr. Stolberg and his staff also conducted six annual "Covered Person Training" sessions throughout the year for athletics-related staff. Members of the Monitor's team observed one of these training sessions. Each training included the common elements of: introducing the athletics compliance staff; presenting the principles of institutional control and ethical conduct;

²⁰ See Letter dated July 7, 2014 from Julie Del Giorno to Donald Remy and Jonathan Barrett regarding the Athletics Integrity Agreement. Ms. Del Giorno sent a follow-up letter on July 30, 2014 to Mr. Remy and Mr. Barrett informing them of six additional "Covered Persons" who failed to timely complete the annual training, an issue that was remediated on July 29, 2014.

²¹ After a good faith effort on the part of the athletics compliance staff, one male practice player for the women's basketball team failed to complete the annual training obligation. As a consequence, on July 30, 2014, the University determined that this student is ineligible to work with the team for the 2014-15 academic year.

covering probationary status and its impact on student-athletes; explaining procedures for requesting rules interpretations and reporting violations; discussion of sanctions-related documents and vocabulary including the Consent Decree, AIA, athletics integrity officer, “Covered Person,” and Code of Conduct; and a “Covered Person Training Document” reviewing the Code of Conduct and NCAA standards and expectations of conduct. Mr. Stolberg also offered additional, specialized annual training sessions for groups including coaches, athletics trainers, medical personnel, communications staff, strength and conditioning staff, and faculty partners. In these annual training sessions, Mr. Stolberg included the above topics as well as specialized compliance training addressing issues relevant to their function. Each group received materials on all of the topics discussed. Mr. Stolberg timely obtained and provided the Monitor certifications from the majority of these staff members.²²

At an executive session of the Board of Trustees meeting on January 17, 2014, Mr. Stolberg provided the required annual “Covered Persons” training on athletics compliance.²³ The training was tailored to include not only the substantive elements discussed in all other “Covered Persons” trainings, but also relevant topics such as: the activities of boosters; recruitment of prospective student-athletes; fundraising activities; donations; contacts with

²² Twenty-five athletics-related staff members designated “Covered Persons” were unable to attend a live annual training session. Mr. Stolberg provided them the training materials by email and obtained confirmation in writing of their receipt and understanding of the materials.

In addition, the Monitor discovered that five staff members failed to attend scheduled training sessions and subsequently failed to respond to emails from the compliance office containing the training materials and requesting confirmation of their receipt and understanding of the materials in writing. On July 29, 2014, the compliance office obtained email certifications from all five of these employees, two of whom will be working with the football team again this coming year. Upon learning of this issue, Ms. Del Giorno obtained the missing certifications and sent an amended letter to the NCAA and the Big Ten Conference on July 30, 2014 to apprise them of the late completion of these five annual training certifications.

²³ See AIA § III.D.1.

current student-athletes; and activities that constitute extra benefits to student-athletes under NCAA rules. A member of the Monitor's team attended the training session. All trustees present certified in writing that they received the training, as required under the AIA.²⁴

Four trustees not in attendance at the January Board meeting received the training materials by email in March 2014. Three of those trustees verified in writing their receipt, review, and understanding of the materials. The fourth trustee absent during the January session later resigned from the Board. In addition, two trustees who left the room for a significant portion of the live training session in January were asked to review and certify understanding of the materials by email. One of these trustees declined to certify his completion of the annual training, citing his disagreement with the Consent Decree and the AIA. In her July 7, 2014 letter, Ms. Del Giorno informed the NCAA of Penn State's good faith effort to obtain this trustee's certification and enclosed a copy of the trustee's earlier letter describing his reasons for refusing.²⁵

4. Athletics Code of Conduct Certification by New Trustees

New members elected and appointed to the Board of Trustees this year received their annual training materials via e-mail and provided written certification of their receipt and understanding of the materials provided. Penn State, however, failed to include the Athletics Code of Conduct with the materials sent to the new trustees and did not discover this administrative oversight within 30 days of the trustees' commencement of their duties. Upon realizing this inadvertent error, Penn State e-mailed the Code to the eight new trustees affected by this oversight and requested that they certify compliance with the Code as soon as possible.

²⁴ See AIA § III.D.2.

²⁵ See Letter dated July 7, 2014 from Julie Del Giorno to Donald Remy and Jonathan Barrett regarding the Athletics Integrity Agreement.

Each of the eight new Trustees did so. On August 27, 2014, Ms. Del Giorno informed the NCAA by letter of the untimely completion of this obligation by Trustees Clifford Benson, Todd Rucci, and Allison Goldstein during this reporting year. She intends to include an explanation for the untimely completion of this obligation by the remaining five trustees who took office in July 2014 in her compliance letter next July.

Penn State has now developed a protocol for trustee compliance with the AIA that should prevent such an error from recurring. According to that protocol, sitting trustees will continue to receive annual training at their January meeting. All new trustees will receive their annual training and a copy of the policies and procedures manual during their orientation session at the end of June. At that time, they also will review and certify the Code. They will thereby complete their AIA obligations before they take office on July 1.

5. Internal Audits of “Covered Persons” Obligations

Teaming with Penn State’s Office of Internal Audit, we evaluated the University’s work to fulfill its “Covered Persons” obligations under the AIA.

a) “Covered Persons” - Athletics Code of Conduct (AIA § III.C.1)

The AIA requires Penn State to obtain from all “Covered Persons” certification that they received, read, and understood the Athletics Code of Conduct within 30 days of its publication or their becoming a “Covered Person.” If a “Covered Person” refuses to provide the required certification, the AIA calls upon the University to undertake best efforts to obtain it and report the “Covered Person’s” failure to cooperate to the NCAA and Big Ten Conference. Penn State must also periodically review the Code and, as necessary, revise it.²⁶

²⁶ See AIA § III.C.1.

