



**INVESTIGATIVE COMMITTEE REPORT**  
**OF TBDBITL ALUMNI CLUB, INC.**  
**THE OHIO STATE UNIVERSITY MARCHING BAND ALUMNI**

September 12, 2014

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**Note: This version is formatted for ease of reading. It contains the same text as the “official” version.**

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## I. DESCRIPTION OF INVESTIGATION AND EXECUTIVE SUMMARY

### CREATION OF INVESTIGATIVE COMMITTEE

On July 24, 2014 Jonathan Waters was publicly fired as director of the Ohio State University Marching Band (“OSUMB”). On the same date an “investigation report” (“IR”), dated July 22, 2014 was released. It was apparently overseen by The Ohio State University (the “University”) Office of University Compliance and Integrity and advanced to the University President by University Provost Joseph Steinmetz.

On Saturday, July 26, 2014, over 75 members of the active Ohio State University Alumni Band were assembled in Lakeside, Ohio, for a concert for over 2,000 attendees, to raise funds for student scholarships. The Alumni Band concert was under the primary direction of Dr. Paul Droste with co-director Dr. Christopher Hoch. Hoch, who was also a member of the OSUMB staff, had been told he was not permitted to participate in band activities with the OSUMB at public “Picnic With the Pops” concerts that weekend in the aftermath of the release of the IR. Although this enabled him to attend the alumni concert, he declined to attend under the circumstances. New assistant directors of the Alumni Band, Diana Herak and Dr. David A. Leppla, were also in attendance as conductors.

Dr. Droste requested a meeting prior to the concert with TBDBITL Alumni Club, Inc. President Brian J. Golden and Board of Governors (BoG) member and Legal Review Chair Gary J. Leppla to discuss the next steps for the OSUMB alumni in the wake of the news that Jonathan Waters had been fired as band director. A report had been released by the new administration of The Ohio State University (“University”) containing an attack on the “culture” of the OSUMB. At Dr. Droste’s suggestion, and with the concurrence and

authorization of the Club president, a committee was appointed consisting of Brian J. Golden as TBDBITL Alumni Club, Inc. president; Michelle (Shelley) Graf as principal Alumni Band drum major and the first female drum major of the OSUMB in 1981; Dr. Paul Droste, Director Emeritus of the OSUMB; and Gary J. Leppla, past-president of the Ohio State Bar Association and BoG Legal Review Committee chair.

The charge to the Committee was to investigate all circumstances giving rise to the University’s IR, to investigate all elements of the then existing and historic marching band *culture*, and to review all evidence which could be gathered as to the content of, issues raised in, and the University’s handling of the IR, aka the *Glaros* Report. This process involved witness interviews, document examination, as well as consideration of all information available concerning the subject matter. Items considered included conversations, interviews, written documents, public statements, and all other sources, concerning the cause of the IR, the source of the IR, and the process for completing the IR, based upon all resources available including attempted access to University representatives. The investigation committee poured through public statements, anecdotal evidence, letters, and press releases related to the issues, interviewed Jonathan Waters and other witnesses on multiple occasions. This Committee also considered circumstances involving the existence of the University-appointed subsequent investigation by a group appointed by the president and chair of the Board of Trustees of the University, headed by former Ohio Attorney General Betty Montgomery (“Montgomery” Marching Band Task Force).

## EXECUTIVE SUMMARY OF REPORT

What follows is a description of obstacles which the investigators encountered, with a summary of the background, context, and procedural posture of the *Glaros* Report, including historic, “cultural” and related items.

Repeated requests by this Committee to dialogue and interact with the University and its representatives as part of this investigation have been refused. The University President, the OSU Legal Staff, the Ohio State University Alumni Association (OSUAA) and the University Board of Trustees and their representatives have all been contacted unsuccessfully by this Committee for interview and a dialogue. A scheduled meeting between the University President with this Committee on July 30, 2014 was pre-empted unilaterally by the Office of the President, in favor of a two-on-one listening session with the TBDBITL Alumni Club president. Subsequent efforts to meet with the authors and investigators involved in the IR were passed off and ignored. The brief five minute input allowed at a one hour meeting of the University Board of Trustees was followed by immediate adjournment by the Chair of the Board with no discussion. The promised follow-up open communication never occurred. (See Section II)

The history of the OSUMB, including its military roots, leadership embrace of Title IX beginning in 1973, and with its traditional operational characteristics, is discussed in Section III. We consider that context to be critical to any analysis.

A review, item by item, of the University’s Investigation Report follows in Section IV, which reveals, with specific citation to facts and sources, the inaccurate statements, false assumptions, and erroneous generalizations contained in the IR. The IR has been overwhelmingly refuted in public in the days and weeks since its release on July 24, 2014. Evidence of cited historic events does not demonstrate the existence of a “band culture” as

*we move forward*. They are not evidence of general misconduct, cultural problems or any failure of leadership or control by Jonathan Waters.

The stated purpose of the University’s Title IX policy is embraced in the activities and training efforts of the OSUMB (notwithstanding limited University assistance) under Jonathan Waters as described in Section V. A discussion of the public report of 2012-13 OSUMB Squad Leaders is reviewed and attached, demonstrating the “culture” and the significant documented efforts undertaken. Written policies, in-service training agendas and anecdotal evidence of these specific efforts were all neglected in the IR. They are documented here. In contrast, various subsequent public interpretations of Title IX have been suggested by University representatives and others. These comments were used to support resultant excuses for University imposed sanctions. They are simply misstatements of the law. There is no application of absolutely mandatory time limits for investigations. There is no procedural or legal justification for the denial of notice of the topics of investigation, for allowance of any opportunity for Jonathan Waters to know the extent of allegations and present his own evidence, or for the alleged legal mandate to terminate Waters.

We attempted to review the activities of the personnel involved and the events preceding the creation and release of the *Glaros* Report. As discussed in Section VI, the IR is methodologically defective. It is inadequate and false in its general representations. The claim by the authors of the IR that the OSUMB functions in a unique “sexualized” culture within the University is unsupported, false and illogical. Only a handful of witnesses were interviewed. Conclusions rest upon hearsay and gross generalizations of events often remote in time. Many interviewed have publicly refuted their alleged comments in the IR and stated that

important portions of their comments were ignored. Observers and neutral commentators who were willing to speak found the IR to be unacceptable in every respect based upon any reasonable investigatory standard.

The *Montgomery* Marching Band Task Force has been given the assignment of reviewing the University's Title IX process and oversight and to provide counsel on Title IX compliance issues, in conducting an assessment of *band culture* to make recommendations for best practices. Any belief of supporters of the OSUMB and Waters that the resulting *Montgomery* Report will be the turning point in the controversy are misplaced. The Administration's charge to the *Montgomery* Task Force is limited, and perhaps even now somewhat obsolete in the wake of the "resolution" announced between the University and the US Department of Education on September 11, 2014.

Similarly, any hope of the University administration that the *Montgomery* Report will help salvage the widely criticized and defective *Glaros* Report is contrary to the assigned mission of the *Montgomery* Task Force. The Chair of the Board of Trustees and President of the University set forth that mission in hand picking the task force. It appears to be largely an effort to demonstrate that the University administration takes Title IX seriously. When the President of the University and Chair of Board of Trustees have responded to questions by indicating they are waiting on the *Montgomery* Report to further respond to criticism, they appear to be seeking and suggesting a shift in its stated mission. No one but the University administration has control over the *Montgomery* Task Force.

Clearly, it is now apparent that the University had problems in its own Title IX compliance office, as discussed in Section VII. The repeated public comments from former Title IX coordinator Andrea Goldblum illustrate that fact. Given the existence of a US Department of

Education investigation of Ohio State for Title IX compliance, an atmosphere existed in which the University truly sought to demonstrate its Title IX resolve in dramatic fashion, even at the expense of due process and fundamental fairness to its family member Jonathan Waters and the OSUMB family. Now apparent, with the release of the September 11, 2014 news that there has been "resolution" of the 2010 "compliance review" of the University by the US Department of Education, the rush to judgment of Waters and the marching band upon a grossly defective "investigation" is placed in context. As discussed candidly in Section VIII, we believe a perfect storm of events emerged in conjunction with inherent issues between the School of Music and the marching band.

An item by item description of the impressive (but unrecognized in the IR) Waters-initiated social and cultural efforts with the OSUMB, during his time as director, is outlined in Section IX. What naturally follows in Section X of this report is a further discussion of the fallout from the administration's ill-advised action based upon a rushed, inaccurate "investigation" and judgment by Tobias, Glaros, Steinmetz, et.al. The consequences to Jonathan Waters are quite evident. The losses to the University through financial and reputation impact are discussed. The damage to the proud history and reputation of the OSUMB and its 136 years of tradition is evident, even if hard to quantify. But what is most disturbing, as revealed in detail in Section X, is the tragic and terrible collateral damage to the very individuals who comprise the current OSUMB. In a summary prepared and delivered to President Drake by current band members, the details, nearly 200 in number, of those consequences are sadly demonstrated. Confrontations with the public, as recently as on the occasion of the first home OSU football game of the 2014 season, are reported. These comments represent the true shame resulting from the administration's approach to these issues. These comments are

revealing of the true damage inflicted on a personal level through release of the University's Investigative Report.

A continuing component of these matters is the public stance contained in the University administration's public relations releases, first claiming a change in the reasons for the Waters termination, and consistently alleging a supportive termination decision by the Trustees which could never have legally occurred given the impact of Ohio's open meeting law. (See Section XI)

Comments from Band alumni and the general public demonstrate the true culture of the marching band as reviewed in Section XII, and accumulated in Attachment # 7. Personal testimonials and comments demonstrate more about the *band culture* than any analysis found in the University's IR. They include comments from members deeply affected by their experience in the band in a positive way, university employees and the general public.

After full review of all circumstances and of the content and supporting documents identified in this report, including the items attached for ease of access as Attachments in an Appendix, only then were conclusions and recommendations discussed and endorsed by the investigators.

Given the urgency of the circumstances, and the perceived threat to the integrity of The Ohio State University, and its marching band family,

all speed was undertaken in an effort to address issues. This report involved hundreds of hours of examination and research cumulatively by multiple people, including the investigators and those who made information available to them. **Although this report is now issued, our investigation continues and we expect to subsequently supplement this report as more information becomes available and as circumstances evolve.**

Our recommendations and conclusions are set forth in detail in Section XIII. Those include:

- \* a recommendation of immediate reinstatement of Jonathan Waters;
- \* a recommendation that a full fair and impartial independent investigation occur (unlimited by constraints imposed upon the *Montgomery* Task Force);
- \* the recommendation of independent oversight of the OSUMB,
- \* a demand that the administration immediately and publicly disavow and repudiate the *Glaros* Report in an effort to contain the continuing damage which has and will occur;
- \* a call for a public apology to the OSUMB family to allow healing to begin; and,
- \* a renewed call for an open and honest dialogue on all issues within the University family in an effort to appropriately *move forward* in accordance with the greatest traditions of The Ohio State University.

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## II. LIMITATIONS OF THIS INVESTIGATION

Frequently, requested access to information and individuals was denied to the Committee by the University. On separate occasions, the undersigned investigative committee of TBDBITL has, as a group, asked for an opportunity to meet with OSU President Drake. On one early occasion, this committee appeared at his office, on July 30, 2014 at 10 AM for a previously scheduled meeting, but only TBDBITL President Brian J. Golden was

permitted admission to a meeting with Dr. Drake and Ohio State University Alumni Association ("OSUAA") representative Archie Griffin. (President Golden had been warned by email that the meeting, despite earlier communication with the President's office to the contrary, appeared on the President's calendar as a meeting only involving the three identified participants.) Dr. Drake emerged from the meeting with Mr. Golden and briefly spoke to

Dr. Droste, Ms. Graf and Mr. Leppla, who had been left out of the meeting in the outside hall. After praising the band for its “great history”, Dr. Drake specifically indicated that he would like to “find a time” to meet with all four of the TBDBITL representatives. Requests by President Golden for a meeting with President Drake by this Committee did not result in such a meeting. What did occur was simply a later phone call, scheduled by Dr. Drake’s staff, in which President Drake stated he was “looking forward to the future” and to continuing to work with President Golden. The continuing requests for a meeting were neither acknowledged nor fulfilled. (See Attachment # 1)

Subsequently, in press releases, the administration of the University issued statements considered by Marching Band Alumni to be warnings or intimidation including the following:

1. The University indicated it would take all steps to “protect” individuals involved in the investigation or cooperating with the University concerning its “investigation report” as a matter of policy, to wit: “The university will not tolerate retaliation in any form against any faculty, staff, student, or volunteer who files an allegation, serves as a witness, assists an alleger, or participates in an investigation of discrimination or harassment.” (See: Title IX, Compliance and Integrity Policy Re: Retaliation, Attachment #2)
2. On August 23, 2014, a message was sent, apparently to all alumni clubs, by The Ohio State University Alumni Association, adopting, reinforcing and endorsing the position of the administration, and criticizing the acts of “any alumni clubs” who have contacted other clubs with information, messages, or calls for assistance concerning the marching band situation. The OSUAA<sup>1</sup>

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<sup>1</sup> The OSUAA is a University controlled organization which functionally represents the University, not the Alumni of the University.

message indicated no support for the position of the Band Alumni and other members, implicitly criticizing the TBDBITL Alumni Club, which had sent no such general message. (Attachment # 3)

3. On September 8, 2014 it was reported to this Committee that a Central Ohio alumni club, which had notified its membership by e-mail of certain public events in support of Jonathan Waters and his family, had been admonished by the OSU Alumni Association and told it was forbidden from using its e-mail contacts to promote support of Jonathan Waters.
4. The regular OSUMB, first led by trumpet cheers, then as a group “spontaneously” played the “Superman Theme” at their September 6, 2014 Skull Session, a salute to their former director Jonathan Waters, who was known by that “nickname” (Clark Kent). The following week they were cautioned by Directors Dr. Russel Mikkelson and Dr. Scott Jones that such actions would not be tolerated.

There are gross discrepancies between the content of the *Glaros* Report and the information known publicly and discovered by this Committee. There are many private and public statements (including those from many of the witnesses interviewed for the *Glaros* Report) exhibiting contradictions between the content of the IR and those statements.

Accordingly, this Committee asked for the opportunity to meet with investigator Jessica Tobias and the apparent drafter of the IR recommendations, Christopher Glaros, together with any other investigators involved (apparently part of the University’s Title IX compliance team), in order to explore those issues and get to the facts of the University’s investigation. Email requests and responses indicating the denial of that access, or avoidance of the requests, on multiple occasions, are included herewith. (Attachment #4) After weeks of requests, no allowance of that request

has been received from the OSU legal office or from the OSUAA, to which we were referred. No such interviews with investigators occurred and we consider that to be a deficiency in preparing a complete report. This Committee concedes it is powerless to compel those individuals to openly and honestly discuss their investigation and report, or to explain the obvious inaccuracies. These requests for an open and honest dialogue with this Committee and the TBDBITL Alumni Club have gone unanswered, apparently as a part of the University administration's strategy to refuse to concede errors or discuss concerns. The approach is antithetical to the history and traditions of The Ohio State University family.

Additionally, efforts to obtain a dialogue with the University on the issue of donations and fundraising, which has continued to be a topic within the TBDBITL organization and in the media, have met with a lack of dialogue. For example, an email was sent by a member of this Committee indicating a desire to not receive any other emails concerning the University's President's Club given the issues involving the president of the University and the current events. The response simply contained the suggestion that failure to remain a member of the President's Club would "...not allow purchase of 2015 football tickets", with no other commentary. (See Attachment #5) The OSUMB raised over \$46 million in 2013-14. (Critical to that effort was the coast-to-coast persistent traveling of its director Jonathan Waters.) The accounting for those proceeds remains a concern, but no University sources are available to us to discuss placement of those funds. **Our investigation of these facts continues.**

The OSUMB's scheduled Dayton Schuster Center concert in November 2014 has been cancelled by its band alumni promoter, resulting in a loss of \$100,000 in profit. Media reports and public statements demonstrate the loss of hundreds of thousands of dollars from donors, and we are receiving continuing comments from

individuals reporting they have ended their donations to the University as the result of the actions of the University in conducting and releasing the IR and firing Jonathan Waters. For example, as quoted in a WCMH, Channel 4 Report<sup>2</sup> quoting OSU donor **Fred Portner**:

*"I have been in senior level business decisions all my life. I think I know decision makers and poor decision makers, and the way this decision on Jon Waters was handled is abominable," Portner said. "I said to myself, 'Do I want them making those kinds of decisions on major donations I would make?' Absolutely not."*

The administration of the University has not publicly responded to these reports. Mr. Portner essentially received a form letter response from the University.

Efforts to dialogue with the University Board of Trustees resulted in a five minute window for comment, followed by immediate adjournment with no response, at the August 29, 2014 one hour Board of Trustees public meeting. A subsequent form letter dated September 3, 2014 was received by the president of the Alumni Club from the Board of Trustees Secretary avoiding further discussions. (Attachment #6). Efforts to communicate through the OSUAA have been consistently ignored or misdirected, most recently with another similar (declined) offer to allow five minutes, with no discussion, on the OSUAA Board agenda on September 12, 2014.

**This investigation by this Committee will continue** as we persist in attempting to obtain the truth concerning the process and procedure followed by the administration of the University in this matter.

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<sup>2</sup> [www.nbc4i.com/.../osu-5-million-donor-rethinks-future-gifts](http://www.nbc4i.com/.../osu-5-million-donor-rethinks-future-gifts)



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### III. OVERVIEW OF RELEVANT HISTORY OF THE MARCHING BAND

#### INTRODUCTION

The “culture” of the OSU Marching Band, past and present, has been cited as the primary factor in the Glaros Report supporting the firing of OSUMB Director Jonathan Waters. The University’s Investigation Report dated July 22, 2014 contains a markedly narrow and inaccurate picture of this “culture,” emphasizing individual incidents supported by incomplete and suspect

anecdotal evidence. It is critical to review the history of the organization in order to assess attitudes, circumstances and “culture.” This information was not requested by the Office of University Compliance and Integrity in its investigation of Waters. We consider it essential to a complete analysis.

#### THE MILITARY INFLUENCE

There was only one Ohio State band in the years before 1929, and that organization played for military reviews and parades, athletic events (mostly football and baseball), gave sit-down concerts, and did some touring throughout the state. The all-male tradition resulted insofar as all band members were drawn from the corps of cadets in the Military Department. In 1929 the band was re-assigned to the Music Department, and was split into a marching band for football games, a concert band, and two regimental bands. All bands remained military in character and were not opened to women until decades later.

The military tradition continues to this day, although all formal association with the military ceased in 1952. The Marching Band has a professional (mostly faculty) staff supported by a student staff of squad leaders, equipment managers, librarians and secretaries. The band uniform is military in appearance and requires personal grooming and attention to correct usage. Military-style discipline has been enforced at all times, by the professional staff, the squad leaders, and assigned military (ROTC) advisors.

#### DEVELOPMENT OF STANDARDS OF ENFORCEMENT BY STUDENT LEADERS

After World War II, returning veterans were mixed in with 17 and 18 year old freshmen (per Charles Van Cleve, alumni, 1948-1952). Obviously, the atmosphere of the band changed, because of a much wider range of age and experience. If a mistake was made in rehearsal, the immediate correction came from an older member of the band, or a squad leader. The language was very direct and meant to ensure that new members “got the message.” The ultimate penalty for making a mistake in a performance was to be carried over the dike and thrown into the nearby Olentangy River. This

practice was discontinued in 1971 upon recommendation of the Campus Police and Health Center. In its place, offending members were asked to march a physically challenging penalty drill designed to improve performance on the practice field. Since the mid-1980’s, game films have been reviewed by the entire band and, as a sign of group identity, most of the band marched a penalty drill with the offenders, regardless of who made the mistake the prior week.

#### SQUAD LEADER SYSTEM

Each row is led by a student squad leader and assistant appointed by the professional staff. Students are considered on the basis of

seniority, a ballot election by their row members, and interviews with the professional staff. Final appointments are made by the

professional staff. Squad leader training includes discussion and implementation of band policy, and teaching and evaluation techniques that enable them to assist with band tryouts and challenges. In recent years the squad leaders and a few other student leaders have functioned as a group - along the lines of a "council." They assist the professional staff in developing and enforcing band policy, which is passed on to the band members in written form.

