

## Branstetter, Jennifer

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From: Ammerman, Paula [REDACTED]  
Sent: Tuesday, July 24, 2012 2:56 PM  
Subject: FW: NCAA

TO: Members of the Board of Trustees

I am sending the below at the instruction of Trustee Joel Myers. It may be a redundant copy.

Paula

From: Joel Myers  
Sent: Monday, July 23, 2012 9:49 PM  
To: 'Erickson, Rodney'; [REDACTED]; Marianne Alexander; Richard Allan; [REDACTED]; [REDACTED]; Mark Dambly; Stephanie Deviney; Keith Eckel; Kenneth Frazier; George Grieg; [REDACTED]; 'Ed Hintz'; [REDACTED]; 'Ira Lubert'; [REDACTED]; [REDACTED]; 'Paul Silvis'; [REDACTED]; Paul Suhey; 'John P Surma'; [REDACTED]; Ronald Tomalis; [REDACTED]  
Cc: 'Ammerman, Paula'  
Subject: NCAA

TO: Members of the Board of Trustees

The agreement signed by Rod Erickson with the NCAA today was a mistake and it has not yet been presented to the Board for approval. In fact the Board was not told about it.

**1. Lack of Authority and Authorization.** As far as I am concerned, the President does not have authority to act on extraordinary matters outside the normal running of the University. This is not within the normal running of the University, but one of the most extraordinary actions in University history. Further, the Charter does not allow the Executive Committee to bless such action, absent pre-authorization or subsequent ratification at an appropriately called Board Meeting. From what we are working to correct, this utterly fails the University Community and the Board in transparency.

The Consent Agreement is not an authorized action by the Board and the NCAA should already realize that but they should be so advised immediately.

**2. Coercion.** Apparently the NCAA coerced Rod Erickson and Penn State leaders under threat of a multi-year death penalty into agreeing on this supposedly "less onerous" approach. Coercion alone is a reason to turn this aside. It is for this very reason that the wider counsel of the Board was and is a necessity.

**3. Huge Financial Cost Could Run into Hundreds of Millions.** The financial cost to Penn State goes well beyond the \$60 million "fine" and the additional \$13 million of Big Ten Bowl share losses the Big Ten has now announced. One might see a loss of well over \$500 million during the next ten years to Penn State in reduced admissions, lost students, faculty turnover, reduced donations, reduced sports revenue, etc. The cost to the local community could match that. We do not know what that loss could be as no appraisal has been done to assess it. As a University we owe intellectual honesty to ourselves, the local community and the Commonwealth to make such assessment before finding we begin to decay at the very core for not realizing the significance.

**4. No Due Process.** There has been no due process under the charter of the NCAA. Educational institutions should stand up for the rule of law. The Freeh Report was commissioned by the Penn State Board to get the facts out, which was the right thing to do. But the Freeh report is laced with personal conclusions and the Board has not accepted it totally as definitive nor has the Board yet determined what recommendations are appropriate to implement. Curley and Schultz have not yet been found guilty and




Graham Spanier has not been charged. The Attorney General concluded Joe Paterno had no legal culpability. These are issues we will struggle with for some time, if we want to be a Board of thoughtfulness and responsibility. We cannot allow a mob mentality to stampede the very hard decisions we as a Board are commissioned to undertake.

**5. Obligation to Our Students, Alumni, and Community.** Despite our heartfelt and deep concern for the Sandusky victims and the funds we are putting aside to aid them without intrusion by the NCAA, and despite our shock with the people who could have done more, we cannot feed the current student athletes and coaches to the wolves or degrade the experience for the Penn State students whose education and futures are entrusted to us.

While we are all concerned by leaks of information, there can be no excuse for not properly involving the Board. We have a fiduciary duty and a responsibility to do what is best for Penn State. This lack of consultation is what got us into this mess in the first place.

Because of the far reaching financial impact and our fiduciary responsibility, it is imperative that this agreement be rejected by the Board. If the NCAA is not willing to act in a fair and reasoned way, then we need to consider securing the best legal and skilled negotiating talent to stand up for those who count on us to be their voices - the students and alumni, the community and the state.

The Board should consider and reject this unfair agreement.

Joel N. Myers  
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