Agreed upon procedures performed by the University's Office of Internal Audit verified Penn State's fulfillment of these obligations. Of the sample of Covered Persons selected for review, Penn State was unable to produce the original, signed hard copy of the Code for one "Covered Person." When interviewed, that "Covered Person" confirmed having signed the certification when the Code of Conduct was first distributed, but agreed to sign it again and supply a note explaining the loss of the record. Of the sample of individuals who became "Covered Persons" after the Code of Conduct was first distributed, all timely supplied the required certification.

b) "Covered Persons" - Policies and Procedures (AIA § III.C.2)

The AIA obligates Penn State to develop and within 30 days thereafter distribute to all "Covered Persons" written standards addressing the operation of its "Integrity Program."²⁷ The University's internal audit personnel confirmed that the athletic director distributed the policies and procedures to all "Covered Persons" within the Athletics Department excluding student-athletes in February 2013. As we reported at the time, the policies and procedures were then further distributed to the Board of Trustees and to all student-athletes, but circulation of these materials was accomplished outside of the 30-day period prescribed in the AIA.²⁸

As part of the recent performance of agreed upon procedures on a sample population of 35 "Covered Persons" to verify continued compliance with this obligation, however, audit personnel were unable to confirm that 13 individuals had received a copy of the written standards. These individuals all were student-athletes who enrolled at the University after initial distribution of the policies and procedures in February 2013. After discussions with the athletics integrity officer, we discovered that since the original distribution of the updated chapters of the

²⁷ See AIA § III.C.2.

²⁸ See Monitor's Second Quarterly Report at 9-10.

manual, a lapse occurred in that Penn State did not distribute these chapters to new “Covered Persons” who joined the University after February 2013. Audit personnel verified that all 35 “Covered Persons” in the sample population had completed training and received education related to the policies and procedures. The internal audit staff further observed that the policies and procedures are available to the Athletics Department via a shared computer drive and through an intranet link on the Athletics Compliance Office’s website that also is included in materials supplied to Athletics Department personnel when they complete “Covered Person” training.

Penn State plans to rectify this lapse through the issuance of an e-mail to all “Covered Persons” at the beginning of each semester that contains links to significant documents relevant to its “Integrity Program,” including the Intercollegiate Athletics Policy Manual and the Athletics Code of Conduct. Student-athletes and trustees received such an e-mail on August 28, 2014, and Athletics Department staff and Faculty Partners received the e-mail on August 29, 2014. For the 2014-15 academic year, the intranet link to the policies and procedures also will be included in the student-athlete handbook and in the student-athlete section of the Athletics Compliance Office’s website.

Since completing the policies and procedures that relate to the “Integrity Program,” Penn State has continued to revise other chapters of the Athletics Department’s manual of written standards with one chapter remaining to undergo revision. Once all chapters of the policy and procedure manual have been revised, all “Covered Persons” will receive it. Beginning in fall 2014, a policy review team led by Penn State’s associate athletic director and senior woman administrator will review the existing manual for suggested revisions.

**c) “Covered Persons” - Annual Training and Certification
(AIA §§ III.D.1-2)**

The AIA obligates Penn State to provide annual training to all “Covered Persons” concerning the NCAA Constitution and Bylaws and Big Ten Handbook, including the principles of institutional control, responsibility, ethical conduct, and integrity they reflect, as well as the Athletics Department’s own written standards, and the disclosure program maintained under the AIA. The AIA further directs that training for the Board of Trustees should address the “Board’s relationship, role and responsibilities regarding the Athletics Department and any team, person or aspect thereof.”²⁹ The University’s internal audit personnel obtained copies of the training materials used by the athletics compliance staff to deliver the “Covered Persons” training and verified that the training materials address the points required under the AIA.

Review of the “Covered Persons” training process also entailed documentation of the method used to identify those who must complete the training. The Athletics Compliance Office instructs each unit within the Athletics Department to identify “Covered Persons” who must take the training. The Athletics Compliance Office conducts the “Covered Persons” training. At each training session, participants must sign a form that includes their name and the date of the session and which serves as the individual’s certification that he or she has completed the “Covered Persons” training. The Athletics Compliance Office maintains the signed attendance records, which are available for inspection by the NCAA or Big Ten Conference upon their request. Examination of those training records in connection with this review confirmed that each of the “Covered Persons” in the sample tested had completed the required training. As discussed elsewhere in this report, however, the athletics integrity officer informed the NCAA

²⁹ AIA § III.D.1.

and Big Ten Conference that seven “Covered Persons” failed timely to certify completion of the annual training course.

D. Ongoing Recommendations

1. Facilities Security Enhancements

Two recommendations in the Freeh Report call upon the University to study and enhance where needed the security and access protocols at athletic, recreational, and camp facilities to reasonably ensure the safety of those who use them.³⁰ We have monitored the University’s implementation of these recommendations with the assistance of Guidepost Solutions, LLC.

As previously reported, augmenting physical security at the University’s athletics and recreational facilities is a long-term, capital-intensive undertaking.³¹ Even before my appointment, Penn State had begun to address these recommendations, and work is expected to continue through 2015. Under the leadership of Associate Athletic Director for Facilities and Operations Mark Bodenschatz, representatives from the Athletics Department, Office of Physical Plant, Access Controls and Electronic Security Programs team, and Public Safety and University Police identified relevant athletic and recreational facilities and prioritized them to facilitate the orderly implementation of security measures.³² This team then began to perform baseline

³⁰ Freeh Report recommendation 5.2 called upon the University to “[e]valuate security and access protocols for athletic, recreational and camp facilities and modify as necessary to provide reasonable protections for those using the facilities.” Freeh Report recommendation 7.1 urged Penn State to “[i]ncrease the physical security and access procedures in areas frequented by children or used in camps and programs for children.”