The division of the band into rows has led to row spirit and competition as a fundamental strength of the organization. The rows often hold off-campus student social events, sit together on band buses, and tend to set some of their own "traditions." Directors have strived to monitor such. Good student leadership leads to enforcement of band policy, where weak student leadership could open the door to behavior that is hidden from the staff.

#### TITLE IX

In the late 1960's and early 1970's, the mood of many students on the OSU campus became decidedly anti-war and anti-tradition. Band members, representing a true cross-section of the campus, began to question many of the band's military traditions. The integration of women students in 1973 ended an all-male tradition of almost 100 years. Dr. Paul Droste as Director, in collaboration with University officials, immediately opened tryouts to female candidates, and ensured that they were treated fairly. Some rows and band members were more enthusiastic about this change than others.

Staff and student leaders worked to modify the all-male atmosphere.

During that time, the Director of the School of Music was heavily involved, made frequent inquiries about band behavior, and counseled the Director on appropriate action. The response to bad behavior was mostly re-active. A written document of "Policies and Procedures" was developed and revised annually. During Dr. Jon Woods' twenty-eight year tenure as director, this document was greatly expanded.

#### LEADERSHIP OF JONATHAN WATERS

Jonathan Waters became the second former member to be named director, after serving under Dr. Woods as a student, graduate assistant, and assistant director. He inherited a "band culture" that had not been subject to modification and improvement in his view. He set out to evaluate all aspects of band culture and operations, instituting improvements and reforms.

leading this culture in new directions. By stressing education and providing opportunities for additional training, he had led the band toward zero tolerance of inappropriate conduct in a fashion consistent with Title IX. His leadership initiatives are described in Section IX below, a compilation of activities prepared by Jonathan Waters, which was submitted by him to Provost Steinmetz but not included in the IR.

In his two years as director he has been proactive in implementing several steps toward

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## IV. FACTUAL ANALYSIS OF THE “INVESTIGATION REPORT”, AKA GLAROS REPORT

### INTRODUCTION

Certain “facts”, “conclusions” and “interpretations” are contained in the “Investigative Report” released by the Administration of the University. The following consists of comments, written replies and public statements offered by witnesses to the events and circumstances addressed in the Administration’s Investigative Report (“IR”), largely compiled by recent OSU Marching Band Alumni who were members of the band during Jon Waters’ years of service, and submitted to the TBDBITL Alumni investigative committee.

The Administration’s Investigation Report has called into question the morals and values (i.e. “culture”) of all current and prior OSUMB members beginning long before Jonathan Waters became director. Individual members and alumni have been personally attacked, criticized and disparaged. That disparagement occurred in a document based upon anecdotes as opposed to an empirically adequate overview of the OSUMB. This Committee has determined that the IR contains value judgments and conclusions not concerning Jonathan Waters alone, but concerning the fabric of the organization, of the University, and of past members of the OSUMB. Current and former members have been called upon to account for things labeled by the Administration in the IR as part of the OSUMB’s “culture”. Even a cursory review of the IR, upon which President Michael Drake has stated he based his entire judgment concerning the situation (see Drake Remarks at City Club, August 13, 2014, Attachment #6) demonstrates defects. Dr. Drake clearly concluded that the report he was given, three weeks into his new job, was entirely descriptive of the 22 months during which Jonathan Waters was director, when in fact these instances were rare and the anecdotal evidence outdated. Dr. Drake had, however, been communicating with Provost Joseph Steinmetz for several months by

email prior to the commencement of his term. (See Section VI)

Of concern to this Committee is the misuse of the term “culture” and the suggestion of certain conclusions regarding the “band culture”. In addition to the lack of appropriate legal analysis, there is a lack of any form of scholarly analysis contained in the IR. Is the so-called “band culture” different from “college culture”, i.e., alternative song lyrics, drinking, college word games, etc.? There is no empirical evidence of any distinct culture, no study of other student groups with extracurricular components or traveling groups, no comparative examples, and no apparent methodology of any sort.

Additionally, the report rests upon an apparent assumption that women in general in the OSUMB are victims. As members of a strong, disciplined leadership organization it is far more likely that women band members are strong, aggressive and thriving in a minority environment. Such has been the experience of those we have heard from and communicated with, and based upon our knowledge of the marching band experience collectively. ***This Committee indeed may have a point of view, but it is based upon the facts and familiarity with the subject.***

That investigation was undertaken by recently hired University employee Jessica Tobias. The IR was apparently overseen and prepared by attorney Christopher Glaros. The decision to terminate Mr. Waters while attacking the OSUMB’s “culture” was undertaken by President Drake in his first three weeks as OSU president without any discussion with any witnesses, and no meeting whatsoever with Jonathan Waters, apparently upon the recommendation of University Provost Joseph Steinmetz. All occurred with a complete lack of transparency, upon an apparent willful disregard

of complete evidence, and in a fashion apparently designed to reinforce what appear to be predetermined conclusions. The defamatory content injures character, reputations and an institution in unacceptable, flagrant and malicious fashion. The pejorative language utilized and salacious attachments and details contained in the report suggest a conscious desire to wage a public campaign against Waters and the OSUMB, contrary to the finest traditions of The Ohio State University, where “family” members are historically treated with respect, dignity and support.

We have encountered OSU Alumni, many beyond the OSUMB family, who have expressed their unwillingness to prospectively support OSU as a consequence of the malicious treatment of the OSUMB and its Director. Sadly a common comment has been, “What happened to the meaning of the words of our Alma Mater, ‘...How firm thy friendship, Ohio...’”?

The IR is incomplete. There is blatant disregard for the activities initiated by Jonathan Waters to increase the positive culture of the OSUMB and to explicitly support the policy of Title IX prohibiting sex-based discrimination with concrete steps to respond to even rare and isolated incidents and behaviors. Specific items of concern include the following, as compiled by recent Band Alumni. **Quoted phrases from the IR are restated here to reference specific claims made in the IR**, and the alumni who reviewed the report and interviewed witnesses prepared the comments following each IR claim:

#### “Cultural” Criticism:

- “*to swear secrecy oaths*” – There was only one “oath”, and it was written to be purposefully lighthearted so that members would feel as if they were joining an elite club, not being forced to keep secrets. To convey its innocuous nature, the oath contained statements such as “I will look both ways before crossing the street” and “I will only go to Applebee’s during Happy Hour.”<sup>3</sup>
- “*...The Marching Band’s culture facilitated acts...*” – This is not supported by data or methodology. We have been unable to identify any studies linking juvenile humor to sexual assault. The conclusion is itself academically embarrassing particularly when subscribed to by a major University in a public document.
- “*failed to eliminate the sexual harassment...*” – In direct contradiction, our investigation revealed a plethora of specific policies to prevent harassment of any kind.
- Section IX below includes specific examples of policy initiatives specifically implemented by Jonathan Waters related to incidents cited in the IR.

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<sup>3</sup> Jennifer Mitchell & Jeannette Town (spanning 2002-11)

## MEMBER RATIO BY SEX

“Today, approximately 21% of its members are women” – The 2013 percentage of women in the OSUMB was 22.67%. The percentage is included ostensibly to imply, with no foundation, that the OSUMB environment is hostile to women. Indeed, some in the media have understandably concluded that this statistic is also evidence of sexism in the selection process. It is evident that a higher than average male/female ratio is not due to sexism, but is instead due to more males historically playing brass and percussion instruments than women. For over 100 years the OSUMB has reflected the legitimate conclusion that an all-brass and percussion band is far and away best suited for outdoor, all-weather performance. Likewise, an all woodwind band would likely have more women than men. In fact, an analysis of several other Big Ten marching bands indicates that the percentage of women in their brass and percussion sections also hovers around the same 22%.<sup>4</sup>

No known policy provides that all groups should have a gender division equal to the general population. Many other University courses have even more pronounced gender ratios. (Veterinary Medicine, for example). A recent *New York Times* article, as another example, portrays the gender inequality in teacher education programs. Rich, Motoko. “Why Don’t More Men Go Into Teaching?” *New York Times* 6 Sept. 2014. Regardless of gender, the promise of Title IX is the right to freely choose educational programs and activities. The OSUMB is an elite organization with an objective tryout process which has treated women as equals since women were integrated into the band. Again no logic or methodology appears to support the implication of this IR comment.

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<sup>4</sup> See public report (Attachment 7, Item 41) prepared by OSUMB Alumna Jenna McCoy.

#### TECHNICAL DEFICIENCIES IN ADMINISTRATION'S INVESTIGATION:

- Extremely small witness sample size (5 of 225 band members, 4 of over 4000 Alumni, 1 of thousands of parents, no prior directors). According to Mr. Waters, and the IR itself (p. 3, fn. 3), the witnesses interviewed were those identified by the original Title IX complainant. Intentional bias is reflected in relying upon this evidence base.
- “*FERPA requires redaction or protection of any information...*” – The Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99) is a Federal law that protects the privacy of student education records. The law applies to all schools that receive funds under an applicable program of the U.S. Department of Education. Many students in this report are publicly known by these names, both within and outside the band community. Some of these individuals include these names on their social media profiles.<sup>5</sup>

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<sup>5</sup> Jeanette Town & Tyler Provo (spanning 2008-13).

## THE ADMINISTRATION’S “FACTUAL” FINDINGS:

- Midnight Ramp – Our review demonstrates that this was a positive event, in celebration of making the band and with the hopes of diminishing nerves before the first performance. All members were clearly told by fellow students they did not have to participate if they did not wish, and several students opted out with no consequence. For the rookies, the event was meant to make marching in front of 100K people (with OSUMB cultural expectations of perfection) a little easier to face. If one can march in the dead of night in your underwear, so the reasoning went, it becomes that much easier at game time.<sup>6</sup> Currently there are two other University events that are noteworthy: the University sanctioned Mirror Lake Jump and the philanthropic Axe “Undie Run”. As a further demonstration of the positive, non-sexual nature of the event, university staff outside the OSUMB were specifically aware of the event, including interim OSUMB director, Dr. Russel Mikkelson, Director of University Bands, who attended the event in 2010<sup>7</sup>, and university police department members, who regularly “secured” the perimeter of Ohio Stadium (used with athletic department permission) for the event to facilitate the positive tradition (See 10tv.com; Kevin Landers report, August 14, 2014).
  - “*get completely naked*” – not witnessed on more than one cited occasion when one student got out of hand; was immediately dealt with through stern discipline and subsequent event monitoring. The occurrence isolated and singular, akin to a “streaker” – not tolerated and not typical. During Jonathan Waters’s tenure as director, all alcohol consumption was banned from this event and there were no instances of nakedness.<sup>8</sup>
  - “*warn new members...*” – The purpose of the comment was in fact to avoid any suggestion of mandatory participation and avoid discomfort, again mischaracterized in the IR.
  - “*female members have gone shopping...*” This clearly was not sanctioned by staff. How was shopping inappropriate? Band members interviewed assert that complainant’s daughter could have been among this small group of female members, by choice.<sup>9</sup> Moreover, Victoria’s Secret is the source of full-covering as well as athletic clothing, so the purpose of such shopping is questionable. The suggestion that a few individuals shopping at Victoria’s Secret is evidence of a “sexualized” band culture is astounding to this Committee.
  - “*whether this tradition was still necessary*” – This has been interpreted as an example of Jonathan Waters simply asking for the opinion of the Band, rather than taking action. Actually, Mr. Waters was asking the Band to consider the fact that organizations often have outdated practices that continue just because they always have been done that way. This was an invitation to question all band traditions and to eliminate those that are no longer necessary or good. Furthermore, Mr. Waters was known to end such traditions even when band members disagreed with him, so this should not be taken as an implication that he bowed to the input of the band.
  - “*whether it occurred in May*” – Multiple accounts indicate that Mr. Waters addressed canceling Midnight Ramp

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<sup>6</sup> Drew Thompson (2004-08), quoted in interview on ABC 6, July 25, 2014.

<sup>7</sup> Ben Thornton (2006-10).

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<sup>8</sup> Clay Finken (2008-11).

<sup>9</sup> Tyler Studebaker (2008-12).

before he learned of the investigation. In fact Jonathan Waters allowed the leadership to come to an agreement themselves to cancel the MR. It is untrue that he only considered canceling the MR after he knew of the investigation. Several years prior it was determined, after speaking with the student leadership, that the event would be simply driven “underground”. Instead, Mr. Waters modified the tradition in order to allow it to continue in a more safe and acceptable manner. The timing of the event was changed, the drinking was banned, and it was made clear to all band members that this was not a sanctioned or mandatory event. Staff members attended for student safety.<sup>10</sup> We are at a loss to understand continuing criticism in the IR.

- Nicknames – Few of the students named were contacted by the IR proponents. The fact that the investigators and authors of the IR referred to the *Urban Dictionary* rather than to investigate what actually occurred and was meant by nicknames is equally astounding. Many of these names were the preferred names of these individuals, both in and out of band. Some of these individuals had their nicknames included in their social media profiles.<sup>11</sup> Recent Alumni state that offensive nicknames were banned after 2011.<sup>12</sup>

- “...in 2013, all three new members of one row...” – One row is not representative of the whole band. Alumni who hosted a row dinner in 2013 were told by band members that they had not given offensive names, because Mr. Waters had made it clear that would not be allowed.<sup>13</sup>

- “*Boob Job*” – This name was given in 2008, before Mr. Waters was director.<sup>14</sup>
- “*Donk*” – This name was given in 2009, before Mr. Waters was director. Moreover, this individual was interviewed but was not asked about how she feels about her name or the circumstances surrounding the giving of names in her row. Her parents posed with her in “Donk” t shirts when she dotted the i. Her public statement is attached.<sup>15</sup>
- “*ERV*” – This name was given in 2007, before Jon Waters was director, and is therefore irrelevant to this report.<sup>16</sup>
- “*Gina*” – This name was given in 2007, before Jon Waters was director, and is therefore irrelevant to this report.<sup>17</sup>
- “*Jewoobs*” (sic) – insufficient investigation. The name is not even spelled correctly, nor was this student interviewed. Moreover, this name was given in 2009, before Waters was Director. Her public statement is attached<sup>18</sup>, which indicates that she embraced her name and did not feel offended until it was published (incorrectly) in this report without her consent.
- “*Mushroom Stamp*” – given in 2009, also predating Mr. Waters.<sup>19</sup>
- “*Squirt*” – This name was given in 2004, long before Mr. Waters was director, and is therefore irrelevant to the IR. She has indicated<sup>20</sup> that she is very upset to have been included in the IR, especially regarding her trick. (See “Tricks” section.)

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<sup>10</sup> Clay Finken (2008-11).

<sup>11</sup> Jeanette Town (2009-2011)

<sup>12</sup> Robert Brese (2010-13).

<sup>13</sup> Lindsey Danhoff (2006-10).

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<sup>14</sup> Holly Lewis (2005-08).

<sup>15</sup> Jocelyn Smallwood (2008-12). Attachment 7, Item 68

<sup>16</sup> Holly Lewis (2005-08).

<sup>17</sup> Chris Shaffner (2005-08).

<sup>18</sup> Attachment 7, Item 13

<sup>19</sup> Joe Plattenburg (2009-13).

<sup>20</sup> Jennifer Mitchell (2002-06).



- “*Sugar Bush*” – This is the name of a dog kennel known to a row member and was not intended to be sexual, but simply fun to say. The rookie with this name, a male, was often called “Shugga” or “Shug”. Moreover, this name was given in 2011, also before Mr. Waters was director.<sup>21</sup>
- “*Tits McGee*” – This nickname was given in 2007, before Waters was the director. In fact it is a name from the movie *Anchorman*, and is used to mock old-school sexism through satire. Its use was not sexual. A full and complete IR would have revealed this fact.
- “*Tulsa*” – This name was given in 2010, before Jon Waters was director.<sup>22</sup>
- “*Tiggles*” – This name was given in 2007, again predating Mr. Waters’ directorship. Like “Jewoobs” (sic), this student wrote an eloquent statement indicating that she did not feel offended by this name, that it was her preferred name, and that she is upset that it was included in the report without her consent. Her public statement is attached.<sup>23</sup>
- “...*nicknames were used by Waters*” – Some members preferred to be called by their nicknames. Again, some band members and alumni have these names on their social media profiles and are known by them to friends outside the band community. Sometimes, Mr. Waters might call these certain people their preferred name, and it was a sign of respect for their wishes. However, many alumni recall him using given names almost exclusively.<sup>24</sup> The fact that Waters used appropriate nicknames preferred by students is of no probative value on the

question of whether he tolerated sexual nicknames, which he did not.

- “...*sometimes when he was upset*” – Unsubstantiated: Did he use the name because he was upset, or because he always called that person by their nickname (which may have been personally preferred per the previous point)? Moreover, “Tiggles” states that she does NOT remember her nickname EVER being used by Mr. Waters, especially in anger.<sup>25</sup>
- “...*Waters sought to discover assigned nicknames*” – This demonstrates that he was taking steps to combat this practice. Mr. Waters would seek these nicknames in order to police the nicknames. For instance, the recent offensive nicknames were met with disciplinary action by Mr. Waters in 2012 and 2013.<sup>26</sup>
- “...*the practice did not change*” – Completely unsubstantiated. While the practice perhaps could never be wholly eliminated, offensive nicknames were rare and the ones that could be considered “questionable” were far less offensive than in years past. It was reported to alumni in 2013 that band members had stopped giving offensive nicknames because Mr. Waters had told them that they were no longer allowed to do so.<sup>27</sup>
- “...*Waters responded that 50 percent...*” Jonathan Waters was ambushed in his second interview, with no counsel and no knowledge of the allegations against him. To argue that his off the cuff guess about the context of nicknames was accurate, as a finding in the IR, is not defensible. Nicknames extend over decades and each one was welcomed by the bearer who allowed those to be included in a

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<sup>21</sup> Jocelyn Smallwood (2008-12).

<sup>22</sup> Chris Shaffner (2005-08).

<sup>23</sup> Attachment 7, Item 73

<sup>24</sup> Jeanette Town (2009-11).

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<sup>25</sup> Jeanette Town (2009-11).

<sup>26</sup> Robert Brese & Tyler Studebaker (spanning 2008-13).

<sup>27</sup> Lindsey Danhoff (2006-10).

directory. The actual percentage is far lower.

- Tricks

- “A female student sitting on laps...” – First of all, this “trick” occurred in 2004, long before Waters was Director. This “make the Band night” incident occurred in 2006. **It is typical of the salacious details included in the IR without appropriate context or time reference.** At that time, the candidates sat together in the band room for an extended time, often over an hour, while the band staff was finalizing the band roster. During this time the band candidates were unsupervised by any staff or squad leaders. After this incident, band staff including Waters made specific changes to this night to ensure that such incidents would not happen in the future. For example, the schedule of the night was altered so that students report to the stadium at a later time in the evening. As a result there would no longer be such a long unsupervised wait time where these incidents could occur.<sup>28</sup> Moreover, this student has indicated in private conversations<sup>29</sup> that she is extremely upset that this was included in the report, as many family members, friends, and colleagues outside the band know her nickname, but did not know her trick. Now, a trick that seemed silly and funny (which she voluntarily did, and which came from her high school softball team cheer) with friends when she was much younger has been publicized for a much larger audience. She is now a professional and is incensed that people who know her nickname now know about this trick, but she is not speaking out so as not to draw more attention to it.

- “A female student thumping the ground...” – This occurred in 2008, before Mr. Waters was director.<sup>30</sup>

- “Two females rubbing their chests together.” - False. This was not their trick.<sup>31</sup>

- “A male student scooting...” – This was a reference to a South Park TV show episode where this occurred, a show enjoyed by many college students and adults.

- “A female student pretending to be a vibrating sex toy.” – False. This was not her trick. Her actual trick was to sing an inoffensive song.<sup>32</sup>

- “Some witnesses stated that non-offensive tricks were occasionally performed in front of staff.” – Staff, according to the IR, only saw non-offensive tricks. How were they to be responsible for offensive ones?

- First Year Member Introductions – These typically did not include any offensive material. The goal was for the bus members to get to know the new members. Squad leaders stood with the new members to make sure they were not harassed or made uncomfortable. Jonathan Waters banned these introductions in 2012 and 2013.<sup>33</sup>

- “...remove articles of clothing” – Full uniforms were worn during these introductions. Members might unhook decorative cross belts or remove berets, but the new member would still be fully dressed in his/her (now slightly disheveled) uniform.<sup>34</sup>

- “...asking the squad leaders if they still needed to do them.” – Squad Leaders from

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<sup>28</sup> Rebecca Thompson & Holly Lewis (spanning 2005-10).

<sup>29</sup> Jennifer Mitchell (2002-06).

