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Penn State's Organizational Flaws Make for Perfect Storm

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By Pamela Babcock

The high-ranking officials implicated in the Jerry Sandusky child sexual abuse case at Penn State University never consulted HR when they learned about and dealt with Sandusky's crimes. But HR wasn't entirely without blame. A scathing report that faults Penn State's HR function for not being centralized and for relaxing rules and procedures highlights just one symptom of a very troubled organization, experts said.

"The overall organization of Penn State was flawed—a kind of perfect storm of poor organizational structures, where lots of problems could fall through the cracks, and a few powerful leaders could steer the organization in the wrong direction without any checks or balances," said William E. Hannum III, a managing partner and labor and employment attorney with Schwartz Hannum in Andover, Mass.

Making matters worse is the fact that HR at Penn State was decentralized with individual schools and other large departments each having its own HR department. The top HR leaders didn't report directly to the university president. Hannum said that's not uncommon for educational institutions and even some other organizations.

"Universities can be very different," but they're not alone, Hannum said. "We also represent some for-profit organizations that do not believe in centralized HR, or do not believe in HR at all. And, eventually, they get what they pay for: serious HR problems that could have been avoided if they had proper leadership and proper HR oversight."

Among other things, the report by former federal judge and Federal Bureau of Investigations director Louis Freeh recommends that the top HR spot at Penn State be elevated to a vice president position and report directly to the university president. It also said HR should take a firmer hand enforcing rules and procedures.

Hannum said HR at Penn State needs to be given "more authority, more resources, and more responsibility," and should be involved in rebuilding the university administrative structure in the scandal's aftermath.

"A collaborative process is essential, politically and practically," Hannum said. "In addition to HR, compliance and risk management and the office of general counsel all need to take on more important roles at Penn State. That all needs to be coordinated. But none of it will work if the culture remains unchanged."

Workplace Culture Gone Wrong

In June 2012, Sandusky, a former Penn State assistant football coach, was found guilty of 45 counts of child sexual abuse against 10 boys. Some of the incidents took place on the Penn State campus. Freeh released the 267-page report on July 12, 2012, after an eight-month independent investigation commissioned by the university's board.

"Our most saddening and sobering finding is the total disregard for the safety and welfare of Sandusky's child victims by the most senior leaders at Penn State," Freeh said at a news conference. "The most powerful men at Penn State failed to take any steps for 14 years to protect the children who Sandusky victimized."

The report found that key university leaders—including former President Graham Spanier, football coach Joe Paterno, Athletic Director Tim Curley and Senior Vice President Gary Schultz—failed to report suspicions of child abuse and concealed Sandusky's actions from the Board of Trustees, the university community and authorities.

One of the most shocking parts of the report talks about a janitor witnessing Sandusky assaulting a young boy in a locker room shower but not reporting it for fear of being fired.

"If that's the culture on the bottom, God help the culture at the top," Freeh told reporters.

The report contains nearly 120 recommendations to strengthen policies and procedures, including requiring mandatory training to report wrongdoing and establishing the position of director of university compliance. (See related article, "[Penn State Abuse Report Urges Stronger Role for HR.](#)")

While the trustees don't have an absolute legal obligation to adopt all the recommendations, Martin J. Saunders, a labor and employment attorney with Steptoe & Johnson in Canonsburg, Pa., said they'd be "hard pressed to justify their failure to implement, in some fashion, the bulk of the report's recommendations."

If similar or other incidents occurred in the future that could have been prevented or more promptly addressed, failure of the board to follow through on any relevant recommendation would be cited as negligence and "magnify the university's potential liability for the future event," Saunders noted.

Improving HR's Leadership, Accountability

The report recommended that the university:

- Vigorously" examine its culture to create a stronger sense of accountability among its leaders. The report also calls for more transparency of university management and integrating the intercollegiate athletic program into the broader university community.

Hannum said these things are easier said than done but "may be the most important change of all," and could lead, inevitably, to solutions to other problems noted in the report.

- Elevate the top HR spot to a vice president (from associate vice president) and have that person report directly to the university president, instead of to the vice president of finance. While it's not uncommon to have HR report to finance, Saunders said it sends a message about how HR is perceived and diminishes "its ability to influence the entity."

He added that problems at Penn State appear to have been compounded because line HR personnel reported directly to, and were overly influenced by, department heads, "without even a serious dotted line reporting relationship to senior HR officials."

- Appoint an ethics officer and ethics council. Hannum said this isn't a bad idea but seems "a bit of overkill" or perhaps a public relations move. That's particularly true if HR is elevated in importance; if an office of general counsel is established with adequate staff and resources; and if compliance/risk management is also created as an elevated unit separate from finance and business.
- Evaluate the amount of control that the president and senior vice president of finance and business have. Hannum said that's key because both Spanier and Schultz had tremendous freedom to do "what Joe Paterno wanted them to do, or to avoid doing what they were afraid to do," without oversight or checks or balances.
- Track all employee training mandated by governmental or university policy and immediately retrieve keys and access cards from unauthorized people. These are basic audit and control functions that should have already been in place, Saunders said.
- Expand the university's office of general counsel. "The practice of law today, especially when representing large public or private entities, is too specialized and complex to expect one jack-of-all-trades lawyer to be able to competently handle all issues," Saunders said.
- Keep an inventory of all university programs for children and update, revise or create policies for unaccompanied children on university grounds or in university programs. Hannum said this is a key step he has encouraged his firm's college and university clients to take since the Sandusky scandal first made headlines in November 2011.

Penn State Leaders Weigh In

At a press conference after the report was released, Penn State Board of Trustee Chairman Karen B. Peetz said that the board "accepts full responsibility for the failures" and said the report offers the university a roadmap for improvement as it works to restore trust in its community.

"We don't expect it to happen overnight," Peetz said. "We will earn it back as we move forward and develop a culture of transparency and accountability."

University administrators said work to address some of the issues has begun and provides updates on its website, www.progress.psu.edu. Actions include [strengthening policies and programs involving minors](#); [ensuring a process for prompt reporting of abuse and sexual misconduct](#); [hiring a new, full-time compliance coordinator](#) to ensure campus crime statistics are collected and reported as per the [nationwide Clery Act](#), which sets standards for campus security; and providing Clery Act training for employees.

Hiring to Change Perceptions

Suki Shah, CEO and co-founder of GetHired, a Palo Alto, Calif.-based job board and applicant-tracking system, said the recommendation for the university to conduct more open and inclusive searches for new employees will help to set a new standard of finding top talent.

"If key decision makers are more open to looking outside of the school and its alumni, a deeper pool of talent will be available," Shah said. Hiring managers can highlight the university's new standards "by sticking with the new policies and making sure to highlight spectacular new hires outside of the university who are less likely to be pressured by internal forces or existing perceptions of the university's culture."

He noted that the university has since implemented a new policy requiring job candidates to undergo a criminal background check and existing employees must complete yearly training sessions on reporting child abuse.

"These are positive first steps that hiring managers can take to show the general public that the university is committed to keeping its students safe," Shah said.

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