³¹ Monitor’s Annual Report at 33.

³² Mr. Bodenschatz was recently honored as 2014 Professional of the Year for college athletics by the National Center for Spectator Sports Safety and Security. He also is among the first in the nation to earn the Certified Sport Security Professional certification, which is awarded to professionals who have oversight and responsibility for security operations for sporting venues and special events. See “Bodenschatz Named National Sports Security Professional of the Year for College Sports,” available at <http://www.gopsusports.com/genrel/072214aaa.html>.

security assessments to guide the development of budgets, timelines, and design and construction documents to deliver the planned enhancements. This team further developed and has overseen the execution of a two-phased approach to the implementation of security measures at the many University Park sites. Phase I work has focused on securing the outside perimeter of the facilities through the installation of video surveillance and electronic card swipe access. Phase II projects will further secure the facilities through renovation projects that will enable the University to monitor the circulation of patrons and reduce access to a single point of entry with screening points at main entrances. Penn State's method for scheduling and implementing these measures is consistent with best practices in a university security setting.

In addition to the implementation of physical security measures, Penn State has augmented security at its recreational and athletic facilities through the adoption of Policy AD73. Policy AD73 limits access to athletic and recreational facilities to individuals with a valid University identification card and one accompanied guest.³³

Since our first annual report, Penn State has completed the implementation of Phase I electronic access controls at the first group of targeted facilities and forecasts completing this work at a second set of facilities by the end of this year. The University also has implemented Phase II security measures and gained active control over all access points at one building and made progress towards the completion of design and construction documents that will guide the renovation of the remaining facilities selected for that level of enhancement. In addition to our regular meetings, during the past reporting period Mr. Bodenschatz led Guidepost and a member of my team on a tour of Holuba Hall—the most recent facility where Phase I security measures

³³ See Policy AD73 Accessing Athletic and Recreational Facilities, available at <http://guru.psu.edu/policies/AD73.html>.

were fully implemented—and other facilities to observe the completed improvements and works in progress.

As mentioned, Penn State has undertaken to implement access controls and enforce Policy AD73 at the athletic and recreational facilities on its Commonwealth Campuses. This past reporting period, Guidepost visited three of the University’s Commonwealth Campuses—Harrisburg, Mont Alto, and Altoona—to observe Penn State’s progress towards introducing the security measures outside of University Park. Guidepost observed that facilities at the selected campuses had been updated with access controls.

**2. Human Resources Information Systems (“HRIS”)
(Recommendation 2.2.7)**

Penn State continued to make progress in its efforts to satisfy Freeh Report recommendation 2.2.7 to adopt a new HRIS with sufficient growth capacity to use at University Park and all Commonwealth Campuses. Penn State currently is in negotiations with potential vendors for the new HRIS. The executive steering committee responsible for the final selection intends to present its choice to the Board of Trustees for approval this fall. This summer, the University further issued a request for information seeking potential implementation planning partners. Once the HRIS vendor has been selected, Penn State will issue a request for proposals to a narrow field of possible implementation partners.

The overarching Human Resources Transformation Project also progressed. The Office of Human Resources began piloting several proposed new service delivery models on July 1, 2014 in the College of Education and the College of Arts and Architecture. The pilot involves moving all budgeting responsibilities to human resources personnel, maintaining one strategic partner in each college, employing one human resources consultant in each college, and moving all human resources transactional work to a transactional support center. The five work streams

developing the future state design advanced their work on organizational design and talent management, process redesign, policy harmonization, change management, and technology improvements. The policy harmonization team has completed a detailed inventory of all policies and all guidelines related to human resources. It is amending policies to ensure consistency and a more streamlined approach. It further has identified gaps requiring the drafting of new policies.

3. Penn State Culture (Recommendation 1.1)

This quarter, the ACCE continued to refine its draft of a University-wide statement of values pursuant to Freeh Report recommendation 1.1 (fostering an ethical culture) as it obtains feedback from University constituencies. This draft statement of values is the culmination of two years' work by a sizable and inclusive body of University representatives. The ACCE drew from the results of the Ethics Resource Center's values and culture survey as well as focus groups it conducted, research of pre-existing values statements on campus, and its own broad representation to distill six of the most highly ranked values in the Penn State community. It has developed definitions to accompany each value. In August 2014, the draft statement of values was shared with members of faculty leadership, and presentation to the Faculty Senate, President's Council, and the Board of Trustees is planned for September.

E. Internal Audits Other Than Those Relating to "Covered Persons"

Certain of the Freeh Report recommendations specifically or by their nature require audits to evaluate the University's compliance efforts. Working in conjunction with Penn State's Office of Internal Audit, we tested the University's efforts to ensure: 1) the University is properly maintaining a list of campus security authorities and advising and training them about their responsibilities under the Clery Act; 2) Penn State developed and keeps up-to-date an inventory of programs for minors; 3) background checks are properly performed; 4) departing

employees' access to University facilities has been revoked and their keys returned; and 5) records are retained for an appropriate period.

