

Report to the  
Faculty, Administration, Trustees, and Students  
of

The Pennsylvania State University  
University Park, PA 16802

by  
A Team Representing the  
Middle States Commission on Higher Education

Prepared After a  
Follow-Up Visit to the Institution on:  
October 21-23, 2012

The Visitor(s):

Dr. William E. "Brit" Kirwan, *Team Chair*  
Chancellor, University System of Maryland

Mr. David E. Hollowell, *Team Member*  
Executive Vice President and Treasurer Emeritus  
University of Delaware

Dr. Mary Ann Swain, *Team Member*  
Professor and Director of Doctoral Programs, Decker School of Nursing and Interim Chair,  
Department of Student Affairs, College of Community and Public Affairs  
Binghamton University

Working with the Visitor(s):  
Dr. Tito Guerrero, III, Vice President  
Middle States Commission on Higher Education

Ms. JoAnn Goedert  
Assistant Vice Chancellor  
University System of Maryland

At the Time of the Visit:  
President/Chief Executive Officer:  
Dr. Rodney A. Erickson, President  
The Pennsylvania State University

Chief Academic Officer:  
Dr. Robert N. Pangborn  
Interim Executive Vice President and Provost  
The Pennsylvania State University

Chair of the Governing Board:  
Ms. Karen Peetz, Chairman, Board of Trustees  
Vice Chairman and Chief Executive Officer  
Financial Markets and Treasury Services  
The Bank of New York Mellon

## **I. Institutional Overview**

The Pennsylvania State University was chartered in 1855 at the urging of the Pennsylvania State Agricultural Society as a publicly-supported agricultural college (then named the Farmers' High School). Designated in 1863 as the state's land-grant institution under the Morrill Land-Grant Act (1862), the University (then named Agricultural College of Pennsylvania) was created with a three-part mission of teaching, research, and public service.

Penn State is one of four universities in the Commonwealth that are considered "state-related" (along with the University of Pittsburgh, Temple University, and Lincoln University). While not state-owned or state-operated, these institutions receive a state appropriation. Penn State's 32-member Board of Trustees includes four ex officio representatives of the Commonwealth and six gubernatorial appointees.

While Penn State's largest campus is located at University Park, the University is comprised of 24 campuses throughout the Commonwealth (note that one of these, the Pennsylvania College of Technology, is independently accredited through MSCHE). This structure provides access to programs and services throughout the Commonwealth, reinforcing the University's support of the land-grant mission. All Penn State campuses report through a single President and adhere to a common mission:

### ***Mission***

*Penn State is a multicampus public research university that educates students from Pennsylvania, the nation and the world, and improves the well being and health of individuals and communities through integrated programs of teaching, research, and service.*

*Our instructional mission includes undergraduate, graduate, professional, and continuing education offered through both resident instruction and online delivery. Our educational programs are enriched by the cutting edge knowledge, diversity, and creativity of our faculty, students, and staff.*

*Our research, scholarship, and creative activity promote human and economic development, global understanding, and progress in professional practice through the expansion of knowledge and its applications in the natural and applied sciences, social sciences, arts, humanities, and the professions.*

*As Pennsylvania's land-grant university, we provide unparalleled access and public service to support the citizens of the Commonwealth. We engage in collaborative activities with industrial,*

*educational, and agricultural partners here and abroad to generate, disseminate, integrate, and apply knowledge that is valuable to society.*

## **II. Nature and Conduct of the Visit**

On August 6, 2012, the Commission acted:

To warn the institution that its accreditation is in jeopardy based on information contained in the institutionally commissioned Report of the Special Investigative Counsel (Freeh, Sporkin & Sullivan, LLP, July 12, 2012) and the Binding Consent Decree Imposed by the National Collegiate Athletic Association and Accepted by the Pennsylvania State University (July 23, 2012) and insufficient evidence that the institution is currently in compliance with the Requirements of Affiliation 5 (compliance with all applicable government policies, regulations, and requirements) and 9 (institution's governing body responsibility for the quality and integrity of the institution, for ensuring that the institution's mission is being carried out, and for making freely available to the Commission accurate, fair, and complete information on all aspects of the institution and its operations) and with Standard 4 (Leadership and Governance) and Standard 6 (Integrity). To note that the institution remains accredited while on warning. To request a monitoring report due by September 30, 2012 documenting steps that have been taken and are planned to ensure the institution's full compliance with Requirements of Affiliation 5 and 9 as well as Accreditation Standards 4 and 6. In addition, to request that the monitoring report also address Accreditation Standard 3 (Institutional Resources) with regard to the institution's capacity and plans for addressing financial obligations that will or may result from the investigation and related settlements, etc. A small team visit will follow submission of the monitoring report. To remind the institution that the Commission must continue to be informed of any further significant related developments, including the provision of copies of any and all relevant external reports. The due date for the next evaluation visit will be established when accreditation is reaffirmed.

Among the individuals with whom the team met during the course of the visit were:

Dr. Rodney Erickson, President

Dr. Robert Pangborn, Interim Executive Vice President and Provost

Dr. Blannie Bowen, Vice Provost for Academic Affairs and Middle States Liaison

Dr. Ann (Nan) Crouter, Dean, College of Health and Human Development, and Member of the NCAA Endowment Task Force

Mr. Joseph Doncescz, Corporate Controller

Mr. Gary Langsdale, University Risk Officer

Mr. Frank Guadagnino, Partner, Reed Smith LLP

Mr. David Gray, Senior Vice President for Finance and Business/Treasurer

Mr. Stephen Dunham, Vice President and General Counsel

Dr. David Joyner, Acting Athletic Director

Mr. Matthew Stolberg, Associate Athletic Director for Compliance and Student-Athlete Services

Mr. Stephen Shelow, Assistant Vice President for Police Services and Public Safety

Mr. Gabriel Gates, Clery Compliance Coordinator  
Ms. Amy McCall, Assistant General Counsel  
Ms. Karen Peetz, Chairman, Board of Trustees  
Mr. Keith Masser, Vice Chairman, Board of Trustees  
Ms. Paula Ammerman, Director and Associate Secretary, Office of the Board of Trustees  
Dr. Michael Dooris, Executive Director, Office of Planning and Institutional Assessment  
Dr. Brenton Yarnal, Chair-Elect, Faculty Senate  
Dr. Daniel Hagen, Immediate Past Chair, Faculty Senate  
Dr. John Nichols, Chair of the Special Committee on University Governance, and Former Senate Chair  
Ms. Courtney Lennartz, Student and President of the University Park Undergraduate Association (UPUA)  
Mr. Benjamin Clark, Student and President of the Council of Commonwealth Student Governments (CCSG)  
Ms. Wanika Fisher, Student and President of the Graduate Student Association  
Dr. Susan McHale, Co-chair, Presidential Task Force on Child Maltreatment (Professor of Health and Human Development and Director of the Children, Youth and Family Consortium and Social Science Research Institute)  
Dr. A. Craig Hillemeier, Co-chair, Presidential Task Force on Child Maltreatment (Vice Dean for Clinical Affairs and Chair of the Department of Pediatrics and Medical Director at Penn State Hershey Children’s Hospital)  
Dr. Benjamin Levi, Director, Penn State Hershey Center for the Protection of Children  
Ms. Melinda Stearns, Senior Director, Outreach, Penn State  
Dr. Susan Cromwell, Director, Workplace Learning and Performance, Department of Human Resources, Penn State

### **III. Affirmation of Compliance with Requirements of Affiliation under Review**

Based on a review of the monitoring report and appendices, interviews, and other University documents, the team affirms that the University continues to meet the Requirements of Affiliation under review (Requirements of Affiliation 5 and 9).

