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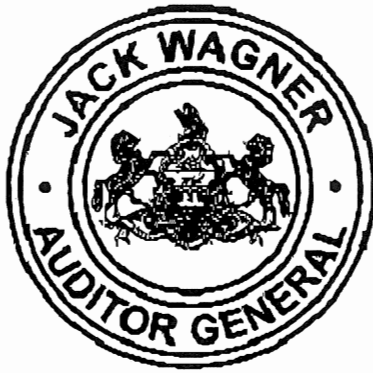
From: "Ammerman, Paula" <PRA4@psu.edu>
To:
Cc:
Date: Thu, 26 Jul 2012 11:17:48 -0400
Subject: Communication from Auditor General's Office
TO: Members of the Board of Trustees

Attached for your information is a communication received from Auditor General Jack Wagner regarding Penn State Governance Reform. Chairman Peetz asked that it be sent to you and advise that a response will be developed and provided when available.

Thank you.
Paula

Paula R. Ammerman
Director, Board of Trustees Office
The Pennsylvania State University
205 Old Main
University Park, PA 16802
(814) 865-2521; (814) 863-4631 FAX
pra4@psu.edu

www.pennstatesunshinefund.org



Department of the Auditor General
Room 229, Finance Building
Harrisburg, PA 17120-0018
Office: 717-787-2543
Fax: 717-783-4407

Facsimile Cover Page

To: PENN STATE BOARD OF TRUSTEES (814) 863-4631
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From: Auditor General Jack Wagner

Date: July 26, 2012

Number of pages (including cover page): 4

Comments: **Letter re Penn State Governance Reform**

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COMMONWEALTH OF PENNSYLVANIA
OFFICE OF THE AUDITOR GENERAL
229 FINANCE BUILDING
HARRISBURG, PA 17120-0018

JACK WAGNER
AUDITOR GENERAL

July 26, 2012

TELEPHONE: (717) 787-2543
FAX: (717) 783-4407
WEBSITE: www.auditorgen.state.pa.us

VIA HAND DELIVERY

The Honorable Joseph B. Scarnati, III
President Pro Tempore
Pennsylvania Senate
292 Main Capitol Building
Harrisburg, PA 17120-3025

The Honorable Samuel H. Smith
Speaker
Pennsylvania House of Representatives
139 Main Capitol Building
Harrisburg, PA 17120-2066

The Honorable Dominic Pileggi
Majority Leader
Pennsylvania Senate
350 Main Capitol Building
Harrisburg, PA 17120-3009

The Honorable Mike Turzai
Majority Leader
Pennsylvania House of Representatives
110 Main Capitol Building
Harrisburg, PA 17120-2028

The Honorable Jay Costa
Democratic Leader
Pennsylvania Senate
535 Main Capitol Building
Harrisburg, PA 17120-3043

The Honorable Frank Dermody
Democratic Leader
Pennsylvania House of Representative
423 Main Capitol Building
Harrisburg, PA 17120-2033

Re: Penn State Governance Reform

Dear Gentlemen:

For the terrible tragedy of child sexual abuse to continue for decades at Pennsylvania State University, a serious breakdown in integrity and leadership had to have occurred at the highest levels of the university. Because this abuse occurred at a *public* university supported by Pennsylvania taxpayers, a comprehensive analysis of governance issues must occur. Transparency and accountability to the residents and taxpayers of Pennsylvania must be the backbone of a university that wears the Commonwealth's name.

Recommendations in this letter and the special report that will follow within 60 days will address the changes necessary to make Penn State a more transparent and accountable public university. Because it is impossible for the Penn State Board of Trustees (Board) to be completely independent and objective in restructuring itself, the General Assembly must step in to take decisive action via a special session or as a priority in the fall legislative session. We are confident that our report will make a valuable contribution to your effort to ensure comprehensive governance reform.

On April 3 and May 4, 2012, after leaders of Penn State discussed privatization of the university, I sent letters to the Board of Trustees and Chairman Karen Peetz that Penn State has remained a public state-related university and instrumentality of the Commonwealth and has never been released from its original mission as both a public state university and land-grant institution. As such, Penn State, which has received more than \$10 billion from the Commonwealth since its inception and continues to receive \$300 - \$400 million each year, and its Board must be transparent and accountable to first and foremost the public, the taxpayers, alumni, and students.