1. Clery Master List (Recommendation 4.2.2)

At our request and in consultation with us, the University's Office of Internal Audit performed agreed upon procedures to assess the accuracy of the list of employees who serve as "campus security authorities" pursuant to the Clery Act and whether they had been advised and received training about their responsibilities.³⁴ Mr. Gates oversees the maintenance of the Clery Master List, which is updated through the collective efforts of his staff and University Human Resources representatives. Using a software tool called Compliance Tracker, HR representatives notify employees who, by virtue of their positions, are deemed "campus security authorities" of their responsibilities under the Clery Act and need to complete training annually. The completion of annual training also is documented using this program.

Tests performed on a randomly selected sample of University employees on the Clery Master List confirmed that, with minor exceptions, they had received notification of their status and completed training. Performance of the agreed upon procedures revealed that not all employees who serve as student organization advisors have been notified of their status as a "campus security authority" and need to complete training. The University is modifying the process of identifying individuals who should be added to the compliance tracking system to ensure notification to all "campus security authorities."

³⁴ Freeh Report recommendation 4.2.2 calls upon the University to "[c]reate a master list of names of those persons with Clery Act reporting responsibilities, notify them annually of the Clery Act responsibilities and publish the list to the University community."

2. Inventory of Children’s Programs (Recommendation 7.3.1)

Penn State has “[d]evelop[ed] and maintain[ed] an inventory of all University programs for children.”³⁵ Ms. Sandy Weaver is responsible for this undertaking. Through the performance of agreed upon procedures developed in consultation with my team, the University’s internal audit staff evaluated the accuracy of the youth programs registry and process implemented to develop and accurately maintain it. Ms. Weaver utilizes a variety of methods, such as e-mail correspondence, group meetings, and newsletters to create awareness of the youth programs inventory and ensure that University programs for youth are identified and entered into the database she has developed to track them. Ms. Weaver also is developing review procedures to verify independently the completeness of the inventory, which will include site visits for listed programs and analytical reviews of the inventory.

Evaluation of the youth programs inventory revealed minor exceptions. This is not surprising given the large number of programs for youth affiliated with the University and the need to rely on their sponsors to add them to the registry. Of the sample of programs identified on University websites that were selected for testing, a small number were not separately identified in the inventory but were accounted for under a general categorization of youth programs, or were identified but not fully documented; other programs were not included on the inventory. Ms. Weaver has addressed each exception. Internal audit separately studied whether individuals working with the listed youth programs had completed required child abuse reporting training. Of the nearly 200 adults working with the 15 programs selected for testing, only three exceptions were noted. Two individuals had taken and passed the test administered at the end of the training session but there was no record that they had completed the training modules. A

³⁵ Freeh Report recommendation 7.3.1.

third individual had completed the training last year, but no records existed to verify completion of the training during the current year. Ms. Weaver is addressing these exceptions with the assistance of the Office of Human Resources.

3. Background Checks (Recommendation 2.2.13)

University Policy HR99 identifies personnel who must have a background check performed and explains the process of ensuring they are completed.³⁶ This quarter, the Office of Internal Audit again evaluated compliance with Policy HR99 in response to Freeh Report recommendation 2.2.13 and found that the University's polices were functioning adequately but identified opportunities for process improvements.³⁷

In support of the audit, the University randomly selected a sample of thirty employees who began work with Penn State after May 31, 2013. Testing performed on this sample revealed a single instance in which an employee who had returned to work after a break in service of longer than six months did not undergo a new background check before returning to work but did so shortly thereafter. Further testing exposed the need to update procedures for ensuring that, when required, letters offering employment expressly state that employment is contingent upon a successful background check. Finally, the audit revealed the need to tighten controls over access to electronic background check information, which the University promptly addressed.

4. Employee Roll-Off and Access Revocation (Recommendation 2.2.15)

As contemplated last year, the University has continued to audit compliance with the practice urged in the Freeh Report to “develop a procedure to ensure that the University immediately retrieves keys and access cards from unauthorized persons.”³⁸ The most recent

³⁶ See Policy HR99, available at <http://guru.psu.edu/policies/OHR/hr99.html>.

³⁷ See Monitor's Annual Report at 26-27.

³⁸ Freeh Report recommendation 2.2.15.

audit, which examined three units of the University and one of the Commonwealth Campuses, revealed inconsistencies which were reported for management follow-up. Of the four areas tested only one had in place and consistently used a termination checklist. For one unit, testing performed on a sample of departed employees revealed that all keys had been returned timely and only one of the former employees' access cards was not timely deactivated. Procedures performed on a second unit revealed that the University did not timely gain the return of keys from three of ten employees sampled and card access for two of the sampled employees was not timely revoked. There were no exceptions noted in a third unit tested. Of the sample population affiliated with the Commonwealth Campus, auditors were unable to verify that keys had been returned by two employees out of a sample population of 21, and card access was not timely revoked for nine of the employees. On March 11, 2014, in the midst of the audit period, Penn State adopted Policy HR102, which establishes employee separation and transfer protocols and includes a checklist of procedures to be performed when an employee departs from employment with the University or relocates.³⁹

5. Records Retention (Recommendation 2.6)

This quarter, Penn State's audit personnel completed a further examination of compliance with Policy AD35 (University Archives and Records Management), which focused on two administrative units, one college, and one Commonwealth Campus.⁴⁰ As part of the review, audit personnel checked each unit for the designation of a records retention liaison who had undergone appropriate training and was empowered to perform duties as required under the policy. The filing methods and procedures employed within each unit to assure compliance with Policy AD35 also were reviewed.

³⁹ See Policy HR102, available at <http://guru.psu.edu/policies/OHR/hr102.html>.

⁴⁰ See Monitor's Annual Report at 28.

