

**REPORT TO THE UNIVERSITY SYSTEM OF MARYLAND  
OF AN INDEPENDENT INVESTIGATION OF THE  
UNIVERSITY OF MARYLAND FOOTBALL PROGRAM**

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# GLOSSARY

AD	Athletics Director
CARA	Countable Athletically Related Activities
CSCCa	Collegiate Strength & Conditioning Coaches Association
MAPP	Maryland Athletics Policy and Procedures Manual
NCAA	National Collegiate Athletic Association
OGC	Office of General Counsel
PDs	Position Descriptions
PRD	Performance Review and Development
S&C	Strength and Conditioning
SCCC	Strength and Conditioning Coach Certified
UHR	University Human Resources Department
UMD	University of Maryland at College Park

## **I. Executive Summary**

### **A. Our Assignment**

On August 14, 2018, President Wallace D. Loh announced the formation of an independent commission (the “Commission”) to investigate allegations reported in the media of a “toxic” culture within the University of Maryland at College Park (“UMD,” “Maryland,” or the “University”) football program. At a press conference held that day, President Loh stated that the charge of the Commission was to “review . . . the practices and the culture of the football program . . . .”<sup>1</sup>

On August 17, 2018, the University System of Maryland Board of Regents (the “Regents” or “Board”) assumed oversight and control of the investigation and added five new members to the Commission on August 24, 2018. The Regents reiterated the Commission’s charge: (1) to determine whether the culture of the football program was “toxic” as alleged in media reports; (2) to investigate the specific incidents of player abuse as alleged in media reports, and any other incidents we might uncover; and (3) to make recommendations for improving the program.

The Commission is an investigative body; we were not tasked with recommending or deciding whether any University employees should be retained or terminated. We were directed not to duplicate the work of the Walters report,

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<sup>1</sup> See <http://www.baltimoresun.com/sports/terps/tracking-the-terps/bs-md-umd-press-conference-transcript-20180814-story.html>.

which examined the events of May 29, 2018, and Jordan McNair’s tragic death. We were, however, asked to determine whether a toxic football culture caused his death. To summarize, we were directed to gather sufficient information to assess Maryland’s football culture and recommend best practices and protocols to improve the program.

The Regents gave the Commission broad discretionary powers with respect to the means and manner of carrying out this investigation. The Regents assured the Commission that we would have the discretion to follow the evidence wherever it led and pledged that the University would cooperate fully with the investigation. The University, and in particular the Department of Intercollegiate Athletics (the “Athletics Department” or “Athletics”), honored that pledge.

## **B. How We Conducted the Investigation**

We determined at the outset that the best way to assess the Maryland football program was to speak to as many people as we could who were familiar with the program. We reached out to every person who played football for Maryland since Mr. Durkin was hired. We formally interviewed 165 people from all major constituencies of the football program:

- Student-athletes who played football at UMD under Mr. Durkin: 55
- Parents of players: 24
- Current and former Athletics Department staff, including coaches: 60



- University Officials not in the Athletics Department: 12
- Other people with college football expertise, and miscellaneous individuals: 14

Members of the Commission also spoke with many other people affiliated with college football, and we obtained from the University and various witnesses thousands of documents, including emails, text messages, and other documents describing the relevant policies, practices, and incidents involving the football program.

We conducted a mandatory, but anonymous, survey of the football team on September 9, 2018, at the Gossett Football Team House (“Gossett”). Ninety-four players participated, and many provided extremely thoughtful comments.

### **C. What We Found**

We have chronicled events illustrating the dysfunction of the Athletics Department from 2016 through 2018, many of which impacted the football team. We discuss numerous allegations of coaching misconduct during that period. **We have heard contradictory accounts of many events. We have recounted all sides of each story, to the best of our ability, letting the reader draw his or her own conclusions.**

Similarly, we encountered a broad spectrum of views about the culture of the football program and the quality of the coaching. In Section VI, we analyze the

results of three football player surveys conducted between 2016 and 2018. We also compiled a diverse range of opinions about Maryland’s football program from more than two hundred people (including those who took the 2018 players’ survey).

Based upon the totality of the evidence gathered, the eight members of this Commission unanimously found the following:

1. The players who spoke up—both initially and in response to our investigation—should be commended

Several players expressed their concerns to the media about the conduct and culture of the football program, which were first reported in ESPN’s articles of August 10, 2018. We interviewed most of these players—both anonymous and named sources—and feel they spoke in good faith about what they perceived as unacceptable actions by University employees. They did not come forward with intent to harm the University, but rather out of concern and frustration about the program. This frustration, by all accounts, had been building for some time; the death of teammate Jordan McNair seemingly served as a catalyst for bringing their concerns to light.

In addition to those players who spoke with the media, the Commission commends all the current and former players who spoke with us, or took the survey, as part of our investigation. These individuals spoke up about their

experiences, enabling us to evaluate the program with vital insights from those most closely involved with, and affected by, the football program.

Some have criticized players for thwarting the longstanding sports axiom, “[w]hat happens in the locker room, stays in the locker room.” We feel strongly that this mindset is misguided. Many athletics directors contacted by the Commission, in fact, insist a “speak up” culture is critical in cultivating a thriving athletics community that prioritizes the welfare of student-athletes. Whether their comments were supportive or critical, the football players who came forward, both with the media and with the Commission, should be commended. We are grateful.

2. During Mr. Durkin’s tenure, the Athletics Department lacked a culture of accountability, did not provide adequate oversight of the football program, and failed to provide Mr. Durkin with the tools, resources, and guidance necessary to support and educate a first-time head coach in a major football conference

During the 2016 to 2018 seasons, the Athletics Department did not effectively fulfill its responsibilities. University ombudsman and assistant to President Loh, Cynthia Edmunds, described the Athletics Department’s operations during this period as “chaos and confusion. A former coach compared the department’s dysfunction to “Washington [politics].” The University conducted a Gallup Survey of employee engagement of all employees in the spring of 2016, and then again approximately 18 months later. The survey results of the Athletics Department employees deteriorated relative to the rest of the University, as well as

relative to its own 2016 scores, in the second survey. Jewel Washington, the University's Chief of Human Resources, stated "[h]ere [in Maryland athletics], there is no structure. That is not normal."

The mismanagement of the Athletics Department had adverse effects on the football program. We find little evidence of meaningful orientation and support for first-time head football coach DJ Durkin. The importance of providing more robust support for football was heightened by Maryland's entrance into the Big Ten Conference in 2014. Reporting lines between football and the Athletics Department were blurred and inconsistent. Assistant AD for Football Sports Performance/Strength Coach Rick Court was effectively accountable to no one, and the training staff went relatively unsupervised for extended periods due, in part, to a rift between the Athletics Director ("AD") and his deputy, which permeated the entire department. There was no formal mechanism to assess coaching performance. There was not a single performance review for Mr. Court during his tenure at Maryland. The Athletics Department's compliance office lacked a system to track complaints. As a result, warning signals about the football program, including an anonymous email sent on December 9, 2016 (discussed in Section IV) went overlooked.

The Commission feels there was also an insufficient level of in-person oversight of the football program. This, specifically, pertains to former AD Kevin

Anderson and AD Damon Evans, both during Mr. Evans's time as Deputy AD/Football Sports Administrator and his time as Interim AD. According to official University calendars and multiple corroborated accounts, the Department's oversight of the football program was sporadic and inadequate. In contrast, many athletics directors at "Power 5"<sup>2</sup> football schools told the Commission both they and the sports administrator visit practices, weight room workouts, or both, at least once a week, particularly in season.

3. Mr. Court, on too many occasions, acted in a manner inconsistent with the University's values and basic principles of respect for others

We spoke with Mr. Court and his counsel on three separate occasions, collectively spanning over six hours. We interviewed dozens of players he coached and dozens of fellow coaches and staff. The Commission believes Mr. Court did have the best interests of the players at heart. His work, along with others on the staff, contributed to significant decreases in injuries sustained by players during the 2016 and 2017 seasons, compared to the prior year. He was diligent in monitoring whether players were attending class and required team meals. He established close relationships with some players and went "beyond the

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<sup>2</sup> The term "Power 5" refers to the five athletic conferences in the NCAA's Division I Football Bowl Subdivision (FBS) that traditionally represent the highest level of collegiate football in the United States. These five conferences are the Big Ten Conference, the Southeastern Conference (SEC), the Big 12 Conference, the Pac-12 Conference, and the Atlantic Coast Conference. Though the term is not officially defined or recognized by the NCAA, it is commonly known and used throughout the country by fans and media members alike.

call” on a number of occasions, even arranging for extensive medical procedures for a player suffering from an affliction developed during childhood. We heard a mixed range of views from the players, who ranked the strength and conditioning (“S&C”) program as the strongest aspect of the football program in 2016, yet gave Mr. Court very low marks in 2018.

There were many occasions when Mr. Court engaged in abusive conduct during his tenure at Maryland, as we document. While some interviewees dismissed this as a motivational tactic, there is a clear line Mr. Court regularly crossed, when his words became “attacking” in nature. This included challenging a player’s manhood and hurling homophobic slurs (which Mr. Court denies but was recounted by many). Additionally, Mr. Court would attempt to humiliate players in front of their teammates by throwing food, weights, and on one occasion a trash can full of vomit, all behavior unacceptable by any reasonable standard. These actions failed the student-athletes he claimed to serve.

4. Both Mr. Durkin and leadership in the Athletics Department share responsibility for the failure to supervise Mr. Court

There is considerable evidence, as described in Section IV, that there was a lack of clarity in Mr. Court’s reporting lines. Mr. Durkin claims that it was not his responsibility to supervise Mr. Court, but it was, by Mr. Durkin’s own account, his decision to hire Mr. Court as the strength coach. Mr. Durkin worked closely with Mr. Court virtually every day, and Mr. Durkin delegated great authority to Mr.

Court. It is a head coach's responsibility to establish and maintain a healthy, positive environment for his players, and to hire coaches and staff who support these efforts. Therefore, he bears some responsibility when Mr. Court, the Assistant AD for Football Performance, exhibits unacceptable behavior.

At the same time, we must acknowledge factors that likely played a role in Mr. Durkin's failure to adequately address Mr. Court's behavior. As a first-time head coach, Mr. Durkin heavily modeled his program after coaches for whom he previously worked—most notably, Urban Meyer and Jim Harbaugh—who have achieved great success as tough, no-nonsense leaders. Mr. Durkin was hired under high-pressure circumstances and tasked with turning a struggling football program into a Big Ten contender, with less funding and fan support than other conference programs. The Athletics Department provided little education around, or support to handle, the myriad administrative responsibilities of a head coach, tasks Mr. Durkin had not been delegated in previous jobs as a coordinator or position coach.

The Athletics Department leadership shares responsibility for the failure to supervise Mr. Court. The confusion over to whom Mr. Court reported is a striking illustration of the Athletics Department's disarray. Mr. Court's contract designated the head football coach as Mr. Court's direct report. Mr. Evans and Maryland's current Deputy AD agree that Mr. Court was supervised by Mr. Durkin. Mr. Anderson and Mr. Durkin, however, contend that Mr. Court reported to an

Associate AD, Dr. David Klossner. Dr. Klossner denies this, but also states he did supervise the S&C coach during Randy Edsall's tenure as head coach. Mr. Court was not certain to whom he reported. Organization charts reviewed by the Commission were inconsistent regarding Mr. Court's reporting lines. Mr. Court was not subject to annual performance reviews, nor was there any other concrete mechanism by which the Athletics Department made Mr. Court accountable to the University's standards. This confusion diluted Mr. Court's accountability.

5. The University leadership bears some responsibility for the ongoing dysfunction of the Athletics Department

For more than two years, the Athletics Department suffered from high leadership turnover rates, dissension, and internal rivalries. The President's Office became involved in 2016 and engineered Mr. Anderson's removal, initially by designating him for a six-month sabbatical in October 2017. Dr. Loh candidly states that, in retrospect, he wished he had moved sooner to change leadership. This period of uncertainty further exacerbated ongoing turmoil in the Athletics Department.

We recognize it can be difficult to make leadership changes, and this often involves a protracted process. Yet, Mr. Anderson's sabbatical led to an extended absence of effective leadership, as Mr. Evans was not named AD until July 2, 2018, about nine months after Mr. Anderson took leave.



As discussed in Section IV, there was a schism in the Athletics Department. The Athletics Department dysfunction was largely due to a chasm between Mr. Anderson and Deputy AD Evans. There are competing views regarding the causes of, and responsibility for, this division. What is clear is that this schism caused the Athletics Department to operate at a suboptimal level for an extended period.

Based on NCAA Bylaw 6.1.1, two members of the Commission would assign ultimate responsibility to the University leadership for the ongoing dysfunction of the Athletics Department.<sup>3</sup>

6. The Maryland football team did not have a “toxic culture,” but it did have a culture where problems festered because too many players feared speaking out

Toxic means “extremely harsh, malicious, or harmful.”<sup>4</sup> By definition, Maryland’s football culture was not toxic.

There was no uniform rejection of Maryland’s coaching staff, and no uniform rejection of the treatment of players, by any of the groups of stakeholders interviewed by this Commission. The lone, clear consistency was that Mr. Court’s level of profanity was often excessive and personal in nature. In light of our

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<sup>3</sup> See NCAA Bylaw 6.1.1 (“A member institution’s president or chancellor has ultimate responsibility and final authority for the conduct of the intercollegiate athletics program and the actions of any board in control of that program.”).

<sup>4</sup> Merriam-Webster Dictionary, available at <https://www.merriam-webster.com/dictionary/toxic>.

conclusion that Maryland's football culture was not "toxic," we do not find that the culture caused the tragic death of Jordan McNair.

If the culture had been "malicious or harmful," Mr. Durkin would not have earned the loyalty and respect of many of his student-athletes and coaches. Many players interviewed by the Commission felt Mr. Durkin's and Mr. Court's coaching tactics reflected those of a "big time football program." Players, parents, and staff shared stories of generosity and commitment regarding Mr. Durkin and his wife, Sarah. The mother of a former player recounted how her son's employer said Coach Durkin's job reference was the strongest he had ever heard. After more than ten hours of interviews with Mr. Durkin, we believe his concern for his players' welfare is genuine.

Yet many players, parents, and coaches lodged complaints with the Commission about both Mr. Durkin and Mr. Court. Frustrations were shared about the intensity and length of practices and workouts, insufficient recovery time, and the aforementioned issues with Mr. Court. While many acknowledged Mr. Durkin is a fiery and effective motivator and communicator, they felt he could better inspire players if he made a greater effort to listen to their concerns.

Mr. Durkin advertised an "open door" policy, but many players and assistants felt this did not extend to those whose opinions did not align with Mr. Durkin's. Some coaches feared sharing criticisms about Mr. Court. They feared

retribution or dismissal of their concerns because of the closeness of Mr. Durkin and Mr. Court. Some chose, instead, to leave the program. One former assistant said “[w]hen you’re at the mercy of leadership, you don’t want to be at the mercy of their mistakes . . . I needed to get out.” Several dissenting coaches explained they prefer a more “nurturing” approach with players. Others didn’t mind “tough love,” but cited the need for counterbalance. “If you get on a player for doing something wrong,” one coach opined, “you have to go back later . . . and put a hand on his shoulder and let him know you care. I don’t think DJ did that.”

For generations, the dynamic between coach and football player has been akin to that of parent and child. Because the coach is the authority figure, the player should respect the coach, follow the rules, and not complain. This appears to reflect the general mindset of Maryland’s players. Although Mr. Durkin created a Leadership Council to, in part, serve as a pipeline to the head coach, players rarely felt comfortable sharing concerns with him. Players also told the Commission there was little benefit in approaching Mr. Durkin with frustrations, particularly about Mr. Court, because they viewed Coaches Court and Durkin as “the same person.”

7. Maryland should institute a strong “medical model” for student-athlete care to improve health outcomes and ensure that the University is a leader in collegiate sports medicine best practices

To re-establish trust with the student-athletes and other constituencies it serves, the University has no credible alternative but to become a leader in the development and implementation of sports medicine best practices. We urge the University to strongly consider the recommendations made in Section XI of this report and the Walters, Inc. report of September 21, 2018, to accomplish that objective.

8. There is common ground to be found amongst all of the Maryland constituencies we heard from, providing a basis for moving forward together

While we heard both harsh criticism and high praise about Maryland football, the players, parents, coaches, and staff were unanimous in their passion for the program. All constituencies want the players to develop to be the best athletes and students they can be. Many current players describe the team as a close-knit unit, one committed to representing the University to the best of their ability. With critics and supporters united in these objectives, the Commission feels there is a strong climate for moving forward together.

#### **D. What We Recommend**

The decision to commission an independent investigation provides an important opportunity to identify deficits and address them. In this spirit, the

Commission provides recommendations to improve the operation and oversight of the Maryland football program in three main areas. The first addresses the S&C program. We believe that the head football coach should not supervise the S&C coaches, nor have the ability to hire and fire these coaches. It is, however, perfectly appropriate for the head football coach to have input into these decisions. We have spoken with several college athletics directors who have incorporated this practice. We have also recommended that the University adopt voluntary standards to ensure effective and appropriate strength coaching.

Second, consistent with the Walters, Inc. report, we recommend that the University employ an Independent Medical Care Model. This model is designed to ensure that all student-athlete health decisions are made by properly trained health care personnel, without interference or influence from coaching staff or the Athletics Department.

Third, we offer a menu of suggestions to improve the accountability of the Athletics Department. Most pertinently, the department must maintain a log of all athletics-related complaints and catalog and monitor how those complaints are addressed.

Just as reasonable minds disagreed about the quality and culture of the Maryland football program, we recognize that some will disagree with our

conclusions. We acknowledge that debate about the program will continue after the release of this report. This is inevitable; perhaps even healthy.

We hope, however, that this report will contribute meaningfully to the difficult task that lies ahead. Much work needs to be done for Maryland football to regain the trust it has lost with some, and to reunite the Maryland constituencies that have become factionalized. Much work also needs to be done by the University to enact reforms that will improve the operations of the Athletics Department and football program. The adoption of the recommendations set forth in this report would be a valuable first step towards those goals.

## **II. The Scope and Methods of the Investigation**

On August 14, 2018, President Wallace D. Loh announced the formation of an independent commission (the “Commission”) to investigate allegations reported in the media of a “toxic” culture within the UMD football program. At a press conference held that day, President Loh stated that the charge of the Commission was to “review . . . the practices and the culture of the football program:”<sup>5</sup>

[The independent Commission members] will interview students, student athletes, parents, coaches, staff and other people who want to come forward and provide a report that’s based upon the work done by reporters and has been published. We take those reports very seriously, but I think due process does require us to lay out the facts, give people a chance to respond and then we will act. But this is not going to take forever. This is going to be an expedited but yet very

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<sup>5</sup> See <http://www.baltimoresun.com/sports/terps/tracking-the-terps/bs-md-umd-press-conference-transcript-20180814-story.html>.

careful review with all the confidentiality—confidentiality in terms of allowing people to speak confidentially and candidly.<sup>6</sup>

On August 17, 2018, the University System of Maryland Board of Regents (the “Regents” or “Board”) assumed oversight and control of the investigation. The Board added five new members to the Commission on August 24, 2018, providing a greater breadth of experience and insight.

The Regents gave us, the Commission, broad discretionary powers with respect to the means and manner of carrying out this investigation. The Regents assured the Commission that we would have the discretion to follow the evidence wherever it led and pledged that the University would cooperate fully with the investigation. The University, and in particular the Athletics Department, honored that pledge.

The Regents agreed that the Commission could withhold information from the Regents, such as the names of players and other individuals who spoke to the Commission, in order to obtain relevant information in situations where witnesses wished to share information anonymously. This decision by the Regents has allowed us to hear from many who otherwise would have been hesitant to speak and may not have spoken at all.

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<sup>6</sup> See <http://www.baltimoresun.com/sports/terps/tracking-the-terps/bs-md-umd-press-conference-transcript-20180814-story.html>.

The Commission's investigation began two months after the tragic death of Jordan McNair on June 13, 2018. He was hospitalized after a team workout session on May 29, 2018. Within a week of Jordan McNair's death, the University retained Walters, Inc., a sports medicine consulting group led by Dr. Rod Walters, to evaluate the circumstances of the death. Mindful of this earlier independent investigation, the results of which were submitted to the University on September 21, 2018, the Commission has not sought to re-investigate the events of May 29, 2018, and defers to the Walters, Inc. report with respect to its factual findings. Information that we discovered that was relevant to the scope of work conducted by Walters, Inc. was referred to Dr. Walters.

The Regents reviewed our report shortly before it was released. No material changes were made to the report as a result of that review.

#### **A. The Independent Commissioners**

President Loh and the Regents named eight commissioners to conduct the investigation:

**Frederick M. Azar, M.D.**, Chief of Staff at Campbell Clinic Orthopaedics and Professor and Director of Sports Medicine Fellowship program at the University of Tennessee-Campbell Clinic Department of Orthopaedic Surgery and Biomedical Engineering.



**Bonnie Lynn Bernstein**, a sports journalist and a University of Maryland, College Park alumna, where she was an Academic All-American gymnast.

**Robert L. Ehrlich, Jr.**, a former Maryland governor and a former captain of the Princeton University football team.

**Hon. Benson Everett Legg**, a retired former Chief Judge of the United States District Court for the District of Maryland and a former member of the Princeton University lacrosse team, who currently serves as a neutral mediator and arbitrator with JAMS, Inc.

**Hon. C. Thomas McMillen**, President and CEO of the Lead 1 Association (which represents the athletics directors and programs of the Football Bowl Subdivision), a former U.S. Congressman, and University of Maryland, College Park alumnus, where he was an All-American and Academic All-American basketball player.

**Charles P. Scheeler**, a DLA Piper LLP (US) lawyer and former federal prosecutor. He served as lead counsel during Senator George Mitchell's investigation of steroids use in Major League Baseball, and as Monitor of Penn State University following the indictments of Jerry Sandusky and other former Penn State officials.

**Hon. Alexander Williams, Jr.**, a retired former Judge of the U.S. District Court of Maryland, and is currently senior counsel at Silverman, Thompson, Slutkin & White LLC.

**Douglas Lee Williams**, Senior Vice President of Player Personnel for the Washington Redskins, the first African-American to start at quarterback in a Super Bowl (he was the MVP of the game), and former head football coach at Morehouse College and Grambling State University.

The Commission was assisted by attorneys Harry Rudo, Darryl Tarver, Neill Thupari (all of DLA Piper LLP (US)), Jamie Lee (of Silverman, Thompson, Slutkin & White LLC), and Matthew Legg. DLA Piper Partner Thiru Vignarajah, a former Deputy Attorney General of Maryland, was instrumental in the drafting of this report.

## **B. Interviews**

The Commission decided at the outset that the best way to assess the Maryland football program was to speak with as many people as we could who were familiar with the program. We started with the “consumers” of the football program: student-athletes who are playing currently or played during the 2016 and 2017 football seasons, along with the parents of current students.

We obtained a database including every student-athlete who played at Maryland for Mr. Durkin, along with their email addresses and cell phone

numbers. There are over 200 players on this list. The Commission reached out individually by email and cell phone to every current and former player. We also hand-delivered our contact information to every current player. We repeatedly assured current and former players that we would preserve their anonymity if they preferred to speak without attribution. We established offices on campus, away from the football complex, for interviews. On two occasions (August 24, 2018, and September 9, 2018), a Commission member also addressed the full team at Gossett, thanking the players for their cooperation and offering those who had not yet come forward the opportunity to speak with us confidentially.

Maryland football held a parents' weekend and intra-team scrimmage on Saturday, August 18, 2018. We worked with the football parents' liaison group to invite all parents to speak with us. The Athletics Department also sent a memorandum to all parents inviting them to speak with us. We had six Commission members and staff lawyers available for in-person meetings, and we completed nine interviews of parents that day. For parents living far from campus, or who could not make the weekend's events, the Commission subsequently conducted phone and video interviews.<sup>7</sup>

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<sup>7</sup> On September 30, 2018, the *Washington Post* published an article containing allegations by Kimberly Daniels, the mother of Elijah and Elisha Daniels, twins who had played at Maryland. See [https://www.washingtonpost.com/sports/colleges/motivation-or-abuse-maryland-confronts-footballs-fine-line-as-new-allegations-emerge/2018/09/30/e7ab028e-c3dd-11e8-b338-a3289f6cb742\\_story.html?utm\\_term=.043c5f6b2975](https://www.washingtonpost.com/sports/colleges/motivation-or-abuse-maryland-confronts-footballs-fine-line-as-new-allegations-emerge/2018/09/30/e7ab028e-c3dd-11e8-b338-a3289f6cb742_story.html?utm_term=.043c5f6b2975). Ms. Daniels advised the *Washington Post* that she lacked faith in this investigation because the Commission had not contacted her or her

On October 4, 2018, the Athletics Department held a meeting for parents of football players. A Commission member attended that meeting to listen to the parents' perspectives. Parents who could not attend were invited to participate by phone.

Maryland made available for interview every member of the University with whom we asked to speak. This included every member of the football coaching and S&C staffs, the leadership and staff of the Athletics Department, athletic trainers and medical personnel, and other representatives of the University of Maryland ranging from student interns to the President of UMD.

We met with the Maryland personnel who were placed on leave on August 10 and 11, 2018, including Head Football Athletic Trainer Wes Robinson, Assistant AD–Director of Athletic Training Steve Nordwall, Assistant AD for Football Sports Performance/Strength Coach Rick Court, and Head Football Coach DJ Durkin. We interviewed Mr. Court and Mr. Durkin three times each. All told, we spent over ten hours interviewing Mr. Durkin, and over six hours interviewing

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sons. In fact, the Commission attempted to contact Ms. Daniels and her sons the very first day of this investigation. Commission member Charles Scheeler sent an email, dated August 15, 2018, to Roderick Vereen, an attorney representing Ms. Daniels and her sons. Mr. Vereen had previously instructed the University that all efforts to communicate with his clients should be made through him. (It is a violation of legal ethics rules to contact a person directly who is represented by a lawyer). Mr. Scheeler invited the former players to speak confidentially with the Commission about their experiences. Mr. Vereen did not respond to the email. After the *Washington Post* article was published on September 30, we made several more attempts to contact Ms. Daniels through her attorney, by both phone and email. Mr. Vereen never responded.

Mr. Court. We interviewed Randy Edsall, who was the Maryland football team's head coach from 2011 to 2015. We also interviewed many former Maryland assistant football coaches and Athletics Department administrators, including former AD Kevin Anderson.

In addition, we utilized an online, anonymous survey to obtain feedback from the 2018 Maryland football team. This survey was conducted by RealRecruit, Inc., which shared the results with the Commission, but did not provide any information that would allow us to identify responses from particular players. This survey tool did, however, allow us to follow up with players regarding information they shared in the survey, but without enabling the Commission to know the names of the players involved. We made use of this feature. Ninety-four players out of the 112 players on Maryland's roster participated in this survey, providing more than 1,600 comments.

Finally, we consulted with a number of people outside the University community. These included high school coaches from a number of schools whose alumni have played football at Maryland recently, athletics directors and officials at other "Power 5 Conference schools," and counsel for Jordan McNair's family. We also spoke with many individuals who reached out to us to share their opinions and impressions.

All told, we spoke with 165 people. We had multiple interviews of many key participants. The breakdown of interviews is as follows:

- Student-athletes who played football at UMD under Mr. Durkin: 55
- Parents of players: 24
- Current and former Athletics Department staff, including coaches: 60
- University Officials not in the Athletics Department: 12
- Other people with college football expertise, and miscellaneous individuals: 14

The Maryland Athletics Department had previously conducted surveys of the football team following the 2016 and 2017 football seasons. We analyzed the responses of 48 players from the 2016 season and 20 players from the 2017 season.

Neither the breadth and depth of the factual basis of this report, nor our confidence in our findings and recommendations, would be possible without the voluntary cooperation of the individuals who spoke with us. The Commission is grateful to those individuals who collectively shared hundreds of hours of their time so that our report would include their perspectives. But, in our view, they shared a common goal to give us their honest assessment of the University and its football program.

### **C. Documents**

Because the Commission holds no subpoena power, we could neither compel the production of documents, nor require individuals to meet with us. We made dozens of requests to the Athletics Department, the University Administration, and various individuals. We received thousands of pages of text messages, emails, and other documents in response.

We obtained documents from a variety of third-parties and public sources, including documents that were provided by those whom we interviewed. We reviewed many newspaper articles and comments posted on social media platforms. Specific documents are quoted throughout this report, and key additional documents are contained in the Appendices. Some documents were provided on the condition and with the understanding that they would not be shared publicly, which we have respected.

It would be impossible for the Commission to obtain every relevant fact or to investigate every rumor or allegation. Nevertheless, from the dozens of voices we heard and the hundreds of documents we reviewed, we gained detailed, nuanced, and thoughtful perspective on the University of Maryland football program. We are confident that the Commission garnered sufficient information for us to write a credible and informative report that accurately assesses the football program and its culture. This information, we believe, also allows us to

make recommendations on how to improve that program for the benefit of the student-athletes who represent Maryland on the football field. It is to the players, present and future, to whom we dedicate our work.