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<sup>30</sup> Chris Shaffner (2005-08).

<sup>31</sup> Jeanette Town (2009-11).

<sup>32</sup> Chris Wiet (2008-12).

<sup>33</sup> Robert Brese, Chris Wiet, & Jackie Schilling (spanning 2008-13).

<sup>34</sup> Jennifer Mitchell & Chris Wiet (spanning 2002-12).

this time assert that nearly all were in opposition to eliminating introductions, indicating how difficult such changes are. Even with this sentiment, buses were forced by bus chaperones to stop introductions in 2012, under orders from Waters.<sup>35</sup>

- First Year Member Midterms and Physical Challenges – These are NOT widespread practices, and were not nearly as extreme as those described in the report. Not all rows even had midterms, and many midterms were mild documents focused on band/OSU history and silly entertainment, such as writing a story or telling a joke.<sup>36</sup> As such, it would have been extremely difficult for even the most vigilant of bus chaperones to tell the difference between band members filling out a midterm and band members working on their homework. Furthermore, several alumni recall being allowed to skip midterm questions with which they were uncomfortable, with no negative repercussions.<sup>37</sup> A number of alumni recall, as first year members, being specifically told by older band members and band staff that they were not to do anything that made them uncomfortable.<sup>38</sup> In fact, alumni recall specific efforts to ensure that first-year members understood the light-hearted, voluntary nature of these midterms. **These midterms were specifically banned in 2012 when Mr. Waters became director**<sup>39</sup>.

- “used in 2011” (Exhibit A) – This was before Mr. Waters was director. Moreover, this particular midterm did not occur on his bus, so it would have been the responsibility of the staff member on the ERS bus in 2011 to deal with it. Again,

<sup>35</sup> Chris Wiet, & Jackie Schilling (spanning 2008-13).

<sup>36</sup> Jason Stroud, Jennifer Mitchell, & Jon Picking (spanning 2001-08).

<sup>37</sup> Jennifer Mitchell, Holly Lewis, & Jackie Schilling (spanning 2002-13).

<sup>38</sup> Jason Stroud, Jennifer Mitchell, & Allen Sun (spanning 2001-12).

<sup>39</sup> Tyler Studebaker (2008-12).

this midterm is an extreme case and is not a reflection of widespread band actions.

- “*The witness also stated that one physical challenge...*” – Again, this is an extreme example that is not representative of the conduct of the entire band. Moreover, on what bus did this occur? If not on the director’s bus, another staff member would have been responsible for noticing and dealing with this.
- Trip Tic – A completely unsanctioned document produced by a few students and specifically hidden from staff because it was prohibited. Once Mr. Waters became Director, he put a total stop to the practice.<sup>40</sup>
  - “...a ‘Marry, F\*ck, Kill’ list” - Common game played among college students, not exclusive to the Marching Band. Also known to occur on radio shows hosted by many “shock jock” personalities.
  - “... members would typically give a copy to Waters.” – Unsubstantiated. Several recent alumni of this row assert that Mr. Waters was not given a copy, and alumni of various rows recall students attempting to make sure he did not get a copy<sup>41</sup> because they knew he had been trying to prohibit it, even before he was director. At least one article in a “trip tic” bashed Waters for trying to restrict student behavior, demonstrating how vocal he was about putting an end to this and other behaviors.<sup>42</sup>
- “...Waters explained that he found the October 2012 issue... Trip Tic has apparently stopped.” – A clear example of how this document was prohibited and how students were punished for disobeying. If it was stopped, why is it in the IR?

<sup>40</sup> Robert Brese & Chris Wiet (spanning 2008-13).

<sup>41</sup> Robert Brese, Joe Plattenburg, Chris Wiet, & Squad Leader statement from Mike Johnson (spanning 2008-13).

<sup>42</sup> Chris Wiet (2008-12).

- Songbook – All offensive songs were completely banned by 2013, but many students were reprimanded for singing them much earlier. Very few band members owned or even saw a copy of this book throughout their years in band. During a few seasons, some band members attempted to secretly distribute the book because they knew it was prohibited by band staff, even long before Waters was Director.<sup>43</sup> Most of the songs in the book were written decades ago and were rarely or never sung. Singing was usually limited to the Big Ten fight songs and a few select other songs. Many buses also sang regular, non-offensive show tunes and other songs. Alumni recall Waters being extremely vocal about prohibiting all offensive songs throughout his many years and varied positions as a staff member.<sup>44</sup>

- Exhibit B, “*written in 2006*” – Published, not written. As noted above, the vast majority of these songs were written decades ago, and many are not exclusive to the OSU Marching Band. A quick search for some songs will turn up results completely unrelated to the band. For some students, the songbook was nothing more than an object of curiosity; a link with the band’s past. Moreover, some band members from 2006 did not even know a book had been published that year, demonstrating the secrecy surrounding these books.<sup>45</sup>

- “*Recalling that women... were subjected...*” – This implies the women were not supportive of the practice. Women were often the ones most vocal in support of continuing the singing of these songs.<sup>46</sup>

- “*...he addressed students singing inappropriate songs*” – Alumni recall

innumerable incidences of Waters and other band staff asking students to stop singing songs and even punishing them for it, long before Waters was Director as well as during his era. Before the 2006 season, squad leader candidates were asked in squad leader interviews about their attitude toward the songs and pressed to discourage their rows from singing them.<sup>47</sup>

In the years before Mr. Waters became director, singing them on buses was strictly forbidden but some students still tried to continue the practice. When he became director, the practice was almost entirely stopped during official band time (trips, buses, rehearsals, etc.) and songs were sung at unofficial gatherings such as parties.<sup>48</sup> Thus, it is clear that this problem was difficult to eradicate, yet Waters and the band staff were continuing to crack down on it.

- Other Alleged Misconduct on Buses – As far back as at least 2006, the OSUMB Policies and Procedures manual explicitly states that students can be disciplined for “offensive language, hazing, or any activity creating an unsafe or socially uncomfortable environment” while traveling.<sup>49</sup> As early as 2004, band staff asked squad leader candidates in interviews specifically about ‘bus behavior’ and how they would work to improve it. This was a point of emphasis by the band leadership, including Mr. Waters, for several years.<sup>50</sup>

- “*students brought a box of pornography*” – Unsubstantiated. Moreover, pornography is legal among adults. If staff did not know, how could they act?

- “*flying 69 formation*” – This behavior was very rare within the recent band. Old stories of it floated around, but several

<sup>43</sup> Jeanette Town (2009-11).

<sup>44</sup> All recent alumni who contributed (spanning 2001-13).

<sup>45</sup> Jennifer Mitchell & Holly Lewis (spanning 2002-08).

<sup>46</sup> Chris Wiet (2008-12).

<sup>47</sup> Jennifer Mitchell (2002-06).

<sup>48</sup> Robert Brese & Chris Wiet (spanning 2008-13).

<sup>49</sup> Attachment #8

<sup>50</sup> Jason Stroud & Jennifer Mitchell (spanning 2001-06).

recent alumni rarely, if ever, recall seeing such an act in their years.<sup>51</sup> Thus, this 2013 incident (on only 1 out of 7 buses) was extremely atypical, not indicative of usual bus behavior in the recent band. It was a practice falling out of favor as early as 1971. Furthermore, alumni assert that this “formation” was nothing more than a physical test of strength rather than an imitation of a sexual act.

- “...*drunk..*” band members, etc. – the credibility of this witness, who served with the band for over 15 years without a complaint, has been called into question including with respect to the challenged claim that sick, exhausted, and dehydrated band members were “drunk” on the California trip in 2013.<sup>52</sup> Ironically the individual remained on band staff as a volunteer for 18 years. She chose to voice her objections recently.
- “*roller bus*” -- This practice was explicitly outlawed on buses as soon as Mr. Waters became director. Some students attempted when non-band staff were chaperones. In 2013, band members were threatened with removal from the band if they participated.<sup>53</sup> Moreover, this game is not at all sexual and has nothing to do with the accusations in the IR.

- Changing Clothes on Buses: “*Changing on the bus*” usually involved going from full uniform to blazer uniform or grays. Typically, one would be wearing an undershirt under your uniform shirt as well as dark shorts under your uniform pants as to cover seam splits. Therefore, there was no nudity present by either male or female members at any time during this process. In most cases, changing was completely optional, as band members were welcome to come fully dressed in their

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<sup>51</sup> Jennifer Mitchell, Ben Thorton, & Jackie Schilling (spanning 2002-13).

<sup>52</sup> Jackie Schilling (2009-13).

<sup>53</sup> Robert Brese (2010-13).

uniforms or wear them home, but many chose to change for comfort. This is a common practice in many bands and sports organizations, including in high school.

- “*One witness stated that she complained...*” – Unsubstantiated. ONE witness said that she didn't want to change in front of people. The logical conclusion could be that she could have changed in the restroom if she wanted to change at all, not that the environment was one of sexual harassment.

- General “Culture” Statements –

- “...*during his first year in the Marching Band (circa 2007), an upperclassman shared a story...*” – Complete hearsay and completely aside. There is no context. Band staff would have had no control over the activity. 2007 was long before Mr. Waters became director. One hearsay story allegedly told to one band member is not indicative of a culture, even though footnote 6 of the Investigation Report claims such to be the case. The logical conclusion is that the alleged upperclassman was simply a very rude person.
- “... *cited alcohol consumption at away football games...*” – Another instance of something that was fairly prevalent before Waters became the director. As assistant director, he tried very hard to tone down this practice. When he became director, it was clearly stated that alcohol consumption of ANY KIND on the bus, in the hotel, or anywhere while on any band trip would result in severe penalty, including outright expulsion from the band.<sup>54</sup> Countless examples of such suspensions and other punishments can be provided by many recent alumni. Moreover, as noted previously, the accusations from a former volunteer that

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<sup>54</sup> Chris Wiet (2008-12).

band members were drunk on the 2013 California trip were actually inaccurate comments about students who were genuinely sick and/or dehydrated.<sup>55</sup>

- “... *Hoch said that no one has worked harder to address the culture than Waters.*” – Although this is the truth, it appears to have no bearing on the outcome of the investigation.
- “... *the term ‘rookie’ is a pejorative*” – While this may have been true at one time and with certain members, this term is also widely used as a term of affection between older members who mentored younger members.<sup>56</sup> Nonetheless Waters banned the term.
- “... *He noted that former Title IX Coordinator...*” – This was just one of a variety of speakers who were brought in by Mr. Waters to talk to the band in 2013 about alcohol, harassment, and other issues.<sup>57</sup> Moreover, Mr. Waters started Squad Leader retreats and training sessions specifically designed to help student leaders improve the culture of the band.<sup>58</sup>
- “...*as a result of a sexual assault*” / footnote 7 – Both of these reports were handled officially by Mr. Waters by going to his superior. Waters should have had help from University officials to deal with these situations correctly. Staff, such as Mr. Waters, had the responsibility to report such incidents in order for there to be further handling by the University officials. The second incident involved the Athletic Band, and had no relationship to any "culture" in the marching band. (See

Attachment #10, Lantern Goldblum articles)

- “Analysis” in the IR
  - “...*affected many students’ music education...*” – The few students (9?) of thousands that were involved over the at least 8 years of incidents mentioned in the report is negligible. Moreover, there are no reports of complaints whatsoever, and no “victims” identified.
  - “...*The misconduct described is highly sexual, frequent...*” – It was not frequent. The lack of years in the IR make it sound much more frequent than it actually was. Also, some events (such as Midnight Ramp and the flying 69) have been described or implied to be more sexual than in truth.
  - “... *Some of this misconduct was directly witnessed and permitted...*” – Multiple accounts indicate that whenever questionable behavior occurred, the behavior was immediately stopped. Throughout the years referenced in the report, students often faced game suspensions and other consequences (such as being made an alternate) as a result of misconduct. For example, a student who used a homophobic slur in 2012 or 2013 was suspended for an entire week.<sup>59</sup> (A multitude of recent alumni verify.) Mr. Waters was also known to hold discussion sessions with involved individuals whenever a concern was brought to his attention.<sup>60</sup> Moreover, each year early in the band season (before the first football game) an entire rehearsal period was dedicated to a line-by-line review of the band's policies and procedures.<sup>61</sup> These policies were given, in writing, to each

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<sup>55</sup> Jackie Schilling (2009-13).

<sup>56</sup> Jennifer Mitchell (2002-06).

<sup>57</sup> Robert Brese (2010-13).

<sup>58</sup> Robert Brese (2010-13) and Attachment # 9, Squad Leaders Public Report

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<sup>59</sup> Tyler Studebaker (2008-12).

<sup>60</sup> Tyler Studebaker (2008-12).

<sup>61</sup> Jason Stroud (2001-05), can be confirmed by all recent alumni who contributed.

band member. The leadership of the band (including Mr. Waters throughout his varied staff roles over the years) reviewed these policies in detail. Included in this document were policies regarding hazing, harassment, and alcohol consumption, among other things.<sup>62</sup>

- “... *impressionable and developing...*” – While college students are still learning and growing the vast majority are legal adults who can vote and serve in the military, and many are also allowed to drink alcohol. In the rare case of a 17-year-old making the band in 2009, Waters (even though he was merely Assistant Director) specifically pulled that student aside immediately after the band was announced, stating that a permission form signed by that student’s parents was required. Moreover, he told the student to speak with him at any time if he ever felt uncomfortable or pressured in any way.<sup>63</sup>
- “... *Much of the misconduct occurred during official Marching Band activities...*” – Not true. Most alleged activities took place at parties or other student-initiated social gatherings at unsupervised locations. The only activities identified as having occurred during band time were **bus activities**, and, as noted earlier, many recent alumni confirm that Mr. Waters and the band staff had changed bus behavior.

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<sup>62</sup> Attachment # 8, Policy and Procedure excerpts

<sup>63</sup> Allen Sun (2009-12).

## FINDINGS REGARDING RESPONSE TO CULTURE

- “... *did not take adequate measures to address it...*” – We have noted a multitude of measures, and this is far from an exhaustive list. “Adequacy” was clear, albeit subjective. A full sample and complete interviews would have demonstrated that adequacy.
- Relevant Requirements -- Susan Lipkins Ph.D. said on WOSU with Ann Fisher that cultural change takes “**decades**”.<sup>64</sup> As described in this document and in numerous public statements from recent alumni, Mr. Waters enforced consequences for misbehavior and took specific actions to ban behaviors that had been prevalent before he was Director, while also working to achieve buy-in from band members so they would want to truly change their behavior instead of taking it underground. Mr. Waters removed offenders from the band when it was serious, and took the actions necessary to address the culture at its root. These actions are both immediate and as effective as possible given the circumstances. More extreme action would only have superficially addressed the problem without addressing its cause. Furthermore, there have been multiple accounts that state this investigation and subsequent public statement have resulted in more feelings of sexualization or harassment than are even documented in the report. In other words, this has done more harm than good. (See Section X below, “Impact...”)
- Analysis – Please refer to our evidence of responses and inaccuracies, in addition to the following:
  - “*Waters knew about Midnight Ramp...*” – A hostile environment is one that is malicious. The midnight ramp tradition was a “welcoming” celebration event. As noted in our discussion of that section, members were not forced to attend or to wear their underwear. The existence of this tradition alone is not grounds for a claim of Waters being aware of “extensive sexual harassment”. Moreover, his presence was instituted for safety after an alcohol poisoning incident in 2009.<sup>65</sup>
  - “... *Waters provided a copy of the TBDBITL Alumni Directory...*” – This would contain up to four thousand people... what percentage of these are actually from Mr. Waters’ era as director? What percentage of those with nicknames from Mr. Waters’ era are actually offensive? All nicknames in the directory were approved and supplied by the individual involved, and were subject to self-editing.
  - “... *Waters stated that he... could not see how the students could have had time to drink given the busy schedule.*” – Mr. Waters specifically prepared trip itineraries to minimize student misbehaviors. A 2006 squad leader recalls discussing with Mr. Waters such a trip schedule during a squad leader meeting. Some band members wanted to go back to the hotel earlier, or at least have an early bus for people who wanted to be well-rested for game day, as the band had done on past trips. Mr. Waters refused, stating that he was worried people would get into trouble at the hotel if given the chance to go back earlier.<sup>66</sup>
  - “... *Waters stated that the best initiation of change comes from student leaders.*” – A full investigation should have included interviews with several Squad Leaders. Their recently released document demonstrates his various efforts to enact

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<sup>64</sup> wosu.org, podcast/Ann Fisher (July 25, 2014).

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<sup>65</sup> See earlier footnotes about this topic in the “Midnight Ramp” section.

<sup>66</sup> Jennifer Mitchell (2002-06).



such change in a manner that would cause them to buy in.<sup>67</sup>

- “... *On July 14, Waters provided a document...*” – That document, quoted in Section IX below, was not released by the university or summarized in the IR.
- “... *wants to be a cool guy in the band*” – Mr. Waters attempted to build relationships with students, but countless alumni recall him also enforcing rules, to the point that he was often ridiculed and derided. Band members often called him the “fun police” for his strong stance to combat poor behavior and enforce rules<sup>68</sup>, including the many incidences identified herein.
- “... *report sexual harassment within five working days*” – There is no evidence of sexual harassment complaints going unreported by staff. In fact, Mr. Waters increased office hours to nearly every day before band, and emphasized an open door policy for any issues somebody might have.<sup>69</sup>
- “... *Intending to eliminate sexual harassment over a period of years...*” – Mr. Waters undertook numerous specific actions as he also gained the trust and acceptance of the band. Draconian enforcement of an immediate zero-tolerance policy would have been met with resentment, rebellion, and secretive activities. Problems would have been driven underground. In fact, the many reforms Mr. Waters instituted were already met with such responses by some band members.<sup>70</sup>

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<sup>67</sup> Attachment # 9

<sup>68</sup> Attachment # 9

<sup>69</sup> Robert Brese (2010-13).

<sup>70</sup> All recent alumni who contributed confirm.

ADDITIONAL FACTORS – Relevance to the Title IX investigation or the allegations of a “*sexualized culture*” is lacking:

- “... *The witness had been previously suspended... he had a history of attitude problems.*” – An isolated “set up” incident was covertly recorded by a repeatedly-disciplined student leader. Mr. Waters’ frustration was understandable. At the time of the recording, the student had repeatedly defied Mr. Waters’ instructions after already being disciplined repeatedly for violating the band’s Policies and Procedures.<sup>71</sup>
- “*cursed at her...*” – This witness has come forward with a public statement detailing how Mr. Waters was under stress at the time and did not curse at her. Moreover, she states that **all positive information she shared about Mr. Waters was omitted from the IR**, and that the incident described was of such little importance that she **still felt comfortable** approaching Mr. Waters with concerns after it had occurred.<sup>72</sup> Why was this ignored in IR?
- The IR rests upon the implication that female band members felt victimized, that they had a consistent point of view, and that band *culture* was uniquely offensive to them, all with no evidence, corroboration, or consistency. Female band members have advised us that they feel insulted by being treated by a broad brush as a group.
- The two instances described are two isolated brief moments which are not indicative of Mr. Waters’ overwhelmingly positive character, according to band members and recent alumni. Recent alumni recall Waters as caring, compassionate, and encouraging. He supported students through family illnesses and deaths, responded compassionately to tragedies in other college bands, and took the time to get to know students individually. He also created community service programs to teach band members to give back to the community.<sup>73</sup>

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<sup>71</sup> Tyler Provo (2008-11).

<sup>72</sup> Publicly released letter from alumna Rebecca Demattia (2006-10).

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<sup>73</sup> Countless examples can be furnished by many recent alumni and community members. See Section XII.

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## V. TITLE IX AND THE OHIO STATE UNIVERSITY MARCHING BAND

The purpose of Title IX is to prohibit discrimination within the University on the basis of sex in all educational programs and activities, including pre-empting any intimidating, hostile, or offensive environment on campus.

The Ohio State University Title IX policy indicates that “each situation must be considered in context to determine if sexual harassment has occurred,” ... furthermore, “conduct may be inappropriate, unprofessional, offensive, or hurtful, yet not be harassment under this policy.” Very subjective, fact sensitive determinations are involved.

Title IX is particularly relevant to the history of The Ohio State University Marching Band. In 1973, after adoption of the Act, the marching band under the leadership of Dr. Paul Droste, charged forward without hesitation or apology to its past members, in admitting women to try-outs for the Band. Title IX was embraced, unlike in many other organizations. Women who joined the band since 1973 have spoken out. As an organization it has a 40-year history of developing unique relationships within the Ohio State University Marching Band, as it involves men and women, which are valued and supported. (See Attachment #11, *Script Ohio* Summary of 1973 events).