The college tested had not designated a central record retention liaison, but many of the departments within the college have personnel with records retention responsibilities. Testing revealed that one of the individuals whose files were examined for compliance with Policy AD35 was not properly safeguarding information for privacy purposes. The Commonwealth Campus had designated a records retention liaison, but that person had not undergone appropriate training. Nonetheless, the records retention liaison understood the policy, her responsibilities, and had in place a process to advise Campus staff and monitor compliance with Policy AD35. Testing performed on a sample of files revealed that one document custodian had been retaining parking tickets for longer than the required period of time. Only one of the two administrative units selected for review had designated a records retention liaison who had been trained properly, understood her duties, had the support of her superiors, and had a process in place to advise colleagues about Policy AD35 and monitor compliance with the policy. However, interviews of a sample of document custodians from both units, as well as a review of their files, did not reveal any discrepancies.

IV. OTHER EVENTS DURING THE REPORTING PERIOD

A. Athletics

Since my appointment as Monitor, Penn State's Athletics Department has experienced significant change. Over the past two years the University has maintained full funding for all 31 of its varsity teams, but the Athletics Department now operates at a financial deficit. Seven of the University's 24 head coaches are new to their position since summer 2012, and the athletics compliance staff both expanded through reorganization and welcomed two new members. In addition, three associate athletic directors have departed from the University, while one has joined and, as discussed below, Penn State has a new athletic director.

1. Search for a New Athletic Director

On June 17, 2014, David Joyner announced his retirement as athletic director effective August 1, 2014.⁴¹ On June 26, 2014, President Barron appointed a search committee to work with Collegiate Sports Associates, an executive search and consulting firm, and help him identify the University's next athletic director. Senior Vice President for Finance and Business David Gray led the search committee, which also included Ms. Del Giorno, Associate Athletic Director and Senior Woman Administrator Charmelle Green, Vice President and Dean for Undergraduate Education Robert Pangborn, Vice President for Administration Thomas Poole, and Women's Basketball Head Coach Coquese Washington.⁴² On July 26, 2014, President Barron introduced Sandy Barbour as Penn State's new athletic director.⁴³

Ms. Barbour recently transitioned out of her role as athletic director at the University of California at Berkeley after ten years in that position. She began her work at Penn State on August 18, 2014. Just weeks into her tenure, Ms. Barbour has embarked on a national search for a deputy athletic director and is reviewing the organization of the Athletics Department.

2. Head Coaching Changes

On July 15, 2014, Penn State announced the appointment of Wes Glon to the head coach position for the men's and women's fencing teams. Coach Glon had been serving as the teams' interim head coach since August 2013. Pursuant to Freeh Report recommendation 5.3 and Policy HR101, the Athletics Department conducted a national search to fill the vacant position,

⁴¹ See "Joyner retires, Penn State launches national search for athletic director," available at <http://www.gopsusports.com/genrel/061714aal.html/>.

⁴² See "Committee named to begin national search for new Penn State AD," available at <http://news.psu.edu/story/319458/2014/06/26/athletics/committee-named-begin-national-search-new-penn-state-ad>.

⁴³ See "Penn State Names Barbour Director of Athletics," available at <http://www.gopsusports.com/genrel/072614aaa.html>.

posting the job vacancy on the University's job website, ncaa.org, and with the Black Coaches and Administrators Association. After receiving five applications for the position and interviewing two finalists on campus, a search committee of six individuals and chaired by Assistant Athletic Director Jan Bortner selected Coach Glon. Coach Glon previously served as the assistant coach to the Penn State fencing teams from 1985 to 2013 and guided them to a national championship last season as interim head coach.

On July 11, 2014, Penn State announced the appointment of Chris Cagle to the head coach position for the women's tennis team. Coach Cagle had been serving as the team's interim head coach since December 2013. The Athletics Department conducted a similar national search to fill this vacant position, posting the job vacancy in the same locations. After receiving 33 applications for the position and interviewing four candidates by Skype and two finalists on campus, a search committee of six individuals and chaired by Associate Athletic Director and Senior Woman Administrator Charmelle Green selected Coach Cagle. Coach Cagle previously served as the assistant coach to the men's tennis team.

The Athletics Department is in the process of conducting a national search for a head coach for men's and women's cross-country and track and field to replace departing Head Coach Beth Alford-Sullivan. A search committee of six individuals chaired by Assistant Athletic Director Jan Bortner has posted the job vacancy on the University's job website, ncaa.org, with the Black Coaches Association, and on the USA Track and Field website. To date, 40 candidates have applied for the position. The committee currently is evaluating those applications.

3. The Morgan Academic Support Center for Student-Athletes

Freeh Report recommendation 5.4 required Penn State to integrate, where feasible, academic support staff, programs, and locations for student athletes. Penn State previously determined that the location of the Morgan Academic Support Center for Student-Athletes was

appropriate and consistent with available space at that time. The opening of the Pegula Ice Arena in 2013, however, created the opportunity to consolidate the Morgan Center's offices in the Greenberg Ice Pavilion. Penn State's design committee, which includes both Associate Athletic Director for Facilities and Operations Mark Bodenschatz and Morgan Center Director Russell Mushinsky, is working with a team of architects to develop plans to renovate the Greenberg Ice Pavilion in order to facilitate this consolidation of the Morgan Center's space in one location. The committee hopes to submit the plans for this project to the Board this coming winter.

B. Lawsuits, Investigations, and Legislative Activity

The prosecution and conviction of Jerry Sandusky and imposition of sanctions on Penn State have given rise to criminal and civil legal actions, investigations, and legislative activity. We have kept informed of these matters to the extent they bear on the University's obligations under the AIA and Consent Decree.