### **III. Introduction**

Maryland is one of our nation's oldest land grant academic institutions; its forerunner, the Maryland Agricultural College, was chartered in 1856.<sup>8</sup> The State of Maryland took full control of the college in 1916, which was renamed the University of Maryland in 1920.<sup>9</sup> It has long served as one of the nation's leading state universities, and its faculty has included three Nobel Prize winners.

Football has long played a central role in University life; the first football team took the field in 1892.<sup>10</sup> Maryland currently fields 11 intercollegiate women's teams and eight intercollegiate men's teams in addition to supporting numerous club sports teams. Of these, the leading revenue-generating sport is football.

In the ninety-eight seasons of University of Maryland football, the team has played in three conferences: the Southern Conference, the Atlantic Coast Conference, and, since 2014, the Big Ten Conference.<sup>11</sup> Twenty-one different

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<sup>8</sup> See <https://www.umd.edu/history-and-mission/timeline>.

<sup>9</sup> See <https://www.umd.edu/history-and-mission/timeline>.

<sup>10</sup> See <https://static.umterps.com/custompages/pdf/football/fbrecordbook.pdf>.

<sup>11</sup> See <https://www.sports-reference.com/cfb/schools/maryland/index.html>.



head coaches have led the University of Maryland football team since 1917,<sup>12</sup> and the team won the National Championship in 1953.<sup>13</sup>

The National Collegiate Athletic Association (“NCAA”) was established to “maintain intercollegiate athletics as an integral part of the educational program and the athlete as an integral part of the student body.”<sup>14</sup> Maryland is a Division I member institution of the NCAA. This division includes the most competitive football programs in college athletics.

Division I member institutions, like Maryland, are governed by commitments to various principles, such as institutional control and compliance, student-athlete well-being, and sound academic standards.<sup>15</sup> Moreover, they are obligated to apply and enforce NCAA “[l]egislation governing the conduct of intercollegiate athletics programs . . . .”<sup>16</sup>

Consistent with the objectives of the NCAA and Big Ten Conference, the UMD Athletics Mission Statement sets forth the goals of the Athletics Department:

We educate, develop, and serve student-athletes through a culture of academic and athletic excellence.

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<sup>12</sup> See <https://www.sports-reference.com/cfb/schools/maryland/coaches.html>.

<sup>13</sup> See <https://www.ncaa.com/news/football/article/college-football-national-championship-history>.

<sup>14</sup> 2017–18 NCAA Division I Manual at 1.

<sup>15</sup> 2017–18 NCAA Division I Manual at 12.

<sup>16</sup> 2017–18 NCAA Division I Manual at 1.

Our vision is to be the best intercollegiate athletics program while producing graduates who are prepared to serve as leaders in the local, state, and global communities.<sup>17</sup>

#### **IV. Factual Background**

Our charge was to investigate the culture of the Maryland football program under Coach Durkin. We endeavored to stay within the bounds of this mandate. During our investigation, however, it became evident that during this time period, there was significant dysfunction in the management of the Athletics Department, which compromised that department's abilities to support and oversee the football program. This context is important to understand the shortcomings in the operations of the football program that we found. Accordingly, we begin with the hiring of Kevin Anderson, who served as AD until October 2017, when he was placed on sabbatical.

##### **A. Kevin Anderson becomes Athletics Director**

On October 10, 2010, Kevin Anderson was named AD, succeeding Debbie Yow. Mr. Anderson came from the United States Military Academy, where he was AD from 2004 to 2010.<sup>18</sup> Following the 2010 season, UMD bought out head

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<sup>17</sup> See <https://umterps.com/news/2016/4/5/209289861.aspx>.

<sup>18</sup> See [http://www.espn.com/college-sports/story/\\_/id/21021467/maryland-now-says-athletic-director-kevin-anderson-not-leave](http://www.espn.com/college-sports/story/_/id/21021467/maryland-now-says-athletic-director-kevin-anderson-not-leave).

football coach Ralph Friedgen's contract and hired Randy Edsall, formerly the head football coach at the University of Connecticut.<sup>19</sup>

Mr. Anderson's relationship with President Loh was never strong. According to Mr. Anderson, the relationship began to deteriorate in late 2011, when the University eliminated eight intercollegiate sports due to budgetary constraints.<sup>20</sup> Both recognized the financial difficulties confronting the Athletics Department facing the University, but differed as to the best course to address the problem.

Mr. Anderson's tenure as AD was marked by a high rate of turnover within the department. Mr. Anderson initially replaced four members of a six-person Athletics Executive Team (excluding Mr. Anderson himself). By the end of the 2011–12 academic year, he had installed his own executive team of eight administrators. Over the next five years, the Executive Team ranged between five and eight people (excluding Mr. Anderson himself). Fourteen executives exited the team during that period (a 200% turnover rate). These changes included four development directors in a five-year period. In contrast, during Ms. Yow's last five years as the Maryland AD, five people departed from the Athletics Department executive team, a more typical turnover rate.

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<sup>19</sup> See <http://www.washingtonpost.com/wp-dyn/content/article/2011/01/02/AR2011010202231.html>.

<sup>20</sup> See <https://www.insidehighered.com/news/2011/11/22/maryland-will-cut-eight-teams-mitigate-athletic-budget-deficit>.

Several current and former staff members attribute the high turnover rate to Mr. Anderson's practice of "freezing out" staff in whom he had lost confidence. According to several staff members, Mr. Anderson would stop inviting the person to meetings, even those relating to the person's duties, and his communications with the person would decrease dramatically. His conduct was described by two interviewees as "passive aggressive." As a result, while those who were "frozen out" technically still carried their titles, in practice they were no longer provided the access and information they needed to do their jobs. These individuals naturally sought employment elsewhere, whether inside or outside UMD.

Mr. Anderson, however, points out that most personnel who departed left for jobs with greater responsibility.<sup>21</sup> He also contends that his successor, Mr. Evans, drove out at least one executive team member.<sup>22</sup>

Mr. Anderson hired Damon Evans as Senior Associate AD on December 1, 2014. Mr. Evans had served as AD at the University of Georgia from 2004 until

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<sup>21</sup> Specifically, Mr. Anderson recalled that former Deputy AD Nathan Pine is now the AD at College of the Holy Cross, former Senior Associate AD Randy Eaton is now the AD at Western Carolina University, former Senior Associate AD Tim McMurray is now the AD at Texas A&M University – Commerce, former Deputy AD Joe Foley is now the Senior Associate AD at The Pennsylvania State University, and former Associate AD J Batt is now a Senior Associate AD at the University of Alabama.

<sup>22</sup> We interviewed that former team member. That individual corroborated Mr. Anderson's account as to his/her departure. A current staff member indicated, however, that the former team member, at the time immediately prior to his/her departure, complained of having been frozen out by Mr. Anderson. Another current staff member advised that the individual who departed had, in fact, been frozen out by Mr. Anderson pursuant to the then-proposed organizational matrix.

2010.<sup>23</sup> Mr. Evans resigned from his post at Georgia in 2010, after an arrest on a DUI charge.<sup>24</sup> Prior to Mr. Evans's hiring, President Loh called the President of the University of Georgia, Michael Adams. President Adams stated that Mr. Evans had accepted complete responsibility for his misconduct and resigned without a request from President Adams that he do so. According to President Loh, President Adams said that he would hire Mr. Evans again if he had the opportunity.

Mr. Anderson conducted substantial due diligence before giving Mr. Evans a second chance. Specifically, Mr. Anderson consulted with President Adams, Vince Dooley, former Head Coach and AD at the University of Georgia, and Joe Castiglione, AD at the University of Oklahoma, who worked with Mr. Evans at the University of Missouri. Each of these individuals endorsed the hiring of Mr. Evans. Prior to joining UMD, Mr. Evans had also been working as a consultant for two senior Athletics staff members on efforts to improve Maryland football ticket sales. Both Athletics Department staff members were impressed by Mr. Evans and his work, and conveyed their thoughts to Mr. Anderson.

Initially, Mr. Anderson and Mr. Evans worked well together. But as the 2015–16 academic year drew to a close, several individuals in the Athletics Department observed a deterioration in the relationship between the two men.

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<sup>23</sup> See <https://umdrighnow.umd.edu/news/university-maryland-names-damon-evans-athletic-director>.

<sup>24</sup> See <https://www.foxsports.com/college-football/story/georgia-athletic-director-damon-evans-resigns-after-dui-arrest-070510>.

During that school year, five of the seven members of Mr. Anderson's executive team left their posts.

In 2016, Jewel Washington, Assistant Vice President and Chief of the University Human Resources Department ("UHR"), and Michele Eastman, Chief of Staff to President Loh, as well as Dr. Loh himself, attempted to address the management problems within the Athletics Department. Mr. Anderson advised Ms. Washington of his view that Mr. Evans was trying to undermine Mr. Anderson and take his job. Mr. Anderson states that he later learned that Mr. Evans was periodically going over his head and outside the chain of command by bypassing him and speaking directly to President Loh about athletics matters, including the renegotiating of Mr. Anderson's contract.<sup>25</sup> Once Mr. Anderson discovered this, he instructed Mr. Evans not to meet with Dr. Loh.

Both Mr. Evans and Dr. Loh deny these meetings took place. Instead, Mr. Evans reports that he would have occasional meetings with Dr. Loh regarding general athletics matters, such as the renovation of Cole Field House. Mr. Evans's calendars reflect nine meetings that included Dr. Loh in 2016 (one of which may

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<sup>25</sup> Mr. Evans's calendar also disclosed 24 meetings between January 1, 2016, and October 1, 2017. Mr. Evans became Acting Athletics Director in fall 2017. Mr. Anderson says he was not aware of these meetings between the Chief of Staff and Mr. Evans, and viewed this as insubordination when we advised him of this. Mr. Evans and Ms. Eastman describe this as normal interactions between the seconds-in-command of the Athletics Department and President's Office.

have been one-on-one), and six in 2017 through the middle of October (when Mr. Evans became the Acting AD), none of which were one-on-one meetings.

On several occasions, Mr. Evans advised the President's Chief of Staff, Michele Eastman, that he had no ambitions to oust Mr. Anderson; indeed, he remained grateful that Mr. Anderson had given him a second chance when no one else was willing to do so. Ms. Eastman believed that Mr. Evans was genuine in these remarks.

Ms. Eastman reached out to other Athletics Department members to get a better sense of how the department was functioning. She was told that Mr. Anderson was advising people to "bypass University procedures" and that staffers were leaving because of Mr. Anderson's management style. The President's Office considered retaining an executive coach to advise Mr. Anderson but ultimately did not do so.

President Loh met with Mr. Anderson regularly. On occasion, Dr. Loh tried to convince Mr. Anderson that his job was not in jeopardy. Nevertheless, morale within the Athletics Department continued to deteriorate. A long-serving and highly-regarded UMD head coach reported that Mr. Anderson had frozen him/her out as well. The coach attributed this to his/her having served on the AD search committee in 2010 and not selecting Mr. Anderson as his/her first choice. He/she

reported that he/she had been unable to get Mr. Anderson to speak with him/her for over a year.

On May 19, 2017, Mr. Anderson sent a memorandum to President Loh proposing a “new integrated program in Sports Medicine . . . [to] be launched on July 1, 2017.” Associate AD for Sports Performance David Klossner had worked extensively on this project and was a principal author of the memorandum (working with Dr. Andrew Pollak, the University of Maryland Medical System Chair of Orthopaedics, and others). Dr. Klossner reported to Mr. Evans, but Mr. Evans claims he did not learn of the memorandum until he was asked about it by President Loh’s Chief of Staff. By that time, however, Mr. Anderson had effectively “frozen out” Mr. Evans as well. A key feature of the plan was to ensure trainer independence: “although daily roles and responsibilities of the athletic trainers will remain unchanged, supervision and clinical medical care will be independent of any influence of the UMD Athletics Department.”

The President’s Office responded to the proposal with questions about costs, whether the athletics trainers had been consulted (they had not), whether some employees would be transferred from one UMD entity to another entity (they would, which raised questions about the employees possibly losing seniority and potential accrued benefits), and whether UMD would lose the authority to hire and



fire trainers (they would). Ultimately, President Loh's Chief of Staff advised Dr.

Klossner:

I'd like to meet about this . . . . I don't understand why this is necessary, and realized this when I could not explain it well enough to Dr. Loh for him to understand. In addition, I worry it will cost more in the long run, and that we are ceding hiring and firing of UMD employees to another institution.<sup>26</sup>

During this same time period, Mr. Anderson stripped Mr. Evans of many of the latter's responsibilities, further fueling tensions. Mr. Evans recalls that Mr. Anderson told him about his reduced authority while they were golfing with a donor. Mr. Anderson alleged in an email to Dr. Loh that he was being undermined by his staff:

I am . . . very concerned about anonymous allegations that have been directed against me by Department of Athletics staff. These allegations are quite serious and reflect quite negatively on both my personal and professional reputations. . . .

I am now strongly considering seeking legal representation to respond on my behalf. I take my responsibilities quite seriously and am concerned that these allegations were calculated to undermine my authority as the Director of Athletics.

Please advise me as when you would like to meet to continue our discussions about the administrative structure in the Athletics Department.

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<sup>26</sup> Ultimately, the President's Office declined the proposal because it did not want to surrender authority for hiring and firing of staff to another institution, but acknowledged that it might make sense to revisit the proposal once the new sports medicine facility was operating in the renovated Cole Field House.

That summer, President Loh invited both Mr. Anderson and Mr. Evans to his home. There, President Loh instructed them to develop position descriptions (“PDs”) for both of their jobs and to share these PDs with the Athletics staff. These PDs would clarify the scope of the two leaders’ activities, so as to avoid “turf battles” and inform the staff as to which leader should be consulted for a given issue. Essentially, Mr. Anderson would serve in an external role, dealing with alumni and the Big Ten Conference, and effectively act as CEO of the department. Mr. Evans would assume a COO-like role, overseeing internal operations.

According to Dr. Loh, Mr. Anderson initially ignored the order to circulate the PDs to his executive team. President Loh considered this refusal to be “insubordination,” and he again instructed Mr. Anderson to share the PDs with his team. After meeting with Dr. Loh, Mr. Evans recalls developing the first draft of the PDs, which were then revised by Mr. Anderson and circulated to his executive team.

Meanwhile, the Athletics Department was saddled with other management challenges relevant to football. Cynthia Edmunds, who served as University ombudsman and as an assistant to President Loh, was enlisted in early 2016 to mediate disputes between members of the football training staff. Ms. Edmunds found discord between the head trainer, Steve Nordwall, and the trainers he

supervised, as well as tension between Mr. Nordwall and his supervisor, Dr. Klossner. Dr. Klossner concluded from these discussions that he should no longer supervise the trainers, and accordingly he stopped doing so. Ms. Edmunds, however, states that Dr. Klossner was merely advised to supervise Mr. Nordwall, Dr. Klossner's direct report, and let Mr. Nordwall supervise his subordinates. This left Mr. Nordwall effectively unsupervised for an extended duration.

Mr. Anderson states that he developed a plan for decisively addressing the antagonism amongst the trainers, but he was informed by UHR that his plan would not be implemented. He adds that he also developed a program for evaluating athletics coaches and shared with us the forms that were created. *See Appendices 1 and 2 (Head Coach and Assistant Coach Performance Evaluation Forms).*<sup>27</sup> Mr. Anderson maintains that UHR prevented this initiative from moving forward.<sup>28</sup> Overall, rather than working as a cohesive unit to ensure the health and well-being of the student-athletes under their care, members of the Athletics Department consistently failed to communicate with one another, as some staff members were preoccupied with their own internal dysfunction.

Ms. Edmunds departed from the situation as UHR personnel became involved. She described the operation of the Athletics Department during this

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<sup>27</sup> The University treated coaches like tenured professors, meaning that they were not subject to annual performance reviews.

<sup>28</sup> Mr. Anderson provided us with a statement about his tenure at UMD, which is included as Appendix 3.

period as “chaos and confusion.” Her assessment was echoed by others, including a former coach who complained of press leaks designed to undermine certain personnel and a lack of trust in the Athletics Department. The coach compared the dysfunction to “Washington [politics].”

UMD conducted Gallup employment engagement surveys during this period, which confirmed the turmoil in the Athletics Department. In early 2016, the Athletics staff responded to the first Gallup survey, and the engagement results compared favorably with campus-wide averages. In a second survey, conducted 18 months later, the Athletics Department engagement results decreased dramatically, falling below campus-wide averages. Mr. Anderson scored in the 27th percentile (2016) and 29th percentile (2017) in employee engagement compared to Gallup peer data among other colleges and universities.<sup>29</sup> In contrast, Mr. Evans was nationally rated in the 61st percentile (2016) and 73rd percentile (2017) in employee engagement as assessed by his direct reports. This placed him among the highest rated leaders in any UMD department.

#### **B. DJ Durkin is Hired as Head Football Coach**

In the fall of 2015, Mr. Evans assumed supervisory duties over football, relieving then-Deputy AD Kelly Mehrrens of her role. On October 11, 2015, Mr.

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<sup>29</sup> Mr. Anderson, as AD, was assessed by all members of his department.

Anderson announced Randy Edsall's dismissal as head coach.<sup>30</sup> Mr. Anderson states that Mr. Edsall was having a good year recruiting incoming freshmen for the 2016–17 season, and he wanted to provide Mr. Edsall an opportunity to finish the season successfully. But Dr. Loh told Mr. Anderson that he was getting pressure from important constituents to terminate Mr. Edsall immediately.

Dr. Loh vigorously denies that he raised the subject of Mr. Edsall's firing. According to Dr. Loh, the firing was Mr. Anderson's idea. Mr. Evans concurs that the idea originated with Mr. Anderson, and he says he was never aware that Dr. Loh had any views on the issue. Offensive coordinator Mike Locksley served as interim head coach for the remainder of the season.<sup>31</sup>

Mr. Anderson led the search for the new head football coach, which resulted in two finalists. Mr. Anderson says that the entire search committee, including himself, supported Mr. Durkin except for one member. Mr. Anderson's due diligence regarding Mr. Durkin included speaking with Tyrone Willingham, Jim Harbaugh, Jeremy Foley, Urban Meyer, Chris Kingston, former AD of Bowling Green State University, and Michael Wilcox, a distinguished alumnus from Bowling Green. All had worked with Mr. Durkin, and, according to Mr. Anderson, all strongly endorsed Mr. Durkin.

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<sup>30</sup> <https://umterps.com/news/2015/10/11/210413491.aspx>.

<sup>31</sup> <https://umterps.com/news/2015/10/11/210413491.aspx>.

Mr. Anderson recalls being particularly impressed when he interviewed Mr. Durkin and his wife, Sarah, at Mr. Durkin's home. It was clear to Mr. Anderson that the Durkins were a "team," with Sarah as invested in the development of student-athletes as her husband. In Mr. Anderson's experience, that quality in a marital relationship is often a strong indicator of a successful college coach.

Dr. Loh interviewed the finalists and also supported Mr. Durkin. Dr. Loh and Mr. Durkin agree that, aside from that meeting, they did not have a personal relationship.

On December 2, 2015, Mr. Durkin was announced as the new head coach of the UMD Football Team.<sup>32</sup> Mr. Durkin had previously served as an assistant coach of several successful football programs.<sup>33</sup> He was 37 years old and had never served as a head coach before.<sup>34</sup>

Mr. Durkin reported to Mr. Evans, as his sport supervisor, but also had a direct relationship with Mr. Anderson. This is not unusual; at many schools, the AD has the closest relationship with the football coach.

Mr. Durkin states that he received no orientation or help with the responsibilities of being a first-time head coach: managing a staff, ensuring

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<sup>32</sup> <https://umterps.com/news/2015/12/2/210551572.aspx>.

<sup>33</sup> <https://umterps.com/news/2015/12/2/210551572.aspx>.

<sup>34</sup> On November 22, 2014, Mr. Durkin served as head coach of the University of Florida football team for one game after the previous head coach announced that he was resigning. *See* [http://www.espn.com/college-football/story/\\_/id/11921415/dj-durkin-coach-florida-gators-bowl-game](http://www.espn.com/college-football/story/_/id/11921415/dj-durkin-coach-florida-gators-bowl-game).

compliance with NCAA rules and University policies, hiring staff, and obtaining equipment. He found the Maryland bureaucracy to be more challenging than what he had experienced at other schools.

In this respect, as part of our investigation, we requested and received numerous organizational charts from UMD, including those focusing on football and those describing the Athletics Department as a whole. *See* Appendices 4 and 5, Football Organizational Charts from 2017 and 2018, respectively. These charts, while helpful in conducting our interviews, were frequently described by those identified therein as not being accurate representations of how reporting actually functioned. Moreover, apart from a “matrix,” we learned that the Athletics Department did not have an organizational chart in place for several years. *See* Appendix 6. We received a chart dated August 2018, which post-dated our request. *See* Appendix 7.

Jewel Washington, the UHR Chief, described several deficiencies she observed in Athletics.<sup>35</sup> First, at her prior employer, she worked with the AD to train head coaches on managing their staff. In the case of a first-time coach like Mr. Durkin, training also included borrowing from best practices derived from the NCAA, the Big Ten Conference, and other sources, as well as learning how to

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<sup>35</sup> The Athletics Department had a dedicated human resources professional, but she did not report to UHR. According to the UHR Chief, this made it difficult to bring the Athletics Department in line with best practices to ensure that its members were held accountable to performing their assigned duties.

follow UMD processes. Second, Ms. Washington would establish a performance management system to evaluate the members of the athletics department, including coaching staffs.

None of this happened, however, upon Mr. Durkin's arrival.<sup>36</sup> According to Ms. Washington: "[h]ere [in Maryland athletics], there is no structure. That is not normal."

Mr. Anderson, on the other hand, recalls spending considerable time overseeing the football program. He says that once or twice a week, he either observed practices, joined the team for meals, or attended football team events. He also says he met with Mr. Durkin weekly to provide mentoring and address issues. Mr. Anderson also recalls that, on at least three separate occasions, he had prominent speakers come to address the players and coaching staff about establishing the right culture around the football program. Mr. Anderson believes that both Mr. Durkin and Mr. Court attended at least two of the presentations.

Mr. Evans states that he also visited the football team or staff about one to two times per week. He says he would typically visit for 20 to 30 minutes to try to establish relationships. Mr. Evans says that four departing assistant coaches came

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<sup>36</sup> According to Dr. Loh, it was Mr. Anderson's responsibility to ensure that new head coaches received appropriate orientation and training.



to share their experiences with him, without Mr. Evans asking, which shows the types of relationships he forged.

Mr. Durkin recalls events differently. He insists there was no consistent or regular oversight by Mr. Anderson or Mr. Evans. Mr. Durkin does not recall Mr. Anderson being around on a consistent basis even as frequently as once a week.<sup>37</sup> Mr. Durkin's recollection is that Mr. Anderson occasionally went to practice, stayed for 20 to 30 minutes, sometimes with Mr. Evans, and then left. Mr. Durkin would then see Mr. Anderson again at practice a few weeks later, for the same amount of time. Mr. Durkin also does not recall Mr. Anderson being at many meals, other than Friday team meals before road games, which Mr. Anderson attended because he was traveling with the team.

We examined the calendars of Mr. Anderson, Mr. Evans, and Mr. Durkin, which all support Mr. Durkin's recollection. The calendars note a "weekly meeting" from time to time, but these did not occur weekly. The contacts between Mr. Durkin and either Mr. Anderson or Mr. Evans were sporadic according to the calendars.<sup>38</sup> Mr. Evans adds that his visits were not always planned, and thus not always calendared.

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<sup>37</sup> According to Mr. Durkin, the frequency with which Mr. Evans observed the football program was similar in nature to Mr. Anderson's habits, and Mr. Anderson and Mr. Evans often visited together.

<sup>38</sup> Mr. Anderson's and Mr. Durkin's calendars reflect that they met 15 times in 2016 and three times in 2017 per Mr. Anderson's calendar, and eight times in 2016 and two times in 2017 per Mr. Durkin's calendar. Mr. Evans's and Mr. Durkin's calendars reflect that they met 14

Mr. Anderson also claimed that he instructed Mr. Evans, who supervised football, to spend more time observing the program. When, according to Mr. Anderson, Mr. Evans failed to do so, Mr. Anderson cited this shortcoming in Mr. Evans's final performance review. We reviewed Mr. Evans's performance reviews for 2016 and 2017 and did not see any such remarks.

Mr. Durkin arrived with ideas to make Maryland's program more competitive with its Big Ten Conference rivals. He was successful in implementing a new dietary program for the players, and there are now two dieticians on staff. He also successfully worked with medical staff to create a new policy for administration of pain medications to players, thereby minimizing the risk of addiction.

Mr. Durkin was less successful with other initiatives. He states that he repeatedly requested that a physician be assigned to cover every football practice, and Mr. Anderson has confirmed that Mr. Durkin made this request. This is not the custom at many schools, but some universities do provide this staffing for the football team.<sup>39</sup> Mr. Durkin asked for a psychologist dedicated solely to the

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times in 2016, eight times in 2017, and seven times in 2018 per Mr. Evans's calendar, and one time in 2016, one time in 2017, and seven times in 2018 per Mr. Durkin's calendar.

<sup>39</sup> According to our Commission experts on this subject, Dr. Fred Azar and Doug Williams, it is uncommon for a physician to be present for the entirety of every practice. Mr. Williams states that the Washington Redskins have a physician on-site only on Wednesdays and game days. Dr. Azar reports that a physician is on-site for scrimmages for the team he handles (the University of Memphis). The presence of physicians at college football practices range from having someone at every practice to no coverage at all. Many Division I universities have a physician attend at

football team. The University hired one, but Mr. Durkin was not satisfied because the football team had to share the psychologist with all other intercollegiate teams, and Mr. Durkin felt this would compromise her ability to adequately serve the needs of all 110 football players. Mr. Durkin also tried to establish a group to look into the school's marijuana testing policy, attempting to transform it from a punitive to a therapeutic model.

In interviews with the Commission, Mr. Durkin expressed frustration with the level of support, and the lack of communication, he received from Athletics. He was particularly upset when UMD reorganized the doctors providing care to the football players. Mr. Durkin felt that one physician, who had treated football players for several years, was trusted by the players. This physician was removed from her position without prior notice to, let alone input from, Mr. Durkin.

**C. Rick Court is DJ Durkin's First Hire; the Athletics Department Changes the Reporting Structure for the Head Football Strength Coach**

Prior to Mr. Durkin's tenure, the Associate AD for Sports Performance, Dr. Klossner, served as the direct supervisor of S&C coaches for all UMD intercollegiate sports. It was unusual to have S&C coaches report to an Athletics Department administrator in addition to their respective head coaches, but,

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least some portion of practices. Some schools have a physician present at an on-campus student health facility or a nearby training room where a physician is seeing non-football athletes.

according to a former administrator, Maryland was “ahead of the curve” in that regard. The reason for this supervisory structure was that S&C coaches were vulnerable to the influences of their coaching staffs, whose competitive interests might not always coincide with what medical and conditioning experts might think was best for the players. An Associate AD could help shield S&C coaches from these influences by being responsible for performance evaluations and hiring and firing decisions.

Prior to the hiring of Dr. Klossner, UMD student-athletes across different sports sustained a high number of ACL injuries.<sup>40</sup> Dr. Klossner’s initial duties included modifying UMD’s S&C programs to try to lower injury rates and enhance student-athlete safety.

Coach Durkin’s first hire was Rick Court, who served as the Assistant AD for Football Performance, or in common parlance, Head Football S&C Coach.<sup>41</sup> Mr. Anderson delegated authority to Mr. Durkin to make this hire.

Mr. Court and Mr. Durkin first met when they worked together on the football staff at Bowling Green in 2005. Prior to coming to UMD, Mr. Court worked at The Mississippi State University for Agriculture and Applied Science (commonly known as Mississippi State University) as the Head S&C Coach for the

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<sup>40</sup> Injuries to the anterior cruciate ligament, more commonly known as the “ACL,” are frequently serious injuries, but they are unfortunately common in football.

<sup>41</sup> See <https://www.clarionledger.com/story/sports/college/mississippi-state/2015/12/07/msu-strength-coach-headed-maryland/76926592/>.

entire athletics program, with an emphasis on football.<sup>42</sup> The Commission spoke with Scott Stricklin, the former Mississippi State AD during Mr. Court's tenure there. Mr. Stricklin tells the Commission that he did not recall any employment or misconduct issues with Mr. Court at Mississippi State.<sup>43</sup> It should be noted that the circumstances under which Mr. Court was hired at Mississippi State differed greatly from those at Maryland. Mississippi State's head coach had already been at the Mississippi State for five seasons, and he had engineered a resurgence entailing several seasons in which the football team was ranked in the Top 25 nationally. Conversely, as one of the early hires during Mr. Durkin's tenure, Mr. Court was tasked with helping Mr. Durkin craft a strategy for a middling program that would enable them to compete in the Big Ten.