In 2010, the ground-breaking Diversity Program of the Band Alumni was awarded funding and recognition by the OSUAA. (Attachment # 12, Application containing full program description) Funding was used to create and distribute a recruiting brochure. TBDBITL Alumni Club, Inc. President, Jeff Jordan, and Diversity Outreach Committee Chair, Gary J. Leppla, were invited to make a presentation on “Diversity Best Practices” to all University alumni groups on October 8, 2010. All elements of the OSUMB family take diversity very seriously.

Notwithstanding anecdotal evidence of acts of inappropriate conduct, the overwhelming majority of members and all leaders of the organization have taken steps to create a safe, non-hostile, non-discriminatory environment. Selective, incomplete stories from a minimum of band members, with no adequate corroboration, in a report written offensively, do not change that commitment or tradition. That commitment is reflected in training and leadership and particularly in programs implemented in advance by Mr. Waters. Those included the very detailed discussion of in-house and external training and monitoring of squad leaders and band in general on issues of sexual harassment, alcohol abuse, leadership, duties to report, etc.

In the absence of specific guidelines, benchmarks, or mandates from the University or his superiors (including claimed interference by the University’s chief compliance officer, see Attachment #10), Jonathan Waters took it upon himself to be the initiator and leader for a quality band culture. He sought out the programs and speakers and retreats for the band. Alumni, including John Gray, for example, have pitched in to provide financial support. Squad leaders of the marching band attended conferences at Aileron near Huber Heights which includes examination of relationships, sexual harassment, leadership and non-discrimination. The details are contained in the 2012-2013 Squad Leaders Report, August 26, 2014. (See Attachment #9)

The student squad leaders who served in the 2012-13 OSUMB under Mr. Waters expressed their view that Waters caused social and interpersonal development in the band through specific programs. They commented that his initiatives were “well-received and effective”. The student leaders, some of whom are still members of the OSUMB, asserted that hazing of

any kind was not tolerated. Sexual harassment of any kind was not tolerated. Given the 50 to 1 staff to student ratio in this activity, squad leaders occupied a key role in advancing the agenda of Waters and the staff. Their report contains painstaking and intimate details gathered by the group in their effort to reveal the truth, i.e., “No one knows the truth better than we do as a group.” (Squad Leader Report, Attachment # 9.)

Their report includes specific examples of how issues were dealt with by the director and his staff. Their production of their report, accomplished on their own initiative and provided to this Committee, was a product of a difficult, emotional and time-consuming process. As noted, Waters informed the band that he intended to immediately and directly “impact the existing culture” of the band. Band members agreed that it was a change “for the better”. As one squad leader reported:

*“It was an exciting movement to be a part of, especially with the increased publicity of the video-game show and others, but also to see the organization that I love start to shed the parts that needed to be retired. None of this would have been possible without Jon Waters. Jon was the principal agent of change within the organization, and his methods were efficient and effective. My experiences echo what I have heard countless fellow students say.”*

Another noted that Waters’ “decorum behind closed doors was professional and even keeled. Even under highly stressful situations (and I was

a firsthand witness to several) Jon did not resort to foul language or raising his voice. It was rare, and noteworthy, for a ‘damn’ to slip out during rehearsal”.

Alcohol was totally banned: “Members caught drinking were automatically removed from their field position”. The 2012 Midnight Ramp, supervised by many including police and school of music faculty, was “a positive event”. Subsequently it was totally banned as unnecessary, being replaced by other activities. Anyone with an old “songbook” was to be suspended from the band by Waters. In five years there were practically no efforts to try “roller bus” or suspension from the luggage rack, which both had effectively become simply a vestige of the past and a joke.

Attachments provided by the Squad Leaders included a detailed Policies and Procedures manual, which apparently the *Glaros* Report investigators did not realize existed. It included several pages concerning “trip policies”, a total ban on “hazing” and “initiations”, detailed guidelines for “social behavior”, etc. Also attached was the 2012 manual of Squad Leader Responsibilities, including mandates to enforce all Policies and Procedures specifically including anti-hazing and to **report** all misconduct. Two years of Squad Leader retreat itineraries were included, as well as detailed references to Aileron training sessions, specifically including Title IX-related issues.

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## VI. PROCESS OF GLAROS REPORT, INCLUDING DESCRIPTION OF EVENTS AND INVESTIGATORS, METHODOLOGY

Based upon public records, and the few items that have been released by the University concerning their IR, some matters and participants can be identified. It appears that investigator Jessica Tobias, who has been employed by The Ohio State University for approximately eight months as a recently admitted attorney at law, undertook two interviews with Jonathan Waters beginning in June, 2014. The Ohio State University Office of Compliance and Integrity website identifies her as a “Compliance Investigator.”

The subject Title IX complaint which led to these events was made approximately May 23, 2014. Christopher Glaros contacted Jonathan Waters during the last week of May, 2014 by call to the Steinbrenner Band Center stating that a Title IX complaint had been filed against Waters “and other members of the Band” which would require an interview with him. Jessica Tobias called to set up the interview.

That complaint purportedly was made to criticize the handling by Waters of the report of an incident between two students which had occurred in October, 2013. The claim was that Waters retaliated against the female student who had been involved in the October, 2013 incident. In fact the student had also reported the issue to her own squad leaders in a demonstration of effective trust and reporting mechanisms within the Band. **Most significantly, twice Jonathan Waters was commended by the University’s Vice-president of Student Affairs for his handling of the October report and his follow-through.**

The first interview, according to Jonathan Waters, concerned allegations involving a prior harassment complaint and the handling of that complaint by Jonathan Waters. At the conclusion of that first interview, Ms. Tobias informed Jonathan Waters that she would not need to talk to him anymore “and this will be wrapped up.” (Ultimately, indeed, he was

advised that there was no basis for complaints against him based upon the original Title IX complaint which had been submitted allegedly by the mother of a former marching band and athletic band student). Jonathan Waters reports that near the end of the first interview by Ms. Tobias, there was a very brief discussion of issues which Mr. Waters would describe as “band culture”, in a passing fashion with no attention to specific detail and no suggestion, indication or acknowledgment that the matter was a source of concern or a topic of actual investigation. Why not dismiss the Title IX complaint effective and do a thorough investigation of “band culture” if that was an honest goal?

Subsequently, Jessica Tobias re-contacted the OSUMB Director for a second interview. Jonathan Waters proceeded to that second interview with Jessica Tobias on July 1st, 2014. Upon arrival, Mr. Waters specifically asked Jessica Tobias, an attorney herself, if it would be wise for him to have an attorney, to which she replied, that although she could not advise him, an attorney would not be helpful to him because his attorney would not be permitted to speak and that Mr. Waters would nonetheless be required to answer all questions.

On the occasion of the second interview, the tone was decidedly different as Jessica Tobias, accompanied by an individual taking notes, cross-examined Jonathan Waters for over three hours on issues concerning band activities, traditions, activities in a co-ed groups, alcohol use, bus trips, off campus activities, and a wide array and variety of other matters, some of which was contained in the final *Glaros* Report.

Subsequent to the second interview Jonathan Waters contacted the Ohio State University Legal Office (which had provided all necessary assistance to him on any issue associated with his employment and service to The Ohio State University in the past) to inquire as to whether

he was entitled to University legal assistance in this matter. Alexandra Schimmer of the OSU Legal Office tersely advised him that he would have to get an outside attorney on his own according to Mr. Waters. For the first time, in the Schimmer conversation, Waters was told that there was a second investigation into the broad band culture, which had grown out of the first inconsequential Title IX complaint. Schimmer told Waters that the second investigation, for which Waters had already been interviewed without notice of any allegations, was “much broader”.

Jonathan Waters is the source of the cited information concerning his interviews. His repeated comments have been entirely consistent in interviews and in public statements.

Other investigators apparently assisted in interviewing witnesses and preparing a report but their identities have not been connected to individual witnesses. That process is unknown to us insofar as the University has declined to share information with us or allow their investigators to meet with us.

The apparent author of the IR, Christopher Glaros, is an attorney employee of the Ohio State Office of University Compliance and Integrity (“Compliance and Integrity”). His university biography indicates he has held various positions in government after a period of time in private practice for several months. His official title is *Assistant Vice President of Compliance Operations and Investigations for the Office of University Compliance and Integrity*. He clerked for an OSU trustee. The report issued by Christopher Glaros consisted of his apparent analysis of facts obtained by investigators, although his actual process is unknown to us insofar as he was not made available to our investigators. It appears that he had no contact with Jonathan Waters, that he authored the investigative report, and that the document is his work product. That work product was apparently submitted to various

individuals including University Provost Joseph Steinmetz (former Dean of the University’s College of Arts & Sciences) who engaged in discussions with Jonathan Waters concerning the results of that investigation.

What we now know, particularly given the release of the US Department of Education (USDE) “resolution” agreement, is that the Office of University Compliance and Integrity, Title IX office which was at the center of the investigation by the USDE for its inadequate process actually conducted the “investigation” of the marching band and Waters. The resulting grossly critical report which it issued, based upon grossly incomplete evidence, appears to have resulted in some form of prospective exoneration for itself and the University. The USDE “applauded” the University for its efforts involving the marching band, accepting the one sided report as accurate, and confirming compliance problems (which the University in public statements had persisted in claiming did not exist):

Through this compliance review, OCR determined that **the university is in violation of Title IX** because its **written policies and procedures** for responding to complaints, reports and other incidents of sexual violence and harassment **do not comply with the law’s requirements**. During the course of OCR’s compliance review, the university conducted a comprehensive investigation of alleged sexual harassment within its marching band and found that there was a sexually hostile environment for students in the marching band and that the band director failed to adequately eliminate that harassment, prevent its recurrence, and address its effects. Under established OCR policy, a sexually hostile environment violates Title IX. OCR incorporates in the resolution agreement the university’s own corrective action steps for the marching band as

requirements. *USDE, Press Release*, September 11, 2014.

More ironically, Jonathan Waters was investigated ostensibly for not following proper Title IX procedures with respect to *Band Culture* where the University itself had inadequate enforcement guidelines.

On July 14, 2014, Dr. Joseph Steinmetz (accompanied by A.J. Douglas, the University's Human Resources representative) met with Jonathan Waters who was again unaccompanied by counsel (having had advice that he need not have counsel). Steinmetz discussed the report while refusing to show Waters a copy, indicating "you'll see this soon enough." Steinmetz indicated the IR was entirely complete. He discussed the seriousness of the situation and suggested that the marching band would go forward under Jonathan Waters' leadership with a zero tolerance policy, and with outside consultants to assist in reviewing issues and assessing band "culture" to ensure Title IX compliance within the organization. Jonathan Waters stated that he embraced that approach and that in fact he had suggested including consultants in the process the prior Fall by statements made directly to supervisors in the School of Music and the College of Arts and Sciences. Waters had provided Tobias and Steinmetz with his own listing of his efforts to shape the social and organizational focus of the marching band, as had been requested by Tobias with no deadline for submission, prior to the July 14 meeting. Steinmetz placed his hand on the report stating that it was complete and nothing more would be included.

In a subsequent meeting, at which Jonathan Waters for the first time appeared with an attorney (David F. Axelrod of Columbus), Provost Steinmetz refused any further discussion, refused the request of Mr. Axelrod to present evidence and witnesses for consideration, and gave Jonathan Waters the ultimatum that by 5:00 p.m., that very day, he had to either resign or be fired. **His attorney**

**was told by Steinmetz that he would not be permitted to speak.** At that time Jonathan Waters was first given the previously concealed *Glaros* Report immediately prior to the adjournment of the meeting. His building access materials and keys were also taken from him at that time.

Ironically Provost Steinmetz, as reported in an April, 2014 *Columbus Dispatch* article, communicated by email with incoming President Drake for several months before Dr. Drake arrived with the goal of "smoothing his transition without issues." *Columbus Dispatch*, "Ohio State Provost Eases Way for New President", April 25, 2014.

In the belief that the University would carefully consider its decision and engage in further discussions and share more specifics with respect to the charges and basis of those charges, Jonathan Waters reviewed the "investigation report" and through counsel engaged in further contact with the administration to clarify their position. Axelrod asked for time to review the *Glaros* Report and to prepare a response within one week. Water's attorney was again advised by OSU attorneys that Waters either had to resign or be fired that very day. Jonathan Waters refused to resign at any time and has continued to insist that the report is false and misleading and that it wrongfully smears the reputation of The Ohio State University Marching Band and its traditions and history, along with its students, alumni and fans.

Included in the analysis by this Committee is consideration of the fact that a "songbook" full of salacious and outrageous lyrics for songs allegedly sung on buses, on road trips by the Band in the past (which apparently was prepared in the 1980's and had not been seen generally by band members long before Jonathan Waters became director) was attached and publicly released creating egregious suggestions of what was described as a "sexualized" band culture. Also attached to the

IR was a *quiz* which, in past years, had been given to some band members by other band members, again dated before Waters became director. **There is no adequate explanation for the attachment and release of the “songbook” as a part of the IR other than to inflame public opinion against Waters and the OSUMB.**

The appearance and the manner in which the investigation was conducted after the first interview by Jessica Tobias, proceeding through subsequent events, suggested that the University administration had made up its mind that the Band director was going to be fired and they simply continued to build a political and public case against Jonathan Waters and The Ohio State University Marching Band and its history, culminating in the *Glaros* Report and the termination of Jonathan Waters.

The methodology of the University’s Investigative Report is subject to analysis and criticism. Consultation with legal professionals, government attorneys, investigative specialists, and other commentators support the conclusion that the investigative approach impacts the accuracy of the reported “facts” and “conclusions”. Those concerns include the following:

1. Sample size
2. Hearsay
3. Timing
4. Responsibility for actions of adults

There are 225 members in the Marching Band block, at least 5 members of D row (drum majors) and several student staff members. In addition there are thousands of alumni both locally and scattered throughout the world. An “investigation” and “decision” purportedly was based upon findings about the “band culture” based on interviews with a complainant’s adult daughter, four other then-current members of the band and five alumni, plus various staff. In addition, we have been advised that the

“independent” witnesses were all suggested by the original complainant or her daughter. All professionals with whom we consulted held the opinion that the use of such a sample undercuts the validity of any “facts” reported and “conclusions” reached. Notwithstanding the approach, the authors of the IR reached certain conclusions regarding “band culture”. No conclusions can be properly drawn from such an incomplete sample.

The *Glaros* Report contains numerous statements claiming that a witness was told something by someone else, i.e., there is repeated reliance on hearsay, most from unidentified witnesses. The hearsay relied upon in the *Glaros* Report could not be admitted as evidence in a legal proceeding, where the actual witness would have to be produced. Its value is limited and does not constitute evidence of wrongdoing.

Additionally, many of the conclusions in the *Glaros* Report rest upon undated testimony. Mr. Waters had only been the director since October 2012 yet he was held responsible for actions that have been unequivocally demonstrated to have occurred many years, if not decades, prior to October, 2012.

Many of the events cited in the report took place off campus, not at official band functions and not at times when the director, or any faculty member, could reasonably be expected to be aware of or responsible for the actions of young men and women who are over the age of 18.

The IR approach itself is flawed to such an extent that only a new investigation of the identical matters could reflect credible conclusions.

We have observed and reviewed the current version of the OSUMB. We have heard from recent graduates, current members, and past members, through interviews, and through personal knowledge of the activities of members and staff over several decades. The OSUMB is



and has always been a group of dedicated young men and women who have a reputation for acting appropriately and representing The Ohio State University in the most professional manner. Our investigation reveals repeated comments that most band members feel the safest and most comfortable with other band members. Although it would be inaccurate to conclude that none of the actions described in the *Glaros* Report ever occurred, the conclusion that the “band culture” was or is “sexualized” as portrayed in the *Glaros* Report is grossly inaccurate.

The continuing review of Title IX issues by former Ohio Attorney General Betty Montgomery, involving investigators and components chosen and appointed solely by the University administration itself, has been limited by the president of the University entirely to prospective circumstances and recommendations concerning the future “compliance” in the marching band. (Attachment #13, Letter of Appointment). Allegedly no consideration will be given in the Montgomery effort to revisiting any issues raised in the *Glaros* Report or any decisions made as a consequence of that report. Per Betty Montgomery:

*“There’s a misconception I think that we will retread that ground to see if the conclusion was correct. That’s not our mission,”* said Montgomery, a former Ohio attorney general, state senator and Wood County prosecutor.

Columbus *Dispatch*, August 1, 2014.

Accordingly, this Committee anticipates no additional information, sharing of information, or independent analysis of any of the issues resulting in the effective indictment of the Marching Band and the firing of its director, as specifically stated by President Drake:

“[President Drake] requested that Montgomery’s task force conduct an assessment of the band’s culture, review

university processes and oversight, and provide counsel on Title IX compliance issues. He said he expects Montgomery to have investigation findings ready within 45 to 60 days.

... Drake said Montgomery’s task force will not be asked to reopen any aspect of the initial investigation that ousted Waters.” *The Ohio State Lantern*, August 6, 2014

Given, in particular, the issues now publicly debated regarding operation of the University’s Title IX compliance program, the *Montgomery* Report results will be of particular interest, given the charge to review university process and oversight and to make recommendations regarding Title IX procedures. However, notwithstanding comments suggesting that the Montgomery investigators have repeatedly inquired of current and former band members regarding their knowledge of events in the *Glaros* Report, we have been consistently advised that the Montgomery report is not an effort to support or discredit the *Glaros* Report or the actions which resulted. Nonetheless, insofar as the investigators and authors of the Montgomery Report were entirely selected and charged by the University, its activities cannot be considered an independent examination. Indeed, there have been inquiries into the apparent bias in methodology used in a survey of members conducted by the Montgomery investigators, the interrogation techniques utilized and credibility of participants, source of funding, etc. (See NBC4i.com, Ch. 4, August 28, 2014, Content of Questionnaire, Attachment # 14) For example, the survey includes such questions seeking comments as to whether the band member had “ever” heard offensive remarks.

Reports voluntarily shared with this Committee, generally orally, from individuals who have been interviewed by the Montgomery investigators, note that at times a fair opportunity for the airing of information has

been allowed, specifically during conversations between Betty Montgomery and the interviewees. There have been occasions where a harder line of questioning involving the circumstances of the *Glaros* Report and issues raised in that report (as well as an effort to identify specific facts supporting those conclusions) have been the subject of questioning by David Vaughn<sup>74</sup> who apparently accompanied Betty Montgomery to many of the interviews. Witnesses have been confronted with documents, have been told they may not bring anyone along to the interviews for support, and have felt pushed or unfairly cross-examined on occasion. In short, there is no consistency in the reported investigatory techniques utilized by the varied investigators. The result is an unmistakable impression by many that some investigators are seeking damning evidence of “band culture” or “hazing” only.

Rumors, theories and outright personal attacks on individuals involved in the administration effort and the investigation, abound on the Internet. Hurt and damaged targets of the IR, together with alumni or friends, sometimes are quick to embrace theories and identify suspect relationships. As a committee, we chose to focus on what is clearly relevant, factual and established, to the best of our ability.

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<sup>74</sup> Mr. Vaughn became involved in the Montgomery effort despite the fact that was not announced by the University as a participant. He apparently replaced the consultant originally announced by President Drake for unknown reasons.

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## VII. TITLE IX PERCEIVED PRESSURE

There have been concerns about policies and resources concerning Title IX enforcement at the University. We have had a difficult time identifying specific applicable policies for student organizations insofar as there were no directives given to Jonathan Waters and to the Marching Band by the University or by the superiors within the College of the Arts and Sciences. In fact, the highly regarded Title IX coordinator for the University resigned her job at the end of 2013 because of internal issues, stating in a *Lantern* article that she was “not supported, resourced, or respected in a way that enabled [her] to accomplish the goals of Title IX” about which she stated she was “passionate.” *The Ohio State Lantern*, August 27, 2014. We know that Ohio State University was on the list of investigated programs by the U.S. Department of Education, one of 55 institutions, but the University indicated in May, 2014 that the investigation was coming to an end with no complaints, notwithstanding the comments from departing Title IX coordinator Andrea Goldblum. Chief Compliance Officer Gates Garrity-Rokous so assured the Compliance and Audit Committee of the University Trustees at their 8 minute August 28, 2014 public meeting, followed by a 90-minute executive session. The Department of Education will not release any case specific facts or details concerning their investigations. Subsequent interviews with Andrea Goldblum in fact reflected her conclusions that she had been prevented from doing her job properly by Gates Garrity-Rokous, and that he had specifically interfered with her efforts to discuss issues with Jonathan Waters concerning the Marching Band. (Attachment #15, Transcript of WTVN Goldblum interview, August 27, 2014)

Was firing Jonathan Waters a way to deflect concerns regarding any Title IX problems that have existed at the University, with no opportunity or effort to allow or pursue a balanced result? **Both accuser and accused**

**have equal rights, to present evidence and witnesses during the process.** The US Department of Education reports in its policy guidelines, with respect to Title IX issues, that it always attempts to “obtain voluntarily compliance and negotiate remedies.” In this case, even without US Department of Education involvement with the matter still within the “family”, the full extent of the “cultural” allegations were not made known to Jonathan Waters prior to his two interviews. There were no efforts undertaken to ensure voluntary compliance, and obviously no negotiation whatsoever occurred before he was terminated. A new University president was given a now discredited report, and reacted swiftly with no investigation.