1. Litigation Update

a) The Paterno/Individual Trustees' Lawsuit

During this reporting period, there has been no further public activity in the civil action initiated by the estate and family of Joe Paterno, current and former trustees of the University, and others. On May 19, 2014, the parties argued their positions with respect to preliminary objections to the plaintiffs' first amended complaint filed by the NCAA and Penn State and certain discovery issues. The court's decision is pending.⁴⁴

⁴⁴ See Docket, *Paterno v. Nat'l Collegiate Athletic Ass'n*, No. 2013-2082 (Ct. Com. Pl. Centre Co. May 30, 2013).

b) Pennsylvania Institution of Higher Education Endowment Act Litigation

There are two ongoing civil actions concerning the Pennsylvania Institution of Higher Education Endowment Act, which the Pennsylvania General Assembly passed and Governor Corbett signed into law after the NCAA imposed on Penn State the \$60 million penalty included in the Consent Decree. In the first case, pending in the Commonwealth Court of Pennsylvania, two of the Commonwealth's elected officials seek to compel use of the monetary penalty in accordance with the Act. On September 5, 2014, the NCAA moved to dismiss the case as moot in that they advised Penn State that payments by it "to the Commonwealth of Pennsylvania under the terms of the Endowment Act will satisfy Penn State's obligation under the July 2012 Consent Decree" ⁴⁵ Plaintiffs filed a response deferring to the court's judgment as to the final disposition of this matter. ⁴⁶ The court's ruling on the NCAA's motion is pending.

The NCAA separately sued Governor Corbett and other Commonwealth officials in federal court seeking to invalidate the Endowment Act as unconstitutional. The NCAA has stated that should the state court dismiss the civil action pending before it, the NCAA will dismiss its federal lawsuit. ⁴⁷ The judge presiding over the federal lawsuit had previously granted the parties' joint motion to postpone further proceedings, which they sought to allow themselves "a meaningful opportunity to attempt to obtain [an] amicable resolution of this litigation." ⁴⁸

⁴⁵ Motion to Dismiss at ¶ 1, *Corman v. Nat'l Collegiate Athletic Ass'n*, 1 MD 2013 (Pa. Commw. Ct. Jan 4, 2013).

⁴⁶ Plaintiffs' Answer to NCAA's Motion to Dismiss, *Corman v. Nat'l Collegiate Athletic Ass'n*, 1 MD 2013 (Pa. Commw. Ct. Jan 4, 2013).

⁴⁷ Motion to Dismiss at ¶ 4, *Corman v. Nat'l Collegiate Athletic Ass'n*, 1 MD 2013 (Pa. Commw. Ct. Jan 4, 2013).

⁴⁸ Joint Motion to Postpone Proceedings dated August 6, 2014, *Nat'l Collegiate Athletic Ass'n v. Corbett*, 1:13-cv-00457-YK (M.D. Pa. Feb. 20, 2013).

c) Other Pending Civil and Criminal Actions

There has been no public activity this quarter in the criminal actions against Graham Spanier, Timothy Curley, and Gary Schultz.⁴⁹ Last spring, Dr. Spanier filed a civil action in federal court against Pennsylvania Attorney General Kathleen Kane through which he sought to block his state court prosecution.⁵⁰ On July 25, 2014, the presiding judge granted Attorney General Kane's motion to dismiss that lawsuit.⁵¹

On June 5, 2014, Emmanuil Kaidanov, the former head coach of Penn State's men's and women's fencing teams, filed a lawsuit in federal court against the University, former Athletic Director David Joyner, and Athletics Integrity Officer Julie Del Giorno. Mr. Kaidanov's complaint seeks to recover damages in connection with what he claims was his wrongful termination of employment in violation of his civil rights. The University has moved to dismiss Mr. Kaidanov's lawsuit.⁵²

In May 2014, the Board of Trustees held elections for open trustee positions. Former state representative Jess Stairs unsuccessfully sought election as one of the trustees elected by state agricultural societies. Following the Board's ratification of the election results, Mr. Stairs filed a notice of intent to sue the Board of Trustees and trustees Masser and Huber, whom the agricultural societies elected last May. Mr. Stairs issued subpoenas seeking depositions of agricultural society delegates who voted in the election. Because the case has not been formally

⁴⁹ See Docket, *Commonwealth of Pennsylvania v. Spanier*, CP-22-CR-3615-2013 (Ct. Com. Pl. Dauphin Co. Aug. 1, 2013); *Commonwealth of Pennsylvania v. Curley*, CP-22-CR-3614-2013 (Ct. Com. Pl. Dauphin Co. Aug. 1, 2013); *Commonwealth of Pennsylvania v. Schultz*, CP-22-CR-3616-2013 (Ct. Com. Pl. Dauphin Co. Aug. 1, 2013).

⁵⁰ See Docket, *Spanier v. Kane*, 1:14-cv-00599-YK (M.D. Pa. Mar. 31, 2014).

⁵¹ See Order dated July 25, 2014, *Spanier v. Kane*, 1:14-cv-00599 (M.D. Pa. Mar. 31, 2014).

⁵² See Docket, *Kaidanov v. Pennsylvania State University*, 2:14-cv-03191-GP (E.D. Pa. June 5, 2014).

initiated yet, Penn State responded by seeking a protective order to block the depositions. After a hearing and receiving the parties' written briefs, on August 15, 2014 the Court granted the University's motion and refused to allow the depositions to proceed.⁵³

On July 21, 2014, two former Penn State assistant football coaches initiated a civil action against the University in federal court. The former coaches' lawsuit seeks to recover damages based on what they claim were the wrongful actions of Penn State in connection with terminating their employment, executing the Consent Decree, and making public statements that they claim deprived them of income, tarnished their reputations, and prevented them from securing comparable employment opportunities.⁵⁴ Penn State's response to the former coaches' lawsuit is expected during the next reporting period.

