



MICHIGAN STATE UNIVERSITY  
**BOARD OF TRUSTEES**  
Executive Action Summary

Audit, Risk, and Compliance-Attachment 3

**APPROVED**  
**DECEMBER 15, 2023**  
**BOARD OF TRUSTEES**  
**MICHIGAN STATE UNIVERSITY**

**Committee Name** Audit, Risk, and Compliance

**Date** December 15, 2023

**Agenda Item:** Resolution of the Board of Trustees of Michigan State University authorizing the examination and release of certain documents

**Information**

**Review**

**Action**

**Resolution:**

WHEREAS, the Board of Trustees of Michigan State University (the “Board”) is a body corporate created by and existing under the Constitution of the State of Michigan of 1963 with full constitutional authority over and general supervision of Michigan State University (the “University”); and

WHEREAS, in 2018, the Michigan Attorney General served a search warrant on the University in connection with the Attorney General’s investigation of the Larry Nassar matter and other Title IX matters unrelated to Larry Nassar; and

WHEREAS, the University completed an examination of its records, compiled documents responsive to the warrant and provided nearly 120,000 documents to the Attorney General, subject to appropriate redactions of personal information necessary to comply with applicable privacy statutes; and

WHEREAS, the University, when compiling the documents responsive to the warrant, also compiled a privilege log of responsive records that in part or whole contained information subject to the attorney-client and work product privileges, and the University produced that privilege log to the Attorney General and produced to the Attorney General approximately 2,000 documents logged on the privilege log, with appropriate redactions, and withheld approximately 4,000 privileged documents in their entirety; and

WHEREAS, the 54-B District Court of the County of Ingham conducted an *in camera* examination of the privilege log and privileged documents and determined in a March 13, 2019 order that the University had properly exercised its privilege, and the Attorney General closed its investigation in March 2021; and

WHEREAS, in April 2023, the Attorney General made a new request that the University release to the Attorney General in full all documents not previously released in response to the warrant; and

WHEREAS, the University desires to cooperate and provide finality to the matter.

THEREFORE, BE IT RESOLVED that the Board of Trustees authorizes the Vice President for Legal Affairs and General Counsel to conduct and oversee the examination of documents identified in the privilege log created in the Attorney General's investigation and release such documents to the Attorney General, subject to any appropriate redactions of information necessary to comply with and protect individuals' interests under the Family Educational Rights and Privacy Act of 1974 (FERPA), the Health Insurance Portability and Accountability Act of 1996(HIPAA), other applicable privacy statutes, and any applicable protective orders entered by federal and state courts or third-party confidentiality agreements, if any; and to protect attorney-client privileged communications concerning matters unrelated to Larry Nassar; and

BE IT FURTHER RESOLVED that the Administration is directed to develop and implement a trauma-informed plan to provide the necessary support and resources to individuals who may be impacted by the release of documents that are within the scope of this resolution.

**Recommendation:**

Authorization for the General Counsel to oversee the examination and release of documents identified in the privilege log created by the University for the Attorney General's investigation into the Larry Nassar matter, subject to appropriate redactions as designated in the resolution.

Additionally, the Administration is requested to develop and implement a trauma-informed resource and support plan for individuals who may be affected by the release of the specified documents.

**Prior Action by BOT:** Not applicable.

**Responsible Officers:** Brian Quinn, General Counsel

**Summary:**

This resolution authorizes the General Counsel to oversee the examination and release of documents identified in the privilege log create by the Attorney General's investigation into the Larry Nassar matter, subject to appropriate redactions as designated in the resolution.

This resolution also requests that the University's administration develop and implement a trauma-informed plan by which support and resources are offered to individuals who may be adversely affected by the release of the documents.

**Background Information:**

The state of Michigan Attorney General's investigation into the Larry Nassar matter caused the University to complete a comprehensive examination of its records, with approximately 120,000 documents being provided to the Attorney General. Approximately 6,000 documents were either partially redacted or in fully withheld due to attorney-client and work product privilege. This resolution authorizes the release of the privileged documents, subject to certain specified redactions.

**Source of Funds:**

To be determined.

**Resource Impact:**

Resources will be required to ensure a trauma-informed support and communications approach to the release of the designated documents. Specific resources will be identified by the University as part of the planning required under the resolution.