Mr. Durkin advised that he considered various factors before hiring Mr. Court; in addition to his personal knowledge of Mr. Court, he had previously spoken with three of Mr. Court's prior supervisors: Mickey Marotti, Urban Meyer, and Dan Mullen.<sup>44</sup> Based on his conversations with all three, Mr. Durkin believed that Mr. Court was highly qualified for the position that Mr. Durkin had in mind.

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<sup>42</sup> See <https://www.csc.ca.org/members/mscc/member?id=757>.

<sup>43</sup> Mr. Stricklin's name is used with his consent.

<sup>44</sup> Mr. Court coached with these individuals during their times with the following institutions. Mickey Marotti was the head strength and conditioning coach at the University of Cincinnati from 1990 to 1997. Urban Meyer was the head coach at Bowling Green from 2001 to 2002. Dan Mullen was the head coach at Mississippi State from 2009 to 2017.

The dysfunction in the Athletics Department is illustrated by the confusion over who supervised Mr. Court. Mr. Durkin advised us that he understood from Mr. Anderson that Dr. Klossner was responsible for supervising Mr. Court.<sup>45</sup> Mr. Anderson agrees that Dr. Klossner was supervising Mr. Court.

But Mr. Court's contract states that he reported directly to the head football coach. Mr. Court and Mr. Anderson were the two signatories; neither knows who put the clause into his contract establishing that Mr. Court reported to Mr. Durkin, or why that clause was inserted.<sup>46</sup>

Both Mr. Evans and the Deputy AD are emphatic that Mr. Court reported to Mr. Durkin, just as Mr. Court's contract says. Dr. Klossner originally thought that he was to supervise Mr. Court as he did the prior head strength coach, but stated in an email in June 2016 that he understood he did not have such a responsibility.<sup>47</sup> The football program organization chart displays Mr. Court reporting to Mr. Durkin, although we were told that the chart represented lines of communication, not supervision.

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<sup>45</sup> Mr. Durkin also claims that his contract states that he does not supervise strength and conditioning coaches; we disagree with that interpretation.

<sup>46</sup> Mr. Evans and Mr. Durkin state that they were not familiar with Mr. Court's contract clause stating that he reported to Mr. Durkin.

<sup>47</sup> In June 2016 Dr. Klossner submitted his annual performance reviews for the football staff he supervised. In his transmittal note to the human resources representative, he stated "I don't think I have to do one for Rick Court."

Mr. Court says it was never clear to him who his supervisor was, and that no one gave him any performance reviews or assessments during his tenure. Thus, there was no one in the Athletics Department—indeed, in the entire University—who acknowledged it was their job to oversee Mr. Court and hold him accountable to the University’s standards. This was a departmental failure.

Mr. Durkin and Mr. Court proceeded to hire a football strength coach staff without input from, or consultation with, Dr. Klossner. Mr. Durkin states that he was granted authority from Mr. Anderson to do so, and Mr. Evans confirms that Mr. Durkin was given a budget, but otherwise he had reasonable discretion to pick these assistants.

1. Warning signals about the football program

An Athletics Department administrator was approached by a football player during the spring of 2016. The player stated that one of the S&C coaches used language that made the player feel “less than human.”<sup>48</sup> This administrator was soon to leave Maryland. He/she told Mr. Evans about this incident. Mr. Evans stated that he has no recollection of such a conversation.<sup>49</sup>

As Mr. Durkin’s first season as head football coach was drawing to a close, an anonymous email was delivered to Mr. Anderson, the UMD President’s public

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<sup>48</sup> We spoke to this former player. He confirmed that he had been subjected to abusive language by one of the strength and conditioning coaches and that he had reported this to staff.

<sup>49</sup> We did not advise Mr. Evans which athletics official brought this to Mr. Evans’s attention, given the staff member’s request to keep his/her name confidential.

email address, and others. It has been reported that this document was also delivered as a letter to the President's Office. That office has no record of such receipt.

This December 9, 2016, email raised disturbing allegations about the football program. It read in part:

One of Kevin Anderson's primary jobs is to look out for the physical and mental welfare of his athletes. He is not doing his job and the fact that he allows his coaches to psychologically, physically, and emotionally abuse the athletes is paving the way for a multi-million dollar civil lawsuit against the school and the coaches, alleging assault and intentional infliction of emotional distress.<sup>50</sup>

The email made claims of mistreatment of athletes by Mr. Durkin and his staff, and also alleged that the program was violating NCAA regulations by exceeding practice time limits and requiring the players to sign false documentation. It closed: "DURKIN SHOULD BE PUT ON NOTICE! Immediately."

The President's public email is monitored by two staff employees. One forwarded the anonymous email to Dr. Loh the following Monday afternoon with a cover note: "Please see the message below, which is unsigned, regarding alleged abuse of student athletes. Would you like to send to Kevin Anderson directly to discuss?"

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<sup>50</sup> December 9, 2016 email from [fortheabused@gmail.com](mailto:fortheabused@gmail.com) to [president@umd.edu](mailto:president@umd.edu). This email is included in Appendix 8.



That same evening, Dr. Loh directed that the anonymous email to Mr. Anderson: “forward to KA on an FYI basis. He does no [sic] need to respond to this anonymous email. Tx.” An email was sent by one of Dr. Loh’s staff to Mr. Anderson with a note: “Sharing this message with you as an FYI. As the message is anonymous, not [sic] response is needed. President Loh and Michele [Eastman, Dr. Loh’s Chief of Staff] also reviewed the message.”

The anonymous email was featured in a *Washington Post* article on September 30, 2018.<sup>51</sup> Prior to that time, we had interviewed Dr. Loh and his Chief of Staff. Both stated that the President’s Office had not received any football-related complaints during Mr. Durkin’s tenure. The Chief of Staff advised that the office had only received two athletics-related complaints during this time period, and neither related to football.

We re-interviewed both Dr. Loh and his Chief of Staff. Both insist that they had no memory whatsoever of the email, although they were certain that they received it and commented upon it, given the paper trail. Even after reading the email during his re-interview, Dr. Loh cannot remember the email, or if he had

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<sup>51</sup> “Motivation or abuse? Maryland confronts football’s fine line as new allegations emerge,” *Washington Post*, September 30, 2018, available at [https://www.washingtonpost.com/sports/colleges/motivation-or-abuse-maryland-confronts-footballs-fine-line-as-new-allegations-emerge/2018/09/30/e7ab028e-c3dd-11e8-b338-a3289f6cb742\\_story.html?utm\\_term=.043c5f6b2975](https://www.washingtonpost.com/sports/colleges/motivation-or-abuse-maryland-confronts-footballs-fine-line-as-new-allegations-emerge/2018/09/30/e7ab028e-c3dd-11e8-b338-a3289f6cb742_story.html?utm_term=.043c5f6b2975).

even read it in 2016 (as opposed to just reading his assistant's covering note and directing that the email be sent to Mr. Anderson).

The Chief of Staff described how the roughly 200 emails to Dr. Loh's public inbox each day are typically handled. Two staffers review these emails and forward emails that warrant responses to a cabinet member, the Dean, Dr. Loh, or his staff. Anonymous emails typically do not receive responses. Emails that are found to warrant a response or greater attention are separated out into electronic folders, but there is no uniform follow-up mechanism. The December 9, 2016 email was placed in this electronic folder.<sup>52</sup>

Dr. Loh advises us that his typical protocol regarding complaints is to forward the email to the appropriate Cabinet member (in this case, Mr. Anderson). He does not recall any response from Mr. Anderson, which did not strike him as unusual. Dr. Loh explains his "no need to respond" instruction as relating solely to fact that the University did not, as a matter of course, respond to anonymous emails. Dr. Loh insists that "no need to respond" did not equate to "no need to investigate." Rather, he expected Mr. Anderson to review and take whatever action he felt was appropriate.

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<sup>52</sup> We reviewed the emails in this folder and did not see any other emails that raised football-related concerns, except for an alleged student-athlete misconduct issue that was publicly addressed.

Mr. Anderson recalls that he received the anonymous email. On December 9, 2016, Mr. Anderson forwarded the email to Damon Evans, Marcus Wilson, and Zack Bolno, all Athletics Department staff, with the message, “We need to talk about this email.”

Mr. Anderson says that he asked whether these staff members had seen or heard anything inappropriate. They all answered in the negative. He asked the three members to be observant for any signs of inappropriate behavior, and they uniformly responded that they would do so. Mr. Anderson recalls no one subsequently advising him of any troubling observations. He is not aware of any other Athletics Department actions in response to the anonymous allegations.

Mr. Evans does not recall any conversation with Mr. Anderson about the email, and another staff member asserts that no such conversation occurred. Mr. Wilson, who is no longer employed by UMD, declined to speak with us.

Mr. Anderson did not respond to Dr. Loh or the anonymous emailer, in accordance with Dr. Loh’s directive.<sup>53</sup> Neither of them recall any conversations about the email.

The anonymous email was also routed to the Athletics Department and directed to an employee on the NCAA Compliance Staff. The employee

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<sup>53</sup> Mr. Anderson’s and Dr. Loh’s calendars do not reflect any meetings discussing this email; there was a regular executive meeting when this email was not discussed, and there was a call with Dr. Loh on Mr. Anderson’s calendar, but Dr. Loh’s calendar reveals a different meeting at that time.

forwarded it to three other Athletics compliance officials, all on December 9.

Early in the investigation, we had asked the Athletics Department for all football-related complaints during Mr. Durkin's tenure. We also interviewed the two Athletics compliance officials responsible for overseeing football and asked them to identify all football-related complaints. We did not obtain the anonymous email or any information about this complaint through any of these queries. Instead, we learned of and received the email (including all threads in which the email had been forwarded), the weekend before the *Washington Post* article was published.

In separate interviews conducted before September 30, Mr. Evans and the two compliance officials all denied being aware of any football-related complaints arising during Mr. Durkin's tenure, apart from complaints discussed elsewhere in this report. As of his re-interview, Mr. Evans still has no recollection of the anonymous email, but acknowledges he must have received it, given the document trail.

We spoke to three individuals in the compliance department about the December 9, 2016 complaint email. The staffer who received the email forwarded it to his then-supervisor and the other members of the NCAA compliance staff.

All three compliance personnel tell us that they believe the email dealt primarily with issues that were outside the purview of the compliance staff, and for that reason it would be more appropriately addressed by the sport supervisor of

football (at that point, Mr. Evans). One of the few compliance-related allegations was that Coach Durkin “thwarts NCAA time limits” and “makes the players sign off on the required forms that would be audited by the NCAA.”<sup>54</sup> The three compliance personnel all say that, once they learned that Mr. Evans and other senior staff were aware of the allegations in the email, they felt that they had no additional responsibilities to act.

According to one individual from the NCAA compliance staff, there is no standard process for addressing compliance complaints; it depends on the nature of the complaint and the surrounding circumstances. There is no standard process for documenting compliance complaints, either, and whether a complaint gets documented is based on a “judgment call.” The staffer states that generally, the football program does not have a track record of compliance violations. Furthermore, according to the staffer, it was unlikely that the football program ran afoul of NCAA-imposed time limitations because of the way that time is counted.<sup>55</sup>

Another member of the compliance staff believes it to be unlikely that there was a compliance violation given that both players and coaches signed off on time sheets. The staffer had also attended several football practices and had not seen anything that was of concern. As their supervisor was aware of the email, the

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<sup>54</sup> December 9, 2016 email (emphasis in original).

<sup>55</sup> For example, a full day of competition only counts as three hours toward the NCAA-imposed limit of 20 hours, even though student-athletes may spend several hours of the day preparing for the game and participating in post-game team activities.

email appeared to complain more of culture-related issues than compliance-related issues, and the compliance-related issue was believed unlikely to be an NCAA violation, none of the compliance staff took any independent action to investigate the allegations.

When the members of the compliance staff were asked about why they had not shared the December 9, 2016, email with the Commission, each employee stated (in effect) that the email had slipped their minds. None of them had taken any action in response to the email (aside from verifying that their supervisor was aware of it), and it was brought to their attention nearly two years ago.

In sum, it does not appear that the Athletics Department took any action of consequence to investigate this email. This is problematic at many levels. The email alleged violations of NCAA rules and serious misconduct that violated the University's core principles. Mr. Durkin was never questioned or even made aware of this email, a serious omission.

From all appearances, this anonymous memorandum simply "slipped between the cracks." This episode demonstrates an abject failure by the Athletics Department, from the compliance staff to the AD, to perform its fundamental duty of investigating complaints and ensuring the well-being of the student-athletes it serves.

2. A team survey lauds the football program and the strength and conditioning program

In March 2017, the Athletics Department conducted an anonymous survey of the football team.<sup>56</sup> Forty-eight players took the survey.<sup>57</sup> The survey data identifies these players, but does not permit identification of an individual player's responses. Some of the players who spoke to ESPN in connection with its August 10, 2018, article took the survey.

The survey showed strong approval figures for the quality of coaching at the head coach and assistant levels, as well as the quality of medical care provided. Players responded on a 1 to 5 scale, with "1" signifying "strongly disagree," and "5" denoting "strongly agree." The average scores for selected questions are:

- The overall quality of the head coaching I received was adequate and appropriate: 4.46
- The overall quality of the assistant coaching I received was adequate and appropriate: 4.46

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<sup>56</sup> NCAA Manual Article 6 Institutional Control states in part: "Rule 6.3 Exit Interviews. The institution's director of athletics, senior woman administrator or designated representatives (excluding coaching staff members) shall conduct exit interviews in each sport with a sample of student-athletes (as determined by the institution) whose eligibility has expired. Interviews shall include questions regarding the value of the students' athletics experiences, the extent of the athletics time demands encountered by the student-athletes, proposed changes in intercollegiate athletics and concerns related to the administration of the student-athletes' specific sports. (Adopted: 1/10/91 effective 8/1/91, Revised: 8/7/14)" According to UMD NCAA compliance staff, the NCAA permitted Maryland to satisfy this requirement through online surveys.

<sup>57</sup> 2016 survey data, attached as Appendix 9. The respondents' names are redacted.

- I was not subject to inappropriate physical contact, verbal communication, or mental/emotional stress: 4.37<sup>58</sup>
- My experience with the medical/training staff was positive and met my needs: 4.17<sup>59</sup>

The players' assessment of the strength coaches is of particular interest given the current accusations. The players rated the strength coaches higher than the head coach or the assistant coaches. Indeed, the strength coaches' score was the highest score of any question posed in the survey:

- My experience with the strength and coaching staff was a positive and the staff met my team's needs: 4.59<sup>60</sup>

The only comment regarding the S&C staff, apart from the rankings, was: "Football strength staff was the best hire ever!"

Mr. Evans stated that he reviewed these scores, and that it confirmed his impression that Mr. Court was doing a good job. Mr. Evans said he observed the players getting bigger, stronger, and fitter. These survey results seemed to match Mr. Evans's impressions and observations.

The high scores for S&C coaching are also curious in that many players told the Commission that Mr. Court was much tougher during the 2016 season, which

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<sup>58</sup> One player provided a "strongly disagree" answer, but his identity could not be ascertained because of the anonymity of the survey. Four others provided a "3" or "neutral" response. The other 41 players "Agreed" or "Strongly Agreed" with this question.

<sup>59</sup> Two players "Strongly Disagreed," and one player "Disagreed" with this question.

<sup>60</sup> This average included one "Strongly Disagreed" response, 15 "Agreed," and thirty "Strongly Agreed."



some viewed as a process of “weeding out” the players that Mr. Edsall recruited who did not fit with Mr. Durkin’s training methods. By 2017, some players advised that they had adjusted to the new routine, and that Mr. Court was not as consistently demeaning. Others said that over time they had learned to tune out Mr. Court’s abusive language: “[h]e’s called people names, you know. It’s a way to motivate somebody. I don’t think I saw a lot of personal attacks in front of the team. Most of the team comments were positive.”

Athletics conducted another survey of the football team following the 2017 season.<sup>61</sup> The number of players who participated in this anonymous, voluntary online survey was less than half (20 vs. 48) than participated in the prior year’s survey. Still, the players’ responses suggested a healthy program. As described in Section VI, 89% of the players agreed or strongly agreed that the coaching was adequate and appropriate.<sup>62</sup>

### 3. Other warning signs prior to May 29, 2018

One assistant coach tells the Commission that he expressed concerns to Mr. Durkin about Mr. Court’s behavior on one occasion. Mr. Durkin denies this. Another assistant coach reportedly mentioned in a coaching staff meeting that practices were too intense. Other coaches have stated that they did not think Mr.

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<sup>61</sup> 2017 survey data, attached as Appendix 10. The respondents’ names are redacted.

<sup>62</sup> See Appendix 10.

Durkin knew of Mr. Court's alleged excesses. We were told by several assistants that Mr. Court's conduct was never raised in coaches' meetings, which Mr. Court attended. One former assistant who was quite critical of Mr. Court says: "I don't think he [Mr. Durkin] knew. No one would have brought complaints to DJ because most considered them [Mr. Durkin and Mr. Court] the same person." This led staff to avoid discussing Mr. Court with Mr. Durkin.

There were also mixed reviews as to how receptive Mr. Durkin was to feedback and suggestions to change generally. Mr. Durkin denies that he was ever approached by a member of the football staff about Mr. Court's behavior prior to May 29, 2018, and he notes that he always maintained an "open door policy." Despite Mr. Durkin's contentions, some players feared that complaining to him could lead to his thinking less of the player, which could affect their standing on the team or playing time.

Mr. Durkin and Mr. Evans both recount one instance in which parents complained about Mr. Court's conduct prior to Jordan McNair's tragedy. On April 9, 2018, the parents of a player met with Mr. Evans. The parents contended that their son deserved a scholarship (he was a walk-on) and that he should be given "a legitimate opportunity to compete for playing time." They said that Mr. Court (and two other coaches, including Mr. Durkin) had subjected their son to physical and verbal abuse. In particular, Mr. Court had refused to allow the player to sit on a

heated bench during a home game in November, as that space was reserved for the starters.<sup>63</sup> Mr. Court began berating their son in the fall of 2017, and Mr. Court and several other coaches “targeted” him for abuse. On one occasion, Mr. Court told the player that he “couldn’t play” (*i.e.*, was not good enough to play) during a workout.

Mr. Evans then arranged a meeting a week later between the parents, the player, Mr. Durkin, and the Assistant AD for Football and Equipment Operations. Mr. Durkin insisted that the player be present during the meeting. The player was largely silent during the meeting, but he confirmed his parents’ accusations.

All parties agree that this meeting lasted over two hours and was contentious at times.<sup>64</sup> The parents state that Mr. Durkin completely supported Mr. Court, saying that, “no non-starter should sit on the [heated] bench.” Mr. Durkin says that he was getting different information from the player than he was from the parents. For example, the player had told his parents that he was choked by an assistant coach, but in front of Mr. Durkin, the player stated that the coach was demonstrating a defensive hand placement technique that caused the player’s shoulder pads to tighten. Mr. Durkin acknowledged that Mr. Court should not

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<sup>63</sup> The temperature was 37 degrees at kickoff. *See* [https://www.wunderground.com/history/daily/KCGS/date/2017-11-11?req\\_city=College%20Park&req\\_state=MD&req\\_statename=Maryland&reqdb.zip=20742&reqdb.magic=1&reqdb.wmo=99999](https://www.wunderground.com/history/daily/KCGS/date/2017-11-11?req_city=College%20Park&req_state=MD&req_statename=Maryland&reqdb.zip=20742&reqdb.magic=1&reqdb.wmo=99999).

<sup>64</sup> We interviewed all five participants in the meeting.

have said the player “couldn’t play,” but noted that Mr. Court said this on an occasion when the player was late to a workout. The parents and player admit that both Mr. Durkin and Mr. Court were “overly polite” to the player in their subsequent coaching of him.

From the Commission’s interviews with 165 players, parents, coaches, staff, and others familiar with the UMD football program, as well as email searches of 18 members of the Athletics Department, this is the totality of evidence that either Mr. Durkin or Athletics Department leaders were warned about misconduct in the football program (apart from one incident discussed in Section V.K). Mr. Durkin does admit that he heard Mr. Court using the “p\*\*\*\* b\*\*\*\*” and “p\*\*\*\* f\*\*\*\*\*” epithets, but did not hear that language directed at specific individuals.<sup>65</sup> Mr. Durkin further acknowledges that he heard about the incident where Mr. Court took a box of food out of a player’s hands and threw it against the wall. *See* Section V. But Mr. Durkin still does not believe that Mr. Court “crossed any lines.”

#### **D. The Athletics Department Retains Counsel to Defend Football Players Accused of Sexual Misconduct**

On or about June 20, 2017, the head of the University’s Office of Civil Rights & Sexual Misconduct (commonly known as the “Title IX Office”) met with

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<sup>65</sup> The specific language referenced is “pussy bitch” and “pussy faggot,” which we refer to as “p\*\*\*\* b\*\*\*\*” and “p\*\*\*\* f\*\*\*\*\*” respectively throughout this report.

Mr. Durkin and another member of the Athletics Department regarding a potential investigation of sexual misconduct alleged by a student affiliated with athletics against two football players. Following that initial meeting, the Title IX Office decided to move forward with a formal investigation of the complaint.

Once the decision was made to proceed with the investigation, members of the Executive Staff of the Athletics Department met to discuss the pending investigation. Mr. Durkin was not at this meeting. At that meeting, several of those present recall that Deputy AD Evans advised Mr. Anderson not to engage or participate in the investigation and to let it run its course. Mr. Anderson vigorously denies this account, however.

According to information gathered during a University internal investigation conducted in September 2017, either Mr. Anderson or Mr. Durkin, or both, “solicited and facilitated payment to a law firm to represent the accused players.” With regards to the solicitation, Mr. Durkin states that he was approached by the two football players under investigation, and they recommended Donald Jackson, founder and lead attorney of The Sports Group. The two student-athletes made this recommendation after having spoken with another football player previously represented by Mr. Jackson in connection with an eligibility issue.

Mr. Jackson did not receive an engagement letter from the University for his representation of the two football players who were the subjects of the Title IX

investigation. When Mr. Jackson represented another football player and a basketball player in earlier matters relating to their eligibility, he received engagement letters for his services. The normal course of business to retain outside counsel for student-athletes at Maryland involved coordination between Deputy AD Evans, a Senior Associate AD, and the University's General Counsel's office. The General Counsel is required to authorize the retention of outside counsel. Once that authorization is given, then a fee engagement agreement is entered into between the University and outside counsel. After obtaining that fee engagement letter, only then can the University of Maryland College Park Foundation, Inc. (the "Foundation") be approached for monies to pay for that attorney's services.

By all accounts, that protocol was not followed for Mr. Jackson's representation of the two football players. Rather, in late August 2018, the law firm submitted a request for payment for \$15,000 for "upcoming speaking" fees after having received an email from an Assistant AD (from his spouse's personal email account) asking for an invoice for "your fee for speaking at Maryland." Mr. Jackson had previously agreed to charge a flat fee of \$15,000 for his representation of the two players.

According to the University's internal investigation findings, "upon receipt of the request [to pay \$15,000 for a "speaker's fee"], an employee . . . brought it to

the attention of . . . Damon Evans, who in turn brought it to the attention of the President. . . . Upon receiving this information, the President instructed the former AD to end the relationship with the attorney, which the former AD attempted to do in an email to [Mr. Jackson].” Mr. Jackson, however, continued to represent the players.

Before Dr. Loh’s instructions were put into effect, the Assistant AD advised Mr. Jackson that the invoice he drafted “would not work.” Instead, he sent Mr. Jackson a revised invoice dated August 29, 2017, which described Mr. Jackson’s services as an “Eligibility Consultation.”<sup>66</sup> NCAA rules permit schools to hire counsel for players to address eligibility issues. As school sanctions (such as suspension or expulsion) can affect eligibility, the NCAA typically permits schools to pay for counsel when a player faces disciplinary proceedings.

In order to process payment of the revised invoice, Mr. Evans says he was directed by Mr. Anderson to facilitate payment as quickly as possible through the Foundation. On September 7, 2017, Mr. Anderson, the Senior Associate AD for Finance and Operations, and the Associate AD for Compliance, each countersigned a Disbursement Request Form to the Foundation for \$15,000 to be

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<sup>66</sup> The Compliance Office approved the payment of Mr. Jackson’s fee as characterized in the revised invoice. Mr. Jackson states that he neither created, nor participated in the creation of, the revised invoice, which describes his services as an “Eligibility Consultation.” It appears that the revised invoice was generated by someone in the Athletics Department.

paid to Mr. Jackson for an “Eligibility Consultation,” and payment was wired to Mr. Jackson’s account.

Mr. Anderson denies any involvement in creating the “speaker’s fee” payment plan and claims that the first time he was made aware of the arrangement was when Mr. Evans presented him with an invoice for Mr. Jackson’s services described as a “speaker’s fee” and asked for his approval of the payment. Mr. Anderson says that he advised Mr. Evans he would not approve of any payment to Mr. Jackson for a “speaker’s fee.”

Although Mr. Jackson was eventually paid through the Foundation funds for an “Eligibility Consultation,” the manner by which his services were retained, and then paid for, suggests a departmental failure to obtain University approval to retain an attorney, and subterfuge as to the true purpose of the funds. The Athletics Department had previously obtained the approval of the General Counsel’s Office when it retained Mr. Jackson to represent other student-athletes in other matters, as well as obtained an engagement letter documenting the terms of engagement. It failed to do so here.

The use of Foundation monies was also questionable at best. The Foundation’s expressly stated purpose is:

to receive, hold, invest, manage, use, dispose of and administer property of all kinds, whether given absolutely or in trust, or by way of agency or otherwise, and to make expenditures, to or for the benefit of the University of Maryland College Park, its mission, goals, and



programs, or for any or all of the educational and support activities that may be conducted by the University of Maryland College Park . . . **to endow scholarships and other forms of student aid, and to support any of the programs, activities or services of the University of Maryland College Park.**<sup>67</sup>

(emphasis added). Here, supporter gifts were used to pay for the representation of two football players facing serious allegations of sexual misconduct. The Foundation's bylaws permit a broad range of uses of funds, but it is questionable as to whether it extends to legal fees. Perhaps most problematic, the Athletics Department funded the legal defense of the student-athletes accused of misconduct, but it did not provide legal support to the complainant, who was also affiliated with the Athletics Department.

Ultimately, the Office of Student Conduct and the Standing Review Committee held a hearing for the two football players on September 29, 2017, and found that one of the football players was responsible for the alleged violations, but that the other was not responsible. The student found responsible was expelled.

Several members of the Athletics Department staff tell us that one of the functions of an effective Athletics Department is to protect coaches from becoming embroiled in difficult student disciplinary situations such as this. Mr. Durkin, a

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<sup>67</sup> Foundation Bylaws;  
[http://umcpf.org/userfiles/file/Foundation%20Public%20Content/policies/UMCPF\\_By\\_Laws.pdf](http://umcpf.org/userfiles/file/Foundation%20Public%20Content/policies/UMCPF_By_Laws.pdf)  
; <http://umcpf.org/board/showPage.php?name=purposes>.

relatively new coach, was described by Dr. Loh as a “babe in the woods” regarding the complexities of a Title IX investigation of this nature. Still, Mr. Durkin’s failure to question a plan that characterized Mr. Jackson’s services as “speaker’s fees,” which was plainly pretextual, is troubling.<sup>68</sup>

**E. “The Last Straw”: Kevin Anderson Agrees to Go on Sabbatical**

For Dr. Loh, Mr. Anderson’s failure to follow protocols in retaining an attorney to represent the football players accused of sexual misconduct was “the last straw.” In particular, Dr. Loh found it disturbing that Mr. Anderson provided financial resources to the accused, while the complainant, who was also a student affiliated with the Athletics Department, was not provided with any assistance. On September 27, 2017, Dr. Loh ordered his General Counsel’s office to investigate the matter. Dr. Loh suspended Mr. Anderson with pay while that investigation was pending.

Dr. Loh viewed the situation as irreparable. The University and Mr. Anderson reached an agreement on October 16, 2017, whereby Mr. Anderson agreed to resign six months later, in April 2018. The intervening period was labeled a “sabbatical,” with Mr. Evans taking over the day-to-day administration of

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<sup>68</sup> We understand that allegations of undue influence and/or pressure exerted by members of the Athletics Department over the course of this Title IX investigation are the subject of an ongoing investigation by an outside law firm retained by the University through the Attorney General’s Office. Accordingly, we have refrained from addressing that issue in this report.

Athletics.<sup>69</sup> But as the *Washington Post* reported at the time, “it remains unclear if Anderson will be back in six months.”<sup>70</sup>

Both Mr. Anderson and Dr. Loh knew that Mr. Anderson would not return. Dr. Loh provided Mr. Anderson with this six-month grace period for two reasons. First, the college sports world was then ensnared in a nationwide college basketball bribery scandal.<sup>71</sup> Several prominent people in the University feared that the media would incorrectly interpret a resignation by Mr. Anderson as an admission that Maryland was involved in this scandal. Second, the grace period allowed Mr. Anderson to continue to hold the title while he searched for another athletics director position. Mr. Anderson advised Dr. Loh that he was likely to find a new position within sixty days.