The 2001 (republished 2006) US Dept. of Education, Office of Civil Rights, guidelines mandate “adequate, reliable, and impartial investigation of complaints, including the opportunity to present witnesses and other evidence”.<sup>75</sup> The 2014 US Dept. of Education, Office of Civil Rights guidelines, issued April 29, 2014, require “in all cases” that Title IX investigations be “adequate, reliable, impartial, and prompt and include the opportunity for both parties to present witnesses and other evidence.”<sup>76</sup>

There is no requirement of employee dismissal. Davis v Monroe Co Bd of Educ. 526 US 629 (1999). The obligation is upon the

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<sup>75</sup> p. 27 of 44 at [http://www2.ed.gov/about/offices/list/ocr/docs/s\\_hguide.html](http://www2.ed.gov/about/offices/list/ocr/docs/s_hguide.html); See also the 2011 update at <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201104.pdf>.

<sup>76</sup> p. 25 of 46 at [http://www2.ed.gov/about/offices/list/ocr/docs/q\\_a-201404-title-ix.pdf](http://www2.ed.gov/about/offices/list/ocr/docs/q_a-201404-title-ix.pdf)

University to take some form of corrective action. The claim that dismissal was the only alternative available to Ohio State is simply a misstatement of the law.

In the cited 2014 document, the OCR emphasizes evidentiary and procedural guidelines. (*Questions and Answers*, p. 25.) According to another guidance document, the “parties must have an **equal opportunity** to present relevant witnesses and other evidence.” Dear Colleague Letter: Sexual Violence (“*DCL Sexual Violence*”) (OCR, April 2011)<sup>77</sup>

The 2014 *Questions and Answers* guidance document also contains recommendations of an **appeal process** that gives both the complainant and the accused party the opportunity to appeal the findings of the investigation. *Questions and Answers*, p. 37. Although the *Questions and Answers* document **recommends** a 60-calendar-day time frame for “prompt and equitable” resolution of investigations, it also clearly states that “**the OCR does not require a school to complete investigations within 60 days.**” *Id.*, pp. 31-32. The need for a longer period of time depends of course on the complexity of the investigation and the alleged severity and extent of the conduct under investigation. *Id.* This suggested 60-day timeframe obviously also does not include any appeal time for the accused.

It is simply incorrect, as a matter of law, that the University had no time to allow even elementary due process to Jonathan Waters and marching band supporters before issuing its unchallenged, inaccurate, scathing investigation report. The University, in dealing with its family, had all enforcement and resolution options available.

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(<http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201104.pdf>), p. 11.

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## VIII. SCHOOL OF MUSIC ISSUES

The College of Arts and Sciences and its School of Music may have a role in the chain of command and certainly in the chain of events. Specific independent financing in the amount of one million dollars a year was made available for the Marching Band, beginning in 2014. Jonathan Waters was elevated first to interim director and then to director by an act authorized by the president of the University. The most successful and highest profile program in the University's history went international, viral and to "world class" status in 2013.

The Washington Post, for example, recognized the OSUMB and Jonathan Waters in an article devoted not to music, but to innovations in technology and education, in which other band directors were quoted as admirers eager to learn.<sup>78</sup>

The response within the School of Music of the College of the Arts and Sciences involved some support and encouragement, but also there is a natural conflict with resulting apparent jealousy and competition for dollars. Nonetheless, Jonathan Waters repeated extended courtesies and friendship to the School of Music leadership, allowing them to direct, rides buses with the Band on road trips, and to be a visible functional component of the OSUMB. The hierarchy of the College of Arts and Sciences and School of Music long predated Mr. Waters and in fact has been involved in nominating his interim successors. Jonathan Waters alone was targeted, not others who have been retained or appointed as "interim" directors with full knowledge of the alleged "culture" of the Band. None of our comments are designed to disparage the individuals serving in interim capacities or leadership capacities in the wake

of the Jonathan Waters' termination. However, the inconsistency evident in the firing of Waters while retention of other staff and addition of staff, who had the same knowledge or "opportunity to have" knowledge of the marching band "culture" as Mr. Waters, betrays the inconsistencies in the investigation and the University's response. The need to put a functional marching band on the field was of course an issue.

In fact, the School of Music was empowered through selection of the interim directors and in the search for a new permanent director. The Columbus *Dispatch* has reported that the appointment of the interim directors involves a shift in control: "... the move puts the band under closer control of the College of Arts and Sciences." Columbus *Dispatch*, August 5, 2014 (See Attachment #16) Provost Steinmetz was the former Dean of the College of Arts and Sciences.

In an interview on Columbus WCMH television (NBC4), Dr. Paul Droste shared information concerning that conflict:

**NBC4** asked Droste about sources who had suggested that some staffers in the music department had not been happy about how Waters got his job.

"The position is normally filled by the school of music," Droste said. "My understanding is that Gordon Gee acted and announced Jon Woods' retirement maybe before Jon was ready to retire, and appointed Jon Waters as interim."

After a high-profile and innovative halftime show became a YouTube sensation, Droste said, Gee removed the "interim" from the title.

**NBC4:** "So the school of music was not involved and that may have rubbed some the wrong way?"

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<http://www.washingtonpost.com/blogs/innovations/wp/2013/11/05/ohio-states-marching-band-revolutionized-halftime-shows-heres-how/>

Droste: "Right. Waters is not faculty. He does not have a faculty position."

<http://www.nbc4i.com>, August 25, 2014.

Noteworthy are the recent comments reported in the Columbus *Dispatch*, by one of the interim directors, Dr. Scott Jones (emphasis supplied):

**But if performances don't generate frenzied applause or viral videos, band leaders don't mind**, said Scott Jones, one of two **interim co-directors** in charge of the band this year.

**"Our goal is not to be really popular**, so to speak. We're not working, and we don't exist, to have billions of people love us. What we do is, we first and foremost serve the students **in this university course**," Jones said in an interview this week. "Everything else kind of works out on its own."

...

But some of the ideas that launched the band to fame last year also had caused trouble for Waters in the past. In an annual review when he was assistant director, the head of the Ohio State music school wrote that **Waters was too interested in pleasing audiences rather than delivering "what the band needs."** Jones declined to comment on that review or say whether the **band had strayed from its mission**.

Columbus *Dispatch*, August 30, 2014  
(Emphasis added).

The true "culture" clash effecting The Ohio State University Marching Band was perhaps between a School of Music interested in regaining control over the historic all-brass national leader in marching bands and a director whose hiring was directly authorized by the university president, with specific independent financing of one million dollars. The suggestions in the interview have been

interpreted as signaling and confirming a potential departure from the traditions and structure of the current marching band, which consists of an all-brass, high-step tradition, and is military in style and execution.

Others interviewed with knowledge of Big Ten band relationships indicated that the prevailing climate throughout the conference was one of the various schools of music interested in maintaining control over university marching bands. Exhibited in conversations at Big Ten Band meetings were serious concerns in every school trying to limit the independence of marching band operations, including limiting funds and traditions. OSU School of Music leadership, in particular, participated in such discussions concerning the marching band and its operation. A school of music perspective was exhibited that marching bands, like OSUMB, should become like any other band even though traditions are the real strengths upon which any marching band is built. Future directors will apparently be members of the School of Music performance faculty and their evaluations will be based on what they accomplish within the School of Music. Time spent with marching band will be otherwise not rewarded by anything other than a financial stipend, so there will be less reason to spend large amounts of time cultivating the band.

Ironically, in a subsequent *Sports Illustrated* article, the same associate director (who called the OSUMB a "course," as opposed to an "entertainment" vehicle), expressed excitement concerning the OSUMB "picture shows" and performing before "a crowd of 100,000" at Ohio Stadium.<sup>79</sup>

Future intentions within the School of Music are not clear, but the independence of the OSUMB is critical to its past and its future in our view. Adherence to and respect for

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<sup>79</sup> <http://www.si.com/college-football/2014/09/02/ohio-state-best-damn-band-land> Schwartz, Evan Scott. *Sports Illustrated* 2 Sept. 2014. Web.

foundation and traditions is a matter of the greatest concern. No conflict should exist between a music education program and an internationally famous marching band, but the existence of that conflict is perhaps inherent.

Coupled with alleged Title IX concerns, the climate in the School of Music may have been another factor in the sequence of events leading to the attack upon the OSUMB and firing of its innovative leader, thus creating what has been described as a “perfect storm”.

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**IX. DESCRIPTION OF *CULTURE* OF OSUMB, i.e. “FAMILY”, VOLUNTEER EVENTS, CHARITABLE ACTIVITIES, ETC.**

Most important to the full analysis is a close look at the social culture, teamwork and “pay it forward” approach to band operations instituted in recent years primarily as the result of Jonathan Waters and the student leadership pursuing altruistic goals. The following is a listing of progressive changes undertaken by Jonathan Waters:

1. Midnight Ramp was ended for this year...through discussions with squad leaders, the band came up with a better event to welcome students to the band. Older band members would form a tunnel on the field and the new band members would run through it.
2. TripTic... Waters intercepted a TripTic in 2012 and ended it immediately.
3. Waters has preached about his “open door policy” to students, giving them the option to come speak to him at any time about anything.
4. Leadership Training for squad leaders. Waters wrote the leadership manual in spring/summer 2012 for squad leaders full of practical leadership information for the band and staff to use together in the course of the season
5. Waters eliminated the use of the word “rookie” in spring of 2013 and replaced it with “first year member” so the lines of new members and older members and seniority systems would be blurred.
6. Waters started the “March to Pay Forward” community outreach program in

spring/summer 2013 so that students would see there is a greater responsibility they have to the community. This is also culture shaping. Here are the things that Waters started within this program:

- a. Over 5,000 hours of cumulative community service by the band last year
- b. Work with the Ohio State School for the Blind Marching Band, rehearsals, performances...double Script Ohio in Braille performance in Ohio Stadium last year
- c. Had Band form, in script, the name of a boy who had cancer whose dying wish was to see the band. He was not able to travel, so the band formed his name on the field and played for him. The Band uploaded the video to YouTube and he, as well as all of his family and friends got to see it before he passed away. This occurred for two different kids.
- d. Giving terminal cancer patients the opportunity to dot the “I” at band rehearsals
- e. Volunteering at the Gladden Community House after school program
- f. Volunteering at the Gladden food pantry
- g. Performing for the Gladden community house fundraiser...raised over \$125,000 last year for Gladden

- h. Honor Flights...Band went to Port Columbus airport and played for WWII and Korean War vets as they returned from seeing the memorial in D.C. These events were always on Saturday nights after games, making the day over 16 hours long for those who volunteered.
  - i. Nationwide Children's hospital performances
  - j. Wexner Medical Center performances
  - k. Community service events on Bowl trips
  - l. Instrument demonstrations and concerts at many elementary, middle, and high schools around the state and locally
  - m. American Red Cross Blood Drives
  - n. Hospice fund raisers
  - o. Recreation Unlimited fund raisers (for kids with disabilities)
  - p. Volunteering for Salvation Army during the holidays
  - q. Volunteering with Girl Scouts and Boy Scouts
7. Hosted National Symposium on hazing and other issues for college band directors in the wake of the Florida A&M student death
  8. Sent the marching band and athletic band to sexual harassment and sexual violence training in January 2014
  9. Had many seminars on alcohol abuse for the marching band
  10. Addressed inappropriate nicknames in Fall of 2012; changing culture to not use any sort of nicknames, even the benign ones starting this season and prior to investigation
  11. Have had hazing education at Ohio Union in 2011, 2012. Leadership training with hazing education in 2013 at Aileron and squad leader retreats in May 2013 and May 2014.
  12. Setup management seminar, hazing seminar, alcohol seminar, and sexual harassment and abuse seminar to be done by Student Life for mid-august right after band is selected
  13. The song book has been outlawed for years...last cited edition in 2006 [only circulated underground thereafter]
  14. Each and every issue that has been brought to Jonathan Waters' attention, or that he has discovered on his own, he dealt with swiftly with zero tolerance.
  15. For years the band has made a rude gesture directed at the Michigan sign going down the tunnel into Michigan Stadium. Last year, Waters put a stop to that as well. It was not becoming of our band to do that in uniform. Students complied.



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## X. IMPACT ON REPUTATION AND PERCEPTION OF THE OHIO STATE UNIVERSITY, JONATHAN WATERS AND CURRENT AND PAST MEMBERS OF THE OSUMB

This Committee has benefitted from comments and input from interested parties involved with bands throughout the country. The national perception of The Ohio State University has suffered, as has the employment opportunity for Jonathan Waters according to interviewed college band directors who chose to remain anonymous. Their comments included the following:

*“Although most band directors fully support Mr. Waters, they cannot publicly support him because their superiors may erroneously conclude that they are endorsing sexual harassment in college bands.”*

and

*“Jonathan Waters will likely never teach again”*

Others comment concerning the reputation of the OSUMB otherwise as built by Waters and staff:

*“TBDBITL should change to TBDBITW... The Best Damn Band In The World”*

and

*“Jon Waters is responsible for revolutionizing the college band academic curriculum. Many universities are researching what Jonathan Waters has done with iPads ... Their desire is twofold... 1). Develop programs for their marching bands... 2). Develop college courses for bands using this new technology.”*

The uniform conclusion is that Jonathan Water’s approach to music education and coursework is revolutionary and cutting edge, and makes The Ohio State University a world

leader in such matters. Jonathan Waters was praised nationally for raising academic standards through this work.

Another report involved comments made at a meeting of sports conference representatives within a few days of the release after the *Glaros* Report by the University. The leading topic of conversation at the meeting was the Ohio State band situation. The Band was roundly criticized, with complete acceptance of the *Glaros* Report, then in the lack of any effective rebuttal whatsoever by any organization or individual. Our source advised that there was nothing the reporter could say to convince the participants that there was more to the story than the University had portrayed in July, 2014.

One member of the band alumni reports that one of his best friends confessed that she thought negatively of him, with no inclination to overlook the allegations, when she read the University’s IR. She conceded that it took a long conversation with the alumni member to overcome her repulsion at the alleged “culture” and to overcome the acquired change of opinion of her friend which resulted. Another member of the band alumni relays the story of a conversation in downtown Columbus in which a stranger engaged him in a discussion of her disgust with the OSUMB and the *trashy* nature of its “culture”. He reports that the speaker did not know his connection to the band but that his efforts to explain the circumstances were ineffective. This Committee worries and warns that the impact of this negative report will be long reaching and long lasting. It will be very difficult to un-ring the bell following the IR effort which appears to be a willful misrepresentation of facts.

### CURRENT MEMBERS

The current members of the OSUMB become part of the membership of the TBDBITL

Alumni Club, Inc. immediately upon their admission to the marching band, as a

consequence of being carried upon the “official roster” of the OSUMB. *Constitution of TBDBITL Alumni Club, Inc*, Article III, Section 1.

Most disturbingly, the following accounts from the individuals most affected, the current members of the Ohio State University Marching Band, have been volunteered to this Committee by those members, who have gathered heart-breaking and troubling individual testimony and authorized its inclusion and release in this Report. The following are the comments shared by the current OSUMB squad leaders with President Drake at a meeting on August 21, 2014.

On Thursday August 21, 2014 President Drake met with the 35 squad leaders of the Marching Band. The squad leaders presented nearly 200 accounts of how the false report and poor investigation has damaged and tarnished the whole and personal reputations of the band. He was advised that several members were deeply hurt by these false accusations and that it was important for the university to help clear the names of the band.

President Drake indicated to the Squad Leaders that he did not believe that the report was representative of the 2013-14 band. He pointed out that he believed the report was “overwhelmingly historical” and “vast majority of material” was from **before** Jonathan Waters became director. President Drake said he felt that the cultural investigation and subsequent report were “of people we’ve never met” and that “the overwhelming volume of information was not relevant to the current band”. He indicated that if there was a way to convey that to the public clearly, possibly through a video message, that he “would be more than happy to do that because that had always been [his] impression.” He said that “if the report had been true at all today we would have had a different action.”

The follow up questions from the squad leaders included, “why was Waters fired?” Dr.

Drake declined to reply, saying he would not talk about it “specifically”. The squad leaders asked why the report was so misrepresentative and negatively biased if it was supposed to be a cultural assessment of the current band. Again, they report that there was no direct answer given.

The squad leaders asked for a fair third party cultural assessment of the current band. President Drake responded that the guidelines for the *Montgomery* Task Force were “to find things that will support the band moving forward”.

Nonetheless, the next messages from the University involved claims that former squad leaders were “corroborating dishonesty” stating that the University would not reconsider its actions in a statement from President of the Board of Trustees Jeffrey Wadsworth. We are advised that President Drake assured the Squad Leaders that the current investigation of the band also involved investigating the process by which the first investigation took place. The squad leaders requested to be a part of that portion of the investigation as well, which has not been the case. President Drake was asked why the university would stand by a report that was so poorly conducted. He responded by saying that he would stand by what he felt were the facts and that “we’d have to evaluate the validity of those facts and when those facts occurred.”

We include their comments and stories shared with President Drake without commentary. As was noted to us, “...*these stories are truth. It is sad to say that none of this would’ve happened had a false report not been released. Included are stories of harassment, embarrassment, suicidal thoughts, rape, abuse, sadness and anger. ...Some of these stories ironically come from the university’s attempt to educate us on sexual harassment and Title IX.*

*We feel that the investigation was not properly conducted and the subsequent actions*

*of the university show that they are not concerned with the real truth of the matter. We feel embarrassed to be representing the university that has so seriously wronged us by the removal of our leader and by the misrepresentation they have given to our family, fans and public. The uniform is not worn just for the university but rather for the fans, alumni and Buckeye nation. These accounts are extremely disgusting but despite this we have continued to work harder than we ever have to make sure this season is the best season to date. ...”*

Their comments are as follows:

#### Full Band Effects:

-The release of the report has led the university administration to forbid the band from traveling to Penn State for the football game on October 25<sup>th</sup>. This was a travel opportunity that many OSU and PSU members were looking forward to as the band has not travel to Penn State in a long time due to some incidents that occurred during the last visit. It was meant to be a trip that would help forge a stronger relationship between the two bands. Many members are disappointed in this action taken by the university after they told the band that the report would not affect the season at all. Specifically two individuals miss out on the opportunity to “Dot the I” at the Penn State game. It was an occasion that the individuals have been working towards for several years and because of the university administration’s actions they not get the opportunity.

-Due to the report and its effect on the public, the company originally allowing the band the right to perform a certain set of music from a movie series has backed out on the offer. The band can no longer perform this halftime show which was thought by many to be a highlight show of the season. After already arranging the music and drill, the show must now be replaced.

-Several documentary opportunities about the band and positive media connections have been put on hold due to the report and its finding.

-Dublin Coffman high school used The Ohio State Marching Band as an example of a hazing culture in a training session for their students.

-The false report and poorly conducted investigation has negatively affected morale.

-The band fraternity and sorority have been suspended and cannot provide the normal service activities and events for band members and families.

#### Personal Effects:

-The family of a first year member highly encouraged him not to try out for the band this year due to the findings of the report. Despite this, he continued to try out for the band anyway. He made the band to the dismay of his family who is still unsupportive of his desire to be in this organization and still is asking that he quit.

-I have dealt with feelings of suicide for many years. When I made this band several years ago, those feelings went away. It wasn’t until this false report and the following actions by the university that those feelings resurfaced. I’ve been harassed by friends and family for being a member of this band since the report has been released and ironically the only thing that helped me overcome those resurfaced feelings was the “culture” of this band over the last several weeks. These members are my family and ultimately my heroes.