### **IV. Commendations and Summary of Institutional Strengths**

The Team was impressed by the degree to which Penn State has risen, as a strong campus community, to recognize and respond to the sad events that led to its placement on “Warning” status by the MSCHE. The Board of Trustees acknowledged the crisis situation—without prompting by any external body—by inviting the highly respected firm of Freeh, Sporkin & Sullivan, LLP to conduct an investigation and make recommendations to the University. The process to respond to those recommendations has been thorough, inclusive, systematic and timely. In some instances, Penn State made positive changes to its governance and operations even before the Freeh investigation team completed its report and recommendations. These include:

- The reorganization of the Board’s committee structure and functions to increase transparency and open conduits of information to Board members in addition to Penn State’s president, including: 1) an expansion of the number of Board committees, 2) representation of students and faculty on appropriate committees, and 3) the creation of dual reporting lines for critical Penn State administrators to both the Board and the President; and
- Swift changes in the leadership positions both within the Board and among key administrative officers. In particular, the positive impacts of the recent appointments of the new Board chair and Penn State President have been obvious to the team.

In addition, the Team commends the strong effort, including both a broad base of members of the campus communities and external experts, to establish a process for the systematic implementation of the Freeh Report recommendations. The Team notes that this effort has gone beyond the important task of mobilizing the Penn State administration, but also has engaged the research strengths of Penn State in child and family wellbeing not just to achieve compliance for the University, but also to expand and enhance the body of knowledge on the critical societal issues of child and sexual abuse awareness, prevention and response.

Finally, the team commends the entire Penn State community for its response to tragic events in a way that, to date, has emphasized unity and positive change over recrimination. By looking to the future and to ways in which Penn State can be made an even better university, the community—students, faculty, staff, administrators and Board—has made significant progress toward meeting that goal.

## **V. Compliance with Accreditation Standard(s) Under Review**

### **Standard 3 (Institutional Resources):**

It is clear to everyone at Penn State that the costs associated with resolving the Sandusky matter will be substantial, including both one-time and recurring costs. The largest known expense is the \$60 million fine imposed by the NCAA, to be paid over five years. This will be the responsibility of the Athletic Department, and a significant part of the cost will be funded through an institutional loan to the department that will be repaid over up to 30 years. The department and University officers feel that there is sufficient flexibility in the athletics’ budget to absorb this cost.

Penn State has already expended approximately \$20 million on the Freeh study and various legal experts. There will be additional costs that are unknown at this time, including the cost of settling the lawsuits that have either been filed or are expected. The University has engaged the highly regarded firm, Feinberg, Rosen LLP to assist in the expeditious and fair resolution of the anticipated claims. The firm is currently examining data available from similar lawsuit settlements to develop a range of anticipated costs.

There is also the expectation that the Department of Education may levy a fine of significant magnitude related to Clery Act violations. The University's financial team and the Board of Trustees are closely monitoring the development of these cost estimates in order to be prepared to fund these costs.

Penn State has broad insurance coverage that should provide a source of funding for much of the costs associated with settling victim lawsuits and related legal costs. However, costs such as the NCAA penalty, any Clery Act fines and costs related to implementing the Freeh report recommendations will fall upon the University. The University should be able to develop a much better estimate of its exposure over the next several months and refine its plans to meet the financial obligations.

It is fortunate that Penn State has been fiscally conservative for a number of years and has accumulated various reserves that provide a source of funding for unanticipated needs and investment in new initiatives. While applying these funds to cover costs related to the Sandusky matter will limit the University's flexibility and may delay certain capital expenditures, the Team does not anticipate that there will be a direct negative impact on current academic or other institutional programs. The institution's fiscal stability is supported as well by Penn State's continuing success in securing external research support and in private fund raising, as well as by the university's ongoing ability to attract a strong pool of student applicants, none of which appears to have been impacted negatively by the events of the last year.

Penn State provided the Team with FY10 through FY12 audited financial statements, as well as a series of financial indicators and ratios that support the above fiscal health and further indicate the availability of additional resources that could be tapped without threatening the University's viability.

It is the opinion of the Team that Penn State continues to meet the requirements of Standard 3.