Mr. Anderson did not find a new AD post within sixty days. He resigned on April 13, 2018, after which the University commissioned a search firm to find his replacement. Then-interim AD Damon Evans was among the applicants.

Although the sabbatical arrangement may have avoided false speculation and benefited Mr. Anderson, it created a lack of leadership and an atmosphere of uncertainty in the Athletics Department for another six months. The 2017 Thriving

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<sup>69</sup> See [https://www.washingtonpost.com/news/terrapins-insider/wp/2017/10/16/maryland-athletic-director-kevin-anderson-to-go-on-six-month-sabbatical/?utm\\_term=.c6b3dba6aa2f](https://www.washingtonpost.com/news/terrapins-insider/wp/2017/10/16/maryland-athletic-director-kevin-anderson-to-go-on-six-month-sabbatical/?utm_term=.c6b3dba6aa2f).

<sup>70</sup> See [https://www.washingtonpost.com/news/terrapins-insider/wp/2017/10/16/maryland-athletic-director-kevin-anderson-to-go-on-six-month-sabbatical/?utm\\_term=.c6b3dba6aa2f](https://www.washingtonpost.com/news/terrapins-insider/wp/2017/10/16/maryland-athletic-director-kevin-anderson-to-go-on-six-month-sabbatical/?utm_term=.c6b3dba6aa2f).

<sup>71</sup> See <https://www.sbnation.com/college-basketball/2017/9/27/16367814/ncaa-basketball-fbi-investigation-coaches-agents-adidas>.

Workplace Initiative survey, which was conducted in October 2017, just as these changes were occurring, reflects the decrease in staff confidence (and employee engagement) occasioned by this decision. While Mr. Evans was aware that Mr. Anderson would not be returning, he did not know if he would succeed Mr. Anderson.

As a result, from October 2017 through July 2018, many people in the Athletics Department were uncertain as to whether Mr. Anderson would return. The department has been characterized as being in “limbo” during this period. Nevertheless, Mr. Evans reports that during this time, he attempted to strengthen relationships and initiate reforms within the department.

Ultimately, the national search, announced in April 2018, concluded on July 2, 2018, when Dr. Loh named Mr. Evans as Maryland’s AD.

Looking back on the period in which Mr. Anderson supervised Mr. Durkin, Mr. Anderson recalls Mr. Durkin as “demanding but fair.” Mr. Anderson believes that Mr. Durkin shared Mr. Edsall’s philosophy: he wanted his team to win games, but his most important job was to develop men who would be productive members of society. Mr. Anderson claims he never saw any instances of abuse, and is adamant that he would not tolerate such conduct. He points to an instance at another school where he had earlier served as AD. About six months after the fact, Mr. Anderson learned that a coach had grabbed a player by the jersey and slammed

him against the wall. Mr. Anderson terminated the employment of the coach. He believes that if a staff member had seen abusive behavior, he would have learned about it and acted just as he did at his prior school.

**F. Jordan McNair Suffers Heat Stroke on May 29, 2018, and Passes Away on June 13**

The tragic events surrounding the death of Jordan McNair are recounted in the independent evaluation of Walters, Inc., submitted to the University on September 21, 2018. We defer to Mr. Walters' findings, and we have not sought to re-investigate those events.

After initially being taken to Washington Adventist Hospital, Mr. McNair was transported to the Shock Trauma Center at the University of Maryland Hospital in Baltimore.<sup>72</sup> He was surrounded by family, and was frequently visited by players and staff. Mr. Durkin, frequently accompanied by his wife, visited every day until June 4, when the family asked for privacy. Mr. Durkin spoke at the memorial service after Jordan's death. Dr. Loh visited with the family in the hospital, and also attended the service.

Mr. Durkin states that after the McNair tragedy, he called Mr. Evans to request an external review of how player safety was handled on that occasion.

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<sup>72</sup> See [https://www.washingtonpost.com/news/terrapins-insider/wp/2018/06/13/jordan-mcnair-maryland-offensive-lineman-dies/?utm\\_term=.a3b11e54905c](https://www.washingtonpost.com/news/terrapins-insider/wp/2018/06/13/jordan-mcnair-maryland-offensive-lineman-dies/?utm_term=.a3b11e54905c); [https://www.washingtonpost.com/news/terrapins-insider/wp/2018/06/13/jordan-mcnair-maryland-offensive-lineman-dies/?utm\\_term=.a3b11e54905c](https://www.washingtonpost.com/news/terrapins-insider/wp/2018/06/13/jordan-mcnair-maryland-offensive-lineman-dies/?utm_term=.a3b11e54905c).

After Dr. Walters provided his preliminary report in late July, suggesting that the training staff bore some responsibility for the tragedy, Mr. Durkin urged Mr. Evans to retain a new training staff before August practices began, to ensure the safety of the players.

On August 10, 2018, ESPN published an article about the Maryland football program.<sup>73</sup> This article is included in Appendix 11. The story alleged a “toxic coaching culture under head coach DJ Durkin,” and described a series of incidents, which we address in Section V.

That same day, UMD announced that it had placed members of its athletics staff on administrative leave, but did not specify the personnel.<sup>74</sup> Those individuals were head football trainer Wes Robinson, director of athletic training Steve Nordwall, and Mr. Court.<sup>75</sup> Mr. Court announced his resignation on August 14.

Mr. Evans spoke to Mr. Durkin around the time of the release of the ESPN articles. Mr. Durkin stated that the allegations made by Malik Jones in the article did not accurately portray what had transpired. *See* Section V. Mr. Evans also

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<sup>73</sup> *See* [http://www.espn.com/college-football/story/\\_/id/24342005/maryland-terrapins-football-culture-toxic-coach-dj-durkin](http://www.espn.com/college-football/story/_/id/24342005/maryland-terrapins-football-culture-toxic-coach-dj-durkin).

<sup>74</sup> *See* [https://www.washingtonpost.com/sports/colleges/maryland-places-athletic-staffers-on-leave-in-wake-of-football-players-death/2018/08/10/26012958-9ce9-11e8-843b-36e177f3081c\\_story.html?utm\\_term=.6f382e0467b9](https://www.washingtonpost.com/sports/colleges/maryland-places-athletic-staffers-on-leave-in-wake-of-football-players-death/2018/08/10/26012958-9ce9-11e8-843b-36e177f3081c_story.html?utm_term=.6f382e0467b9).

<sup>75</sup> *See* [http://www.espn.com/college-football/story/\\_/id/24348378/maryland-terrapins-place-trainers-leave-amid-investigation-jordan-mcnair-death](http://www.espn.com/college-football/story/_/id/24348378/maryland-terrapins-place-trainers-leave-amid-investigation-jordan-mcnair-death).

spoke to Mr. Court. Mr. Court denied some of the allegations, admitted that some incidents occurred (but with incorrect details), and supplied differing details and context to show why he felt his actions were appropriate. Even with the context, Mr. Evans concluded that Mr. Court's acts of requiring a player to eat candy bars in the weight room at Halloween or grabbing a food box out of a player's hands were not appropriate. *See* Section V.

On August 11, 2018, UMD placed Mr. Durkin on paid administrative leave.<sup>76</sup> Mr. Evans advised that, unlike Mr. Court, the University did not conclude that Mr. Durkin had done anything inappropriate. Still, the University decided that a paid leave during the investigation was prudent given the seriousness of the allegations. Mr. Durkin states that he received a letter from Mr. Evans which read: "You have been provided an opportunity to discuss this pending action with me at a meeting today prior to this action." Mr. Durkin claims that he was never, in fact, provided such an opportunity. The Commission has seen no evidence that the University conducted any fact-finding prior to placing Mr. Durkin on leave, or that Mr. Durkin had an opportunity to tell his side of the story before being placed on paid leave.

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<sup>76</sup> *See* <https://www.usatoday.com/story/sports/ncaaf/2018/08/11/marylands-dj-durkin-leave-amid-investigation-into-player-treatment/968590002/>.

Mr. Evans's view is that Mr. Durkin "operates within the norm of big programs in big schools," particularly given what Mr. Evans has seen at other institutions. Mr. Evans does not believe that Maryland has a toxic culture, and does not feel that the portrait of Mr. Durkin drawn in media reports is a fair one. He acknowledges that Mr. Durkin must be assessed responsibility for the failure of supervision over Mr. Court. But Mr. Evans acknowledges that the entire Athletics Department leadership, including himself, bears responsibility for Mr. Court's excesses.

On August 14, 2018, Dr. Loh announced:

[The] University will retain an external expert to undertake a comprehensive examination of our coaching practices in the football program, with the goal that these practices reflect – not subvert – the core values of our University.<sup>77</sup>

Ours is the investigation that followed. The eight members of this commission were announced on August 24, 2018.<sup>78</sup>

## **V. Specific Allegations of Coaching and Other Staff Misconduct**

Players, parents, and coaches provided specific allegations of when UMD coaches and staff "crossed a line" from intense but appropriate motivational tactics to improper and abusive misconduct. Some of these examples have already been

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<sup>77</sup> See [http://www.espn.com/college-football/story/\\_/id/24351245/maryland-football-coach-dj-durkin-put-leave-amid-reports-toxic-culture](http://www.espn.com/college-football/story/_/id/24351245/maryland-football-coach-dj-durkin-put-leave-amid-reports-toxic-culture);  
<https://president.umd.edu/communications/statements/updates-umd-football-program>.

<sup>78</sup> See <https://www.usatoday.com/story/sports/ncaaf/2018/08/24/mcmillen-added-to-commission-investigating-maryland-football/37595343/>.



publicly reported; others have not. Some of them have been emphatically disputed; others have not. Descriptions of what took place are the product of interviews with multiple sources. These incidents comprise the most serious allegations that we heard during our interviews with players, parents, and coaches. They are recounted in roughly chronological order. We say “roughly” because we could not pinpoint time periods for every allegation, and some allegations were of an ongoing nature.

The absence of certain evidence is also notable. We were not told of any allegations of misconduct or mistreatment directed at Jordan McNair prior to the alleged events of May 29, 2018. But we were told that some players, who were not themselves the targets of abuse, still felt adverse effects from these events.

**A. Rick Court Alleged to Choke Injured Player with Lat Pulldown Bar in Weight Room**

During an off-season training session in January 2016, Mr. Court allegedly approached a player who was working out on a lateral muscle (“lat”) pulldown machine.<sup>79</sup> This account was provided by two players who were eyewitnesses to the events, as well as the allegedly-affected player’s mother. In our September 9, 2018 survey of the current football players, we did not receive any comments discussing this incident.

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<sup>79</sup> Exercising on a lat pulldown machine involves the individual in a seated position pulling down on an overhead bar, similar to the exercise shown in this video: <https://www.youtube.com/watch?v=lueEJGjTuPQ>.

The player had undergone surgery in December 2015 and was struggling to complete an additional pulldown rep of the lat bar. Mr. Court allegedly came up behind the player and said “come on motherf\*\*\*er” and pressed the lat bar into his neck, choking him. The player’s parent, who first learned of the alleged incident from her son in the spring of 2018, reported that the incident had a long-term impact on the player. Another player observed that Mr. Court and the player in question had a poor relationship partly because Mr. Court sent staff to monitor whether that player was attending his classes—the player had a spotty attendance record. The player’s parents reported that their son told his mother that Mr. Durkin acknowledged the incident, believed it was wrong, but indicated “no charges would be pressed.”

There is disagreement about when Mr. Durkin was advised of this alleged incident, or whether he was present at all; Mr. Durkin denies he was there. One player stated that Mr. Durkin was in the weight room at the time; the other player was not sure. Mr. Durkin maintains he only learned of the allegations after the death of Jordan McNair, when the parent’s mother brought this complaint to him. Mr. Durkin says that he then went to the player, who denied that the incident occurred.

Mr. Court vigorously denies this incident ever happened. Each member of the strength and training staff was specifically asked if he was aware of a choking

incident; none reported knowing about this, and some seemed genuinely surprised about the nature of the question.

## **B. Weights and Other Items Thrown Across Training Room**

Several players also report demeaning, and potentially dangerous, acts of aggression by Mr. Court in the weight room. There are reports of instances where Mr. Court hurled weights across the room, in apparent frustration with players failing to push themselves as hard as he would like. Witnesses agree, both in individual interviews and in the anonymous team survey, that Mr. Court never threw anything *at* anyone, nor did any of the thrown weights or items strike anyone. In our September 9, 2018 survey of the current football players, we received 28 comments mentioning Mr. Court throwing objects in the weight room.

One player also advises that Mr. Court, in anger, smashed a PVC pipe over a cooler (PVC pipes are used as an exercise tool). No one was hurt or meant to be injured, but these illustrations were presented as part of a pattern of aggressiveness that was part of Mr. Court's approach to motivation.

Another incident that was repeatedly discussed, with variations as to the details, was an instance where Mr. Court flung a trash can that contained a player's vomit across the weight room. During the workout session, the player in question had gotten sick and vomited into the trash can. Some sources, including former players Michal ("Gus") Little and E.J. Donahue, alleged that Mr. Court then

shoved the player against a refrigerator in the gym and forced him to clean up his own vomit from the trash can, which Mr. Court had thrown across the weight room.<sup>80</sup> Others state that Mr. Court just threw the can against the wall, without touching the player, and the spilled vomit was then cleaned by a staff member. In either event, Mr. Court's behavior was unacceptable. However, the player in question and his immediate family were not as offended as other teammates, and they remain supportive of Mr. Durkin and Mr. Court.

Mr. Court denies the trash can vomit incident ever took place. He acknowledged that he threw small items, potentially including weights, but never at anyone. Mr. Durkin denies knowledge of these incidents before the publication of the ESPN article.

### **C. Morning Tugs-of-War**

The ESPN article described tug-of-war contests where one player was pitted against an entire unit or squad. The article, citing an anonymous source who characterized the incident as “barbaric,” explained that a player struggled and collapsed, and was called a “p\*\*\*\*” by Mr. Court.

None of the players or coaches we interviewed advised of this particular incident or practice—that is, one player against an entire squad. Similarly, none of

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<sup>80</sup> We had conversations with Gus Little and E.J. Donahue that were coordinated by the law firm of Murphy, Falcon & Murphy. Mr. Little's and Mr. Donahue's names are used with their consent.

the 94 players who took the survey mentioned this one-versus-many scenario, notwithstanding a specific question designed to elicit events like this. *See* 2018 Survey Questions, attached as Appendix 12, at Part 3, Question 1.

Gus Little provided us with highly critical comments about the program. As to this allegation, however, he states that only players who participated were players who did not travel to road games. Mr. Little is unclear as to whether the tugs-of-war were voluntary or required, but he says that the non-travel players did them “all the time.” Multiple players and coaches confirm that sometimes the coaches encouraged one-on-one tugs-of-war before breakfast. One player stated that he was aware of another player who had participated in a tug-of-war contest and that the players were aware that the coaches wanted them to do it. Mr. Durkin admits that one-on-one pre-breakfast tugs-of-war occurred from time to time, but insisted that they were not coercive nor meant to be punitive. Mr. Court says that he instituted this competition after learning that other schools were also employing this technique. In our September 9, 2018 survey of current football players, we received three comments discussing the general practice of tug-of-war competitions.

#### **D. Food Knocked from Player’s Hands**

There are reports of players being, as some characterized it, disrespected, demeaned, or humiliated in incidents involving food. One example first supplied

in reporting by ESPN involved a player having his meal knocked out of his hands. In our September 9, 2018 survey of the current football players, we received eight comments discussing food being hit out of a player's hands.

Players and coaches corroborate such an event, albeit with different details, in interviews and the 2018 survey. But a staff member and Mr. Durkin state that players found this incident amusing, not intimidating.

Mr. Court recalls that the incident took place just before the first road game of the 2016 season. Players were directed to eat lunch during a two-hour window and not to eat during the subsequent team meeting. A player arrived towards the end of the two-hour window and brought a box lunch into the team meeting. Mr. Court, whose S&C staff was taking attendance, told the player to finish eating within five minutes, which was when the meeting was scheduled to begin. After five minutes had passed, the player was still eating out of his box lunch. Mr. Court subsequently snatched the box out of the player's hand, tossed it against the wall, and addressed the entire group on the importance of punctuality, saying "I was trying to set the tone for what that day was going to be." Others say Mr. Court knocked the food out of the player's hand onto the ground.

Mr. Durkin says that he did not observe this event and did not find out until he heard players making jokes about it on the way back from the game. Mr.

Durkin further defends the action, as the player had been given ample time to eat, and it was important that player not eat right before traveling to a game.

Several witnesses note that this incident did not carry the significance ascribed to it by the ESPN article. First, Mr. Durkin states that players were laughing about the incident on the team bus following the game that day. Several witnesses also cite a pre-bowl game skit later that year. In the skit, a member of the coaching staff playing the role of Mr. Court knocked food out of a player's hands. The skit was prepared by the position group of the player in question. The parody was well received by the players and prompted laughter.

The player involved did not find the incident amusing. He says that he was unfairly targeted for following the common practice of eating during meetings. He feels that Mr. Court disrespected him in front of the entire team, and says that "where I'm from, you don't disrespect people like that."

The player also reports that, later in the season, Mr. Court again called him out in front of teammates. Mr. Court purportedly said to his teammates, referring to the player, "this is an example of what not to be." The player says this "messed him up mentally." We also spoke to the player's father, who concurs that Mr. Court's behavior affected his son psychologically.

### **E. Player Compelled to Eat Candy Bars**

Multiple current and former players confirm news reports that a specific player who was overweight was given candy bars and snacks by Mr. Court while others worked out or looked on. This was seen by fellow players as an attempt to ridicule the overweight player. The incident reportedly took place around Halloween 2016, when there was candy available in the weight room. In our September 9, 2018 survey of the current football players, we received 14 comments discussing this incident.

Several interviewees say that the player in question presented unique challenges for the coaches in terms of managing his weight, and that a wide range of motivational strategies had been tried unsuccessfully. Accounts vary as to whether Mr. Court placed the candy bars on the player's lap, dropped them at his feet, hurled them at the player, or poured a bin of them on the player and then forced the player to eat them while the rest of the team worked out. Mr. Court says he threw a bag of the candy at the player's feet. One player recalls that Mr. Court called the player "fat."

While details vary, coaches and staff members recall the incident but shared the conclusion that Mr. Court was seeking to motivate a challenging player and address the health risks associated with the player's weight. We also heard stories of several situations in which Mr. Court went "beyond the call" to assist with this



young man's health, including arranging a long-needed medical procedure to address a health issue that arose during the player's childhood.

There is disagreement about whether Mr. Durkin knew of the incident before the ESPN article, which was published in August 2018, or whether he was present in the weight room when it took place. Mr. Durkin denies learning of the incident until the release of the August 10, 2018 ESPN article. Mr. Court admits this occurred, but denies calling the player a "waste of life," as alleged by others. Mr. Court further defends his actions as an appropriate motivational technique to try to get the player to recognize his health problems related to weight, given the prior failure of more conventional methods.

The relationship between this player and Mr. Court may have improved in the following months. In the spring of 2017, about six months after the incident, the player texted Mr. Court:

Just wanted to say I'm sorry about earlier. You know I love ya man, [you] did a lot of s\*\*\* for me the past year.

#### **F. Player Compelled to Eat until Vomiting**

The ESPN article published in August 2018 referenced a player being forced to eat until he vomited, although neither the source nor the player in question is identified. More than one player, and at least one coach, confirm that a player vomited during a team meal, although there was disagreement regarding whether the player was forced to eat, or if he was simply eating and vomited. A coach

explains that this player's eating habits were closely monitored because the player had off-field issues that might be affecting his appetite in an unhealthy way. Coaches sat with the player in question to ensure that he was actually eating instead of merely reporting that he ate. Although the coach did not observe the incident, he heard that it did take place.

The coach emphasizes that this was not fairly characterized as force feeding. Instead, coaches and staff were monitoring what they believed to be a particular health issue that the player faced. Players confirm that the player in question was struggling with a health issue that affected his appetite. In our September 9, 2018 survey of the current football players, we received six comments discussing this incident.

We heard from one player and three parents about the coaching staff moving this player's locker into the bathroom. Nobody we spoke with identified a single coach as responsible for the decision to move the player's locker to the bathroom. In our September 9, 2018 survey of the current football players, we received six comments discussing this matter. Mr. Durkin states that he does not recall the player's locker being moved to the bathroom.

#### **G. Players Exposed to Graphic Videos While Eating**

Multiple players anonymously complain that the coaching staff would subject teams during meal time to disturbing videos. According to Gus Little, this

included videos of serial killers, drills entering eyeballs, and bloody scenes with animals eating animals. Another player says that there were videos of rams and bucks running at each other at full speed. Mr. Durkin maintains that horror movies were sometimes shown at breakfast to motivate and entertain players.

Mr. Court states that the staff would screen different videos at breakfast to break up the monotony of fall camp. Each season, they would play horror films or scenes of animals fighting (from a mainstream source, like Animal Planet) only prior to the first day of full contact practice in pads. Selections on other days included videos the players had made during the summer of their workouts, “Fast and Furious” movie highlights, and a variety of movies and motivational clips. In our September 9, 2018 survey of the current football players, we did not receive any comments discussing this incident.

#### **H. Player Removed from Meeting for Smiling**

According to ESPN’s reporting, defensive lineman Malik Jones was castigated by Mr. Durkin for smiling during a team meeting during the 2016 season. There was a preexisting rift between the player and the coach, which was only amplified when Mr. Durkin observed the player not paying attention during the meeting.

We spoke to a source who claimed knowledge of Jones’s current thinking, whom we found reliable. The source states that Malik Jones currently believes that

the Maryland football program “was not a bad culture,” and the event he related to ESPN was a “misunderstanding.” The source says Mr. Jones believes that the staff had “his best interest at heart,” and, apart from this incident, Mr. Jones did not think the tone was too harsh. Mr. Jones transferred after the 2016 season. In our September 9, 2018 survey of the current football players, we did not receive any comments discussing this incident.

### **I. Verbal Abuse of Player During Practice**

An eyewitness observed a player come off the field during practice and take his helmet off. The player was having difficulty breathing. Mr. Court approached the player and yelled “What the f\*\*\* are you doing?” The player put his hand up, unable to speak as he tried to get his breathing under control. According to the witness, Mr. Court said “Are you crying, you f\*\*\*ing p\*\*\*\*\*?”

Finally, the player gathered himself, and told Mr. Court: “[g]et the f\*\*\* away from me.” A team medical provider was also informed of this incident, but did not relay it to the Athletics Department staff because he had not heard any prior complaints about Mr. Court. In our September 9, 2018 survey of the current football players, we did not receive any comments discussing this incident.

Mr. Court denies verbally abusing the player. Mr. Court recalls that the team was doing an “inside run” and one of the rules of the drill was that players had to run off of the field. After a play, the player in question walked off of the

field. Mr. Court says that he told the player to go back and run off the field, the player protested, and the two had a verbal exchange laced with foul language.

Mr. Court admits that he may have said, “[w]hat the f\*\*\* are you doing?” But he denies mocking the player’s physical condition, or using the term “p\*\*\*\*.” Mr. Court believes that the player became upset because of how he was playing, as opposed to anything that Mr. Court said.

More generally, Mr. Court admits to using profanity and slurs to motivate, including “p\*\*\*\*” and “b\*\*\*\*.” He denies, however, ever using the homophobic slur “f\*\*\*\*,” although several players and coaches tell us that Mr. Court used this term. Mr. Court also denies directing any slurs at players, save for one incident during a mat drill. Mr. Court tells us that he discussed this conversation with the student-athlete shortly thereafter, and they resolved any disagreement.

Mr. Court, players, coaches, and staff all agree that profanity was rampant within the program and was used by players and coaches alike. Indeed, junior football staff claim that they were sometimes the subjects of profane and demeaning language directed at them by players.

#### **J. Players being Forced to Exercise on a Stair Stepper Machine with a PVC Pipe**

According to several sources, Mr. Court employed a disciplinary tactic of ordering players to exercise on a stair stepper machine for up to one hour. This was often the punishment when players would arrive late to workouts or otherwise

fail to follow Mr. Court's instructions. This practice was referred to as the "Jesus Walks" exercise by a former player; we did not hear anyone claim that Mr. Court used this term.<sup>81</sup> In our September 9, 2018 survey of the current football players, we received one comment discussing this practice.

Mr. Court freely admits to requiring this stair stepper machine exercise in what he believed to be appropriate circumstances. Players would be told to do the exercise for 15 minutes if they were late to a workout, because they had missed the warm-up. If a player missed an entire workout, they were told to do the stair stepper machine exercise for one hour with a PVC pipe across their shoulders. Mr. Durkin also acknowledges that players were required to do this exercise, which he deemed appropriate in certain circumstances. Mr. Durkin and Mr. Court further insist that exercising on a stair stepper machine with a PVC pipe across the player's shoulders improves core strength and posture, as it prevents the player from "cheating" on the exercise by leaning into the side handles of the exercise machine. Our medical expert confirmed that the use of a PVC pipe while on this exercise equipment is an appropriate exercise technique.

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<sup>81</sup> See [https://www.washingtonpost.com/sports/colleges/motivation-or-abuse-maryland-confronts-footballs-fine-line-as-new-allegations-emerge/2018/09/30/e7ab028e-c3dd-11e8-b338-a3289f6cb742\\_story.html?utm\\_term=.043c5f6b2975](https://www.washingtonpost.com/sports/colleges/motivation-or-abuse-maryland-confronts-footballs-fine-line-as-new-allegations-emerge/2018/09/30/e7ab028e-c3dd-11e8-b338-a3289f6cb742_story.html?utm_term=.043c5f6b2975).

### **K. Player Complained of Bullying to Mr. Durkin**

A former Maryland football player, Edward “E.J.” Donahue tells us that during his time on the football team at Maryland, he experienced depression and anxiety because of the bullying he received from the football staff, for which he obtained counseling.<sup>82</sup> Mr. Donahue also claims that Mr. Court had a practice of “fat-shaming” and humiliating players regarding their weight. Mr. Donahue has described his time playing under Mr. Durkin as “the worst year of [his] life” and says that “it’s hard to hear about it and talk about it again.” After the 2016 season, Mr. Donahue left the football program, and he eventually transferred from UMD.

Mr. Durkin admits that Mr. Donahue came to speak to him in December 2016. He recalls that Mr. Donahue opened up about issues that he was experiencing, some of which dated back to high school. Mr. Durkin denies that Mr. Donahue mentioned “fat shaming.”

In our September 9, 2018 survey of the current football players, we received two comments about fat shaming incidents.

### **L. The “Champions Club”**

Several players and coaches have mentioned the “Champions Club,” which was a group of players recognized by Mr. Durkin. Players were eligible to become part of the Champions Club if they had a strong record of attendance at classes,

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<sup>82</sup> Mr. Donahue’s name is used with his consent.

practices, workouts, and other obligations and, in the coaching staff's judgment, demonstrated maximum effort during team activities. A video produced by the Athletics Department promoting the Champions Club shows events where the members are celebrated and rewarded with steaks and crab cakes, while the rest of the players received hot dogs, hamburgers, and beans.<sup>83</sup> In one media report, it was implied that non-club members always ate hot dogs and beans.<sup>84</sup> These Champions Club events, however, only occurred about once a semester. Otherwise, all team members ate the same food, with many more choices than hot dogs and beans.

Other football teams have similar groups to honor players' efforts.<sup>85</sup> In our September 9, 2018 survey of the current football players, we did not receive any comments discussing this issue.

The attitudes about the Champions Club appear to be divided. Some players view the Champions Club as a means for Mr. Durkin to show favoritism to the players he likes while demeaning the players whom he dislikes. A member of the coaching staff, who spoke to the Commission anonymously, states that "a lot of

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<sup>83</sup> See <http://www.dbknews.com/2016/08/18/coach-dj-durkin-implements-champions-club-to-promote-accountability/>. The video is no longer available online. See [https://www.youtube.com/watch?v=V2\\_eU39FB0Q&app=desktop](https://www.youtube.com/watch?v=V2_eU39FB0Q&app=desktop).

<sup>84</sup> See [https://www.washingtonpost.com/sports/colleges/motivation-or-abuse-maryland-confronts-footballs-fine-line-as-new-allegations-emerge/2018/09/30/e7ab028e-c3dd-11e8-b338-a3289f6cb742\\_story.html](https://www.washingtonpost.com/sports/colleges/motivation-or-abuse-maryland-confronts-footballs-fine-line-as-new-allegations-emerge/2018/09/30/e7ab028e-c3dd-11e8-b338-a3289f6cb742_story.html).

<sup>85</sup> For example, one former player states that the Ohio State football program has a similar group.



players had a problem with the Champions Club being biased. It was well-intended, but it also felt like it became something to use against players to get them to fall in line.” One player claims that he was denied Champions Club status even though he rightfully earned it.