-I was raped and abused growing up. Music has always been my safe place. Making this band has been the greatest thing I have ever accomplished. As a member of this band for the last several years, I can attest to the falsity of the report and investigation. This band does not create the environment that I grew up in. This band does not create an environment of rape or abuse. This band is a family that protects its members and looks out for each other. Because

of the university's actions I have been called by the name of the animal that I have always feared. The band is and will always be a great source of pride for me and nothing can take that away. I feel safer than I ever have been because of the members and leaders of this band. It's an environment that I hope my kids will one day be able to experience. I greatly fear for those who do live in environments of rape and abuse because I now have no faith in the university being able to help them.

-The university used my name in the report without my consent or approval. It's a name that many people inside and outside of the band know me as and not one that I have ever felt harassed by. I'm disgusted by the fact that my name was used to describe the band as "depraved and sexually perverted". I have never felt that to be the case. I no longer trust the university and am a proud member of TBDBITL.

-A person who had not yet made the band for the first time was wearing a shirt from "OSU's bands night" a couple days after the report was released. OSU bands night is a night for interested high school students to learn more about the several OSU bands. A man who was obviously offended by the shirt due to the report began to question the person about "OSU bands night" asking if it is "the night wear everyone gets naked and does a halftime show for the directors".

-A member was asked by their Resident Advisor why they would want to be a part of such a "dirty" organization. This being the first season that the member has been in the band, they didn't know how to respond other than that they trust the leadership.

-A person that was at a first meeting for their job was announced as being a member of the band. Several questions were then directed to the member about their involvement in various sexual allegations of the report. They were then instructed to not behave in the same manner as they would "if [they] were at band practice".

-I recently started two new jobs two weeks before the report was released. The day it was released I was in the middle of an 8 hour shift and immediately people around me started asking me questions such as, "were you really forced to go down the ramp naked?" and "what is your offensive name in the band?" I had been at work with these people for two weeks and they were already making assumptions about my life in band. After the band was announced I was scheduled to go into work the following Saturday. I went in and broke down in front of my boss because I was being judged and felt uncomfortable in my surroundings because of a report that didn't at all describe my previous FOUR YEARS with this organization. With the constant media attention at the beginning of August I didn't know how to feel about the situation. People kept calling me a pervert because I would wear my grays t shirt in public. Anyone who knows me knows this is the furthest thing from the truth. I was being made out to be the attacker and then all of a sudden we were the victims once band was named when counselors were brought it. As someone who has been an actual victim for something as real as being held up at gunpoint I was absolutely insulted. I was ashamed in my university for calling me a victim for something THAT NEVER HAPPENED. I have had multiple breakdowns at work, at band, in public, and in private. I like to think of myself as a strong woman who can make it through anything life throws her way but as of late, I'm not so sure anymore. My confidence, self-esteem, and self-worth have been completely shattered by a single report and the university's lack of regard for what the inaccurate findings, dodging and dancing around answers to questions, and not even acknowledging the current band would do to its students.

-Upon reading the report, a mother of a member whose name is listed in the report called the member saying how disgusted she was that her child would perform their "rookie trick" in such a manner. The member had to explain to their

mother that the “rookie trick” associated with their name was not accurate and or performed in the context in which the report negatively implies. This person was never interviewed in the report and was never asked to confirm their rookie trick.

-A person who had not yet made the band for the first time was asked to comment on the firing of Jon Waters. Despite his refusal to comment, the media still chose to film him and include him in their footage. He is a current first year member now and has been drug into a situation that he has played no part in.

-A male and current member who’s name appears in the report has been presented in the media as a “sexually harassed female” based on the nature and wording of the report. This male was never interviewed or asked his feeling towards his name. He loves his name and does not feel harassed by it.

-On the day that the news of Jon's termination was made public, I received an email from a coworker with the title "I guess this is how you 'make' band, huh?" In the body of the email he linked the Dispatch article, and said that he hoped “you kids were behaving down in Columbus.”

-My name was listed in the report without my consent or approval. I was never interviewed or consulted about this investigation into a culture that I help make up. It sickens me that I am listed as “harassed” and therefore a piece of evidence in what became the firing of my leader. Jon Waters did nothing to deserve this termination and the university using my name as evidence of this without my consent is illegal. I am ashamed of my university and its administration.

-A member whose name was presented in the report has had to explain numerous times to family and friends aware of their name that the trick described is inaccurate and out of context. This person was never interviewed or asked to confirm the contents of their alleged rookie trick

or name. Many people knew them by this name and are blaming them for the firing of Jon Waters.

-I am embarrassed. Not to be a member of this band but for this university. For the first time in my five years of band I feel defenseless and unprotected. Due to the handling of the investigation and its subsequent media frenzy I am being labeled as a victim as well as an attacker when convenient for the university's agenda. I have always considered myself a member of this band who earned my spot like everyone else. Now I am referred to as a female member with insinuated connotations of non-equality. Instead of the first few days of band being filled with excitement for the upcoming season, they were filled with lectures and meetings placing a damper on the mood and morale of the group. I feel as though I am being used as a pawn by the university swearing to protect me. I fear retaliatory punishment for having an opinion different from the university. All of this has made me almost regret deciding to return to the organization I love.

-My brother was completely and wrongfully labeled as the face of the ‘homophobic’ culture of the band in an online article. While he is no longer a part of the band, he is still a student at this University. Our other brother, who was also in the band, is gay so this is a gross misrepresentation of the band and the people who are a part of it.

# Ohio State Band Sang About “Fags With Aids” Says Shocking Investigation

July 25, 2014 • By Adrian Garcia



The Ohio State University marching band is

-An individual in the band has expressed concern for a multitude of reasons. When the Title IX representatives came in to speak, we were basically berated and told that we don't respect the feelings and wellbeing of anyone who has been sexually assaulted in their lives, and that we condone these types of actions. However, this person was in an assault situation years ago that greatly changed their life. After joining the band and becoming a part of this family, much of the pain and discourse from this occurrence was able to be pushed away and replaced by feelings of happiness and belonging. Once this report was filed, this all changed. Now they are basically being blamed and told that they allowed an assault to occur and could not care less. Now those same feelings are emerging for them again. Thoughts that they had not had in years are now happening on a constant level and are limiting their ability to function on a day to day basis. They are feeling scared, threatened, and their wellbeing is now in question. This is all because the university released a document that incriminated this organization. The Title IX representatives also gave a statistic about how

"1 in 4 women will be sexually assaulted while at Ohio State". Do these numbers not include the band members? Statistically, there could very well be many members that have experienced sexual assault or abuse. These are situations that these men and women would never want to relive, let alone be blamed for letting occur to their closest friends and family members.

-My parents and grandparents attended the Columbus Symphony Orchestra event with the marching band shortly after Jon Waters' termination and the release of the Glaros report. A couple sat in front of my family and began saying loud comments against the band such as "The current members should be ashamed of themselves," "Can't believe they had the nerve to show up tonight," and "They should have cancelled." My family avoided any confrontation until the woman said "They sure are taking a long time. They don't appear to be very organized. Maybe if they were in their underwear they would know what to do." At this point my mother confronted the woman and said "please don't talk about my son that way". The woman replied "Well, maybe if he didn't go parading around in his underwear..." My mother said "He has never participated in that." The woman went on to call me and my mother liars. I have never participated in the event the woman was referring to, Midnight Ramp, and many of my friends can attest to that. I have not felt any negativity towards my choice. The report has painted me and my family as liars and I don't appreciate that they've had to deal with this pain.

-Several current members have expressed that they regret coming back for another year of band as they feel like every move they make is being watched and judged by the university. They are afraid of accidentally doing something that will jeopardize the band's future and that they can't be themselves. People blame them for Jon Waters' termination and they feel like disassociating with the organization as a whole.

- I feel that because my rookie name was included in the report, without anyone contacting me to determine how I felt, the university misrepresented me. This has negatively impacted me, because I am not in any way comfortable with my personal nickname being used as evidence in a report towards a conclusion that I do not support. I am a music education major, and a majority of my current income comes from teaching lessons, and babysitting young children. Due to the university's extreme blanket classification of the entire OSU marching band within the report, I have lost the trust of several parents of the children I nanny and teach. I feel that the university has slandered me through this extremely angled, and misguided report. It has resulted in many people stereotyping me and judging me for being something I absolutely am not.

- I used to have everybody think that it was so cool that I was trying out for the band. After the report came out, people really changed their opinions on things. A lot of people were still supportive but those that didn't know me were very judgmental of me. I went to the doctor shortly after the report was released and after he found out that I was trying out for the band, his tone changed for the rest of the appointment and he was almost condescending. I don't think that I should have to feel ashamed for wanting to be a part of something so great. Yet this stigma of "dirtiness" exists around the band and it solely exists because of an inaccurate report that was released by the university.

-A lot of people also started seeing my parents in a different way too. My mom is super conservative in a lot of ways and didn't have a problem telling her squad leaders if something made her uncomfortable. It makes me upset that someone like her now has this label of being part of a "highly sexualized culture". Her response when people asked about it was that she would never let me (her daughter) try out for the band if she thought that there was any sort of a problem.

-I've been in the band for about a week now and I can say that I have felt victimized a several times. However, none of those times were by band members. I felt victimized by the people coming in and telling us how bad of a culture we have and the people who are telling me how I should feel about this. The people that talked to us spoke in a very demeaning way that made me feel like somehow I was the source of the entire problem even though I had been in band for less than 24 hours. I have gotten nothing but support from everybody in the band. I absolutely love it and wouldn't trade it for anything.

-Because of the report released by The Ohio State University regarding the OSUMB, I have gone 4 weeks with the uninterrupted feeling that everything I've built here at Ohio State has been taken away from me by the administration that once supported me. I've had the foundation of my college career slandered with false accusations and investigations I never even had a chance to be a part of. And mostly, my trust in this institution is completely shattered, as I have no faith that anyone in our administration cares about the wellbeing of their students anymore. I have gone to two therapy sessions already with the Younkin success center and am already scheduled for a third, and my therapist has helped me through the brunt of this frustration, classifying this as "emotionally traumatic". This has affected my sleeping, eating, confidence, relationships inside and outside of band, as well as how the entire world now views me as a person being associated with this AMAZING organization that has been made out to be a community that is unsafe and sexualized. I'm tired of feeling bullied by our administration, I'm tired of having to defend my actions when I know that I've done nothing to deserve this, and I'm tired of my band family being broken because of a faulty investigation.

- The Monday after the report was released I started a new job. At my first staff meeting it was brought up that I'm in the OSUMB. Instead of being able to highlight my membership by

talking about qualities such as leadership, discipline, responsibility, and respect, I had to defend my personal character to all of my colleagues, simply because of my association with this community. It is not right.

-My parents were questioning me about it and I could sense that they were disappointed in what they band "is" and it hurt me because they were the ones who influenced me to love and cherish the band, and even as I was explaining to them that it wasn't as bad as portrayed, they almost seemed disappointed in me for not doing anything to change the band. I felt like my own parents weren't on my side because I was in the band. Also, we were having an ice cream party at work to celebrate the last day at work for a coworker, and in the middle of the conversation which was meant to give the coworker a chance to explain what he was planning to go forward, one of my supervisors questioned me harshly about the incident because he had only seen the report, and it felt as if I was on trial in front of my coworkers and bosses.

-A mother of a member has had to continuously defend their child at work to her coworkers who insist that she "doesn't know [her] own son" and that "the band probably turned [her] son into a sex crazed pervert".

-A member feels discriminated against by being the butt of jokes made by coworkers. The marching band creates an environment of respect, integrity and character. The university continues to stand by an false environment of sexually charged and depraved kids. Look around OSU. That is not us, that is the college culture that we have risen above.

-A member is afraid that dental school interviews will suffer because of the first impression they will get from seeing OSUMB on their resume.

- A member has seen a loss of students for private trombone lessons since report's release. People are less trusting of us.

-A member feels discriminated against by questions from superiors at their accounting firm (Ernst and Young) that concern them about my employer's opinion of my character.

-My family members and friends were bombarding me with negative questions. It's been really tough on my family.

-I lost a chance at a teaching opportunity because they learned of my involvement in the marching band.

-Defamation of character in the view of employers.

-Being subjected to insults from strangers, even fellow students, based on media and university report. I'm embarrassed to be a member of this university, not the band.

-I am worried about listing the band as an item on my resume and graduate school applications even though I tried out 4 times before I made it and it is the accomplishment about which I am most proud.

-As the only woman in a section, I can't help but feel like an inconvenience as a result of the treatment from the university and the policies that have been put in place.

- The day the news broke we had CSO rehearsal so I took my trumpet to work. When I was leaving rehearsal, one of my coworkers asked what I was carrying, and I had to explain that I was in the band, and I told her, "I usually carry this trumpet with pride, but today I feel like I carry it with shame." From that day instead of proudly telling people that I'm in the marching band, I've felt hesitation and a sense that I would be interrogated or wrongly judged about the band.

-As a future music educator, being a member of The Ohio State University Marching Band was going to be a major "gold star" on my resume. However, the recent investigation into the supposed culture of the band and subsequent report has singlehandedly made me question whether to even mention the band at all when



planning for my future. Never before did I feel this way. The scope and scale of which I was misrepresented in the report has often left me at a loss for words. I've had multiple family members, including my own parents, question my morals, feelings about equality, and what I stand for in general. These questions didn't stop until after I reassured them that I am still the mature and well-mannered individual they have always known, and that marching band has been huge in helping me build confidence, become more responsible, and grow into who I am today. That being said, if the report hadn't been so horribly inaccurate I likely would've never had such conversations with my family and could've been spared some dignity. That is just a small example of how this investigation and report has negatively affected my life.

-The effects of the report have caused damage to my well-being that is irreparable. I had to explain myself to my parents who are very conservative. My mom thought something terrible had happened to me. How am I supposed to explain this to my younger brother? To my family? I am pursuing a career as a music educator. How will the parents of my students be able to trust me after reading that report? Will I be able to get a job? Whenever I wear my marching band apparel in public, I am greeted with dirty looks from people I do not even know. What was once a sense of pride is now a sense of fear and shame not caused by the band or my peers but by the university. When will my name be cleared?

-Being a future educator, I am worried that the report will have a negative impact on my career. I am not the only one worried about what the administration of schools will think about me, but also the parents of my students. All based on a misrepresentation of our culture.

-The report has caused me to be, for the first time in four years, embarrassed to be in the band. I have refrained from wearing band apparel in public in fear of what people will say. Three days before the report was published, I

went through four rounds of interviews for a full time job, and I'm worried that it will negatively affect me. Normally, I talk-up the band so much and after this came out, I feel that I will be taken out of consideration because of my association with the band. Even though the band has been in existence for a short 7 days, we have already been thrown from our normal schedule, and have had to sit through talks from various people around the university who do not know us, but seem to have a bad opinion of us.

-Band has always been a huge part of who I am as an individual and something that I can always count on as a stress reliever for me. With all the talk around the band I leave more stressed than when I walked in and the stress doesn't end when I get home; it continues when I talk with family members, coworkers, alumni, classmates, and even just logging on to social media. Additionally, the first week all of this began directly impacted a grade in a class forcing me to take a failing grade and thus having to argue with a professor so that it did not affect my overall grade. The joy I used to have for going to band has been partially dimmed for the fear of being myself around people I view as family and doing something wrong.

-I had to explain to my parents that I have never sexually harassed anyone by any means and I have had encounters with the public where I've had to defend myself against a flawed report. I shouldn't have to do this because the report is a lie.

-Notwithstanding the obvious slander of reputation caused by the report, and the negative associations created in the minds of family members and friends, I feel the largest negative repercussion of the report has been the imposition of a socio-political barrier between the members of the organization due to new, over compensating rules which have caused the formation of new-member relations to become a tedious and precipitously juridical process. As a 5 year member of the organization, what hurts me the most is seeing how this adversely affects

the newest members, and that I am unable to give back to a group that has given me so much.

-People are the most important thing in life. By working together as a team to create something much bigger than any one individual we have made history. We as a family have accomplished the unthinkable and have raised the bar for college marching bands. We have done so much great on and off the field with respect for one another and everyone we interact with. After this report, I have had to face my blood family and younger children who look up to me because my University supported a misrepresentation of myself without my consent. I was so proud of our work and our accomplishments to now put my head down when I see someone I know because of embarrassment. It's difficult to battle the media and to spread the truth. When will our names be cleared for the sake of our dignity? My love for Ohio State administration has absolutely tarnished and will never be the same until they can prove that they are truly good people. I understand life isn't fair, but this is ridiculous.

-The mother of a member was asked "you let your daughter run around naked with all those kids"?

-Shortly after hearing the news myself (second hand, from a friend who was not even trying out for the band), I received a call from my parents. They heard from my grandparents who were very concerned that I was going to join the band after these scandalous revelations were made public. They are still not happy with my choice to continue through auditions.

-A female member of the band is regularly asked if she is "objectified" or "harassed" in the band.

-A mother of a member has been harassed about her son participating in "naked practice". He has never participated in Midnight Ramp, the activity to which these people are most likely referring to. People have also called her son a liar for this as the report has painted the activity

as "mandatory", "a practice" and "required" by the media.

-People assume I'm part of a scandal when I'm only a first year, both in school and band. I'm thrilled to have made it into such an amazing organization but nervous to tell people about it.

- On the day the report was released, I was unfortunate to find out the news at my internship by my boss. I had to convince him that the report, while some events are true, that I was never involved in at my time with the band and that Jon was in the process of changing its culture. I was very irate to see that there was no email or notification sent to me about the public release of the report and even more frustrated about its bias and quite libelous statements. Through the past year, I have never once felt embarrassed to be part of Tdbitl until that moment. I am deeply frustrated that a man and board who knows nothing about our organization decided to tell me what they thought the band was but all the students deeply rooted into in the organization knows what it truly is.

- The band has been a huge part of my college career has been the Ohio State Marching Band. I often feel I have learned more from this organization about leadership, hard work, and efficiency than any other class or organization. This is reflected on my resume and, more recently, my application to Medical School. Shortly after the release of report, I decided to gap a year between graduation and applying to med school. The primary reason being my personal statement application focused very heavily on my experiences in The Ohio State Marching Band. I genuinely feared, and still do, that when I apply this will be held against me. I was to have a letter of recommendation from Chris Hoch and Jon Waters, one of whom is no longer here, the other is so insanely swamped he does not have time to do this. The band is no longer my college highlight and has become more of a blemish on my resume and app. As a result of this report, I have basically put my life

on for a year in hopes that I will have greater chance of getting into medical school.

Also, the stress resulting from this report is the primary reason for my decision to defer my application as well as losing weight and sleep over the last several weeks. It has put a strain on my relationship with my girlfriend and her family, since I feel that I have to tell everyone that this report is not a reflection of my character and that the actions of a few people long ago have resulted in my reputation and character

-I feel nervous wearing any of my band apparel in public and private. My girlfriend's mother no longer trusts me and questions my character.

-I have spent my summer in Atlanta, GA working at the National Weather Service as a part of NOAA's Ernest F. Hollings Scholarship Program. Throughout the summer I met people from numerous backgrounds and well known schools such as Florida State, Penn State, and the University of Oklahoma. I recall very vividly discussing with them the increasing reputability of The Ohio State University Atmospheric Science program over the past few years. I also spent many conversations discussing my time in the OSUMB, the leadership I'd learned and the pride I took in it. So much so that I'll be extending my undergraduate career by a semester to return for a fifth year as a member of TBDBITL which may bring an opportunity for continued leadership as a squad leader.

The NWS in Atlanta, GA just hired a recent graduate with her Masters from the University of Oklahoma. Through the interview process she was a clear standout and was given an interview by 37 offices. What stood out beyond her classroom achievements, work experience, and professional accolades was her qualification for and completion of the Boston Marathon. That served as a great testament to her work ethic, dedication, and perseverance without having to elaborate too much in her resume. I spent extensive time working on my resume

over the summer and sought to communicate my "Boston Marathon", being a member of TBDBITL, in an effective way. The dedication, work ethic, time commitment, perseverance, and lessons learned are similar to those learned by training for a marathon. I'd even argue being a member of The Best Damn Band In The Land has gained as much respect as completion of a marathon over the past two years. This "Boston Marathon" I believe will set me apart from my peers when I enter the job market. I left Atlanta July 18<sup>th</sup> with confidence this was the case.