2. The Attorney General's Investigation

On February 4, 2013, Pennsylvania Attorney General Kane appointed former federal prosecutor H. Geoffrey Moulton to lead an internal investigation of then Attorney General Corbett's handling of the Jerry Sandusky child abuse case.⁵⁵ On June 23, 2014, Mr. Moulton issued his report to Attorney General Kane. When releasing the report, Attorney General Kane's office concluded that:

[Mr.] Moulton's review found no direct evidence that political directives drove any of the decisions made throughout the course of the investigation. However, the facts and the timeline in the report raise serious concerns regarding decisions made at the very outset of the probe in 2009 and throughout 2010 and 2011, which

⁵³ See Order dated August 15, 2014, *Stairs v. Board of Trustees of the Pennsylvania State University*, No. 2014-2546 (Ct. Com. Pl. Centre Co. July 16, 2014).

⁵⁴ See Docket, *Paterno v. Pennsylvania State University*, 2:14-cv-04365-JP (E.D. Pa. July 23, 2014).

⁵⁵ See Press Release, "Pennsylvania Attorney General Kathleen G. Kane Appoints H. Geoffrey Moulton, Jr. to Lead Internal Sandusky Investigation," dated February 4, 2013 available at <http://www.attorneygeneral.gov/press.aspx?id=6806>.

ultimately delayed the investigation and the presentment of charges.⁵⁶

C. Legislative Update

Since my appointment, several bills have been introduced in the Pennsylvania General Assembly that, if enacted, would reform the University's Board of Trustees. In 2013, separate and non-identical bills were proposed in each body of the Pennsylvania legislature, but neither bill has advanced out of the committee to which it was referred for further study. Earlier this year, yet another bill was introduced in the Pennsylvania Senate to effect changes to the Board of Trustees. On June 10, 2014, the Pennsylvania Senate Committee on State Government unanimously voted in support of proposed legislation referred to as "The Pennsylvania State University Board of Trustees Reorganization Act."⁵⁷ If enacted, this law would legislatively determine the composition of the University's Board of Trustees, reducing its voting membership from 30 to 23 trustees comprised as follows: eight trustees elected by alumni; five gubernatorial appointees; five trustees elected by agricultural societies; and five "business and industry" trustees appointed by a committee of sitting trustees.⁵⁸ The bill is now before the Pennsylvania Senate for consideration.

On July 24, 2014, five members of Pennsylvania's delegation to the United States House of Representatives sent a letter to NCAA President Mark Emmert challenging the authority of

⁵⁶ See Press Release, "Attorney General Kane releases Sandusky review," dated June 23, 2014 available at <http://www.attorneygeneral.gov/press.aspx?id=7885>.

⁵⁷ See Senate Committee Roll Call Vote on Senate Bill 1240, available at <http://www.legis.state.pa.us/cfdocs/legis/RCC/Public/listVoteSummary.cfm?sYear=2013&sInd=0&cteeCde=41&theDate=06/10/2014&rNbr=914>.

⁵⁸ See S.B. 1240 (Printer's No. 2119); Monitor's Sixth Quarterly Report at 30.

the NCAA to penalize Penn State and asking that the NCAA “rescind the sanctions imposed on [the University].”⁵⁹

D. Board of Trustees

1. Elections

The Board held elections for several key positions on July 11, 2014. The Board re-elected the current chair, Keith Masser, who ran unopposed. It elected Kathleen Casey as vice chair and re-elected seven other incumbent officers and one new assistant secretary. The Board also unanimously elected Ryan McCombie to fill the seat on the executive committee vacated by Trustee Casey. The five new trustees elected in May 2014 – Robert Jubelirer, Albert Lord, Alice Pope, Daniel Mead, and Walter Rakowich – took their seats at the July meeting. This quarter, Governor Corbett also nominated graduate student Allison Goldstein as one of his six Board appointments, ensuring student representation remains on the Board.

2. Governance Reforms

As previously reported, in May 2013, the Board approved an extensive set of revisions to its Charter, Bylaws, and Standing Orders. It later approved additional revisions in November 2013 and March 2014. These reforms altered the Board’s structure and composition. Key reforms to date include: the addition of four new standing committees and four related subcommittees; amendments to the Board’s conflict of interest policy; reducing the number of voting members to 30 by rendering the University’s president and the governor of the Commonwealth of Pennsylvania *ex officio*, non-voting members; revisions to the expectations of membership; establishing remedies and removal procedures for trustees who breach their fiduciary duties; clarifying term limits; and revising the size and composition of the executive committee. The

⁵⁹ See Letter dated July 24, 2014 from Representatives Dent, Thompson, Gerlach, Doyle, and Kelly to Mark Emmert.

Board has improved transparency, broadcasting public meetings live over the internet, publishing e-mail addresses for all trustees, and adding a public comment period during its plenary sessions.

Last fall, the Board retained a governance consultant to facilitate continued discussions about future changes to its size, composition, structure, and operation recommended over the past two years by various internal and external bodies. These bodies included the Faculty Senate's Special Committee on University Governance, the Freeh Report, the Middle States Commission on Higher Education, and the Pennsylvania auditor general. The Board's Committee on Governance and Long-Range Planning met regularly throughout the year to consider potential changes. The full Board held a self-assessment session in January, and it continued discussions in its May meeting.