Other players saw it as an appropriate incentive for players to do what was expected of them. According to former Maryland quarterback Perry Hills, the Champions Club was a way of getting players to “buy-in.”<sup>86</sup> “There’s guys who are buying in that have done the things that he’s asked. And he wants to show people that if they join in and do those things that he’s asking, that they’re going to be rewarded.”<sup>87</sup>

Mr. Durkin, for his part, states that his intention behind the Champions Club was to reward efforts, particularly among those players who receive less playing time. According to Mr. Durkin, “the Champions Club was created to reward those who don’t get all the recognition. This is my way of rewarding walk-ons and guys who don’t get all of the playing time.” Mr. Durkin also describes the Champions Club as an “inclusive group,” meaning that he wanted to encourage all members of the team to earn their way to becoming part of the group.<sup>88</sup>

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<sup>86</sup> Mr. Hills’s name is used with his consent.

<sup>87</sup> The video is no longer available online. *See* [https://www.youtube.com/watch?v=V2\\_eU39FB0Q&app=desktop](https://www.youtube.com/watch?v=V2_eU39FB0Q&app=desktop).

<sup>88</sup> *See* [https://www.youtube.com/watch?v=V2\\_eU39FB0Q&app=desktop](https://www.youtube.com/watch?v=V2_eU39FB0Q&app=desktop).

## **VI. Culture Assessment**

College football is demanding and can be physically brutal. It can also build character, teach team work and sportsmanship, and prepare participants for successful careers and lives long after competitive athletics ends. For those who are provided the opportunity and choose to participate, the University should not only provide an environment that challenges players to be the best athletes they can be and prepares them to fairly compete at the highest levels of Division I football, but also supports them and conscientiously mitigates the on-the-field and off-the-field risks of competitive collegiate sports.

### **A. The Process of Assessing Culture**

Defining culture, much less measuring it, is a difficult task.<sup>89</sup> We approached this challenge by trying to get as many perspectives as possible from the “consumers” of the football program—current and former players, and their parents—as well as from the “providers” of the program—coaches and staff.

We wanted everyone involved with the program to have an opportunity to be heard. We contacted, by email, phone, or both, virtually every single player who played for Coach Durkin at Maryland.<sup>90</sup> We also sent a memorandum to the

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<sup>89</sup> See <https://www.newyorker.com/books/joshua-rothman/meaning-culture>.

<sup>90</sup> We made multiple attempts to speak with Elijah and Elisha Daniels. Roderick Vereen, a Florida-based attorney, had previously written the University, advising that he represented Kimberly Daniels and her sons, and directed the University to route all communications to his clients through him. See Appendix 13. On August 15, 2018, the Commission sent an email to Mr. Vereen and asked to speak to his clients. See Appendix 14. Mr. Vereen failed to respond.

players' parents, collaborated with the parents' liaison, Mark Roski, to spread word of our interest in speaking to parents, and made six sets of interviewers available on the day of the intra-squad scrimmage (August 18, 2018).<sup>91</sup> All told, we spoke to 165 people, as described in Section II.

Most importantly, we spoke with 55 student-athletes who played football at Maryland under Coach Durkin. We also anonymously surveyed 94 of the current players.

In addition, we reviewed prior survey data. Following both the 2016 and 2017 football seasons, football players were provided with an anonymous voluntary online survey. This was valuable data, as it demonstrated the stark difference in the attitudes of the players before and after the McNair tragedy.

We are grateful to everyone who shared their thoughts. Collectively, this process yielded several hundred hours of conversations with the people who know the program best. What we attempt to do below is to provide a representative sampling of the wide spectrum of viewpoints we heard.

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After the publication of the *Washington Post* article on September 30, we made more attempts to contact Ms. Daniels through Mr. Vereen by email and telephone, but again received no response.

<sup>91</sup> We are grateful to Mr. Roski. He generously volunteered his time and energy to help us get word to parents of players about our interest in obtaining their views and shared with them how to get in touch with us.

## **B. The 2016 and 2017 Football Team Survey Data**

NCAA rules require that its member schools conduct exit interviews of selected student-athletes as they depart the school.<sup>92</sup> The Athletics Department satisfied this mandate by taking surveys of the football team after the 2016 and 2017 seasons. The surveys were emailed to all players on March 3, 2017, and December 7, 2017, respectively, with follow-up reminders. The results of these surveys are included in Appendices 9 and 10; we have redacted the names of the respondents.<sup>93</sup>

For 2016, 48 players responded out of approximately 110. In 2017, the number of respondents dipped to 20.<sup>94</sup> There were not as many email reminders sent in connection with the 2017 survey, which may account, at least in part, for the decreased participation.

The 2016 survey showed strong player approval for the quality of coaching. In the 2016 survey, 43 out of 46 respondents either “Agreed” or “Strongly Agreed” that the quality of head coaching and assistant coaching was adequate and appropriate. 41 out of 46 respondents stated that they were not subject to

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<sup>92</sup> NCAA Manual Article 6 Institutional Control, Rule 6.3 Exit Interviews.

<sup>93</sup> We also reviewed results from an anonymous survey collected in May 2016. As the questions did not specify whether feedback was being provided on Coach Edsall or Coach Durkin, this survey was not useful in the Commission’s analysis (Durkin’s employment began in December 2015, and he served as head coach during spring practices).

<sup>94</sup> Though 48 and 20 individuals responded to questions in each survey, respectively, they did not all answer every question, which accounts for the lower number of responses for some of the data discussed herein.

inappropriate physical conduct, verbal communication, or mental/emotional stress. Four respondents were neutral, and only one respondent “Disagreed” or “Strongly Disagreed” with each of these queries.

At least 85% of the respondents “Agreed” or “Strongly Agreed” that: 1) they had a positive experience with medical/training staff, 2) they were pleased with the level of care received, and 3) the staff was available to the student-athletes. Out of 46 respondents, all except one either “Agreed” or “Strongly Agreed” that they had a positive experience with the S&C staff, and that the staff met their needs.

In the 2017 survey, 16 out of 18 respondents (89%) either “Agreed” or “Strongly Agreed” that the quality of head coaching and assistant coaching was adequate and appropriate; the other two were neutral. Similar responses were given regarding inappropriate physical conduct, verbal communication, or mental/emotional stress; only one respondent stated that he was subject to inappropriate physical contact, verbal communication, and mental/emotional stress. The players also endorsed the medical staff; there was only one negative response to a total of nine different questions regarding the quality of the medical/training staff’s services. All player responses were positive or neutral regarding the quality of the S&C program. The two specific comments made about the S&C team were: “[m]y strength coach has worked with many athletes and all results have been positive,” and “Coach Court and staff are great.”

### **C. The September 9, 2018 Survey Conducted by the Independent Commission**

On Sunday, September 9, 2018, we asked the players to take an anonymous, online survey at Gossett for thirty minutes.<sup>95</sup> The survey was administered by RealRecruit, Inc., an independent intercollegiate sports assessment surveyor with no prior affiliation with UMD. Neither the coaching staff nor the players were informed of this survey until that morning. Ninety-four players—almost everyone present—took the survey. There was also an interactive feature used by the Commission to ask follow-up questions to the anonymous student-athletes to gain additional information or clarification.

The survey contained ranking questions. For example, the first question was, “Rate your overall experience as a member of the University of Maryland football team.” The player could rate the program from 0.5 to 5 stars, in one-half star increments.

The survey also contained short answer questions such as “[h]ow would you describe the culture of the Maryland football program?” The complete set of survey questions is published in Appendix 12. The players were instructed to base their answers on the football program as they experienced it from the beginning of

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<sup>95</sup> The Survey Welcome Letter received by the players is included as Appendix 15.

their Maryland careers to the point in time when Coach Durkin was placed on paid administrative leave (August 11, 2018).

Many of the ranking questions we used were identical to questions posed to 32 Division I college football teams by RealRecruit during the 2016 and 2017 football seasons (the same period for which we were surveying). None of these other surveys, however, were taken in response to a specific incident, but were instead collected as part of the football programs' customary postseason assessment process. We were able to compare the responses of the Maryland football team to the attitudes of these other schools' teams from the 2017 season, recognizing that there were some differences in the circumstances that led to the surveys.

<b>Contingent</b>	<b>Overall Experience</b>	<b>Culture/Values</b>	<b>Team Chemistry</b>	<b>DJ Durkin (vs. Head Coaches)</b>	<b>Rick Court (vs. Assistant Coaches)</b>
<b>32 Team comparison</b>	<b><u>3.8</u></b>	<b><u>3.8</u></b>	<b><u>4.1</u></b>	<b><u>3.8</u></b>	<b><u>4.2</u></b>
<b>UMD players (94)</b>	3.1	3.0	3.9	3.0	2.3
<b>Freshmen UMD (28)</b>	3.6	3.7	4.1	3.0	2.2
<b>Sophomores UMD (30)</b>	3.1	2.8	3.9	3.0	2.4
<b>Juniors UMD (17)</b>	2.9	3.0	3.7	3.3	2.4
<b>Seniors UMD (19)</b>	2.9	2.7	3.6	2.9	2.3

The first row of this chart (numbers bolded and underlined) shows the average answers for each question (on a scale of 0.5 to 5) for the other 32 football teams that RealRecruit tested with identical questions. The remaining rows show the Maryland players' responses, first in the aggregate, and then broken down by class.

Maryland fared poorly against the comparative team data. It ranked 29th out of 33 in terms of "Overall Experience." On the Culture/Values question, Maryland ranked below all but one of 32 teams.<sup>96</sup> Maryland was somewhat better in Team Chemistry, ranking 25th out of 32 teams. Coach Durkin ranked 28th out of 29 compared to how other teams ranked the effectiveness of their head coaches. He ranked somewhat better, 25th out of 29 on the "net promoter" scale. "Net promoters" are those who gave Coach Durkin extremely high marks, and hence are considered "promoters" of the program. The "net promoter" score was based on this question: "How likely are you to recommend Coach Durkin to a recruited friend?" Coach Durkin's rating on "Coaching Style" was 2.7, which was 0.9 below the average from other schools.

Coach Court's scores were extremely poor by any standard: significantly worse than the program as a whole and worse than the scores given to Coach

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<sup>96</sup> Not all teams were asked every ranking question that the Maryland team was asked. This is why there are not comparisons for all 32 teams for each question.



Durkin or his staff. The players provided a much higher score for team chemistry (3.9) than culture (3.0), and this difference may help describe the impact of Coach Court on the players' overall assessment of the program.

Seniors<sup>97</sup> provided the harshest assessments overall, and freshmen held the most positive views of the program, on average. Yet even here the results were mixed, with juniors providing Coach Durkin with his highest ranking amongst the classes. This data tracks to some degree with our interview data. The players almost uniformly stated that the 2016 season was much more difficult and challenging than 2017. Moreover, most of the specific allegations against Coach Court described conduct that occurred in 2016. Some players noted that the 2017 atmosphere was much more conducive to football and player improvement, and that the early 2018 atmosphere even more so, but scars lingered from Coach Court's abusive language and conduct during his first season.

We also broke down the data by Offense/Defense/Special teams.<sup>98</sup> The differences in attitudes amongst these groups were modest.

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<sup>97</sup> This included both fourth and fifth year seniors.

<sup>98</sup> How did we do this if the survey was anonymous? RealRecruit, Inc., the surveyor, coded the players by certain criteria, such as class, position, and ethnicity when it compiled the data. RealRecruit kept all this information on its side of the "virtual wall," however, so the Commission could not identify any individual player's responses.

<b>Position Group</b>	<b>Overall Experience</b>	<b>Culture/Values</b>	<b>Team Chemistry</b>	<b>DJ Durkin (vs. Head Coaches)</b>	<b>Rick Court (vs. assistant coaches)</b>
<b>Offense (46)</b>	3.1	2.9	3.8	2.9	2.4
<b>Defense (40)</b>	3.2	3.2	4.0	3.3	2.1
<b>Special Teams (8)</b>	3.4	3.3	3.7	2.9	2.9

Ethnicity is not a large factor. African-Americans and other non-Caucasians were more supportive of the program and of Coach Durkin than Caucasians, but were harsher in their assessments of Coach Court.

<b>Ethnicity</b>	<b>Overall Experience</b>	<b>Culture/Values</b>	<b>Team Chemistry</b>	<b>DJ Durkin (vs. Head Coaches)</b>	<b>Rick Court (vs. assistant coaches)</b>
<b>Non-Caucasian (66)</b>	3.2	3.1	3.9	3.1	2.2
<b>Caucasian (28)</b>	2.9	2.9	3.7	2.9	2.6

Whether a player was a starter or not was also not a significant factor. As shown by the data below, it is difficult to discern any comparable trends among the various surveyed issues.

<b>Playing Time</b>	<b>Overall Experience</b>	<b>Culture/Values</b>	<b>Team Chemistry</b>	<b>DJ Durkin (vs. Head Coaches)</b>	<b>Rick Court (vs. assistant coaches)</b>
<b>Starters (22)</b>	3.2	2.8	3.7	3.1	2.6
<b>Significant Playing Time (20)</b>	3.2	3.0	3.7	3.0	2.6
<b>Little Playing Time (52)</b>	3.1	3.2	4.0	3.0	2.1

The 2018 survey results not only starkly contrast with other football teams' survey results, but with the prior years' surveys taken by the Maryland football team. Why did the attitudes of the Maryland football team change so dramatically between when the 2017 survey was sent out on December 7, 2017, and September 9, 2018, when the Commission conducted its own survey? We cannot say with certainty what made so many players change their views about the Maryland football program, but the following factors provide possible explanations:

- The 2016 and 2017 surveys had substantially lower participation rates (48 and 20 players, respectively) compared to the 2018 survey (94 players). It is possible that in prior surveys those with negative views did not participate.<sup>99</sup> The surveys were conducted anonymously using a third-party

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<sup>99</sup> More than one of the players associated with the criticisms in the August 11, 2018 ESPN article participated in the 2016 survey.

vendor, but the players still might have feared repercussions. For our 2018 survey, the players were advised repeatedly that their participation would be anonymous and that there would be no reprisals for participation. Thus, the players may have expressed themselves more freely than in prior surveys, and those players who typically do not complete surveys did so here because they were a captive audience for the half-hour period.<sup>100</sup>

- Jordan McNair died tragically between the dates of the 2017 and 2018 surveys. This might cause players to view the same events, as well as cast their overall impressions of the football program, in a very different light. It is quite understandable how the tragic death of a teammate and friend might color some players' perspectives on the program.
- We have heard reports from multiple sources that media, lawyers, and Maryland coaching staff lobbied players after Jordan McNair died in attempts to shape the narrative to fit their particular agendas. Both “pro-Durkin camps” and “anti-

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<sup>100</sup> Some student-athletes still declined to participate in the survey, as we received 94 responses out of the full roster of 112.

Durkin camps” were rumored to have been involved in quiet campaigning.

- The players took this survey on a Sunday afternoon, after returning from a road win against Bowling Green the night before. The success they were enjoying (2-0 at that point in the season, including an upset win over Texas in the season opener) may have impacted the players’ views.
- Many players commented that they had not personally observed abusive behavior, but had read the ESPN articles or heard about those stories. Some freshmen and sophomores commented about anecdotes that occurred before they were members of the team. Accordingly, there may have been an “echo chamber” effect that influenced some views.

**D. Representative Feedback from Current and Former Players, Parents, Coaches, and Staff**

Regardless of the factors that led to the attitudinal changes reflected in the September 9, 2018 survey, the findings are of great value to the Athletics Department and football program. Bill Gates advises: “Your most unhappy customers are your greatest source of learning.”<sup>101</sup> Another business expert shares,

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<sup>101</sup> <http://smartbusinesstrends.com/bill-gates-quotes/>.

“Our secret weapon for building the best culture is open and honest feedback.”<sup>102</sup>

Leaders are well advised to listen to those they lead.

In that spirit, set forth below are selected statements from the 94 players surveyed, 55 current or former players, 24 parents, and 60 Athletics Department staff (including football coaches and staff), with whom we spoke. These are the people who know the program best.

1. The culture of the Maryland football program

As with virtually every question we posed to the stakeholders in the football program, our questions about the program’s culture elicited a broad spectrum of views. Many we interviewed shared criticisms of the program:<sup>103</sup>

- “It is a somewhat a toxic culture. It is an alpha male one. And if you don’t buy in to what they are saying they find a way to weave you out. They use humiliation and talk down to players. Some coaches are good though and show the players mutual respect.” (Current Player)

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<sup>102</sup> Gina Lau, <https://blog.enplug.com/37-company-culture-quotes>.

<sup>103</sup> For written communications such as text messages and survey comments, we have taken the liberty of removing typographical errors, recognizing the informal method of communication and the issues with typing on a cell phone or iPad. We have not, however, changed the substance of any message. Where we obtained the statement through an interview, we have done our best relying on notes (no interviews were recorded), and we are confident in each instance that we have accurately given voice to the speaker.

- “I certainly have witnessed a mentality where everything is hyper-aggressive and there was no room for players to show weakness. The situation that occurred this summer was a clear culmination of that with someone who didn’t look out for himself when he didn’t feel well because he felt the pressure from around him to not look like a ‘failure.’ Beyond that, I don’t know much because my time here has been short. But I can see where the environment is not suitable for players to be comfortable and feel that everyone is looking out for them at all times.” (Current Player)
- “There is no real culture; I feel like there is no fan base and the school isn’t really into it.” (Current Player)
- “It’s been toxic because everyone was new and didn’t know how to run a program but it has gotten better over the years.” (Current Player)
- “I have heard players and myself called “p\*\*\*\*\*” for being unable to complete workouts and the constant foul language has become accustomed to our culture. It has been incorporated into how we spoke to our teammates and coaches, but it isn’t

seen as a negative because we are so numb to it now.” (Current Player)

- “[The culture was] miserable. I was very miserable the whole time. I was depressed, tired, and most importantly, I hated football. I felt like all the other players hated it as much as me. I felt like several position coaches hated it as well. No one was enjoying it for the two seasons I was here under Durkin it seemed like.” (Player Survey)
- “Appreciation for everyone is a very important thing, which was the case at [last school] but isn’t here. At [last school], people noticed [the staffer] and how hard people worked, and that was really important to be there for people. You’re around these people more than you’re around your own family, so you should be able to get to know each other and have respect and admiration for people there.” (Current Staffer)
- “I don’t know about toxic culture really or verbal abuse. But they would say things that you don’t say to another grown man. Not respectful. P\*\*\*\* a\*\* b\*\*\*\*. . . . You can’t call another grown man that. If I were to call you or your family that, it would be an issue. I’d be punished. You can yell at me; you



would do that in front of my parents. But certain things you wouldn't call another grown man. Fighting words. Especially when you know the intent behind the words. It's not your friends joking around with you. Guys fight over that in practice." (Former Player)

- "I know that other programs have similar intensity with workouts and conditioning. I don't think that level of humiliation is common. I don't think that the abuse is common. The pejorative language regarding masculinity is going beyond that and you become a bully and a coward. Words like a P-word and B-word, it becomes bullying. Right under the N word [because it] is a word [relating to] a kid's masculinity." (Parent of Current Player)
- "I think it was 'over the top' in the beginning. It goes overboard because the coaches are trying to get the players to 'buy in.' Perspectives are different based on when the players came in. Guys under Edsall probably hated it. As years went on, people's experiences got better. That's why you don't see a mass exodus. All that ESPN stuff was the first year . . . they were going overboard." (Assistant Coach)

- “The thing I’ve always told our staff is that we don’t have kids from [parts of the South] who *have* to go to the [NFL]. They deal with cussing, foul language. Up here, you can’t do that. Kids’ parents are successful, and there is not the same push to go to the [NFL] to be successful in life. Kids in the South don’t live like they do up here, and they need to go to the [NFL] for their families. It’s a different mindset. But up here, kids might react to being called a p\*\*\*\*. Parents might be more educated and react differently.” (Assistant Coach)

Others had far more positive comments to make:

- “The culture is one that promotes competition and those who work hard are rewarded. That is the way it should be. In the real world when you do not perform well, you get fired. The same principle is necessary in football. If not, you will not succeed.” (Current Player)
- “[The culture was] intense but supportive and players were always given an opportunity to improve.” (Current Player)
- “[The culture was] hard and tough but loving.” (Current Player)
- “I truly believe that every coach and staff cares about every player and will do everything they can to help them out. The

coaches help players do things that they couldn't do by themselves. Durkin is a really good guy and really cares about everyone and wants what's best." (Current Player)

- "I can't speak for past actions by staff, but during my time here, I've been treated with the utmost kindness. All throughout, I've never had any animosity from anyone." (Current player)
- "The Maryland program is more personal and cares more than Penn State or Miami [other schools the individual was knowledgeable of]. Maryland created a supportive, family environment, which a lot of families believe in. The Maryland staff and coaches were always positive when [this parent] stopped by unannounced, and the coaching staff even helped son with preparation of academic reports for parents. There was nothing toxic about the Maryland football culture, and if there had been, [this parent] and several other parents would have picked up on it." (Parent of Current Player)
- "I enjoyed my last year with Durkin. The good parts of the culture, the expectation of winning, not always the demand of it, knowing we are getting better as a team. . . Durkin coming

from big programs, myself and other players thought, ‘this is the way a program should be run.’” (Former Player)

Others commented on the focus Coach Durkin gave to the development of players off the field. The Commission heard positive recollections about “Real Life Wednesdays,” which was a program implemented by Coach Durkin within a month after starting at UMD. This involved the coaching staff inviting a guest speaker to talk to the team about their story and experiences, with the aim of teaching the student-athletes how to prepare for life after football. These discussions frequently focused on how to be a good man and a good husband and father, in addition to talks about financial well-being and planning for the future.

Many individuals the Commission spoke with expressed a belief that the UMD football program possessed a similar intensity level as other Division I football programs around the country.

- “I’ve talked with guys at other schools, and I think that what UMD is doing is not far off what other programs are doing. This is D1 football.” (Current Player)
- “UMD is one of the hardest working groups. I think the players spend more time in their football facility than anyone in America. There is some f\*\*\*ed up s\*\*\* that happens other places though.” (Current Player)

- “Using harsh language is standard for any team. It’s a bunch of alphas, dog eat dog.” (Former Player)
- “UMD is not at all different. I feel like it was just magnified because of the situation with Jordan. I know people who played elsewhere in Division I. Coaches yell at you, dog you, etc. That’s just the culture of football. Even with little league. Not saying that it’s right, but it’s part of the culture of football. I don’t think football at Maryland was any different.” (Former Player)
- When asked if a player witnessed unduly harsh language or verbal abuse: “I don’t know how to tell what’s wrong and right. That’s normal all over the country. Curse words and words like p\*\*\*\* everyone uses. I don’t see it as demeaning. I don’t know honestly if it’s demeaning or just regular.” (Current Player)
- “There is nothing that is taking place that is uniquely Maryland, there would be similar things happening anywhere else. If Maryland’s culture is toxic then all D1 schools’ culture would be toxic.” (A Source Close to the University)

## 2. Comments about Coach Durkin

Coach Durkin received many texts and emails from players, parents, and others after the tragic events of May 29, 2018. Nineteen players and 14 parents wrote to Coach Durkin, reaffirming their confidence in his leadership. The overwhelming majority of these communications occurred after Coach Durkin was placed on leave on August 11, 2018. In addition, seven former Maryland players and three high school coaches whose student-athletes went on to play at Maryland sent notes of approval and encouragement.<sup>104</sup> Following Coach Durkin being put on leave, he received a number of text messages in support. A sampling of these are included in Appendix 16.

A source close to the University who interacts with and counsels players on a regular basis and who has worked with other college and NFL teams discussed how Coach Durkin emphasized that he “really want[s] and desire[s] that our coaches develop relationships with players, so the relationship starts with knowing their family life, aspirations, and building the strong relationships.”

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<sup>104</sup> Numerous former players and colleagues from Mr. Durkin’s time at Stanford University and the University of Florida, including Richard Sherman of the San Francisco 49ers and Dan Quinn of the Atlanta Falcons, described Mr. Durkin as a high-energy coach, but one who had his players’ best interests at heart. *See* R.J. Abeytia, Former Stanford Players And Colleagues Discuss DJ Durkin, September 21, 2018, [https://247sports.com/college/stanford/LongFormArticle/Former-Stanford-Players-And-Colleagues-Discuss-DJ-Durkin-Dan-Quinn-Johnson-Bademosi-Eric-Lorig-Toby-Gerhart-Erik-Lorig--121516300/#121516300\\_1](https://247sports.com/college/stanford/LongFormArticle/Former-Stanford-Players-And-Colleagues-Discuss-DJ-Durkin-Dan-Quinn-Johnson-Bademosi-Eric-Lorig-Toby-Gerhart-Erik-Lorig--121516300/#121516300_1).

The September 9, 2018 survey of 94 current players included over 1,000 comments. The comments included a broad array of perspectives. Many statements about Coach Durkin were either mixed or described ways he could improve as a coach. Set forth below are representative comments made by current players on September 9:

- “If you’re not a superstar he doesn’t really care about you. You are just a number on the roster. He needs to learn how to control his staff and become a decent human being. He should not be our head coach.”
- “His greatest strength is his energy and intensity that he brings to a coaching spot, he needs to put himself more into the position of the kids and handle them more as if they were his own kids.”
- “He is a young coach learning how to be a head coach. He is very passionate about his job and cares about his players.”
- “Extremely smart coach who knows what he is talking about in all facets of the game. Great when getting one on one coaching. When it comes to being a head coach he does not know how to manage his players health and well-being. Definitely not the ideal head coach.”

- “His greatest strength is how much he cares about his players. An area he needs to improve on at times is being able to understand each player better.”
- “If he didn’t want you to start he would do everything for you to quit and make you look bad to make you think you suck.”
- “He loves the game, and loves our team. It is not his fault the training staff didn’t take proper care. He would never have allowed that. He cares for us. He deserves to be back, was not in the wrong. Never threw food at anybody or used physical harm. Coach Durkin is innocent.”
- “Durkin tried to discredit everything I have done up to this point in my time here and called me a backstabber for trying to fight for my job. There was language that crossed the line and was pretty degrading.”
- “Coach Durkin has given me tremendous opportunity. I have been able to work while being a member of the team to help my future career after football. I have the utmost respect for him, he has always been a great coach to me.”



- “The medical staff tried to comply to Durkin and not to what they were taught to practice. Many players played hurt and were forced to play when they shouldn’t have.”
- “He needed to get Rick Court out, because a lot of the things he did was without Coach Durkin’s knowledge.”
- “He cares about the individual. He always promotes life after football and drives our education into us as the most important thing about being at the University of Maryland. He has an open door policy. I know many of the players say our team periods of practice are too long but that’s all.”
- “His greatest strength is that he was honest and passionate about everything he did but it overtook his sight of how his players were actually doing mentally and physically. I don’t think that he was healthy for this team and the greatest improvement that could be made is for him to understand that we can’t do everything he was asking and work with us to make sure we feel good and can play to our best potential.”

Many people interviewed had negative views of Coach Durkin:

- “It’s bulls\*\*\* that Durkin is on paid administrative leave. . . . I don’t think Durkin should be paid, and he should never get

another coaching job. What he put us through is disgusting.

I'm not happy with less than a firing.” (Former Player)

- “No, I didn’t think they had the players’ best interests in mind. They had their own best interests in mind. It was clear that Durkin didn’t care for the players. Some of the starters he might have cared for. But if you were someone they brought in, it would be different.” (Former Player)
- “Shady s\*\*\* ever since Durkin stepped through the door. Everyone knew that this isn’t right. The program was based on fear. What was in ESPN article summed it up, but it didn’t do it justice. You’d have to see it.” (Former Player)
- “I heard from a friend that people would go into Durkin’s office to complain about stuff that Court was doing, and he didn’t do anything about it. He wasn’t hearing it.” (Current Player)
- According to a player, Mr. Durkin told him “[n]obody likes you; why don’t you just leave,” in a profanity-laced reprimand after he missed class. (Former Player)

Yet the views about Coach Durkin were quite diverse. Many others we interviewed had praise for Coach Durkin:

- “Durkin ran his program well. There were weekly academic meetings and the team’s personnel were monitoring all aspects of the players’ lives at school. Depending on the circumstances some student athletes might receive a reprimand, but there was never a meeting where I would have been uncomfortable if it has been my son sitting in there.” (Current Staffer)
- “Knowing Durkin on a personal level, it was heartbreaking. I know he cares about his players. I know he had a lot invested in those guys.” (Former Player)
- “When I tell you that Durkin loves my son, he loves my son. We have had deep conversations about where my son should be. I know pretty much all the parents that came in with the Class of 2020 and some of the junior, senior parents, some freshman parents. There are a lot of protective parents, so if any of us thought that Durkin was putting our kids in jeopardy, ‘it would have been a wrap.’” (Mother of Current Player)
- “I’m proud to be able to play with him and proud to call him coach. I feel the same towards the staff.” (Current Player)
- “Coach Durkin gave everyone their opportunity to play and treated everyone equally. It was a competitive culture, and if

you didn't like to compete you wouldn't have fun there, but if you wanted to compete you could prove yourself.” (Former Player)

- “Nobody is as dedicated to the program or as compassionate and caring as DJ Durkin. While [a prior coach] ran the program like a business, Durkin gained the trust of the players and their parents. He brought structure to the program that did not exist before.” (Football Staff Member)
- “Coach Durkin is intelligent, motivating, detailed on what he wants to accomplish. He will put his arm around you afterwards if there is an issue on the practice field. He'll ask you how math class is going, how are mom and dad. He has players' best interests at heart. He knows people handle things differently.” (Football Staff Member)

### 3. Comments about Coach Court

In speaking with current and former players and others who interacted with the S&C program, many had strong feelings about how they were treated by Coach Court. As shown by the anonymous survey results described above, the current players' perception of Coach Court was far inferior to that of Coach Durkin and the program as a whole. The team rated Coach Court as a 2.3, and Coach Durkin

as a 3.0. Other Division I schools surveyed using RealRecruit gave assistant coaches an average rating of 4.2, and head coaches a 3.8.