Less than one week later as I was with my family on the way home from a trip to Michigan to visit my grandparents, I got a text from a friend of mine with a picture of the front page of the dispatch which read "Ohio State Fires Band Director Jonathan Waters Over 'Sexualized' Culture". My Boston Marathon had been undermined. As I read I recalled some of the experiences I had been through such as MR and F night. I had never thought of them in the light they were described. Forced? Never. I bonded with my row members through those experiences. As more details came out I was broad brushed by this report which made me seem like a sexualized pervert. And the band itself was made out to be a dysfunctional organization with far reaching issues...from only a handful of testimonies represented.

In the days that followed questions flooded my phone and every interaction became about band. I didn't know what to say, I hadn't had the experiences outlined in the report. And it was unclear what was next. We've been caught in a bind without clear leadership. I worry about this report cheapening what this band truly means, and ruining the reputations of students like myself with little involvement in the events laid out in the report. I ask for assistance moving forward, questions being answered, and transparency from the administration. We want to move forward, and I know the University does too. Let's work together and come face to face with the issues that are present. We know

there are changes that need to and can be made. Please help us accomplish that and help us understand the events that have transpired. Open communication, transparency, and collaboration are the best way to move forward. We can maintain the national respect externally while continuing to hold ourselves to the highest standards internally. Please come along side us and provide your leadership.

- This summer has been one of the most hectic for me. I had to take the MCAT, as well as start gathering recommendation letters for medical school. In addition to that I have training to teach chemistry as OSU and volunteer at Nationwide Children's Hospital, while balancing marching band and moving in. The marching band used to be a place where I could be myself.

But after the report was issued, it delayed my ability to carry on with many aspects of my life despite the University's will to "look forward" (which still has NOT been defined to us, and I feel is just a political term for ignore us). I could not finish writing my personal statement for medical school because half of it was the many lessons I had learned and loved about marching band. Now that is almost a harmful black spot on my record because of the slanderous libel that has been dealt to us as members. I used to look to marching band as a way to enjoy my life and be who I am. Now I find myself being scrutinized, and commanded to act in specific ways, at risk of removal from the band, ways which formerly did no harm to me nor my colleagues. I feel the University is not supportive of the hundreds and thousands of people who have clearly spoken out, and identified the glaring mistakes of the Glaros Report. As a member of the organization that cares the absolute most about Ohio State and its history and future (more than any athletic team, and more than any fraternity or club) I am greatly emotionally hurt by the voices against me, questioning my character, as well as the University's apparent complete disregard for my feelings regarding the ordeal.

- I have had family members refer to me as a sexual deviant to my face. I am ashamed that my university could represent me in such a terrible light to my family.

- I have had at least 5 strangers give dirty or disgusted looks when they overheard that I am a member of the band.

- The stress put on me from the report being released was more than I have experienced ever due to embarrassment of being a known band member in public. The stress literally caused me to lose 15 pounds within 10 days of the report being dropped to the media.

- I walked into the Panera on high street to see the UWeekly on a newsstand declaring us as the "horniest" damn band in the land. I face slander by the media daily and the university has done absolutely nothing to defend its students (us).

- I receive weird looks anytime I have worn anything that says TBDBITL on it and have even had to explain myself and defend the honor of the band to several people in my hometown who questioned me about the situation.

-That my first two days as a rookie will be remembered not as practicing great music and marching but by having mandatory meetings about title nine and sexual harassment.

-It feels like all of the hard work and time put in for marching band is being totally discredited by the accusations in the report.

-I have been in defense mode since the report dropped. I have had countless unanticipated meetings, information sessions, and one on one and large group dialogues, all in the name of defending this organization that was pushed into the dirt on the basis of a biased and inaccurate report. That report doesn't represent me. That report is not who I am. However, I am now being held responsible for something I didn't do. Where is the due process? Guilty until proven innocent is not how this country works, yet here I have to prove my innocence. Additionally,

these events have hindered me and my school work. I currently am working on a research paper that has nearly come to a halt because there aren't enough hours in the day to deal with the situation and write my research thesis. I have also had to greatly reduce my preparation time for auditions in the school of music. As a music student and a student of the Ohio State University, I shouldn't have to sacrifice practice time (essentially my study time) because of a report that is in contradiction with who I am. Finally, I have had to reschedule my Ohio Teacher Licensure Tests not once, not twice, but three times because I have not had the time to properly study for them. If I don't pass these tests, I will not be teaching in the state of Ohio. Not only is my life as a student being affected, but also my professional life. The unintended consequences of this report are far reaching and negative.

-For me personally, I've had to endure embarrassing questions about my character from close friends and family and have received dirty looks wearing apparel I used to be proud to wear due to the allegations set against me. Many band members who are striving for degrees in music education will have their reputations forever tarnished with false claims of sexual harassment as a result of the botched report. As far as the public perception goes, I've seen tweets that combine #OSUMB with #rapeculture. In today's band, this could not be further from the truth.

-People at my tables at work ask me what I'm studying in school... Upon hearing that I'm a music major and play trombone at OSU, they assume I'm in band. When I tell them that I am, indeed, in band, they treat me differently. I can tell that in a few cases people looked at me in a more negative light, though most of these cases my customers voiced support of us and Jon

-Coworker comes to my office and brings up the band stuff and asks what I thought of it. I say basically that Jon is a fall guy for an ancient culture that he was improving and wasn't even

bad for me at all. He asks if I was hazed and I said no, and explained my personal experience with MR. He assumes I was just peer pressured into doing things and then compares us to Florida A&M. I couldn't really argue because he's my senior group member and I'm an intern. Powerless yet again.

-The word is suicide. That word has occasionally permeated my thoughts for a few days at a time for the past several years, well before I made the band. It was always brought on by self-inflicted negative images of myself. Never had I received negative comments from any external sources that brought on such thoughts. The week following July 24th had changed that when President Drake and the University remained completely silent about the current band members. At that time, no one was fighting to preserve our individual characters. The message I interpreted from President Drake and the University was "We don't care about you." It was then I had thought that if I were to commit suicide, President Drake, the Board of Trustees, and the Office of Compliance would be happy because it would mean having to deal with one less person who existed in the alleged "sexualized" culture.

Those were my thoughts for the first two weeks after July 24th. I no longer have the thoughts of suicide, but I still believe that the University as a whole does not care about me at all. My character has been publicly tarnished with no one from the University to defend me.

-The events of the past month have had a serious impact on the individuals in the band, as well as the band as a whole. We started our 2014 season without Jonathan Waters, a man who I would consider one of the best leaders and strongest advocates for cultural change I have ever encountered. We wanted answers and reasons as to why he was taken away from us, but the university dodges every question we ask turns only to the "facts" in the incredibly flawed report that they compiled in 60 days with 9 witnesses to gauge the band's

culture. The university offices that have come to talk to us during our first several rehearsals were supposed to help the band reform its culture; all they have done is bring our frustration with the situation from a simmer to a boil. It is nearly impossible for the band to remain focused on following up our most impressive season with one that is even more impressive when we are talked at by the university offices that generated the report about the band's culture and then dodge our questions when we want to know why Jon was fired. It makes this band not an enjoyable place to be. Please, President Drake, give us answers. Give us reasons. And give us Jon back.

-Since the release of the Glaros Report made by the Office of Compliance and Integrity on July 24th, 2014, my life has been negatively impacted in many ways.

First, the manner in which the report was released to the public was done in such a manner as to maximize impact and done with virtually no respect towards the current members of the OSUMB. I found out about the report and Jon's termination via a coworker, putting me in an uncomfortable situation. Unsure as to the validity of the report at the time, I was forced into making statement on the band's culture. Had I been given a proper warning, I could have been prepared to handle these questions and avoid damaging my professional reputation. The same day, I also had to participate in my final performance review as an intern. The traumatic impact of the report left me stressed and distraught and put my manager and I in an awkward position.

On a personal level, the impact of the Glaros Report made me feel, for the first time, uncomfortable with calling myself a member of the OSU Marching Band. I suddenly had family members questioning and judging the great organization I have called my second family. This report is flawed, biased and miss-representative of the band.

I am also a squad leader of the OSU Marching Band. Immediately following the release of the Glaros Report, I was confronted with addressing young candidates questioning whether joining the OSUMB is something worthy of their efforts. This was incredibly difficult for me because I know the truth, and the incredible life experiences that await as a member of the OSUMB.

I have also heard, once again for the first time, the word "Uncomfortable" to describe the manner and tone of the various Title IX and Sexual Harassment speakers for the band. These university employees made offensive comments and generalizations about the band's culture and did little to educate on the positives of Title IX.

-When I first heard about the report, it made me worry about the people in band. And I am ashamed of it, but glad they were doing something about it by getting a new director. I shouldn't have believed it though. Everyone is really nice, and I wish we had Jon back. But anyone who has talked to me about it didn't believe the report to be accurate.

-I found out about Jon's termination in the middle of my work day from a text from my boyfriend and future I-dotter this fall. Not only did it upset me enough to impact my day of work, but it was my second to last day there. Everyone was really supportive and found the report to be flawed. I however still suffered emotionally crying to the point of almost vomiting, and not being able to eat properly, if at all, still to this day. This band is not a sexualized culture. It is a college culture. In fact it is even better. We have a culture of tradition, excellence, hard work, loyalty, and that of a family. It is insulting to me and upsetting to hear how ignorant cruel people have accused my dearest friends of being terrible individuals from a flawed report. To get the words "we support you" to our faces but to see no evidence of that from the university is hard.

When the title IX ladies came to talk to they spoke in a derogatory tone to all of us. The men

in this band in majority are gentlemen, hardworking, and caring. The women are the same. I would trust my life with any and all. When I am being told I am a weak defenseless woman, and that my best friends are perverted harassers, it is very upsetting. I know the truth about the culture and individuals of the band, and that report is not it. I have been hired with my biggest advantage on my resume being the band. I worry for that not holding true now when I most need it to. I hope you try to see who we really are, and right some of the injustice this report, and how it was presented and handled, has affected the very students you claim as your priority.

-Drum majors have been harassed by people on campus for carrying their batons.

-I feel my personal reputation is now tarnished because of inaccurate evidence in a report that I was never a part of.

-Several students feel betrayed by the university because they can attest to how inaccurate the report is.

-I'm a rookie member of this band, and all the rest of us "first-year members" gave much sweat and tears to be in the position that we now enjoy. That's why it was so underwhelming to have in my first days to be greeted with ambiguity from the veteran members that somewhat prevented the usual bonding that makes this community the one I admired so much and worked so hard to become a part of. I love this band, I love the university that it represents, and I'm excited to be a part of it, but if I cannot be trusted or trust those that are supposed to teach me what it is to be in The Best Damn Band in the Land, I'm seriously concerned for the results of my rookie year and, by extension, the quality and integrity of subsequent rookie classes. The title "Rookie" is earned, not given.

-As a hopeful composer and arranger, I have been questioning how this report will affect future employment opportunities, especially

with regards to Ohio State and other college marching bands. Being spun in a negative light makes it seem like there will be repercussions in the next year or two that will make it difficult to enter the field without having a tarnished name for having been in this band...

Also going along with that, the fact that many people have made this band a huge part of their current life and it has been a representation of who we are is why it's easy to visualize the future being a problem. Now I feel like my personal life and character is constantly being questioned and judged by everyone else.

-I feel like my rookie experience is different and almost unfulfilling and less fun because of all of the allegations and clean up from the report.

-I feel tension between vets and rookies where each is afraid to be themselves.

-One member feels he can no longer use OSUMB on his resume or Jon Waters as a reference for grad school.

-My family now views me differently and I sometimes feel embarrassed and victimized.

-People at work poke fun at the situation which is extremely offensive to me because it's not true.

-Directing staff is less cohesive and doesn't understand the band as well as Jon did.

-I feel like I'm being treated like a child by the administration and staff.

-Being a member of this band feels more like an embarrassment than the point of accomplishment that it actually is.

-Fourth and Fifth year members feel like they are treated like children.

-The report has created a hostile and depressed environment in the band. Hostile towards the university.

-Harassment by peers and introduced embarrassment in a professional environment. Band and Work.

-Several accusations from report and administrative people (title IX) that band is not mature enough to handle themselves appropriately.

-Report has become a large distraction from academics and has consumed daily life.

-Constant feeling of pressure and that someone is watching. I'm afraid to make a mistake that will hurt the whole organization.

-The report has become such a distraction that I failed a summer class.

-Feelings of censorship by university. Ex. F Night, WB, Rookies.

-Report makes me feel like I have to be politically correct all the time and cannot stand up for what I believe if not everyone agrees.

-Half of the marching band enjoyment comes from off the field activities that we no longer have.

-Because of the report, I am not going to get the same first year experience as those before me.

-As a returning 4th year member of The Ohio State University Marching Band, it saddens me to say that due to the effects of the report released by my university, I have found myself wondering why I decided to come back this year to march in the band. The truth of the matter is that I came back because I love this band, I have never worked harder for anything in my life. I was so proud to be a part of this organization just as my father had been. I still am, but it is very disheartening how the report has tarnished the name of the current OSUMB and all of its members. Now instead of sporting my TBDBITL attire with pride and honor, I find myself feeling judged by the general public. Frankly, I am embarrassed by the way the report has labeled every single person that has ever been a part of this band. That is not the way we should feel to be associated with an organization that each and every one of us love so much.

-One member was wearing their bowl jersey with their last name on it at a doctor's office. A

person came up to the member and asked if their last name on their jersey was actually their "dirty rookie name". The last name can be construed as a sexual innuendo and they were asked if that was their name because they "gave guys erections." The member left the office in tears.

-One member who has a bruise on her arm from carrying their horn was asked if the bruise came from being hazed in the band.

-Harassment from media for my name listed in the report that I felt wasn't offensive to me.

-Negatively affected my ability to study for finals.

-Harassed by peers and coworkers for my name that was listed in the report. The name was taken out of context and I was never asked to comment or confirm anything in the report.

-The report listed people as names not as the people they are. I was never asked to confirm or comment on my name or trick. The report lead to media listed below.



The Fake Lantern  
@TheFakeLantern



Following

Band Member "Captain Dildo" Extremely Shocked And Disappointed By TBDBITL Sexual Harassment Report

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-I joined this band because it was known as TBDBITL. Now wherever I go, people ask me about the things they have read in the article. Whenever I am with the band at practice, or wearing band stuff, I am always wondering if people that see me are judging me. I want to have all of the fun that the veterans talk about, but I can't because of the news and cameras watching every move we make. Band seems to me just another class that takes up most of my life and it's always serious.

-Before this investigation, I could put TBDBITL on my resume as a point of pride. Now that this inaccurate report is out, I feel like it is a red

#### X. IMPACT ON REPUTATION AND PERCEPTION OF THE OHIO STATE UNIVERSITY, JONATHAN WATERS AND CURRENT AND PAST MEMBERS OF THE OSUMB



mark that I should try to hide. I've had countless people ask me about the band when the report came out, and I had to clarify and explain all the inaccuracies of the report. I never felt harassed in the band this past year (my first year), but now I feel harassed. Not by the band, but by The Ohio State University itself.

-A woman asked me while I was working "Are you one of those naughty boys?"

-A woman with her kids asked me "do you just use your band iPads to look at sexual images all day?"

-I have had to defend my reputation and the reputation of my friends and mentors to my coworkers.

-My sister was asked by coworkers what her brother's sexual name and trick were, when neither included anything sexual in nature.

-"Led by 5th-year Ohio State Marching Band student, John Joyce, the School of Music will create part one of a two part series featuring the band's halftime show performances. The book however is much more than 2014-2015 halftime shows. They will serve as the centerpiece to educational lessons incorporating history, math, music theory and more. Aimed at high school students, John and his team have partnered with faculty at Ohio State and with a K-12 school district in Ohio to develop this innovative curriculum." - I have cancelled this program in fear that we will get negative attention from K-12 schools who don't want to be associated with our program, which could lead to further negative press about our organization.

-Another student, one that I have done research with and really respected, made it public that he believed that any supporter of Jon Waters was scum, and even more, a piece of s\*\*\*. He believes that because we had a songbook in the past, which was made public and brought into this era, with ugly songs degrading to women, that supporting Jon was equivalent with supporting such songs and ideas. Jason Stuckert, a previous drum major, tried to set him straight,

but he wouldn't listen. It was just a horrible decision, in my opinion, to release an outdated songbook to the public as representative of this band.

-Perhaps most heartbreaking is the perceptible change in way that my family sees me and interacts with me. Even though the report was absurdly biased and not applicable to my behavior, I have noticed my own closest family members shy away from me and my "filthy" experiences in the band

-When wearing a marching band hoodie or hat out in public, I have received unwanted rude and sometimes sexual jokes, calls, and stares. Ironically, this is not anything I experienced while in the band; rather, thanks to a flawed report made available to the entire public, it is now a part of my daily life.

-As a woman in the band, I have been personally offended by the assumptions made by university officials that I have indeed been victimized by a "sexualized culture." This includes Title IX experts and Compliance officials who have come to address the band with their own agenda, without so much as asking for our opinions. I am a strong person who knows what harassment is. I do not need to be rescued.

-Since the announcement of Jon's firing and the subsequent media coverage on the "sexualized" culture of the band program I have received many inappropriate comments, ranging from snide or rude remarks at my cousin's wedding and escalating to sexually explicit comments at parties, asking for sexual demonstrations of my trick, extremely suggestive inquiries or suggestions, and general comments such as "band members are good under the sheets". The report and the support it has received from the university has given my personal image and my name sexual innuendo which did not previously exist.

-I just learned today that my high school, Dublin Coffman High School held a seminar for all

student athletes and band members on the topic of hazing. As an example of hazing, The Ohio State University Marching Band was used as a discussion point. This is extremely embarrassing and disappointing as a result of the public's perception of the Glaros Report. I should not be embarrassed by my membership in this organization in front of my alma mater.

-At candidate days at jimmy johns the man ringing us out heard we were trying out for band and he said to the most innocent candidate "oh you're still going to try out for band? They make you run around in your underwear!" and she wasn't aware of the report and later asked us if everything he said was true.

-People at work were making jokes about me being a sexual monster

-people were facebook messaging me to stop harassing my fellow band mates

-I am applying to dental school and it has been questionable to put band in my application and other schools outside of Ohio will frown upon it.

-I am ashamed of my last name because the report has made it sound like my last name and being a member of the band is dirty and wrong.

-My grandparents don't think I should continue to be a member of this organization because they believe all the males are out to get me.

-The new leadership has been an adjustment that made it difficult to jump into band again with full enthusiasm.

-The constant media interfered with our pre-tryout preparation time.

-The investigation misrepresented me as a female band student, therefore creating frustration and concern for me and my family.

-Jon's absence in tryouts was tough to work through. He was beloved and not having him there affected overall productivity.

-The investigation has caused my employers past and present to approach me with negative

associations to me and the band that were not valid.

-This past month has been the most stressful of my life. I can't sleep, I don't have an appetite, and I dread coming into rehearsal every day for fear of being harassed during Title IX meetings. We are constantly told that we are perverts and part of the sexual assault and harassment problem that has been plaguing this university for years, when the worst we've done is run around in our underwear a single time each year. The OSUMB, formerly the pride of this institution as said by university officials time and time again, has been dragged through the mud. You have tainted the reputations of every current and former band member, fired our leader and our friend, then told us to "move forward" like it was nothing. By firing Jon and releasing that report you have cause the members of this band more mental anguish than any supposed "hazing" ever has. We loved Ohio State, and you betrayed us. That is a fact that I and every other past, present, and future member of the OSUMB will never forget.

-A candidate who ended up not making the band was afraid to try out for the band after the report was released. She was very enthusiastic about trying out before the report was release. Several people had to talk to her in order to convince her to continue her efforts.

-The manner in which the band has been negatively portrayed by the university is an inaccurate judgment, that was forced upon us without consultation. I along with many others feel that the band has been abandoned by university officials.

-One band member tried to change their work schedule for the season prior to the release of the report. On The day the report was released, this person was pulled into a meeting and questioned about why they were coming back for band, their schedule, and specific things in the report (this person was clearly mentioned). Initially their request for a schedule change was

denied, then approved when a two week notice was submitted.

-Anxiety--father figure suddenly gone, brought up past stress

-Sense of justice and right and wrong gone

-Family and friends questioning my character and experiences

-Constant fear about saying the wrong thing

-Loss of purpose

-Feeling unsafe

-Attended funeral for friend who died in a car crash--first thing someone said to her was "how 'bout that best damn band in the land director?"