Although we had absolutely no communication with the Freeh investigators, we are most gratified that the Freeh report's suggested actions by the Board include a recommendation for the Board to review and act on governance issues (*see* in particular recommendation 3.1). Our review of structural changes to the Board based on the make-up of other public university boards stresses accountability and transparency of the Board through statutory changes.

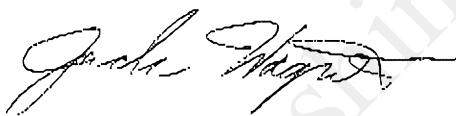
A brief preview of our most significant *preliminary* recommendations that are in keeping with the boards of most other public universities is as follows:

- The General Assembly should amend Penn State's enabling statute by entirely removing the President of the university as an ex-officio voting member of the Board. The General Assembly should also reaffirm the original intent of the statute that the President is not to be the Secretary *ex officio* of the Board. Finally, the General Assembly should amend Penn State's enabling statute to prohibit the President from being on any standing committee (including the executive committee), special committee, and subcommittees of the Board and to remove the President's ability to assign any work to these committees. The current structure gives too much control over the flow of information and Board meeting agendas to the President. These changes should be done to ensure less concentration of power with a singular person and greater involvement of the Board of Trustees. These changes would also make clear that the President and CEO of the university cannot be both an employee and also an equal to the Board. That separation – and the resulting structural boundary – is critical to establish that the Board, not university employees/administrators, is the governing body with ultimate leadership responsibility.
- The General Assembly should amend Penn State's enabling statute by making the Governor an ex-officio non-voting member of the Board. We make this recommendation to remove the Governor's individual voting power on the Board because we are concerned about conflicts of interest, real or perceived, that may arise from any statewide row officeholder – the auditor general, treasurer, or attorney general - being elected Governor and subsequently exercising an active role on the Penn State Board.
- The General Assembly should amend Penn State's enabling statute by establishing a quorum level as the majority of the members of the Board of Trustees, rather than, for example, the current minority of 13 members of a 32-member Board.

- The General Assembly should make the Right-to-Know Law applicable to all four state-related universities, while still protecting the institutions' donor contributions, certain intellectual property rights, and proprietary research to ensure that Penn State and Pennsylvania's three other state-related universities are open and transparent to the taxpayers who support the institutions.

Despite the enormous challenges currently facing Penn State and its Board, it is incumbent upon you, as elected representatives of the people, to enable this public university to move past the current crisis by reforming the governance of the Board through comprehensive statutory changes to modernize and improve the operations of the Board. These statutory changes should be focused on improving the accountability and transparency of the Board. In addition to the issues raised in this letter, there are several more that will be highlighted in our final report that we believe will be of interest to the General Assembly as you move forward with addressing these vital concerns. I will be available to work collaboratively with the General Assembly to institute necessary changes for protecting the interests of all Pennsylvanians, especially our children.

Sincerely,



JACK WAGNER
Auditor General

JW/cpn

cc: The Honorable Thomas W. Corbett, Jr., Governor
Karen B. Peetz, Chair, Board of Trustees, Pennsylvania State University
Rodney A. Erickson, President of Pennsylvania State University and Secretary of the Board of Trustees
The Honorable Jeffrey E. Piccola, Majority Chair, Education Committee, Pennsylvania Senate
The Honorable Andrew E. Dinniman, Democratic Chair, Education Committee, Pennsylvania Senate
The Honorable Paul I. Clymer, Majority Chair, Education Committee, Pennsylvania House of Representatives
The Honorable James R. Roebuck, Jr., Democratic Chair, Education Committee, Pennsylvania House Representatives
The Honorable Jake Corman, Pennsylvania Senate
The Honorable H. Scott Conklin, Pennsylvania House of Representatives
David J. Gray, Senior Vice President for Finance and Business and Treasurer of the Board of Trustees
Keith E. Masser, Vice Chairman of the Board of Trustees, Pennsylvania State University
Stephen S. Dunham, Vice President and General Counsel, Pennsylvania State University
Michael J. DiRaimo, Special Assistant to the President for Governmental Affairs, Pennsylvania State University
Members, Penn State Board of Trustees