At its July 10, 2014 meeting, the Committee on Governance and Long-Range Planning reviewed the consultant's report analyzing the results of the Board's May 2014 breakout sessions to discuss areas of potential reform. These areas included the Board's size, composition, methods of trustee selection, and role in identifying the qualifications, experience, diversity, and skill sets from which the Board would benefit. The Committee reviewed detailed results of benchmarking conducted against an aggregate peer group consisting of 36 comparable universities. The benchmarking data included information regarding board size, selection methods, committee structure, and whether boards include voting alumni trustees, campus constituencies, or state officials. Other issues considered included the potential inclusion of the past president of the Alumni Association, faculty representation, and a permanent seat for a student representative. Committee members used this information to draft several proposed governance reform plans.

The Committee held a special meeting on August 15, 2014 to present the three proposals for governance reform drafted by its members. Suggested reforms would, among other things, affect in varying ways the Board's total size, composition of its membership, and methods of trustee selection. In its public meeting, the Committee debated the three proposals. The Committee unanimously decided to postpone voting on a final proposal to present to the Board until its meeting in September. Chairman Masser suggested that the full Board hold a special session in October devoted to debating and voting on the proposal put forth by the Committee. We will report on the Board's progress in our next quarterly report.

3. Trustee Lord's Proposed Resolution Regarding the Freeh Report

At the conclusion of the July 11, 2014 Board meeting, Trustee Al Lord proposed a resolution to "immediately undertake to identify those matters not fully investigated by Freeh and complete the investigation of such matters."⁶⁰ The Board currently intends to vote on the proposed resolution after discussion at the executive session of its September 19, 2014 meeting.

4. Special Meeting of the Board on August 13, 2014

On August 13, 2014, the Board convened a special meeting to vote on a resolution in favor of settlement of the pending civil litigation brought by two Commonwealth elected officials against the NCAA to direct use of the \$60 million penalty levied against Penn State in accordance with the Pennsylvania Institution of Higher Education Endowment Act. As we have reported, the University was added as a necessary party to that litigation. As a part of preliminary settlement discussions, the Commonwealth parties sought Penn State's position with respect to settlement terms under which the University would pay the \$60 million fine to the

⁶⁰ Proposed Resolution Re: the July 12, 2012 "Report of the Special Investigative Counsel" issued by Freeh, Sporkin & Sullivan, LLP ("Freeh Report"), July 11, 2014.

Commonwealth under the terms of the Act. Pursuant to the Act, the fine would be used to assist victims of child sexual abuse and prevent future abuse within the State of Pennsylvania.

In a vote of 19 to 8 with two abstentions, the Board approved the resolution. The resolution held that “such a settlement would be a win for the Commonwealth, a win for the University and a win for the children of Pennsylvania.” The University urged the NCAA and the Commonwealth to reach a settlement on those terms. The resolution further expressed the University’s continued “commitment to full compliance with the Consent Decree.”

V. RECOMMENDATIONS

Throughout the two years of the Monitorship, Penn State has completely cooperated with me and my team. Penn State’s leadership has provided unfettered access to individuals and information we sought. Its leadership and administration have consistently demonstrated firm commitment to implementing all requirements under the AIA and the recommendations in the Freeh Report. Penn State has brought to bear the resources not only to fulfill these requirements but also to make Penn State an even stronger institution.

Last September, I recommended that the NCAA and the Big Ten Conference modify the sanctions in recognition of Penn State’s substantial progress during the course of the first year of the Consent Decree. Specifically, I recommended modifying the reductions in football grants-in-aid. At that time, I explained that I believed modification of the sanctions to be an appropriate recognition of the University’s good faith efforts and positive response to its obligations. The NCAA and the Big Ten Conference accepted my recommendation and increased the number of academic scholarships available to Penn State football players starting this year. At that time, I further “recommended that the NCAA hold out the prospect of further mitigation in post-season eligibility” to encourage Penn State’s new leadership to “stay the course.” As set forth in this

report, and in the three quarterly reports preceding it, Penn State has upheld its commitment to the letter and the spirit of the AIA this year.

I therefore make the following additional recommendations. First, I recommend that the NCAA remove the “bowl ban” effective immediately, giving Penn State’s football players the opportunity to play in the post-season this year. In addition, under the current sanctions, Penn State is slated to have 25 initial grants-in-aid and 80 total grants-in-aid available to its football players for the 2015-16 season. My second recommendation is that, for the 2015-16 season, the NCAA restore the total number of grants-in-aid to 85, the maximum number available under NCAA rules. The 25 initial grants-in-aid already represents the maximum permitted by NCAA regulations.

My recommendations, both in 2013 and in this report, relate to elements of the sanctions that most directly affect Penn State’s student-athletes, who bear no personal responsibility for the underlying reasons for the sanctions. Many of these student-athletes chose to remain at Penn State in spite of the sanctions and the opportunity to transfer to another school without penalty. Many Penn State football players demonstrated loyalty by remaining at their University for two years without the prospect of playing in a post-season bowl game. In light of Penn State’s responsiveness to its obligations and the many improvements it has instituted, I believe these student-athletes should have the opportunity to play in the post-season should they earn it on the field this year. The maximum number of student-athletes ought to be given the chance both to receive a quality education and be active in sports.

Pursuant to the AIA, the term of the Monitorship is five years. Should 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 Big Ten Conference conclude the Monitorship substantially earlier than scheduled.

I am aware that first President Erickson and now President Barron, their administrations, and leaders of the Board undertook to implement the AIA and Freeh Report's requirements in a meaningful and earnest way, in the face of vocal opposition. I conclude this second annual report with an exhortation to the University to maintain its momentum for positive change. Work remains to be completed, with many projects mid-stream. My team will continue to observe Penn State's activities to promote the advancement and completion of these constructive endeavors.