#### **Standard 4 (Leadership and Governance):**

Penn State is in the process of addressing the significant governance issues identified in the Freeh Report and the NCAA Consent Decree. Based on materials provided to the Team and on extensive interviews with University representatives during its visit, the Team has determined that the University has made significant progress. Steps taken include:

- An increase in the number of standing Board committees from three to six in order to provide deeper oversight of University activities and broaden the conduits of information coming to the Board;
- The addition of constituent representatives including students, staff and faculty to Board committees;
- A comprehensive plan to ensure systematic and complete implementation of the Freeh Report recommendations and the NCAA Consent Decree commitments
- The appointment of Former Senator George Mitchell as the Independent athletics Integrity Monitor to monitor Penn State's compliance with the Athletics Integrity

Agreement, and a commitment to appoint an independent entity that will validate implementation of the Freeh Report recommendations;

- Use of highly regarded external consultants, including the Association of Governing Boards, to assess changes in the governance structure;
- Creation of a new position, Director of University Compliance, reporting directly to the Board (and to the Senior Vice President for Finance and Business/Treasurer) to ensure University compliance with relevant federal and state laws and with Board policies;
- Amendments to Board bylaws to insure more rapid turnover of Board membership; and
- Development of an enhanced Board orientation program

The Team's assessment is that the University is in compliance with Standard 4.

### **Standard 6 (Integrity):**

The following evidence informed the Team's decision regarding compliance with Standard 6:

- The genuine commitment of Penn State's leadership to create an environment where administrators, faculty, staff and students are knowledgeable about and proactive in prevention of child abuse;
- The development or revision of policies to address concerns raised under Standard 6, including policies to govern appropriate supervision of minors, reporting on suspected child abuse, protection of "whistleblowers", access to athletic and recreational facilities, and a revised protocol for approving multi-year prepaid agreements, contracts, and purchase orders;
- Efforts to increase awareness of child abuse and sexual assault across the university's campuses through programs informing faculty, staff, administrators and students about child abuse, mandated reporting, and where and how to make a report of suspected child abuse. These efforts include annual, mandated reporter training, periodic messages to the Penn State community, an information campaign about the University's Hotline, a comprehensive learning module on rape and sexual assault for all incoming first-year undergraduates, enhancement of websites, and inclusion of content in the area of prevention and intervention with respect to child sexual assault, neglect and abuse in 126 courses with over 51,000 annual enrollments;
- The University's offer to pay for confidential counseling for any individual who may have suffered abuse by Sandusky. To assist victims, Penn State maintains a website on sexual assault information including the location of medical assistance, emotional support, referral and advocacy, and transportation;
- The creation of new administrative positions to ensure campus knowledge of and compliance with laws and regulations related to child abuse and sexual assault; and
- The University's holistic, organic response to address broad issues raised by the actions of Sandusky. Specifically, the University adopted faculty proposals to add to the

knowledge base about detection, prevention, and treatment of child abuse. Students created ways to bring attention to the problem of child abuse and raise monies to support services to victims. Staff and administrators increased outreach efforts that enabled communities across Pennsylvania to be better informed about child abuse and enhance responsiveness and services to victims.

Based on this evidence and other examples provided during its visit, the Team concludes that the university is in compliance with Standard 6.

## **VI. Summary of Compliance**

Based on a review of the monitoring report and appendices, interviews, and other documents reviewed during the visit, the team draws the following conclusions:

Penn State is in compliance with the Requirements of Affiliation 5 and 9 and Standards 3, 4, and 6.

### **Recommendations:**

The Team recommends that the Board review and, as appropriate, revise its bylaws so that the significant progress made to date to open conduits for communication between the Board and key Penn State administrators and other campus community constituencies be documented in relevant governance statements. For example, the Team recommends that the Board ensure that its Bylaws reflect: 1) the participation of faculty, staff and students in appropriate Board committees, and 2) the dual reporting accountability to both the Board and President of key positions, including General Counsel, and the directors of Internal Audit and Compliance.

The Team further recommends that the institution sustain the intense level of activity it has demonstrated to date in order to complete full implementation of the Freeh report and the many initiatives under development that address child abuse awareness, prevention and treatment.