-Got an informal job offer that was rescinded

-Emotionally shocking and unfocused introduction to the band and university

-Undermining the sense of community

-New directors unsure of routine

-Productivity undermined by all the stoppages for meetings

-Being called a pervert while wearing OSUMB gear

-Workplace and school uncomfortable place--afraid to go to class

-Publicly shamed by university--never by band

-Brother hired as a teacher--then questioned whether fit to teach

-Feel as though university is calling me a terrible person

-Feeling censored

-Terrified for the job security of current directors

-Trying to move forward, university pulling us back

- being asked awkward and uncomfortable questions by high school kids while staffing at band camp

-Dealing with more questions and judgment from various family members, as well as from members of my girlfriend's family

-Negative and hostile reactions from strangers, including one man who asked me "how I had the nerve to wear that" when referring to an OSUMB shirt I was wearing

- being objectified, victimized, and incriminated all at once; basically feeling as though I am not an individual with personal emotions

-Asked by strangers "why would you want to join this band? You have to march around naked. Haven't you seen the report?"--I expected people to be proud of me for being in this band

-the university feels like an unsafe place to live because of frequent mistreatment

-My scholarship committee (that is paying for my education) asking me questions about the report (basically threatening to take it away if I was a part of the "terrible" things)

-friends and family treating me differently in a public setting

-afraid to have the OSUMB title on my resume

-having to hear people state false statements about the band

-Because of the firing, I have told people I have made it into the Band and instead of congratulations, I get demeaning and hurtful questions asking about some of the incorrect accusations made against the band such as "oh you want to march naked?" Which is both embarrassing and hurtful

-Instead of having a normal first year, I get to spend my ROOKIE year (I'd rather be called rookie any day) watching all of the people I respect hurting and mourning a director that I've never gotten to know, and living by unreasonable "professional" standards - we're not even allowed to be people anymore, we can't joke around and make each other laugh or enjoy our company. I was excited for college and now

that I'm here I have to be caught in the middle of all of this.

-I cannot be involved with the fun traditions that have been in place for years, even though I've been waiting 18 years to do them

-I can't be proud of a simple rookie name, technically I shouldn't even have one, and I do in fact, want one very much.

-I feel like I'm being robbed of a normal college (marching band) experience, we're not even allowed to make mistakes anymore to learn from them, I feel like life after college is for being professional all of the time, and college is the time to learn from mistakes and become a better person, and also fun and enjoy life and I can't do that anymore.

In recent days (September 6, 2014) a band member reported specific harassment, growing

out of the accusations in the IR, occurring at the home opener OSU football game. Specifically, during the 3rd quarter, a male band member went to the restroom in the stadium. While there a group of younger men asked him sarcastically if it was "tough to pledge for the band". (These were apparently inebriated Ohio State students. ) He replied, that the tryout process was "pretty tough". They then began asking him if he "had to bone [his] sister for the band directors to get in", "how many girls [did you] ha[ve] to rape to get in". He reports this hurt, and his only reply was, "It's not like that." They proceeded to ask him his "sex name" and if the band had "practiced halftime naked for the directors".

We are advised that this is not an isolated incident.

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## XI. ADDITIONAL UNIVERSITY RESPONSIVE ACTIONS

The University President and Board Chair assured the public that Board of Trustees was fully behind the decision to fire Jonathan Waters. There was no opportunity for Board action without violating open meeting laws. Was the firing confirmed in June? It cannot be ratified without open meeting action. How can the Chair preordain no public discussion at the August Trustees meeting?

Ohio Revised Code 121.22 (H) contains the following provision:

**A resolution, rule, or formal action of any kind is invalid unless adopted in an open meeting of the public body. A resolution, rule, or formal action adopted in an open meeting that results from deliberations in a meeting not open to the public is invalid unless the deliberations were for a purpose specifically authorized in division (G) or (J) of this section and conducted at an executive session held in compliance with this section. A resolution, rule, or formal action adopted in an open meeting is invalid if the public body that adopted the resolution, rule, or formal action violated division (F) of this section.**

For perhaps the purpose of discouraging opposition and securing the decision of the president of the University to fire Jonathan Waters and attack the Marching Band *culture*, the Chair of the Board of Trustees appears to have sent out a series of press releases all suggesting that the Board of Trustees has confirmed the firing of Mr. Waters. Either the claims are entirely inaccurate or the Board of Trustees has violated Ohio's open meeting law. (See Attachment #17, Press Releases)

One half hour before the outset of the Board of Trustees meeting on August 29, 2014, a representative of TBDBITL Alumni Club, Inc was advised by the communications director for the Board of Trustees that the organization

would be given five minutes to comment on the Marching Band/Waters situation at the end of a brief one hour public trustees meeting. In fact, the Trustees had met all day August 27, 2014 in executive session and twice on the following days, with each of the Board's committees also going into as long as 90 minute executive sessions, in one case after a mere eight minute committee meeting. At the end of the five minute remarks, the Trustees meeting was adjourned by its Chair with no response and no action. Nonetheless, before the TBDBITL representatives had left the meeting location, the Chair had authorized a press release stating that the Trustees would not reconsider the decision to fire Mr. Waters.

As an example, to complete the chain of events and demonstrate that the focus of the University administration has been possibly upon its own defense, the University administration publicity team attacked the August 24, 2014 Squad Leaders' report, just hours later, perhaps without reading the submission. In this response the University effectively patted the students on the head, dismissing the efforts and concerns of the STUDENTS who served or recently had departed the OSUMB with the following:

We are grateful to learn about the positive experiences of some former band members during their years at Ohio State... No one has disputed the report's overall conclusions about the nine specific cultural practices that together represented an environment conducive to sexual harassment.

Claiming that the Squad Leader report simply confirmed certain (isolated) events in the past, the University pursued the course of claiming that a defective culture exists on the basis of certain events that occurred sometime in the past and rarely in the present. The unwillingness to confront and honestly discuss

the issues was devastating to the Squad Leaders' group, which reports that they expected courtesy and honest dialogue, none of which has occurred since the July 24, 2014 release of the IR.

Similarly, the attorney for Jonathan Waters subsequently asked for a legally authorized "name clearing" hearing, recognized in Title IX case law, in a letter addressed to the University's lawyers. In response to the request the OSU PR machine was again cranked up with the *media spokesperson immediately replying in place of the lawyers to whom it was addressed*. The press release still contained reliance upon the alleged *cultural* problems as a basis for dismissal, now adding that alleged "dishonestly" by Waters, a completely bogus issue, was also the basis for dismissal. (It should also be noted that the University declined to even identify the basis for Waters' dismissal in the letter terminating his position.) The administration's PR and political-type comments, avoiding an honest and open dialogue, were as follows:

We will not be revisiting this decision. It is closed, and it is time to move on... The culture created by these and other issues detailed in the university investigative report necessitated a change in leadership of the Marching Band. ... We are encouraged by and appreciate hearing about positive experiences; however, the report's basic conclusions about the specific complaints and the culture are not refuted by anyone...

An administration effort to rehabilitate the IR with a list of practices "not refuted" followed, still including "singing" and "changing clothes". Clearly no one had read or honestly and directly responded to the prior comments from the TBDBITL Alumni Club or the Squad Leaders. The "political" attack upon Waters and band culture persisted in a knowingly false and misleading fashion. The honest and open dialogue concerning important Title IX issues that has been requested has oddly been avoided by the University Administration.

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## XII. COMMENTS FROM THE ALUMNI AND PUBLIC

Indexed and included as Attachment #7 are a few of the collected public comments and letters provided by alumni, University friends, professors, University employees, a band arranger and others. They include letters unacknowledged by Dr. Drake and the Trustees, requests for meetings never allowed and factual details from actual witnesses to events. Supporters of Jonathan Waters continue to collect such communications at their independent website: [www.westandwithjonwaters.com](http://www.westandwithjonwaters.com).

These comments are upsetting, sad and infuriating. They are gathered here in an effort to define the public climate in which this unnecessary University administration public relations scandal has emerged. These 80 letters and comments are indexed and listed alphabetically in Attachment #7.

Even a casual review of this evidence, personal testimonials and comments demonstrates more about the band culture than any level of analysis conducted in support of the *Glaros* Report. Mr. Glaros was advised, through these and other messages from band alumni, that they have had to answer for his outrageous product.

Emily Balzer speaks to her proud experience of trying out for the Marching Band. Greg Belle's comments address President Drake concerning the accomplishments of Jon Waters but received a form letter back in response directing him to a website. Darryll Bauchert wrote the Board of Trustees recounting his experience in the Band, his negative interaction with the OSU Alumni Association and his comment, as a Certified Mediator in the State of Florida, supporting the reinstatement of Jonathan Waters. He provided the same letter to President Drake.

Richard Berry told President Drake of the personal development of his son as a member of the Marching Band, how his classmates were

like "brothers" and how Jonathan Waters was an outstanding friend and teacher. In his account is included the long history of Marching Band directors and their progeny who directed bands all across the United States. He copied his letter to Chris Glaros and to Governor Kasich. Bradley Betts wrote directly to former Attorney General Betty Montgomery stating his personal story of how he matured as a human being through the Marching Band and eloquently expressed the disrespect and pain suffered by 7,000 former members and their families who had been "denigrated" by the IR, including judges, attorneys, doctors, congressmen, business owners and "most of all successful and respected citizens of our communities." He reported that, "This is the true culture." Janine Bock, the first woman to dot a single Script Ohio at Ohio Stadium, recounted her experience, expressing the fact that she was not a victim but a beneficiary of the positive culture of the Band, including goals of "being the best you can be" and "going for excellence.... to support your friends." Pete Boriin, vice President of the TBDBITL Alumni Club, set forth his concerns including a detailed list of positive programs instituted by Jonathan Waters as Director of the Marching Band including involvement with the School for the Blind Marching Band, the Gladden Community House, and the "March to Pay Forward" project **all instituted by Waters**. He addressed the Board of Trustees in similar fashion, also noting that thousands of OSUMB members, band alumni and their families had been slandered through the report in a "malicious attack", indicating that he was suspending all participation and donations in his long-term extensive fundraising activities until the truth was embraced.

Rachel Brennan, who met her husband while they were both members of the Marching Band, recounted how but for the Marching Band, the 9/11 tragedy would have been worse for her

family. Comments to the Board of Trustees by David Brumback challenge the President and the Board of Trustees to embrace the truth and lead the University through the self-induced crisis. There is no proof that letters were received by the Trustees or read by them. Rumors run rampant that the letters had not been directed to the individual Trustees by University staff. To date, such writers have generally received similar four sentence form letters in response from the office of the Trustees.

Continuing letters throughout the group include the noteworthy letter from “Joobs” (Item 13) in which she disclaims any offense and any statuses of victim, as to all five (5) of the women identified by nickname in the *Glaros* Report, in Item 14. Two attorneys, Lawrence Cohen and Jeffrey Cox add their analysis to the specific defects in the Report in Items 18 and 19. Karen Crockett, a long-term member of the band staff, outlines the work to improve band culture undertaken by Jonathan Waters, in Items 20 and 21. Thomas Fine, a university professor, writes in a scholarly fashion of his experience and the status of the IR in Items 23 and 24.

A current self-described “53 year old” member of the band, Kristine Frey Tikson comments to the President and the Board of Trustees concerning the culture of the band, her observations as a female member, and her personal pain over the investigation. Dan Kiracofe, a university professor, points out the admission in the *Glaros* Report that Jonathan Waters had undertaken aggressive action to address any difficulties in band conduct “head-on” and complains of a lack of due process afforded Jon Waters. **Of particular interest is the report of Jenna McCoy (Item 41), who surveyed Big 10 Bands to determine that their brass and percussion sections experience nearly the identical percentage of female members as does the all-brass-and-percussion Ohio State University Marching Band.** Jennifer Mitchell, another multi-generation graduate of Ohio State who took a

lead role in assisting the Committee in preparing this report, identifies specific issues suggesting that the current culture of the Marching Band, one of honor, praise and giving coupled with outstanding performance, is the product of the efforts of Jonathan Waters.

Dr. Brice Musser, who was present at the Lakeside, Ohio concert in front of 2,000 people on July 26, 2014, expressed the common view that the “sudden firing has shaken my confidence in the judgment of the Administration of The Ohio State University.” Victoria Nolte, Item 48, echoes those sentiments about disappointment in the University, as does Allison Pallard, holder of three degrees and a five year member of the Band who notes that her life would “not be what it is today had it not been for the acceptance, support, positive experiences, laughter and friendships” she gained while a member of the OSUMB. None of these individuals were “harassed, forced, or degraded” in the band at any time. None were victims. No victim of the Band “culture” has been identified. **Overwhelming evidence of the positive culture of the Marching Band has been identified.**

Some current faculty members and teaching associates have spoken out, including Jonathan Picking who states unequivocally that as an educator himself, “Dr. Wadsworth does not speak for me.” Ian Polster, a legendary Ohio music educator, commented that there was no relationship between activities occurring at other schools which may have provoked the harsh response and those matters of tradition in the OSUMB. Tyler Provo, who led the group of Squad Leaders releasing their report, which was apparently ignored by the Administration, addressed all issues head-on including nicknames, “the midnight ramp”, and their similarity to events occurring throughout the University. His comments in Attachment #7, Item 54 are singular in their importance.

Item 71, a letter of Charles David Spohn to the Columbus *Dispatch*, recalls a time when his



father, Charles L. Spohn, was Director of the Marching Band, relaying the history and association with the organization since childhood even though he was not a member of the Band. He portrays Jonathan Waters' commitment to improving the organization publicly and behind the scenes and seeks reconsideration of the dismissal.

Most significantly, **James Swearingen, a current member of the OSUMB arranging staff** (among other arrangers with whom we have spoken) expresses particular outrage, having worked first-hand with the Marching Band since 1974 and having seen the leadership of Droste, Woods, and Waters. He considers all three to be outstanding educators and great leaders who built the band in to "one of the premier programs in the Country." (Item 72)

The list includes a multitude of female former members of the Band including Kimberly Putman-Nocera, Robyn Ramseyer, Sherri Rapp, Christina Regule, Brianne Reiss, Michelle Reuss-Jackson, Allison Schaffer, Jeanette Town, and Leigh VanHandel. None were a victim. None were "pressured to do anything." All embrace the opportunity and character development which occurred in the Marching Band. Jocelyn Smallwood, disparaged by her nickname of "Donk" in the *Glaros* Report, sets the record straight as she has consistently through press conferences and media appearances and in her eloquent writing. A group of female alumni speak out in the Ohio State Marching Band blog as indicated in Item 78.

Others identify Jonathan Waters' specific acts of kindness and support, for example, Donn Young, in Item 79. He writes to the Columbus *Dispatch* concerning Jonathan Waters and the OSUMB saluting his dying wife, an Ohio State graduate suffering from terminal cancer, by letting her "Dot the I" at band practice, and encircling her to sing *Carmen Ohio* to her. A dying wish fulfilled as she was awarded honorary membership in the OSUMB. The band

and the family were in tears. It was an unparalleled act of kindness. Mr. Waters later led a group of musicians, unannounced, to play at her funeral. The family will never forget this "caring and compassionate, wonderful representative" of the University, as a demonstration of "Band Culture".

The final comments, Item 80, come from 2009 graduate Brian Gill. He is particularly proud of the support he received during his five years in the OSUMB with respect to his personal life, as he puts it:

**"I feel so strongly about the marching band and Jon Waters that I feel the need to step out of my comfort zone...I am a son, a brother, a friend, a musician, a colleague, a Buckeye, and I'm gay. It is nothing I am ashamed of. It is part of me, not who I am."**

He says it all, concerning the true culture and acceptance he experienced in the OSUMB:

**"...The band is a melting pot of religion, political views, cultural beliefs and personal experiences. The band represents one of the most diverse student groups on campus in this aspect...It would be a lie to say that I didn't hear things that might have made me uncomfortable at times. I never once, however, felt like an outcast, harassed, disrespected, unsafe or unwelcome during my tenure in TBDBITL...."**

Mr. Gill puts the "songbook" issue in perspective, again causing us to express disappointment that this rare document was made the centerpiece of the IR:

**"...I want to focus on is the "Unofficial Song Book" of the band. Did this booklet exist? Yes. Was it issued to all band members? Absolutely not. I saw this booklet maybe once or twice in my five years in the organization, rarely even getting a chance to look through its contents..... If the staff did find one, they**

confiscated it immediately..... I'm stating that this is a thing of the past. We did not sing these songs on the bus, mainly because most members have never even seen these lyrics or songs. In fact, the bus I was usually on would sing much different songs, usually more consistent to Broadway show tunes or Disney songs."

Finally:

**"I want to state that the acceptance and inclusion of the LGBT community is not something that the OSU Marching Band struggles with; it is an issue that society in general struggles with. While we as a society have been moving forward, the OSU Marching Band has always been strides ahead in this matter.... I have**

**never missed an opportunity to march with the TBDBITL Alumni because I loved every moment I had with my band family."**

Brian Gill demonstrates not only his own character, but the character and culture of the OSUMB.

The administration, as has occurred in the past, may dismiss such comments as largely coming from band alumni, but there is much more here. Moreover, if a true assessment of band culture is to be achieved, the focus should be upon members who were in that band as they relay their positive lifetime benefits and the true "culture" of The Ohio State University Marching Band.

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### XIII. CONCLUSIONS AND RECOMMENDATIONS

1. Jonathan Waters should be immediately reinstated as the Director of The Ohio State University Marching Band in the face of a fully discredited "investigation report" upon which his dismissal was originally said to be based. He was given no opportunity to respond, contrary to elementary due process rights and Title IX guidelines. Since the time of his dismissal the University has fallen back on alternate justifications for his termination, next claiming that the basis for dismissal was "lying" to investigators (not compelling given the investigation technique, confusion and obscure details utilized and examined) and for berating a student (not compelling for a host of obvious reasons, including the repeated disciplinary problems involving the student leader who staged and induced the tirade in order to obtain a recording). We conclude that Jonathan Waters was sacrificed in order to demonstrate compliance with Title IX policy, notwithstanding the inaccuracies and false conclusions in the "Investigation Report".
2. The control of the OSU Marching Band has been with the School of Music since 1929. Since that time, the Athletic Department has funded the band, but the academic control (appointing of directors and staff, listing in the OSU catalogue as a School of Music course, and issuing of student grades) has been under the School of Music. Even with Jonathan Waters' appointment as Director approved by University President E. Gordon Gee, he and the band have continued to be "housed" in the School of Music. Given the apparent and inherent bias, jealousy and conflicts in the School of Music and Marching Band relationship, the academic control of the band should be reassigned. Return to School of Music control threatens the success, "world class" reputation, history and traditions of the Marching Band.
3. The University's Investigation Report, the *Glaros* Report, with its outrageous, false and defamatory assessment of Marching Band *culture*, should be immediately repudiated and disclaimed by The Ohio State University,

as defective, wrongful and inaccurate. The Report has done more harm, falsely, to the reputation of The Ohio State University and to the honor, reputation and personal well-being of its students and alumni, than perhaps any event in University history. Reliance upon such a report, in order to demonstrate Title IX compliance, abuses the purpose of Title IX and allows potential for unfair criticism of a more than 40 year old effective tool to prevent sexual discrimination.

4. The process of healing from these devastating events and public humiliation can only begin upon an acknowledgement and reckoning with the Marching Band members, and the alumni and families, including issuance of an apology and widely publicized retraction.
5. Damage has been done to personal, Alumni Association and University relationships. What is reparable is subject to debate. However, what is beyond debate is the fact that the refusal of the administration of the University, and its various components, to honestly and openly confront and discuss the controversy has created its own fallout. It is apparent that the administration has been advised to ignore and reaffirm its ill-advised decision and Report in the belief that the protests will eventually lose momentum and fade away. It is our view that with the current approach, the presidency of Michael Drake will be damaged indefinitely, the ability of the University family to confront other issues will be impaired, fundraising of course will be badly damaged, and, most importantly, the human emotional cost to alumni, staff and students will persist. If this University administration is willing to accept those costs, in exchange for never having to admit its errors on any level, there are those who will indeed accept that result and move on, leaving their love of the University as an institution behind. That result is unacceptable.

6. We recommend and insist on an open and honest dialogue with the administration and Trustees to resolve these issues. Now, the obvious implication, resulting from the September 11, 2014 “resolution” press release from the US Department of Education, is that Jonathan Waters and the OSUMB reputation were sacrificed to prove its goal of Title IX compliance by a University under investigation, resulting from a preordained result achieved through a defective “investigation report”. The administration has simply counter-attacked when criticized. No resolution occurs without a fair reckoning on all issues. No repair of The Ohio State University occurs in the current climate without the willingness to embrace the truth.