Several assistant coaches commented about Coach Court. He was described as one of the hardest working coaches around, and “passionate” about his job. As do many strength coaches, Coach Court used a Rating of Perceived Exertion Scale to assist athletes in self-regulating their training intensity. *See* Appendix 17. But Coach Court was not only demanding of his players, he also demeaned and degraded them at times. One coach viewed Coach Court’s use of profanity as “verbal abuse,” commenting that “[i]f I were a parent and I watched that on a daily basis, what took place in the weight room, on the field, I wouldn’t let my kid play for that program.” Other criticisms of Coach Court included the following:

- “Court’s favorite words were p\*\*\*\* b\*\*\*\*, calling people fat, bringing people’s family into it, every curse word you can think of was used by Durkin, Court and their minions.” (Former Player)
- “We were lifting and practicing way longer than we were supposed to. I was forced to do things I couldn’t do. Too much weight was put on the bar for me to lift. When I couldn’t lift it, [Court] bashed me with horrible language.” (Former Player)

- “Court said to a player, he’s a waste of life. He should go ahead and kill himself, kind of in a joking tone. ‘You should just f\*\*\*\*\* kill yourself.’” (Former Player)
- “I think they got out of control. Strength and training staff. Rick. . . . There were times when you could visually see a kid was struggling, and they would tear him down instead of bringing him up. They berated the kid. Knocked him down. Would have liked to see more encouraging the guy to say they believed in him rather than calling him a p\*\*\*\*\*.” (Former Player)
- “I’d be midway through a workout, and they would throw over 100 more pounds on. Then Court would get on his hands and knees screaming, calling you a p\*\*\*\*\*. Court was just throwing weights on until someone couldn’t lift the bar off of his chest. This was a normal thing for them to throw weights on, and if you couldn’t do it, you were the lowest of the low human being.” (Former Player)
- “Unduly harsh language? Yes. Rick would be on the bad side of the line. I think Rick just opened his mouth and whatever came out came out.” (Medical Staff Member)

- “I kind of regret not saying it to Durkin, but the kids hated Rick. Rick is the most talented person I've ever been around in my life, but he can't shut his mouth. I regret not talking to Durkin. The kids wanted Rick out of their lives.” (Football Staff Member)
- “I know Coach Court had developed a type of arrogance to him where he couldn't see himself from a player's perspective. As a player you can feel the lack of respect.” (Football Staff Member)

This may have been a change from Coach Court's prior conduct at Mississippi State, as one of Coach Court's former colleagues on the athletics staff there reported that he was “very surprised to hear about Rick Court” because he “never had any issues with him at MSU.” Coach Court told us that he developed guidelines concerning how much rest a player needs between periods of exertion, though others claimed that Coach Court violated his own rest requirements.

One player tweeted a picture of the progress he had made between June 2016 and July 2017 in getting stronger, stating “[t]his is what happens when you give your heart to @courtstrength every day. #Trusttheprocess.”<sup>105</sup> Other players

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<sup>105</sup> @courtstrength is Mr. Court's twitter handle.

also viewed Coach Court's approach as effective at motivating players to build strength and endurance:

- “Court may have yelled and cursed a lot, but Court is a ‘tough love type of guy.’ He was never inappropriate, and Court pushed players only so they would be better and so he could get the most out of them.” (Current Player)
- “Court was probably too extreme with his language and crossed the line sometimes, but weightlifting and conditioning is supposed to be difficult. Some players didn’t want to work hard, which is why they may have had a problem with Court.” (Current Player)
- “Court treated me well. I’m fond of Court, he helped me when I was struggling with stuff. He wouldn’t belittle me or call me those names. He would have conversations with me about improving. He was a good guy to me. I had a better relationship with Court than with Durkin.” (Former Player)
- Regarding the allegations of Coach Court throwing weights: “I saw that as a tool of motivation to not give up. Coach Court would never hit a player with anything, but he was trying to motivate.” (Former Player)



- “Court is knowledgeable on the means to build a great team in terms of strength and conditioning. He’s a strong motivator. He cares a lot about the team. I wouldn’t say he’s any different than other strength coaches. He pushes you to be your best.”  
(Football Staff Member)
- “Rick Court was my guy. He was part of why I committed to Maryland. Every time I visited, he took time to talk to me about weightlifting. He would ask about my family. I really like him.” (Johnny Jordan, Current Player).<sup>106</sup>
- “Court had a good approach with me. He would do anything he could to make sure my rehab process went smoothly. Even if it meant some days if I had a sore knee, Court would cut down my reps to make sure I was healing properly.” (Current Player)
- “Court never attacked me in any way. If I was doing something wrong, Court would come and tell me how I was doing things wrong. He was never in my face. I honestly believe this is because I tried to always get my stuff done. He was relatively more calm to the people that got their stuff done as opposed to the people that needed a push. There are players that need that

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<sup>106</sup> Mr. Jordan’s name is used with his consent.

extra push, that extra motivational start. And it worked.”

(Current Player)

- “Coach Court used profanity. The profanity was seldom directed at a specific individual. When Court directed profanity towards a person, he was trying to motivate, not to humiliate. Court did not use profane terms as a weapon.” (Current Player)
- “Coach Court took my son under his wing. He really cared for him. The whole training staff spent an enormous amount of time with him and working with him to get stronger. Court told my son last spring that as long as he was there he would be advocating for him. He was very positive and encouraging. I met him only a few times, but Court would have my son over for dinner and was really caring of him.” (Mother of Current Player)

#### **E. Perspectives of Other Coaches**

The Commission also contacted prominent high school programs in the Maryland, Delaware, and Virginia area that regularly send players to Maryland. Because of the potential for communication among high school and college players and their coaches, the Commission surmised that candid impressions of

Maryland's football program may have filtered back to high school coaches and athletic administrators at these premier feeder schools.

We reached out to 13 coaches and administrators, seven of whom responded and agreed to be interviewed. With two exceptions, their overall impressions of the Maryland football program were positive.

One coach said he has never heard a current or former player say a negative word about their experience at Maryland. He heard no reference to a toxic culture or environment, nor had he heard anything negative about Mr. Durkin. This coach had never received any reports that the coaching staff was out of line or that players had been abused. He knew of no students at his high school who crossed Maryland off their list because of a bad reputation.

Other coaches expressly shared their support for Mr. Durkin and the Maryland program. For example, Andy Stefanelli, the head football coach at Our Lady of Good Counsel High School (Olney, Maryland) says he would not hesitate to send his players to Maryland under Mr. Durkin.<sup>107</sup> He relayed his view that firing Mr. Durkin now would set the program back at a critical time when the program is making real progress. With respect to Mr. Court, Mr. Stefanelli states that Mr. Court was a highly demanding strength coach who employed more stringent mental toughness techniques than his peers. Mr. Stefanelli did not

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<sup>107</sup> Mr. Stefanelli's name is used with his consent.

believe that Mr. Court abused his players or demanded too much from them. Although he acknowledged that Mr. Court would use coarse language, Mr. Stefanelli did not believe he crossed a line.

The Commission, however, heard about two troubling incidents second-hand. An athletic administrator recalled a conversation he had with a former Maryland assistant coach who had left Maryland. When the high school administrator asked why the coach left Maryland, that coach responded he had to “get out of there because the verbal abuse of players was worse than at any other place he had been.” According to this administrator, a coach at a peer high school told him that the Maryland football program had a culture problem and was abusive to the players. This statement by the high school coach was made prior to the August 10, 2018 ESPN article.

## **VII. Injuries**

### **A. Data Comparing Injuries Suffered During Mr. Durkin’s Tenure with the Year Preceding his Inaugural Season**

Dr. Klossner was hired as Associate AD for Athletics Performance in 2013. Dr. Klossner and football trainer Wes Robinson established an injury database so they could analyze trends and identify strategies to decrease injuries.

The chart they developed for football for a three-year period is displayed below. During the first year, 2015, Randy Edsall and Mike Locksley served as the head football coach (Locksley succeeded Edsall in October 2015). Mr. Durkin

served as head coach in 2016 and 2017. Both Mr. Robinson and Dr. Klossner state that the methodology and protocols (such as when to order an MRI) remained consistent, so that these injury reports are “apples to apples” comparisons. We have recreated this chart verbatim below.

	2015		2016		2017	
	August Camp	Season	August Camp	Season	August Camp	Season
Total Injuries Recorded	83	208	63	157	43	153
Time Loss Injuries	13	35	7	21	13	26
Concussions	3	7	3	5	3	4
Total Illnesses Recorded	22	70	24	59	20	57
Time Loss Illnesses	3	8	4	4	0	4
X-rays	4	33	1	17	5	18
MRIs	5	31	1	19	3	19
Disorders	6	18	2	5	2	10
Surgeries	2	6	0	5	0	6
IV Fluids	8	9	6	5	5	7
Rx Meds	60	149	48	137	37	118
MD Consults	126	475	105	246	57	235
Post Season Surgeries	n/a	9	n/a	4	n/a	5

As shown above, the total number of injuries has been trending downward since 2015, with 208 total injuries in 2015, 157 in 2016, and 153 in 2017.

Concussions, illnesses, medical consults, MRIs, X-rays, and postseason

injuries also trend positively. The data shows a team that was healthier during Mr. Durkin's two full years of coaching than the prior to his tenure.<sup>108</sup>

Mr. Robinson cites changes in weightlifting techniques and improvements in nutrition as two factors that have contributed to the decreasing trend in injuries.

Mr. Court agrees with the reasons cited by Mr. Robinson, and adds several others:

- 1) deleting Olympic-style free weight sets (*e.g.*, dead lifts); 2) more extensive warm-ups; 3) restricting exercises or range of motion for injured players;
- 4) utilizing sleep monitors; and 5) the presence of a massage therapist.

## **B. Anecdotal Evidence**

Although the decrease in injuries speaks positively to the performance of the athletic training staff, players, and parents have nevertheless shared troubling anecdotes about the handling of specific injuries by the football coaching and training staffs. The details of these incidents are obscured to protect the identities of the injured players. Because most players insisted on anonymity, we did not ask the trainers or others potentially involved or seek to corroborate or test the accuracy of these allegations. Without revealing the players' identities, we raised each of these allegations with Wes Robinson and gave him the opportunity to comment.

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<sup>108</sup> We requested data for years prior to 2015, but this data was not available.

1. Player #1

Former player Gus Little shared a story about the coaching and training staffs' handling of an injury that took place away from the field and away from campus. Because the trauma took place outside of school, Mr. Little sought the advice of a medical professional who was not part of Maryland's football program. That professional provided diagnosis and treatment protocol to this player for an injury. Mr. Little says that members of the training staff were angry when they learned of this outside medical opinion. In fact, he was explicitly told that he should not have sought the medical advice or diagnosis of someone outside Maryland's staff.

On another occasion, this time on the football field, Mr. Little sustained full body cramping after what he described as a particularly demanding practice session. While receiving an IV treatment at Gossett, Mr. Court allegedly called him a "p\*\*\*\* b\*\*\*\*." Mr. Court was not apprised of the identity of the player, but firmly denies that he ever addressed a player in this manner while a player was receiving medical treatment.

Mr. Robinson assures the Commission that he would never have told a player not to seek medical advice from someone outside of Maryland; in fact, he has specifically arranged for student-athletes to receive care from outside doctors. As to the IV treatment allegation, Mr. Robinson told the Commission that he does

not recall the incident taking place, and moreover, only physicians—not athletic trainers—could inject student-athletes with IVs. If they had played any role at all, the training staff would have assisted with preparing the IV, but a physician would have been present anytime an IV was used.

2. Player #2

A parent of a player stated that, during a practice, the player experienced head trauma during a play and “didn’t feel right.” The player came off the field to seek medical attention, but, before he could get to a trainer, the player’s position coach intercepted him and sent the player back on the field. Two plays later, the player was knocked unconscious on the field. Only then did the training staff initiate the concussion protocol.

The parent also told us that his son sustained another injury later that season. After the season, the player obtained an appointment with the leading specialist in Maryland for this particular injury. According to the parent, the same position coach would not let the player attend the appointment because it coincided with the first day of spring practice.

Regarding the alleged concussion incident, Mr. Robinson denies seeing anything of that nature take place. He adds that if something like that happened, he would remember it. Mr. Robinson also did not recall a player being prohibited or



discouraged from attending a scheduled medical appointment because of football obligations.

3. Player #3

A player reported that he tore ligaments in a joint during a game. According to the player, Mr. Robinson told the player that he had to play despite these injuries. The player replied that he could play but probably should not. The player continued playing.

The player also shared that he was given an incorrect diagnosis by Mr. Robinson and the training staff. Mr. Robinson told him that he had a less severe injury than ultimately turned out to be the case. The player now says that he has chronic pain and nerve damage.

Mr. Robinson tells the Commission that he does not recall this incident, and he further states that physicians, not trainers, are involved with evaluation and diagnosis. As a trainer, his role during games is to get players off the field and to a physician to be evaluated, as well as to communicate to coaches about which players are available and which are not. Per Mr. Robinson, treatment during games is almost always administered by a physician, not a medical trainer.

4. Player #4

A player reported that he suffered a significant injury. The training staff gave him a pain reliever, and he was cleared to practice the very next day—in full

pads and participating in hitting drills. In workouts following his injury, the player was unable to do certain exercises. Nevertheless, because the player was instructed to continue practicing, and because he perceived that other players were practicing with similar injuries, he continued to practice. The player says that he thought that he was pushed back onto the field before he was ready, but he also thought that was part of football. The player eventually discontinued his football career because of his injuries.

Mr. Robinson states that he did not recall the incident. He further explains that if a pain reliever other than an over-the-counter medicine (such as Ibuprofen or Tylenol) was administered, then it would have had to be prescribed by a physician, not a member of the training staff.

#### 5. Player #5

A player reported that he was pressured to resume practice just five months after reconstructive joint surgery. The player did in fact resume practice, in full pads, with the clearance of Mr. Robinson. A doctor ultimately intervened and told the player that he should not be practicing. The player continues to feel that the training staff mishandled his injury.

In response to this allegation, Mr. Robinson explains that when a student-athlete undergoes reconstructive surgery, Mr. Robinson cannot clear him to play football. That clearance can only come from a doctor. Mr. Robinson states that it

is possible that a doctor cleared the player for practice, but, based on the player's struggles or pain, the doctor would have reevaluated at a follow-up appointment and decided the player could not participate. Mr. Robinson could not specifically recall an instance in which that happened, but he says that it is possible. But he, himself, could never clear a player to return to practice after reconstructive surgery. According to protocols, any such clearance would have come from a doctor, but due to HIPAA restrictions, we have been unable to confirm that a doctor provided such clearance.

6. Player #6

A player suffered a foot injury and reports that he felt rushed back to practice in the spring to prepare for the spring practice intra-squad scrimmage. The player questions the decision to return him to practice, particularly because it was just a scrimmage. The player says that he was not physically ready, but he played anyway.

The player also comments on the interplay between football athletic trainers, notably Mr. Robinson, and physicians: "Wes would try to speak to doctors on behalf of you instead of you telling the doctor how you felt." The player also feels that Mr. Robinson "stepped out of his realm" and did not properly execute his role as an athletic trainer.

Mr. Robinson states that at no time during his tenure has he prohibited a player from talking to a doctor. Although he did not recall the incident specifically, Mr. Robinson did say that he would at times speak with a physician before a player was seen, just to give the physician a preview of what to expect. Mr. Robinson would stay with the player while he was being seen by the physician, or he would leave if the player did not want him there.

7. Player #7

A source close to a player stated that Mr. Robinson “downplayed” the player’s injury. The source claims to have been told that the player had a mere joint sprain; in fact, the player later learned that the joint was dislocated. The source felt that the injury was misdiagnosed, and the source further questioned whether Mr. Robinson “know[s] what he’s doing.”

Mr. Robinson did not recall this incident, and he further states that the allegation was too vague for him to formulate a response. Dr. Azar of our Commission reviewed the MRI of the player’s joint and does not believe it was dislocated.

8. Player #8

A mother of a current player told us that her son was feeling joint pain, and a surgery was scheduled. The surgery went well, and the family was very pleased with the attention and care shown by the surgeon and training staff. A trainer from

the football staff was assigned to the player for the day of the surgery, and he came to the surgery center and stayed with the player until discharge that evening. The trainer made the family feel like the player's well-being was a priority, and he did everything he could to make the player more comfortable.

This player has had numerous surgeries while playing at UMD, and this level of care was reflective of the attention paid to the player each time. He received daily treatments and rehab after each surgery. Mr. Durkin also came to visit the player in the surgery center.

9. Player #9

A parent recalled discussing with Coach Durkin whether the parent's son would play in a particular game. During the week preceding the game, the player was cleared by medical staff to play. Mr. Durkin remained concerned, however, according to the parent. Ultimately, Mr. Durkin and the parent agreed that the son would not play. The son was unhappy with the decision; he wanted to play.

**C. General Attitudes About the Handling of Injuries by Training Staff and Others**

1. Positive attitudes

Many players expressed approval with the handling and treatment of injuries. Indeed, we received numerous comments from players and staff opining that Mr. Robinson was being unfairly scapegoated, and that he was dedicated to the player's health. For example, one player reports that he was handled with great

care by the training staff as he recovered from joint surgery. Another player lauds the training staff for helping him to rehab from a muscle injury, leaving it up to the player to return when he was ready. Another player reports that he was treated “pretty well” and that he came back faster than he expected because “trainers took good care of [him].” Still another player comments that the negative attention directed at the training staff “seemed unfair” based on the player’s experience with being treated for his injuries.

Coaches and other staff also offered positive comments about the training staff. One assistant coach states, with strong conviction, that he had never seen anything about Mr. Robinson that gave him any concern when it came to taking care of the players. Another member of the coaching staff recalls an instance where a player who was injured was held out of practice in anticipation of the spring intra-squad game. According to a physician involved with the program, his recommendations were never countermanded by the football coaches or the S&C staff, and the physician never observed any players being rushed back from injury.

Athletic trainers also made sure that they understood which athletes had physical challenges such as the sickle cell trait. Each student-athlete received a laminated card, which was regularly updated, outlining whether the player had conditions such as the sickle cell trait, asthma, or other physical conditions that were worth noting. This information was also kept in a chart that each trainer

could see. Trainers closely monitored student-athletes with these special conditions.

## 2. Negative attitudes

Several players and parents express frustration with the way their injuries (or their sons' injuries) were handled or the approach to injuries generally. As one player anonymously comments: "under Durkin, you weren't allowed to be injured. . . . You weren't injured unless you couldn't walk." Another player states that it was "never an option" not to practice and that Mr. Robinson would often assume that players were "faking it." Still another player feels that players played injured in order to show that they "bought in" to the coaches' mentality. A fourth player believes that the training staff should do more to evaluate player complaints and injuries instead of simply telling players to "push through it." A fifth player labels Mr. Robinson "the worst f\*\*\*ing trainer I have ever seen."

Several other players and parents reports that members of the training staff downplayed injuries and/or rushed players back before they were truly ready. One staff member notes that, although Mr. Robinson is capable and effective in his role, some of the longer-tenured players believe that Mr. Robinson changed his demeanor to match the intense styles of Mr. Durkin and Mr. Court when they arrived. That sentiment was echoed by some of the players, parents, and coaches.

Players and parents also comment about what is referred to as “the pit.” As described by Mr. Robinson and others, the pit was an area off to the side of the practice field where players completed conditioning drills when they could not practice due to injury. The parent of one player claimed that the player rehabbed privately, refusing to complain to trainers and coaches, for the purpose of avoiding “the pit.”

The pit is an area including gravel and grass. Players who are not participating in drills, or whose participation is limited because of injuries, are directed there for a variety of conditioning alternatives while they await rejoining practice. These activities include stationery bikes, strength equipment, running drills, and the like. Adjoining areas to practice fields like “the pit” are customary throughout college football programs.

The players’ and parents’ opinions about the quality of health care are sharply divided. Moreover, we do not have the means to independently verify the integrity of the injury data for the years 2015–17. Nor can we verify or refute the claims of improper medical treatment recounted above; between health privacy restrictions and the players’ desire to maintain anonymity, this is an impossible task.

But if the injury data are accurate, as Robinson maintains, this serves as significant data that the S&C regime employed during 2016 and 2017 made



players healthier, on average, compared to 2015. None of this, of course, mitigates the tragic death of Mr. McNair, nor the mistakes relating to Mr. McNair's treatment, as documented by Mr. Walters. Nor does it excuse the other complaints of medical mistreatment, if these complaints are well-founded.

Yet the mere fact that Maryland had established a robust injury-tracking program strongly suggests that the Athletics Department was working diligently to seek to minimize injuries and better safeguard player health. It was in the coaching and training staff's interests to do so, not only to fulfill their obligations to the players, but also because injuries can be a key determinant in a football team's win/loss record.

We acknowledge that the relationship between football and injuries remains fraught with hazards. Doug Williams—former Super Bowl winning quarterback and football coach and staff member in both college and professional football—has seen these issues for over forty years in both college and professional football. He says:

There are many incentives to play hurt, or for staff to declare a player fit to play in borderline situations. Players wouldn't be in this game unless they are extremely competitive. They want to play and win, even when their bodies tell them they shouldn't. The players are also worried about keeping their jobs. They've seen players start because of an injury to another player, play well, and take away the starting job of the injured player they replaced. And the players don't want to let their teammates down by sitting during a big game. So I've seen many players demand to play when they had no business being on the field.

Coaches and staff want their best players to be on the field for the same reasons. You keep your job in this game by winning. So they're under pressure, too. That's why it is so important that the decision about ability to play be solely in the hands of the medical staff.

### **VIII. Player Academic Progress Under Mr. Durkin**

Important to an evaluation of an athletic program is the academic progress of its student-athletes. There are three measures—federal graduation rate (FGR), graduation success rate (GSR), and academic progress rate (APR)—that universities typically use to assess how they are doing, both over time and against their peer schools. APR and GSR data are provided by Maryland to the NCAA pursuant to NCAA Bylaw 14.01.6. As part of the investigation, the Athletics Department provided the Commission with reports from 2012 to 2017. For two of the three metrics (FGR and APR), Mr. Durkin presided over a slight decline after several years of modest improvement. The program's GSR has seen small, steady progress including during Mr. Durkin's early tenure. Each of the yardsticks is calculated differently, the details and results of which are discussed in the subsections below.

#### **A. Federal Graduation Rate (FGR) and Graduation Success Rate (GSR)**

The federal government mandates that all colleges and universities that offer athletic scholarships monitor and publish its FGR, which measures the percentage of students who complete a degree within six years from the school where they

originally matriculate.<sup>109</sup> Only students who receive athletics-based financial aid and only students who enroll in the fall semester are counted for the purposes of this statistic; walk-on students are not counted. A student is credited with graduation only if they complete a degree at the school where they began; some students who transfer, as well as students who turn professional, hurt a university's FGR score.

How a school's FGR is calculated differs from how GSR is scored in a couple respects. First, transfer students who leave a university in good academic standing are not counted against the school they leave; instead, they are included in the calculation of the GSR of the school to which they transfer.<sup>110</sup> In addition, GSR, unlike FGR, includes the graduation rate of students who enroll in either the fall or spring semesters.

The chart below provides the FGR and GSR for the University of Maryland football program from 2013 through 2017:<sup>111</sup>

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<sup>109</sup> See

[http://www.ncaa.org/sites/default/files/How%20is%20grad%20rate%20calculated\\_nov\\_2015.pdf](http://www.ncaa.org/sites/default/files/How%20is%20grad%20rate%20calculated_nov_2015.pdf)

<sup>110</sup> See

[http://www.ncaa.org/sites/default/files/How%20is%20grad%20rate%20calculated\\_nov\\_2015.pdf](http://www.ncaa.org/sites/default/files/How%20is%20grad%20rate%20calculated_nov_2015.pdf)

<sup>111</sup> As of the date of this report, the 2018 statistics were not yet available.

	2012–13	2013–14	2014–15	2015–16	2016–17
<b>Federal Graduation Rate (FGR)</b>	63	64	63	67	62
<b>Graduation Success Rate (GSR)</b>	73	74	75	78	79

As this table illustrates, during Mr. Edsall’s tenure, Maryland’s FGR and GSR both saw a general, albeit modest, increase. Under Mr. Durkin, the FGR dipped five points (from 67 to 62), while the GSR increased by a point. The difference is likely explained by the fact that transfer students do not count against GSR, but they do impact a school’s FGR, and nine football players transferred out of the University of Maryland during the 2016–17 school year.

Since joining the Big Ten, Maryland’s football program has landed near the middle compared to other Big Ten programs on both FGR and GSR, and that did not materially change during Mr. Durkin’s first full season.<sup>112</sup>

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<sup>112</sup> See <https://web3.ncaa.org/aprsearch/gsrsearch>.

	FGR		
	2014–15	2015–16	2016–17
Northwestern University	93	92	<u><b>92</b></u>
University of Nebraska	70	73	<u><b>75</b></u>
Pennsylvania State University	69	66	<u><b>69</b></u>
Indiana University	65	69	<u><b>69</b></u>
Purdue University	65	66	<u><b>66</b></u>
University of Michigan	63	66	<u><b>66</b></u>
<u><b>University of Maryland</b></u>	63	67	<u><b>62</b></u>
University of Wisconsin	58	64	<u><b>61</b></u>
University of Minnesota	53	56	<u><b>61</b></u>
University of Iowa	56	59	<u><b>60</b></u>
Rutgers University	60	58	<u><b>58</b></u>
University of Illinois	53	55	<u><b>57</b></u>
Michigan State University	47	50	<u><b>56</b></u>
Ohio State University	64	57	<u><b>48</b></u>

	GSR		
	2014–15	2015–16	2016–17
Northwestern University	97	97	<u><b>99</b></u>
University of Nebraska	85	86	<u><b>85</b></u>
Pennsylvania State University	81	80	<u><b>84</b></u>
Indiana University	76	79	<u><b>84</b></u>
University of Minnesota	69	71	<u><b>83</b></u>
University of Michigan	72	79	<u><b>82</b></u>
Rutgers University	83	82	<u><b>82</b></u>
Purdue University	76	81	<u><b>81</b></u>
<u><b>University of Maryland</b></u>	75	78	<u><b>79</b></u>
University of Illinois	70	70	<u><b>77</b></u>
University of Iowa	71	74	<u><b>76</b></u>
University of Wisconsin	71	73	<u><b>74</b></u>
Michigan State University	66	71	<u><b>72</b></u>
Ohio State University	81	74	<u><b>69</b></u>

## **B. Academic Progress Rate (APR)**

APR is the newest metric for tracking the academic progress of student-athletes. It is a team-based score that accounts for the eligibility and retention of each student-athlete for each academic term. For the purposes of calculating APR, a school can obtain eligibility points for each student-athlete who receives financial aid and remains academically eligible and in school through the end of the semester. A team's total points are divided by the total possible points and then multiplied by 1,000.

Each institution has an annual APR and a rolling four-year APR. If a program's four-year APR score falls below 930, it is subject to a postseason ban.

This chart lists the Maryland football program's APR for the last five years:

	<b>2012–13</b>	<b>2013–14</b>	<b>2014–15</b>	<b>2015–16</b>	<b>2016–17</b>
<b>Single-Year APR</b>	977	991	990	978	965
<b>Four-Year APR</b>	950	973	977	984	981

Maryland's four-year APR peaked during the 2015–16 season, with a team score of 984. That number dipped slightly during Mr. Durkin's first full year to 981, and the single-year APR fell to 965.

The chart below compares Maryland's multi-year APR to other Big Ten programs since Maryland joined the conference:<sup>113</sup>

	2014–15 APR	2015–16 APR	2016–17 APR
Northwestern University	992	995	<u>997</u>
University of Michigan	989	993	<u>990</u>
University of Illinois	982	984	<u>986</u>
University of Wisconsin	992	990	<u>986</u>
University of Minnesota	992	992	<u>983</u>
Ohio State University	971	975	<u>982</u>
<b><u>University of Maryland</u></b>	977	984	<u>981</u>
Pennsylvania State University	960	969	<u>980</u>
University of Nebraska	981	977	<u>980</u>
Indiana University	979	982	<u>976</u>
Rutgers University	972	973	<u>973</u>
University of Iowa	971	971	<u>970</u>
Purdue University	968	971	<u>960</u>
Michigan State University	978	974	<u>952</u>

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<sup>113</sup> See <https://web3.ncaa.org/aprsearch/aprsearch>.

