



State of West Virginia
Office of the Attorney General

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Attorney General

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**WRITTEN DETERMINATION REGARDING THE APPOINTMENT OF OUTSIDE
COUNSEL ON BEHALF OF MARSHALL UNIVERSITY**

Marshall University (hereinafter “Marshall” or the “University”) has requested permission to enter into a Joint Representation Agreement for legal representation involving a recent lawsuit filed against the National Collegiate Athletic Association (“NCAA”), Marshall and other NCCA member institutions.

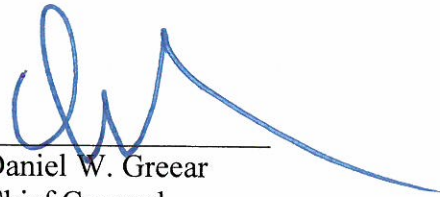
More specifically, the NCAA has agreed to provide a joint defense, through the law firm of Littler Mendelson, P.C., in the case of *Samantha Sackos v. National Collegiate Athletic Association, et al.*, Civil Action No. 1:14-CV-1710 WTL-MJD, which is currently pending in the United States District Court for the Southern District of Indiana. The NCAA has agreed to pay for the joint legal expenses for any interested defendants, including Marshall, through the Motion to Dismiss stage.

In accordance with the Attorney General’s Policy on Outside Counsel (Policy #WVAGO-004), the Office of the Attorney General has determined that it is both cost-effective and in the interest of the public for Marshall to participate in the Joint Representation Agreement, based on the following factors:

- The matter at issue requires particular expertise with federal wage and hour provisions of the Fair Labor Standards Act, as well as NCAA bylaws and regulations governing student-athletes that are not currently possessed by the Office of the Attorney General.
- The legal services needed would require a significant time commitment from the Office of the Attorney General to familiarize itself with the legal matters in question.
- The geographic area where many of the legal services are to be performed (United States District Court for the Southern District of Indiana) would require the Office of the Attorney General to seek the additional assistance of local counsel (in order to appear *Pro Hac Vice*) and also incur substantial travel expenses associated the representation of the University.

- Because the Joint Representation Agreement would allow Marshall to receive the needed legal representation up through the Motion to Dismiss stage at no cost to the University or the State, it is not feasible or cost-effective for the Office of the Attorney General to provide the legal services in question.

Accordingly, the Office of the Attorney General determines that it is in the best interest for Marshall to participate in the Joint Representation Agreement and grants the requested use of Littler Mendelson, P.C., as outside counsel pursuant to Section (P) of Policy # WVAGO-004.



Daniel W. Greear
Chief Counsel

Date Signed: November 19, 2014