

TO: Roy Collins, General Counsel

DATE: March 15, 2023

FROM: Charles J. Vigil; R. Nelson Franse

RE: Executive Summary - Investigation relating to the November 19, 2022 Assault and Shooting Incident in Albuquerque, New Mexico Involving New Mexico State University Basketball Player Michael Peake

SCOPE OF ASSIGNMENT AND LIMITATIONS

New Mexico State University (“NMSU”) retained the Rodey law firm in December of 2022 to conduct a third-party investigation relating to the November 19, 2022 early morning assault and subsequent shooting incident involving NMSU basketball player Michael Peake and several University of New Mexico (“UNM”) students. That incident occurred on the UNM campus several weeks after Peake and other NMSU student athletes were involved in a fight, captured on video, at the UNM/NMSU football game in Las Cruces, New Mexico. Police reports indicate that Peake was assaulted and shot in a parking lot on campus and that he defended himself using his own firearm. The purpose of our investigation is to make recommendations to NMSU with respect to its institutional approach to, among other things, team travel, curfews and interactions with law enforcement.

In the course of its investigation, the Rodey law firm reviewed various NMSU policies, interviewed relevant witnesses, performed research, and analyzed publically available reports and video from law enforcement and the media, among other things. It is our understanding that neither the NCAA nor the WAC has indicated that NMSU’s conduct in connection with the incident violated NCAA or WAC governing rules. After performing independent research, we also did not identify any such violations of NCAA or WAC rules. Moreover, from an institutional perspective, we did not identify any failure by NMSU to meet its legal obligations in managing its student athletes.

This Executive Summary has been prepared and submitted to NMSU based on input obtained from witnesses who responded to our request to be interviewed. Unfortunately, several witnesses, including multiple basketball coaches and players, who were contacted either refused to be interviewed for this investigation or were otherwise unavailable, or both. Nevertheless, our investigation yielded sufficient information to make the recommendations set forth below.

RECOMMENDATIONS

1. Team Curfews. Colleges and universities handle student athlete curfews and punishment for violations of curfews in different ways. Some may not require any curfews and some may have very strict curfews. This often depends on the program, the team sport or the

coach. Many colleges and universities leave the issue of curfews to each coach to manage.

Nevertheless, because so many players on the NMSU basketball team broke curfew on the night of the shooting incident, and in fact were out of their hotel rooms well after curfew, we recommend that NMSU consider developing a policy that addresses the adoption and enforcement of team curfews during out-of-town travel and the related expectations of NMSU student athletes. The policy should make clear to student athletes the importance of following team curfew rules and the importance of holding themselves out as student ambassadors consistent with NMSU values. NMSU should train all coaches and student athletes as to these expectations.

2. Weapons Policy. NMSU should consider adopting and implementing a more detailed weapons policy that specifically prohibits the possession of any weapon or firearm by any student athlete while traveling for team events or while engaging in any activity where the student athlete is representing NMSU. NMSU should train all coaches and student athletes as to the same.
3. Communication with Law Enforcement. Although very rare, there are times when coaches or other NMSU staff will be contacted by law enforcement with respect to potential criminal activity involving a student athlete, whether that student athlete is traveling with the team or otherwise engaged in an activity representing NMSU. NMSU should develop a policy to address the process and procedure for coaches with respect to communicating with law enforcement, particularly when they are involved in out-of-town travel. Such a policy should include identification of the person or person's responsible for such communication, and all coaches and other staff should be trained as to the same.
4. Strengthening Institutional Culture within NMSU Athletic Programs. NMSU should implement measures to strengthen a culture that encourages student athletes to adhere to the integrity and values of NMSU at all times, not just during travel.
5. University Oversight Regarding Student Athletes. NMSU should consider adopting a policy that sets forth (1) how and when information regarding misconduct by a student athlete should be shared among and between various stakeholders within the University and (2) how NMSU will coordinate with coaches or others in the Athletic Department to impose appropriate discipline if the University becomes aware that a student athlete has engaged in conduct that is inappropriate, violates the NMSU Student Code of Conduct or violates the NMSU Student Athlete Handbook.
6. NMSU Student Athlete Handbook. We recommend that NMSU revise its Student Athlete Handbook to be consistent with the above recommendations once they are implemented.