Since joining the Big Ten, Maryland's APR climbed into the top half of conference programs, and even with the slight dip in 2016–17 during Mr. Durkin's first season, it remained there, placing seventh overall in the Big Ten.

**IX. UMD Internal Controls Designed to Ensure that the Athletics Department and Football Program Comply with Rules and Policies**

**A. UMD Processes and Oversight to Ensure Sound Management of the Athletics Department**

Maryland recognizes that “[a]n intercollegiate athletics program can significantly contribute to the learning and the public service components of the campus mission.”<sup>114</sup> Because “[t]he importance of faculty involvement and influence in the institutional control and operation of an excellent athletics program cannot be overestimated,” Maryland has developed its own athletic governance standards to ensure NCAA and Big Ten compliance.

For example, the AD is “accountable [to the President] for year-end results of annual goals identified via the institution’s annual Performance Review and Development (“PRD”) process,” which is “a detailed performance assessment tool designed to provide a level of specificity and accountability for University employees, including the Director of Athletics and other ICA staff.”<sup>115</sup> As part of its investigation, the Commission reviewed performance evaluations for approximately 28 staff members. It is important to note, however, that no such

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<sup>114</sup> University of Maryland Institutional Standards, October 23, 2014, at 1.

<sup>115</sup> University of Maryland Institutional Standards, October 23, 2014, at 2.



evaluations are conducted for the football coaching staff. They have historically been treated as on par with tenured professors, who also are not subject to the PRD process.

Institutional organizations also help Maryland “develop and maintain the best possible intercollegiate athletics program consistent with the academic integrity of the institution and the academic and social development of student-athletes.”<sup>116</sup> For example, the Athletic Council (which consists of faculty, staff, student-athletes, and student government leaders) formulates, recommends, and advises the President on policies that affect intercollegiate athletics. “The Council is also charged with monitoring the activities of the Department of Intercollegiate Athletics to make sure that they are in compliance with Big Ten, NCAA, university bylaws and regulations, as well as all relevant state and federal laws and regulations.”<sup>117</sup> Pursuant to NCAA Bylaw 6.1.4, Maryland maintains a “Student Athlete Advisory Committee” that serves as a liaison between the university and the NCAA.

Within the Athletics Department, the Athletics Compliance Office is “charged with coordinating, monitoring, and verifying compliance with all NCAA, Big Ten Conference, and institutional rules and regulations, and with serving to

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<sup>116</sup> University of Maryland Institutional Standards, October 23, 2014, at 2.

<sup>117</sup> University of Maryland Institutional Standards, October 23, 2014, at 2.

educate the various internal and external constituencies of the University about these rules and regulations.”<sup>118</sup> For example, the Compliance Office consults with a designated “sports supervisor” who is responsible for managing the coaches’ contracts, student-athletes, and the sport’s financial budget. The Compliance Office also hosts annual and monthly meetings with coaches wherein they discuss recruiting, student-athlete eligibility, NCAA legislative changes, and recent NCAA and Big Ten violations. Student-athletes also receive education regarding NCAA and Big Ten Compliance issues on a regular basis throughout the year via “tip sheets,” social media alerts, and email reminders.

**B. The Athletics Department’s Specific Internal Controls to Ensure Compliance with NCAA and Big Ten Mandates**

The Athletics Department maintains a number of specific internal controls to ensure NCAA and Big Ten compliance. For example, Article 6.3 of the NCAA Constitution requires “[t]he institution’s director of athletics, senior woman administrator or designated representatives” to “conduct exit interviews in each sport with a sample of student-athletes . . . regarding the value of the students’ athletics experiences, the extent of the athletics time demands encountered by the student-athletes, proposed changes in intercollegiate athletics and concerns related to the administration of the student-athletes’ specific sports.” As part of the

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<sup>118</sup> University of Maryland Institutional Standards, October 23, 2014, at 5.

investigation, the Athletics Department provided the Commission with surveys completed by Maryland football players from 2016 and 2017. These surveys were conducted to fulfill the mandates of Article 6.3. *See* Section VI and Appendices 9 and 10.

The NCAA requires each member school to “limit its organized practice activities, the length of its playing seasons and the number of its regular-season contests and/or dates of competition in all sports” pursuant to NCAA Bylaw 17.01.1. To satisfy this requirement, the Athletics Department maintains a “Countable Athletically Related Activities” (“CARA”) report for each football player, which tracks the amount of time spent on athletics-related activities. During the investigation, the Athletics Department provided the Commission with football players’ CARA reports from January 2016 to August 2018.

To address student-athlete health, the Athletics Department requires all student-athletes to complete a Maryland Sports Medicine “Tryout Student-Athlete Checklist.” In this packet, student-athletes are provided with a number of educational materials and medical forms, including: documentation of a physical exam, sickle cell education form, “Big Ten injury and illness reporting acknowledgement form,” and an ADD/ADHD education sheet and medical exception notification form.<sup>119</sup> Pursuant to NCAA Bylaw 12.7.3, the Athletics

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<sup>119</sup> Maryland Sports Medicine Tryout Student-Athlete Checklist.

Department requires each student-athlete to sign a “Drug-Testing Consent Form” in which the student-athlete “consents to be tested for the use of drugs prohibited by NCAA legislation.”<sup>120</sup>

The Athletics Department also maintains sports medicine policies that are distributed to staff and student-athletes. For example, the 2017–18 Sports Medicine Staff Manual outlines emergency action plans, clinical management guidelines, mental health services, nutritional care services, student-athlete administrative guidelines, and staff administration and management procedures.”<sup>121</sup> Likewise, student-athletes are provided with a Sports Medicine Handbook that details “specific . . . policies and procedures governing the comprehensive services offered by an industry leading sports medicine team” and outlines drug testing policies and procedures of the Big Ten and NCAA.<sup>122</sup>

The NCAA and Big Ten provide that the President has “ultimate responsibility and final authority for the conduct of the intercollegiate athletics program.” Accordingly, the University System of Maryland – Office of Internal Audit submits to the President and other designated personnel a compliance and operational audit report that determines whether sports programs are “in compliance with NCAA, State, and University policies.”<sup>123</sup> During the

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<sup>120</sup> NCAA Division I Manual at 78.

<sup>121</sup> 2017–18 Sports Medicine Manual E-Book and Staff Administration E-Book.

<sup>122</sup> Sports Medicine Handbook at 1.

<sup>123</sup> Football and Basketball Audit (5.10.17) at 1.

investigation, the Athletics Department provided us with compliance audits of Maryland's football program from 2015 to 2017, and the University's responses thereto. The internal audits did not reveal any remarkable findings.

A number of University policies govern student-athletes' conduct. Specifically, the 2017–18 Athletic Council Policy Manual provides that “a student-athlete shall immediately notify his or her head coach and the sports supervisor when he or she has been charged with a criminal offense, or [has committed] a violation of the Conference Sportslike Policy, the University's Code of Student Conduct, Code of Academic Integrity, or Drug Testing Policy.” *See* Appendix 18. The manual also provides student-athletes with information regarding the penalties for violating these policies.

### **C. Maryland's Newly-Developed Athletic Resources in Response to the McNair Tragedy**

Recently, Maryland has made a number of enhancements which were “informed by the preliminary observations of the external review,” including: (1) increasing the number of medical training staff; (2) adding on-site cooling stations; (3) increasing the number and length of recovery breaks; (4) expanding the use of cold tub/ice immersion therapy to include conditioning sessions and workouts during the summer; (5) increasing the frequency of Athletics Department staff training across all sports-related health matters, and (6) providing additional support measures for student-athletes, which include the launch of “an online

portal called Terps Feedback, which allows student-athletes to share concerns or report issues securely and in real time.”<sup>124</sup>

## **X. Conclusions**

### **A. The Players Who Spoke Up—Both Initially and in Response to Our Investigation—Should be Commended**

Several players expressed their concerns to the media about the conduct and culture of the football program, which were first reported in ESPN’s articles of August 10, 2018. We interviewed most of these players—both anonymous and named sources—and feel they spoke in good faith about what they perceived as unacceptable actions by University employees. They did not come forward with intent to harm the University, but rather out of concern and frustration about the program. This frustration, by all accounts, had been building for some time; the death of teammate Jordan McNair seemingly served as a catalyst for bringing their concerns to light.

In addition to those players who spoke with the media, the Commission commends all the current and former players who spoke with us, or took the survey, as part of our investigation. These individuals spoke up about their experiences, enabling us to evaluate the program with vital insights from those most closely involved with, and affected by, the football program.

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<sup>124</sup> See <https://www.umd.edu/commitment/taking-action>.

Some have criticized players for thwarting the longstanding sports axiom, “[w]hat happens in the locker room, stays in the locker room.” We feel strongly that this mindset is misguided. Many athletics directors contacted by the Commission, in fact, insist a “speak up” culture is critical in cultivating a thriving athletics community that prioritizes the welfare of student-athletes. Whether their comments were supportive or critical, the football players who came forward, both with the media and with the Commission, should be commended. We are grateful.

**B. During Mr. Durkin’s Tenure, the Athletics Department Lacked a Culture of Accountability, did not Provide Adequate Oversight of the Football Program, and Failed to Provide Mr. Durkin with the Tools, Resources, and Guidance Necessary to Support and Educate a First-Time Head Coach in a Major Football Conference**

During the 2016 to 2018 seasons, the Athletics Department did not effectively fulfill its responsibilities. University ombudsman and assistant to President Loh, Cynthia Edmunds, described the Athletics Department’s operations during this period as “chaos and confusion.” A former coach compared the department’s dysfunction to “Washington [politics].” The University conducted a Gallup Survey of employee engagement of all employees in the spring of 2016, and then again approximately 18 months later. The survey results of the Athletics Department employees deteriorated relative to the rest of the University, as well as relative to its own 2016 scores, in the second survey. Jewel Washington, the

University's Chief of Human Resources, stated "[h]ere [in Maryland athletics], there is no structure. That is not normal."

The mismanagement of the Athletics Department had adverse effects on the football program. We find little evidence of meaningful orientation and support for first-time head football coach DJ Durkin. The importance of providing more robust support for football was heightened by Maryland's entrance into the Big Ten Conference in 2014. Reporting lines between football and the Athletics Department were blurred and inconsistent. Assistant AD for Football Sports Performance/Strength Coach Rick Court was effectively accountable to no one, and the training staff went relatively unsupervised for extended periods due, in part, to a rift between the AD and his deputy, which permeated the entire department. There was no formal mechanism to assess coaching performance. There was not a single performance review for Mr. Court during his tenure at Maryland. The Athletics Department's compliance office lacked a system to track complaints. As a result, warning signals about the football program, including an anonymous email sent on December 9, 2016 (discussed in Section IV) went overlooked.

The Commission feels there was also an insufficient level of in-person oversight of the football program. This, specifically, pertains to former AD Kevin Anderson and AD Damon Evans, both during Mr. Evans's time as Deputy



AD/Football Sports Administrator and his time as Interim AD. According to official University calendars and multiple corroborated accounts, the Department's oversight of the football program was sporadic and inadequate. In contrast, many athletics directors at "Power 5" football schools told the Commission both they and the sports administrator visit practices, weight room workouts, or both, at least once a week, particularly in season.

**C. Mr. Court, on Too Many Occasions, Acted in a Manner Inconsistent with the University's Values and Basic Principles of Respect for Others**

We spoke with Mr. Court and his counsel on three separate occasions, collectively spanning over six hours. We interviewed dozens of players he coached and dozens of fellow coaches and staff. The Commission believes Mr. Court did have the best interests of the players at heart. His work, along with others on the staff, contributed to significant decreases in injuries sustained by players during the 2016 and 2017 seasons, compared to the prior year. He was diligent in monitoring whether players were attending class and required team meals. He established close relationships with some players and went "beyond the call" on a number of occasions, even arranging for extensive medical procedures for a player suffering from an affliction developed during childhood. We heard a mixed range of views from the players, who ranked the strength and conditioning

(“S&C”) program as the strongest aspect of the football program in 2016, yet gave Mr. Court very low marks in 2018.

There were many occasions when Mr. Court engaged in abusive conduct during his tenure at Maryland, as we document. While some interviewees dismissed this as a motivational tactic, there is a clear line Mr. Court regularly crossed, when his words became “attacking” in nature. This included challenging a player’s manhood and hurling homophobic slurs (which Mr. Court denies but was recounted by many). Additionally, Mr. Court would attempt to humiliate players in front of their teammates by throwing food, weights, and on one occasion a trash can full of vomit, all behavior unacceptable by any reasonable standard. These actions failed the student-athletes he claimed to serve.

**D. Both Mr. Durkin and Leadership in the Athletics Department Share Responsibility for the Failure to Supervise Mr. Court**

There is considerable evidence, as described in Section IV, that there was a lack of clarity in Mr. Court’s reporting lines. Mr. Durkin claims that it was not his responsibility to supervise Mr. Court, but it was, by Mr. Durkin’s own account, his decision to hire Mr. Court as the strength coach. Mr. Durkin worked closely with Mr. Court virtually every day, and Mr. Durkin delegated great authority to Mr. Court. It is a head coach’s responsibility to establish and maintain a healthy, positive environment for his players, and to hire coaches and staff who support

these efforts. Therefore, he bears some responsibility when Mr. Court, the Assistant AD for Football Performance, exhibits unacceptable behavior.

At the same time, we must acknowledge factors that likely played a role in Mr. Durkin's failure to adequately address Mr. Court's behavior. As a first-time head coach, Mr. Durkin heavily modeled his program after coaches for whom he previously worked—most notably, Urban Meyer and Jim Harbaugh—who have achieved great success as tough, no-nonsense leaders. Mr. Durkin was hired under high-pressure circumstances and tasked with turning a struggling football program into a Big Ten contender, with less funding and fan support than other conference programs. The Athletics Department provided little education around, or support to handle, the myriad administrative responsibilities of a head coach, tasks Mr. Durkin had not been delegated in previous jobs as a coordinator or position coach.

The Athletics Department leadership shares responsibility for the failure to supervise Mr. Court. The confusion over to whom Mr. Court reported is a striking illustration of the Athletics Department's disarray. Mr. Court's contract designated the head football coach as Mr. Court's direct report. Mr. Evans and Maryland's current Deputy AD agree that Mr. Court was supervised by Mr. Durkin. Mr. Anderson and Mr. Durkin, however, contend that Mr. Court reported to an Associate AD, Dr. David Klossner. Dr. Klossner denies this, but also states he did supervise the S&C coach during Randy Edsall's tenure as head coach. Mr. Court

was not certain to whom he reported. Organization charts reviewed by the Commission were inconsistent regarding Mr. Court's reporting lines. Mr. Court was not subject to annual performance reviews, nor was there any other concrete mechanism by which the Athletics Department made Mr. Court accountable to the University's standards. This confusion diluted Mr. Court's accountability.

**E. The University Leadership Bears Some Responsibility for the Ongoing Dysfunction of the Athletics Department**

For more than two years, the Athletics Department suffered from high leadership turnover rates, dissension, and internal rivalries. The President's Office became involved in 2016 and engineered Mr. Anderson's removal, initially by designating him for a six-month sabbatical in October 2017. Dr. Loh candidly states that, in retrospect, he wished he had moved sooner to change leadership. This period of uncertainty further exacerbated ongoing turmoil in the Athletics Department.

We recognize it can be difficult to make leadership changes, and this often involves a protracted process. Yet, Mr. Anderson's sabbatical led to an extended absence of effective leadership, as Mr. Evans was not named AD until July 2, 2018, about nine months after Mr. Anderson took leave.

As discussed in Section IV, there was a schism in the Athletics Department. The Athletics Department dysfunction was largely due to a chasm between Mr. Anderson and Deputy AD Evans. There are competing views regarding the causes

of, and responsibility for, this division. What is clear is that this schism caused the Athletics Department to operate at a suboptimal level for an extended period.

Based on NCAA Bylaw 6.1.1, two members of the Commission would assign ultimate responsibility to the University leadership for the ongoing dysfunction of the Athletics Department.<sup>125</sup>

**F. The Maryland Football Team did not have a “Toxic Culture,” but it did have a Culture Where Problems Festered Because Too Many Players Feared Speaking Out**

Toxic means “extremely harsh, malicious, or harmful.”<sup>126</sup> By definition, Maryland’s football culture was not toxic.

There was no uniform rejection of Maryland’s coaching staff, and no uniform rejection of the treatment of players, by any of the groups of stakeholders interviewed by this Commission. The lone, clear consistency was that Mr. Court’s level of profanity was often excessive and personal in nature. In light of our conclusion that Maryland’s football culture was not “toxic,” we do not find that the culture caused the tragic death of Jordan McNair.

If the culture had been “malicious or harmful,” Mr. Durkin would not have earned the loyalty and respect of many of his student-athletes and coaches. Many

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<sup>125</sup> See NCAA Bylaw 6.1.1 (“A member institution’s president or chancellor has ultimate responsibility and final authority for the conduct of the intercollegiate athletics program and the actions of any board in control of that program.”).

<sup>126</sup> Merriam-Webster Dictionary, available at <https://www.merriam-webster.com/dictionary/toxic>.

players interviewed by the Commission felt Mr. Durkin's and Mr. Court's coaching tactics reflected those of a "big time football program." Players, parents, and staff shared stories of generosity and commitment regarding Mr. Durkin and his wife, Sarah. The mother of a former player recounted how her son's employer said Coach Durkin's job reference was the strongest he had ever heard. After more than ten hours of interviews with Mr. Durkin, we believe his concern for his players' welfare is genuine.

Yet many players, parents, and coaches lodged complaints with the Commission about both Mr. Durkin and Mr. Court. Frustrations were shared about the intensity and length of practices and workouts, insufficient recovery time, and the aforementioned issues with Mr. Court. While many acknowledged Mr. Durkin is a fiery and effective motivator and communicator, they felt he could better inspire players if he made a greater effort to listen to their concerns.

Mr. Durkin advertised an "open door" policy, but many players and assistants felt this did not extend to those whose opinions did not align with Mr. Durkin's. Some coaches feared sharing criticisms about Mr. Court. They feared retribution or dismissal of their concerns because of the closeness of Mr. Durkin and Mr. Court. Some chose, instead, to leave the program. One former assistant said "[w]hen you're at the mercy of leadership, you don't want to be at the mercy of their mistakes . . . I needed to get out." Several dissenting coaches explained

they prefer a more “nurturing” approach with players. Others didn’t mind “tough love,” but cited the need for counterbalance. “If you get on a player for doing something wrong,” one coach opined, “you have to go back later . . . and put a hand on his shoulder and let him know you care. I don’t think DJ did that.”

For generations, the dynamic between coach and football player has been akin to that of parent and child. Because the coach is the authority figure, the player should respect the coach, follow the rules, and not complain. This appears to reflect the general mindset of Maryland’s players. Although Mr. Durkin created a Leadership Council to, in part, serve as a pipeline to the head coach, players rarely felt comfortable sharing concerns with him. Players also told the Commission there was little benefit in approaching Mr. Durkin with frustrations, particularly about Mr. Court, because they viewed Coaches Court and Durkin as “the same person.”

**G. Maryland Should Institute a Strong “Medical Model” for Student-Athlete Care to Improve Health Outcomes and Ensure that the University is a Leader in Collegiate Sports Medicine Best Practices**

To re-establish trust with the student-athletes and other constituencies it serves, the University has no credible alternative but to become a leader in the development and implementation of sports medicine best practices. We urge the University to strongly consider the recommendations made in Section XI of this

report and the Walters, Inc. report of September 21, 2018, to accomplish that objective.

**H. There is Common Ground to be Found Amongst All of the Maryland Constituencies We Heard from, Providing a Basis for Moving Forward Together**

While we heard both harsh criticism and high praise about Maryland football, the players, parents, coaches, and staff were unanimous in their passion for the program. All constituencies want the players to develop to be the best athletes and students they can be. Many current players describe the team as a close-knit unit, one committed to representing the University to the best of their ability. With critics and supporters united in these objectives, the Commission feels there is a strong climate for moving forward together. In the next section, we provide recommendations to help accomplish that.

**XI. Recommendations**

**A. Strength and Conditioning Recommendations**

**1. Background**

Strength and conditioning coaches have been a fixture in collegiate athletics programs since the 1970s.<sup>127</sup> Today, these coaches play a critical role in training and conditioning college athletes across all major sports, and nowhere is that more true than in football. Strength and conditioning coaches wield enormous influence

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<sup>127</sup> See <http://www.csc.ca.org/about>.



over players, so much so that one former coach referred to them as the “head coaches of the off-season.”<sup>128</sup> Consequently, they wield enormous influence with head coaches and power over student-athletes.

The specific duties of S&C coaches vary among programs but generally consist of not only managing and administering exercise and weight training to improve and optimize performance, but also monitoring player health metrics to ensure they are ready to compete on the field.<sup>129</sup>

S&C coaches’ domain is a unique one, where profanity is often commonplace and the sight of objects being slammed and weights being hurled is not entirely unexpected.<sup>130</sup> What would be deemed unacceptable in most workplace environments is the norm in many weight rooms, particularly during

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<sup>128</sup> Brian Costa *et al.*, *The Wall Street Journal*, “Strength Coaches in College Football Have Become Strongmen,” August 18, 2018 (quoting Rick Neuheisel as stating “[t]hey get indoctrinated into this ‘head coach of the off-season’ society, and then the strength coach basically hands the team over to the head coach.”), <https://www.wsj.com/articles/strength-coaches-in-college-football-have-become-strongmen-1534506902>.

<sup>129</sup> Brian Costa *et al.*, *The Wall Street Journal*, “Strength Coaches in College Football Have Become Strongmen,” August 18, 2018, <https://www.wsj.com/articles/strength-coaches-in-college-football-have-become-strongmen-1534506902>.

<sup>130</sup> See, e.g., YouTube videos featuring Scott Cochran, football strength coach at the University of Alabama: <https://www.youtube.com/watch?v=JVFI0j8mwPs>; <https://www.youtube.com/watch?v=Ynt6UCzkdcc>. Mr. Cochran is also known for slamming and destroying a second-place trophy to motivate the team before the 2018 national title game. See [https://www.youtube.com/watch?v=R4McW2\\_-j9g](https://www.youtube.com/watch?v=R4McW2_-j9g). Other YouTube videos feature University of Oregon Strength and Conditioning Coordinator Aaron Feld: <https://www.youtube.com/watch?v=QB45uARFxFNs>; and University of Pittsburgh Strength and Conditioning Coach Dave Andrews: <https://www.youtube.com/watch?v=FwLy7agYGo>.

Recently, one of the strength coaches at Louisiana State University (commonly known as LSU) was featured on ESPN for head-butting an LSU football player who was wearing a helmet, while the coach was not wearing a helmet, during an in-conference home game. See <https://www.facebook.com/ESPN/videos/lsu-strength-coach-goes-wild/2276130299127345/>.

football training periods. Many feel this is part of a process that makes student-athletes “tougher,” pushing them to (and beyond) their limits, so they may thrive as individuals and teammates. But ultimately, this mindset is subjective, and has been called into question during our investigation.

Football coaches and athletics directors have increasingly come to see strength coaches as essential to successful programs. This has led to head strength coaches earning up to \$675,000 per year.<sup>131</sup> With increased compensation comes increased pressure.

Commission member Doug Williams is familiar with this issue, as a college football player and head coach, and as a NFL player and front office executive:<sup>132</sup>

Strength coaches are always looking for an edge in an incredibly competitive environment. Games can often come down to a single man on man competition, where a block made or a tackle broken can decide a game. It’s the strength coach’s job to make sure those competitions are decided in his player’s favor. So the strength coach’s job is to make his players stronger, faster and tougher than his opponent’s players. That means pushing his players to their limits, and increasing those limits. A strength coach has to be tough and relentless: but he must also do this in a manner that is not demeaning or dehumanizing.

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<sup>131</sup> See <http://sports.usatoday.com/ncaa/salaries/football/strength>.

<sup>132</sup> Mr. Williams was the first African-American to start a Super Bowl at quarterback, in Super Bowl XXII. He was named the game’s most valuable player. See [https://www.washingtonpost.com/sports/doug-williamss-super-bowl-win-30-years-ago-changed-the-game-for-black-quarterbacks/2018/01/30/6a5f2d06-05f0-11e8-b48c-b07fea957bd5\\_story.html?utm\\_term=.22fcae2486e5](https://www.washingtonpost.com/sports/doug-williamss-super-bowl-win-30-years-ago-changed-the-game-for-black-quarterbacks/2018/01/30/6a5f2d06-05f0-11e8-b48c-b07fea957bd5_story.html?utm_term=.22fcae2486e5).

Pushing the human body to its limits has been part of sport since time immemorial. The marathon's distance of 26.2 miles celebrates the run of a soldier, who (legend has it) ran that distance to Athens in 490 B.C., announced the Athenians' defeat of the Persians at the Battle of Marathon, and then collapsed and died.<sup>133</sup>

Football is a “gladiator sport” where pushing to and through exhaustion is celebrated. But it has not been without consequence. From 2000 to 2016, a tragic total of 33 college football players died during training.<sup>134</sup> Only six of those deaths resulted from player-to-player collisions.<sup>135</sup> Those who choose to play in the most competitive environments imaginable, like Doug Williams and Bob Ehrlich in football, Tom McMillen in basketball, and Bonnie Bernstein in college gymnastics, recognize that pushing their bodies to their limits is part of the commitment needed to compete at that level. But from their experiences, all concur that this effort should be accompanied by positive, not degrading, motivation, and that training should be informed by the best practices currently available. This means adhering to established guidelines and limits on the methods that S&C coaches may use to train and inspire student-athletes in their charge.

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<sup>133</sup> See <https://www.livescience.com/11011-marathons-26-2-miles-long.html>.

<sup>134</sup> See [https://www.wsj.com/articles/strength-coaches-in-college-football-have-become-strongmen-1534506902?mod=hp\\_lead\\_pos10](https://www.wsj.com/articles/strength-coaches-in-college-football-have-become-strongmen-1534506902?mod=hp_lead_pos10).

<sup>135</sup> See [https://www.wsj.com/articles/strength-coaches-in-college-football-have-become-strongmen-1534506902?mod=hp\\_lead\\_pos10](https://www.wsj.com/articles/strength-coaches-in-college-football-have-become-strongmen-1534506902?mod=hp_lead_pos10).

## 2. Strength and conditioning rules and guidance

General mandates are set forth in the NCAA Division I Manual (the “Manual”), which states that “[i]t is the responsibility of each member institution to protect the health of, and provide a safe environment for, each of its participating student athletes.”<sup>136</sup> The Manual also affirms that it is the duty of “each member institution to establish and maintain an environment that fosters a positive relationship between the student-athlete and coach.”<sup>137</sup>

More specifically, S&C coaches must be certified in cardiopulmonary resuscitation and first aid.<sup>138</sup> If a member of the sports medicine staff is present during a workout, that individual “must be empowered with unchallengeable authority to cancel or modify the workout for health and safety reasons.”<sup>139</sup> Also, S&C coaches “shall be certified and maintain current certification through a nationally accredited strength and conditioning certification program.”<sup>140</sup> The Commission has identified at least 11 qualifying certification programs and standards, a few examples of which are described below.<sup>141</sup>

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<sup>136</sup> 2017–18 NCAA Division I Manual 2.2.3.

<sup>137</sup> 2017–18 NCAA Division I Manual 2.2.4.

<sup>138</sup> 2017–18 NCAA Division I Manual 13.11.3.8.2.

<sup>139</sup> 2017–18 NCAA Division I Manual 13.11.3.8.2.

<sup>140</sup> 2017–18 NCAA Division I Manual 11.1.5.

<sup>141</sup> See <http://postemapformance.com/strength-and-conditioning-certifications-coach/>.

a) CSCCa-SCCC certification and CSCCa guidance

One example is the Collegiate Strength & Conditioning Coaches association's ("CSCCa's") Strength and Conditioning Coach Certified ("SCCC") program.<sup>142</sup> To obtain this certification, an individual must be a full-time collegiate or professional S&C coach, have a bachelor's degree from an accredited institution, complete a CPR/AED/First Aid course, pass additional written and practical exams, and have either 12 years of full-time experience with a collegiate or professional athletic team or complete a 640-hour CSCCa-approved internship.<sup>143</sup>

The CSCCa also requires SCCC certificate holders to adhere to its Code of Conduct, which requires coaches to:

- Comply and adhere to all institutional policy and procedures (collegiate or professional franchise—NCAA, NBA, NFL, MLB, etc.).
- Treat and train every athlete with the utmost care and to the highest level of professional competence, not discriminating on the basis of race, color, sex, age, religion, or national origin.
- Train athletes only as their medical conditions warrant, maintaining confidentiality of the athlete's personal medical information.<sup>144</sup>

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<sup>142</sup> See <http://postemapformance.com/strength-and-conditioning-certifications-coach/>.

<sup>143</sup> See [http://www.csc.ca.org/certification/sccc/not\\_fulltime](http://www.csc.ca.org/certification/sccc/not_fulltime;);  
[http://www.csc.ca.org/certification/sccc/12\\_years\\_fulltime](http://www.csc.ca.org/certification/sccc/12_years_fulltime).

<sup>144</sup> CSCCa Code of Conduct, available at <http://www.csc.ca.org/missionstatement/cscacodeofconduct>.

The CSCCa has also published on its website a compilation of recommendations and best practices for football S&C coaches.<sup>145</sup> These standards expressly state that “training programs should take into account the level of conditioning of each athlete, as well as any medical problems or conditions that might predispose the individual to be adversely affected during conditioning activities.”<sup>146</sup> The CSCCa also recommends that special care be taken with athletes who have spent significant time away from training:

Studies have shown that extended periods away from training reduce an individual’s physical condition, occurring within as little as four weeks. One study showed that after an 8-week break in training that it can take as many as 20 weeks to get an athlete back to his peak level of conditioning. In spite of significant time constraints and immense pressure to have athletes at peak levels of performance, it is the responsibility of the strength and conditioning staff to thoroughly evaluate the level of conditioning of all returning athletes and to properly prescribe the appropriate volume, load, and intensity of training, as well as sufficient recovery, to protect the health and safety of the student athlete. We feel this requires more consistent and on-going supervision.<sup>147</sup>

It is also recommended that S&C coaches, in collaboration with trainers and medical personnel, adopt measures to address the risks of athletes training in the heat:

For a variety of reasons, some athletes return un-acclimated to the heat. It is the responsibility of the strength and conditioning coach to help the athlete adapt to the physical demands of the climate in a

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<sup>145</sup> “Football Strength and Conditioning: CSCCa Recommendations and Best Practices,” available at <http://www.csc.ca.org/educationalresources/healthandsafety>.

<sup>146</sup> “Football Strength and Conditioning: CSCCa Recommendations and Best Practices” at 1.

<sup>147</sup> “Football Strength and Conditioning: CSCCa Recommendations and Best Practices” at 2.

responsible manner. Heat stroke deaths are preventable if the training sessions are closely monitored and if athletes have been properly acclimated. Fluids should be readily available and actively encouraged throughout practice and conditioning training sessions. Athletes and coaches, alike, should be educated on effective strategies to ensure proper hydration and reduce the risk for heat illnesses. Strength and Conditioning Coaches, Athletic Trainers, and Medical Personnel should share in the responsibility of monitoring and protecting the athlete from the dangers of heat exhaustion and heat stroke.<sup>148</sup>

b) NCAA Sports Medicine Handbook

Another set of relevant guidelines are contained in the NCAA Sports Medicine Handbook (“NCAA Handbook”). It also emphasizes “safe performance” and underscores the importance of accounting for nutrition and injury prevention in devising training and conditioning regimens.

The first step to safe performance is thorough and competent training of strength and conditioning coaches. Strength and conditioning professionals apply scientific knowledge to train athletes for the primary goal of improving athletic performance. They conduct sport-specific testing sessions, design and implement safe and effective strength training and conditioning programs, monitor facilities for safety, and convey principles of nutrition and injury prevention as a member of the performance team. Recognizing that their area of expertise is separate and distinct, strength and conditioning coaches can consult with and refer student-athletes to other athletics health care professionals when appropriate.<sup>149</sup>

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<sup>148</sup> “Football Strength and Conditioning: CSCCa Recommendations and Best Practices” at 2.

<sup>149</sup> 2014–15 NCAA Handbook at 30–31.

c) Big Ten Conference standards

Similarly, the Big Ten Conference Standards for Safeguarding Institutional Governance of Intercollegiate Athletics (the “Big Ten Standards”) require member institutions to “[a]ssure that medical and athletic training staff who provide medical services to student-athletes are able to exercise their best professional judgment in caring for student-athletes.”<sup>150</sup> Specifically, each institution shall design standards that:

- Prevent coaches from (i) having direct responsibility for, or exercising undue or improper influence over, the hiring or supervision of any member of the medical or athletic training staff who works with the coach’s own team, and (ii) attempting to influence inappropriately any member of the medical or athletic training staff regarding the medical treatment of a student athlete.
- Allow for effective implementation of and adherence to institutional policies, procedures, and/or protocols regarding student-athlete concussions.
- Place priority on the student-athlete’s health over other considerations.<sup>151</sup>

In addition to the above requirements, the Big Ten Standards recommend “that the Director of Sports Medicine Services should report to an academic or medical administrator outside the Athletics Department, either exclusively or as a dual report to the administrator and the Athletics Director.”<sup>152</sup> The Big Ten

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<sup>150</sup> Big Ten Standards at 6.

<sup>151</sup> Big Ten Standards at 6.

<sup>152</sup> Big Ten Standards at 6.



Standards are distinctive insofar as they not only prescribe substantive guidelines concerning risks and best practices, but also contain specific recommendations for reporting and oversight. Together, these standards emphasize the importance of S&C coaches (and indeed all coaches and members of the Athletics Department) seeking and respecting the independent judgment of medical and training staff.

d) University of Maryland Internal Standards

In addition to having guidance from the NCAA and Big Ten, the University of Maryland has published its own Maryland Athletics Policy and Procedures (“MAPP”) manual.<sup>153</sup> According to the MAPP, “[s]trength staff members are expected to treat student-athletes with dignity and respect at all times. Although the risk of confrontational situations exist in the physical training environment, strength coaches must behave in a professional manner, despite the circumstances.”<sup>154</sup> The MAPP additionally provides that “the strength and conditioning unit will prepare a manual as a training guide to all members of the strength and conditioning staff, including full time, part time, and intern coaches.”<sup>155</sup>

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<sup>153</sup> MAPP Section 8.

<sup>154</sup> MAPP at 92.

<sup>155</sup> MAPP at 92.

e) Other Strength and Conditioning Guidance

In 2012, the Journal of Athletic Training published a set of Best Practices Recommendations by the Inter-Association Task Force for Preventing Sudden Death in Collegiate Conditioning Sessions (“2012 Task Force Best Practices”).<sup>156</sup> The 2012 Task Force Best Practices encourage, among other recommendations, that collegiate S&C personnel:

- **Acclimatize Progressively for Utmost Safety.** “Conditioning periods should be phased in gradually and progressively to encourage proper exercise acclimatization and to minimize the risk of adverse effects on health.”
- **Do Not Use Exercise and Conditioning Activities as Punishment.** “Physical activity should not be used as retribution, coercion, or as discipline for unsatisfactory athletic academic performance or unacceptable behavior.”
- **Be Cognizant of Medical Conditions.** “The likelihood of preventing problems is enhanced when [S&C coaches], sport coaches, and the medical staff are aware of the athlete’s medical history, supplement use, medications, conditioning status, and acute illnesses, as well as other predisposing risk factors.”
- **Administer Strength and Conditioning Programs.** “Ideally, a sport coach should not serve as the primary supervisor for an athletic health care provider or for [a S&C coach], nor should he or she have sole hiring or firing authority over those

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<sup>156</sup> Casa *et al.*, The Inter-Association Task Force for Preventing Sudden Death in Collegiate Conditioning Sessions: Best Practices Recommendations, *Journal of Athletic Training*, August 2012; 47(4), 477–80.

positions. The [S&C coach] should work closely and cooperatively with the sports medicine staff.”<sup>157</sup>

Finally, the United States Army has published standards that govern physical training of soldiers for military combat, many of which are remarkably consistent with the above. According to the Department of the Army’s Field Manual No. 21-20:

Leaders should not punish soldiers who fail to perform to standard. Punishment, or especially excessive repetitions or additional [physical training], often does more harm than good. Leaders must plan special training to help soldiers who need it.<sup>158</sup>

Field Manual No. 21-20 also emphasizes the need for leaders to understand soldiers as individuals and to motivate them to put forth their personal best:

To foster a positive attitude, unit leaders and instructors must be knowledgeable, understanding, and fair, but demanding. They must recognize individual differences and motivate soldiers to put forth their best efforts. However, they must also emphasize training to standard. Attaining a high level of physical fitness cannot be done simply by going through the motions. Hard training is essential.<sup>159</sup>

Overall, the applicable rules and available guidelines collectively place a number of duties on S&C coaches, including the responsibility to: (1) maintain positive and healthy relationships with student-athletes; (2) understand and account for athletes’ physical and medical conditions as well as the environmental

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<sup>157</sup> Casa *et al.*, The Inter-Association Task Force for Preventing Sudden Death in Collegiate Conditioning Sessions: Best Practices Recommendations, *Journal of Athletic Training*, August 2012; 47(4), 477–80.

<sup>158</sup> Field Manual No. 21-20 at 1-1.

<sup>159</sup> Field Manual No. 21-20 at 1-2.

conditions in which they are training; (3) work with health care professionals to ensure that athletes are training safely; and (4) honor and ultimately accede to the independent judgment of medical and training staff. Other recommended practices include refraining from the use of extra physical training as punishment and providing oversight of the S&C coach outside of the head football coach. Scott Stricklin, the AD at the University of Florida, said that S&C staff and athletic trainers report to athletics department officials to ensure independence from coaching influences.

### 3. Recommendations concerning strength and conditioning

Based upon its investigation, the Commission concludes there are significant deficits in the performance and perception of the S&C program at Maryland. Remedying this facet of Maryland's football program should be a key priority for the University. The Commission recommends changes to oversight and governance, formal adoption and codification of best practices, greater public transparency of training and exercise regimens in the weight room and on the field, and regular and successive audits and surveys to monitor and evaluate progress.

The Commission's recommendations include:

- Maintain new reporting structure where strength and conditioning coaches report directly to an associate AD, not the head coach of the football program. We have discussed this reporting arrangement with several athletics directors who employ it, and all endorse its effectiveness.

- Prevent S&C coaches from influencing medical and training staff.
- Adopt and incorporate recommendations and best practices developed by CSCC for football strength and conditioning, as well as the 2012 Task Force Best Practices.
- Install video cameras in weight rooms and increase public access to team practices and individual training.
- Authorize a qualified, independent third party to conduct audits every two years of the strength and conditioning program.
- Establish improved methods of conducting anonymous student surveys.

In late September 2018, Maryland AD Damon Evans announced that the football program's S&C coach would report to the Associate AD for Sports Performance instead of the head coach.<sup>160</sup> Before this, the Commission heard disagreement and confusion among players and staff about who reported to whom.

Lines of supervisory responsibility should be explicit and clear. The Commission recommends maintaining the adopted model where the Associate AD, not the team's head coach, supervises and is responsible for the work of the S&C coach. A recent survey of athletics directors shows a strong, emerging best practice of S&C coaches reporting to a senior administrator. Finally, shifting

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<sup>160</sup> See Rick Maese & Roman Stubbs, *Motivation or abuse? Maryland confronts football's fine line as new allegations emerge*, *Washington Post*, September 30, 2018, available at [https://www.washingtonpost.com/sports/colleges/motivation-or-abuse-maryland-confronts-football-fine-line-as-new-allegations-emerge/2018/09/30/e7ab028e-c3dd-11e8-b338-a3289f6cb742\\_story.html?utm\\_term=.043c5f6b2975](https://www.washingtonpost.com/sports/colleges/motivation-or-abuse-maryland-confronts-football-fine-line-as-new-allegations-emerge/2018/09/30/e7ab028e-c3dd-11e8-b338-a3289f6cb742_story.html?utm_term=.043c5f6b2975).

oversight would help ensure that S&C programs are aligned with the University's overall commitment to the health and safety of its student-athletes, giving senior administrators a direct line to convey and reinforce that message.

The Commission also recommends that the University put in place guidance that precludes S&C coaches from influencing or interfering with the decisions of medical and training staff. Big Ten Standards already call for this in principle. Formalizing and emphasizing this with respect to the S&C coaching staff is critical given the central role these coaches perform in the weight room and on the field.

The Commission recommends the installation of video cameras in the weight room, available for regular review by coaches, University administrators, and medical and training staff. Transparency and access will ensure a level of public accountability that has been absent, as well as a safeguard against verbal and physical abuse.

In addition, the Commission recommends greater public access to team practices. The program can impose conditions on access that respect the privacy of the student-athletes and account for the competitive nature of collegiate sports. Although there are legitimate reasons to conduct team activities away from the public, the occasion to do so should be the exception, not the rule. Mr. Evans has advised the Commission that this may be done without jeopardizing team strategy. Opening up what happens during preseason and regular season practices will

prevent potential abuse in the short term and significantly enhance public trust and accountability in the long run.

This Commission was convened in the wake of tragedy, exposing a number of concerns. The University's commitment to addressing these issues cannot be limited to what comes of this single effort. It must be prepared to diagnose and tackle new challenges head-on, and confront deficiencies that, despite the Commission's good faith efforts, may have escaped our analysis. The Commission therefore recommends that, once every two years, the University authorize a qualified, independent third party to conduct reviews of the S&C program. We feel this would convey the level of unwavering commitment student-athletes, their parents, and the University community deserve, and guarantee that lingering issues will not be swept under the rug. These recommendations will empower Maryland Football to reinvent itself with the goal that its governance and best practices will become the "gold standard" in college football.

The Commission also recommends that, in order to ensure trustworthy input from student-athletes, the University establish better methods of conducting anonymous surveys among players with greater participation rates. One ACC school, for example, has been able to consistently obtain 100% participation by bringing the entire football team into a single room, having players complete the anonymous, online survey on their phones, and not allowing them to leave until

they show on their phone that they have completed the survey. (This is similar to how we conducted the September 9, 2018 survey). Questions cover many topics including academics, coaches, central administration, S&C, training, and physical abuse and sexual conduct, and ask for scaled 1 to 5 responses that allow administrators to focus on coaches who are consistently performing outside the normal range. The Commission finds the failure to conduct consistent exit interviews and low survey participation among current players has hamstrung the ability of the football program to appreciate the breadth and depth of certain issues.

## **B. Independent Medical Care Model Recommendation**

### **1. Background**

Competing in the hyper-competitive world of Division I football requires athletes to be at the peak of their physical capabilities at all times. An injured player who returns to play too soon raises serious risks of exacerbating previous injuries, becoming newly injured, or even suffering a serious injury that ends a player's athletic career. Extreme injuries can cause life-long consequences and impairment. These concerns are ever-present in the minds of athletes and those who coach and train them.

The National Center for Catastrophic Sport Injury Research publishes an annual survey of football injuries; one of the co-authors of the 2018 report was Dr. Klossner. During the 2017 season in high school and college football, there



were four fatalities caused by brain or spinal injuries resulting directly from participating in football games and practices, and nine fatalities caused by systemic failure due to overexertion during football activities.<sup>161</sup>

Given these serious risks, a program's medical personnel are placed in a difficult position of having to approve or deny permission for players to return to a game or practice. Coaches typically want their players back on the field as soon as possible. Players frequently feel the same way. For a medical provider to forbid the player from returning to the field takes both substantial confidence and assurance that this will not reflect negatively on their position.

## 2. Health and safety rules and guidance

### a) NCAA Rules

The NCAA recognizes the vital importance of ensuring student-athletes receive prompt medical attention, with their health as the primary concern. The NCAA has instructed that universities:

should establish an administrative structure that provides independent medical care and affirms the unchallengeable autonomous authority of primary athletics health care providers (team physicians and athletic trainers) to determine medical management and return-to-play decisions related to student-athletes.<sup>162</sup>

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<sup>161</sup> NCCSIR Report at 5, available at <https://nccsir.unc.edu/files/2013/10/Annual-Football-2017-Fatalities-FINAL.pdf>.

<sup>162</sup> See <http://www.ncaa.org/sport-science-institute/athletics-health-care-administration-best-practices-0>.

This care is intended to focus—first and foremost—on the athletes. “The foundational approach for independent medical care is to assume an ‘athlete-centered care’ approach . . . which refers to the delivery of health care services that are focused only on the individual patient’s needs and concerns.”<sup>163</sup> The NCAA releases extensive sports medicine guidelines to guide medical providers in their treatment of athletes.<sup>164</sup>

To best address each individual athlete’s needs, the NCAA has advanced ten guiding principles to assure independent, objective medical care for student-athletes, which we recommend UMD adopt:

1. The physical and psychosocial welfare of the individual student-athlete should always be the highest priority of the athletic trainer and the team physician.
2. Any program that delivers athletic training services to student-athletes should always have a designated medical director.
3. Sports medicine physicians and athletic trainers should always practice in a manner that integrates the best current research evidence within the preferences and values of each student-athlete.
4. The clinical responsibilities of an athletic trainer should always be performed in a manner that is consistent with the written or verbal instructions of a physician or standing orders and clinical management protocols that have been approved by a program’s designated medical director.

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<sup>163</sup> See <http://www.ncaa.org/sport-science-institute/athletics-health-care-administration-best-practices-0>.

<sup>164</sup> See <http://www.ncaapublications.com/productdownloads/MD15.pdf>.

5. Decisions that affect the current or future health status of a student-athlete who has an injury or illness should only be made by a properly credentialed health professional (*e.g.*, a physician or an athletic trainer who has a physician's authorization to make the decision).
6. In every case that a physician has granted an athletic trainer the discretion to make decisions relating to an individual student-athlete's injury management or sports participation status, all aspects of the care process and changes in the student-athlete's disposition should be thoroughly documented.
7. Coaches must not be allowed to impose demands that are inconsistent with guidelines and recommendations established by sports medicine and athletic training professional organizations.
8. An athletic trainer's role delineation and employment status should be determined through a formal administrative role for a physician who provides medical direction.
9. An athletic trainer's professional qualifications and performance evaluations must not be primarily judged by administrative personnel who lack health care expertise, particularly in the context of hiring, promotion and termination decisions.
10. Member institutions should adopt an administrative structure for delivery of integrated sports medicine and athletic training services to minimize the potential for any conflicts of interest that could adversely affect the health and well-being of student-athletes.<sup>165</sup>

The linchpin of this system is that the medical personnel's decision is entirely autonomous from coaching decisions. The NCAA Sports Medicine

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<sup>165</sup> See <http://www.ncaa.org/sport-science-institute/athletics-health-care-administration-best-practices-0>; [https://www.ncaa.org/sites/default/files/2017SSI\\_IndependentMedicalCare\\_20170626.pdf](https://www.ncaa.org/sites/default/files/2017SSI_IndependentMedicalCare_20170626.pdf).

Handbook's Guideline 1B charges athletics and institutional leadership to “create an administrative system where athletics healthcare professionals—team physicians and athletic trainers—are able to make medical decisions with only the best interests of student-athletes at the forefront.”<sup>166</sup>

b) Football Practice Guidelines

Football practice guidelines also undergo routine updates in order to create the safest environment possible for these athletes to train. With greater attention to concussions and other health issues facing football players, these practice guidelines have undergone enhanced scrutiny in recent years. The NCAA updated its recommendations in January 2017 in an effort to enhance player safety:

- **Preseason:**
  - Discontinue two-a-day practices. (A second session may include walkthroughs or meetings but no helmets, pads or conditioning.)
  - Extend the preseason by one week.
  - Reduce live tackling or thud practices from four to three a week.
  - Ensure three noncontact or minimal contact practices per week.
  - Ensure noncontact or minimal contact practices are held the day after a scrimmage.
  - Implement one day per week without practice.

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<sup>166</sup> See <http://www.ncaa.org/sport-science-institute/athletics-health-care-administration-best-practices-0>.

- **In season:**
  - Permit only one live contact tackling practice per week.
  - Permit only one live contact thud practice per week.
  - Implement three or more noncontact or minimal contact practices per week.
- **Postseason:**
  - If more than two weeks elapse between the final regular-season or conference championship game and a bowl or postseason game, then allow up to three practices per week of live contact (including two thud); add three days of noncontact or minimal contact practices per week; and ensure the day preceding and after live contact tackling practices should be noncontact or minimal contact.
- **Spring season:**
  - Hold a noncontact or minimal contact practice every day after a live scrimmage.<sup>167</sup>

We recommend that the University adopt these guidelines as required standards for the football program.

### 3. Recommendations concerning an independent medical care model

When a player experiences or shows signs or symptoms of trauma or reports suffering a serious injury during a game or practice, he should receive immediate medical attention. Regardless of whether this player believes he can return to the

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<sup>167</sup> See <http://www.ncaa.org/about/resources/media-center/news/football-practice-guidelines-updated>.

field, an appropriate medical provider should provide a full examination of the possible injury and should not allow the player to return without the approval of the medical provider. In order to enhance accountability, this authorized medical provider should be identified before each game and practice.

Mandatory medical examinations should be passed before allowing an athlete to participate in football practices or games. These examinations should occur before each season begins, requiring documentation of this examination and approval to practice and play from medical personnel. The medical provider who performs these examinations should not report to football coaches.

Where a player believes he is ready to return to the field but the medical personnel disagrees, under no circumstance should the player be allowed to return to the field. Only when the medical provider believes that the player is ready to return should the player be allowed to return to a game or practice.

UMD should retain the authority to decide who employs the medical personnel overseeing the football program. Options include UMD itself, the University of Maryland, Baltimore, or a third-party.

Finally, all health care providers and staff with sports performance responsibilities should meet regularly to holistically discuss student-athlete health and well-being. This team should work collaboratively to adopt new best practices

as they emerge and share insights regarding specific student-athlete health concerns.

The May 19, 2017 memorandum from Mr. Anderson to Dr. Loh advocated for enhanced collaboration between UMD and the University of Maryland, Baltimore, along with the implementation of a new integrated program in sports medicine. This program was not adopted due to cost concerns and a lack of coordination with athletic trainers. However, this type of cooperation between institutions to achieve NCAA best practices in sports medicine reflects a desirable goal that should be pursued.

### **C. Improving Accountability in the Athletics Department**

Best practices in the area of Athletics Department organizational compliance are evolving. Accordingly, these recommendations are general in nature, and we would expect the governance of the Athletics Department to evolve as intercollegiate athletics practices evolve. These recommendations seek to address the most significant areas for improvement that we observed:

**Management by Walking Around.** There is no replacement for being present. The physical attendance of senior athletic administrators and sport supervisors at practices and team events sends a strong signal to student-athletes and other members of the athletics community that they are important and valued. The AD and sport supervisors should spend more time on the sidelines, in the

stands, the weight room, or otherwise observing team practices and participating in team activities.

**Organizational Structure and Position Descriptions.** Athletics

Department leadership should analyze and, as warranted, revise the organizational structure of the Athletics Department and clearly define lines of authority, responsibility, and reporting relationships. The compliance function of the Athletics Department should have a reporting relationship to the University's Office of General Counsel ("OGC"), as well as the AD. Many universities are moving toward a centralized compliance function. Were the University to do that, the Chief Compliance Officer could be substituted for the OGC. The Athletics Department should maintain on its intranet site a current organizational chart depicting the structure of the department. To the extent not already in existence, the department should establish position descriptions for each non-student-athlete athletics community member.

**Comparative Analysis.** The University should compare the University's athletics compliance unit to that of its peers for purposes of evaluating the adequacy and appropriateness of its current staffing level and resources.

**Code of Conduct.** The Athletics Department should consider adopting a code of conduct for all Athletics Department staff. This code of conduct would complement any other written standards of conduct applicable to the broader



University community. It should reflect the Athletics Department staff's commitment to comply fully with applicable policies, procedures, and rules put in effect by the NCAA and the Big Ten Conference, require the Athletics Department staff to report suspected violations of those organizations' rules and of the University's own policies and procedures, and affirm the right of Athletics Department staff to report suspected violations, anonymously if desired, free from threat or fear of retaliation, and with the knowledge that their reports will be maintained in confidence to the extent practicable and permissible by law.

Promptly upon adoption of such a code of conduct or of newly joining the Athletics Department staff, and annually thereafter, each member of the Athletics Community should certify in writing that he or she has received, read, understood, and will abide by the athletics code of conduct. Promotion of, and adherence to, the code of conduct may be considered in performance evaluations.<sup>168</sup>

**Accountability Certification.** The Athletics Department should adopt a process whereby each head coach would annually certify in writing to the AD and Athletic Council that his or her team has adhered to and been compliant with the policies, procedures, and rules put in effect by the NCAA and the Big Ten Conference, as well as other applicable University policies, procedures, and

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<sup>168</sup> Examples of similar codes of conduct include those of the Pennsylvania State University and Indiana University, available respectively at [https://universityethics.psu.edu/sites/universityethics/files/revised\\_code\\_of\\_conduct\\_11.16.12.pdf](https://universityethics.psu.edu/sites/universityethics/files/revised_code_of_conduct_11.16.12.pdf) and [https://iuhoosiers.com/sports/2015/4/1/GEN\\_201401017.aspx](https://iuhoosiers.com/sports/2015/4/1/GEN_201401017.aspx).

standards of conduct including, if adopted, the athletics code of conduct. The certification should include an exceptions list that notes any secondary violations attributed to the team during the certification period and how those violations were identified. It is important for the Athletics Department staff to understand that discovering and self-reporting compliance violations are indicators of a healthy compliance environment. Head coach certifications, in turn, should be presented to the AD for review in support of that official's own written certification to the Athletic Council and University President that, other than as described in the exceptions list, the Athletics Department has substantially complied with applicable NCAA, Big Ten, and University rules and standards of conduct. The Athletic Council should take immediate steps to address any lapses in or efforts to constrain or condition the certification process and to report such action to the OGC and University President, as warranted.

**Training and Education.** The Athletics Department should devise an educational module that specifically addresses principles regarding institutional control, responsibility, ethical conduct, and integrity. The Athletics Department staff should be required to complete the course promptly upon hiring and annually thereafter, and to certify, in writing, that he or she has received and understands the training. The Athletics Department should maintain records demonstrating

completion of these requirements for reporting and performance evaluation purposes.

**Onboarding.** As suggested by the head of UHR, new coaches should be provided an orientation program tailored to their position and experience. The onboarding program should emphasize the mission and core values of the Athletics Department, NCAA, Big Ten and University policies, procedures, and rules that apply to their work and best practices for complying with them, and the larger culture of which they are now a part. The program should identify key points of contact throughout the Athletics Department and wider University, the resources available to help them succeed in their role and fulfill their responsibilities, and channels to report concerns and seek advice.

**Performance Management Program.** The Athletics Department should establish a performance management system that evaluates at least annually all Athletics Department staff (specifically to include all coaches), without exception. The AD should collaborate with the Head of UHR to devise a framework for conducting performance evaluations and for interpreting and acting upon their results. The University should consider integrating the Human Resources function in the Athletics Department with the UHR unit.

**Channels of Communication/Complaint Tracking.** The Athletics Department should devise and implement a formal reporting and complaint

tracking program, administered by compliance personnel. The program should include a hotline that individuals may use to seek guidance about their responsibilities under, or report suspected violations of, NCAA, Big Ten Conference, and University policies and procedures. The hotline should be accessible through a variety of mechanisms (*e.g.*, telephone, online, email), anonymously if desired, and free from the threat or fear of retaliation. Hotline communications should be documented and tracked through resolution in a log that includes a summary of each report or request for help, the status of internal review and its outcome, and a description of any corrective or remedial actions taken. Compliance personnel should regularly share information concerning all athletics-related complaints with the Athletic Council, which should be empowered to escalate matters to the AD, OGC/Head of Compliance, and University President, as warranted. Records generated in connection with any hotline communication should be maintained in confidence to the extent practicable and permissible by law. The hotline should be promoted in the student-athlete handbook, through communications from coaches and administrators, and on posters prominently displayed throughout campus in common areas where student-athletes congregate. This program is not intended to replace any existing process or procedure, which may be expanded to fulfill the spirit of this recommendation.

The University recently implemented “Terps Feedback,” an online portal that allows members of the University community to report concerns and ask for help. This mechanism may be appropriate to use as one of the channels of communication recommended here.

**Exit Interviews.** The University should endeavor to capture the perspectives of at least 50% of departing senior student-athletes, student-athletes who are transferring, and all Athletics Department staff who are leaving the University. The information obtained through these exit interviews should be documented and presented in summary fashion to the Athletic Council for its consideration on how to further improve the Athletics Department.

**University-Issued Cell Phones.** UMD employees should not be corresponding with other individuals associated with the University about University-related matters on their personal phones. Use of personal phones significantly hinders efforts to conduct investigations and reviews of past correspondence. All employees who are expected to communicate remotely, including football coaches who are frequently out on practice fields or away at games, or recruiters that travel to talk with high school students, should be provided with University-issued cell phones and instructed to use them for all University business.

When an employee's University-issued phone is returned to the University, such as when the employee leaves the University, the employee should be advised to not erase any data prior to surrendering it, and the University should backup the entire phone. This will allow the University to then wipe the phone and reissue it to another employee, while still maintaining the phone's data from the previous user.

## **XII. Acknowledgments**

This report is the result of over a thousand hours of work by the individuals named on its cover. However, their efforts would have been for naught if not for the tireless attention of their colleagues who were instrumental in making this report possible. It has been less than two months since the Board of Regents announced the composition of this eight-person commission on August 24, 2018. It took the effort of the entire team to compile this report. The Commission extends its deepest thanks and appreciation to Terri Dunn, Allison Palmere, Dawn Kuhrmann, James O'Neill, and Wes Reichart, all of DLA Piper LLP (US), for their extensive and tireless contributions.