

Thank you for attending today. We as members of The Ohio State Band Alumni feel that we have no choice but to continue to speak out, and to specifically speak out today. Time continues to run and there appears to be an uncertain future for the Ohio State University Marching Band and how it can properly proceed. Jonathan Waters has been terminated from his position, yet those involved in oversight of the marching and athletic band programs above him and below him have been left in charge. In its simplest form, our message is that Jon Waters is the only person with the understanding, leadership, support, and an actual specific plan, who can unite the University community and address the band culture. Moreover his termination was unjust. The band family, notably recent female band members, have been damaged by the University's release of the Investigative Report. That is **not** to say that we believe the Investigative Report accurately reflects band culture as we will discuss.

I. Most importantly, **we aggressively and ardently support Title IX**. We believe in the safety of all on the campus and we condemn discrimination.

A. 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.

B. The Ohio State University Title IX policy indicates that "each situation must be considered in context to determine if sexual harassment has occurred," ...further "conduct may be inappropriate, unprofessional, offensive, or hurtful, yet not be harassment under this policy."

Very subjective, fact sensitive determinations are involved.

C. 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 we defended them and supported them 40 years ago and continue to do so today....**40 years of history of developing unique relationships within the Ohio State University Marching Band, as it involves men and women, are valued and supported.** 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, does not change that commitment or tradition.

D. THE ALUMNI and students OF THE OHIO STATE UNIVERSITY MARCHING BAND WHOLEHEARTEDLY EMBRACE AND SUPPORT TITLE IX AND NON-DISCRIMINATORY POLICIES. WE SUPPORT ACCURATE, COMPLETE INVESTIGATIONS, AND SUPPORT ALL EFFORTS TO REVIEW AND IMPROVE STUDENT LIFE AT THE OHIO STATE UNIVERSITY ... TO MINIMIZE AND ELIMINATE SEXUAL HARASSMENT OF ANY TYPE. THAT IS OUR MOST IMPORTANT MESSAGE.

E. That commitment is reflected in training and leadership and in particularly in programs implemented in advance by Jon 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.**

F. In the absence of specific guidelines, benchmarks, or mandates from the University or his superiors, Jon 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 and the squad leaders of the marching band are at a conference this week at Aileron near Huber Heights which includes examination of relationships, sexual harassment, leadership and non-discrimination.

II. **Who are we?** There are nearly 7,000 alumni of the Ohio State University Marching Band with more than 4,000 still living. Nearly 40% actually pay dues voluntarily to this TBDBITL Alumni Club, Inc., and we regularly communicate electronically with nearly 3,000. This club has been recognized year after year as the leader among the OSU alumni clubs and societies, being awarded the "Gold Star" annually. **Our alumni club has been recognized and honored by the University, and granted specific funding, for our ground breaking diversity program designed to reach out to underserved schools and communities to increase the diversity of the band and allow equal opportunity for involvement.**

A. The active alumni band with 130 members raised \$54,000.00 last year alone in scholarship money. Another example, a planned alumnus initiated and promoted concert in Dayton, currently scheduled for this November, will

create approximately \$100,000 in profits for the marching band program....with \$386,000 profits in a series of Dayton concerts.

B. We do not sit back and complain; we roll up our sleeves and work for the betterment of Ohio State and its students.

C. Contributions to Ohio State University include leadership in professional schools, leadership in statewide professional offices, farmers, composers, Judges throughout the State, service in medicine, the cornerstone of music educators in the State of Ohio, business leadership, member of Congress, State Legislators, and community servants in every walk of life. Last year's marching band had a cumulative 3.5 Grade Point Average. Friends and family of this alumni group and these current band members increase that number exponentially. These are ultimately ambassadors for Ohio State University.

III. What do we know about **Title IX and Ohio State**?

A. There have been concerns about policies and resources. We have had a difficult time identifying specific applicable policies for student organizations so far and there was no directive given to Jonathan Waters and to the marching band by the University or by the superiors within the College of the Arts and Sciences.

B. 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."

C. 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. The Department of Education will not release any case specific facts or details concerning their investigations.

D. Was firing Jon Waters clever or even brilliant as a way to deflect concerns regarding any Title IX problems that have existed? In our view, prior possibly defective Title IX investigations do not justify a Title IX investigation containing disclosure of alleged facts which are inaccurate, or **innuendo elevated to the status of "culture,"** 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.

E. Was there pressure on Ohio State University? Is that why all of this happened? It is difficult to know, but a member of the family was treated like the enemy. Nearly 7,000 past members of this band were treated like outcastsbut they are all members of the family.

F. The 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, the full extent of the "cultural" allegations were not even made known to the target prior to interview, no efforts were undertaken to ensure voluntary compliance, and obviously no negotiation whatsoever occurred before he was thrown under the bus.

G. 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". p. 27 of 44. <http://www2.ed.gov/about/offices/list/ocr/docs/shguide.html> See also the 2011 update at <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201104.pdf>

H. 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." p. 25 of 46. <http://www2.ed.gov/about/offices/list/ocr/docs/qa-201404-title-ix.pdf>

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

J. Absent an adequate investigation and determination any action by the university is defective. Jonathan Waters should be immediately reinstated, with an "adequate, reliable, impartial, and prompt [investigation] ... includ[ing] the opportunity for both parties to present witnesses and other evidence" must occur.

K. OUR INVESTIGATION CONTINUES

V. The truth was sacrificed.

A. The Investigative Report, apparently written by Chris Glaros, is full of defects. We continue to look at this document and have multiple concerns including:

Why no reference in Investigative Report to Jon Water's successful programs of band education and awareness, termination of bad practices, and overt leadership on these issues?

Why would this report be written one-sidedly?

Why accusatory and not analytical?

Why only 10 witnesses in two months?

Why was Jon Waters not encouraged to have an attorney in the interview with an *inexperienced* investigator?

Why does the report denigrate decades of band activity, hurt thousands and their families?

Why was that necessary within a family?

Why, for example, does including a song book created by a few people originally 30 years ago, and which was completely banned long before Jon Waters became director? To embarrass an organization?

Why throw a fine man under the bus in his first 21 months on the job?

B. Individuals named in the report have one after another repudiated the description of the supposed harassment they experienced...even with their parents wearing t-shirts with their band nicknames on them. It was the University's report, the Chris Glaros Report, which made all of this dirty, and *sexualized* the circumstances.

C. Why was the report conclusory, biased and inaccurate?

D. Why did the report not include consultation with the TBDBITL Alumni, the past directors, including Dr. Paul Droste the historian who has been nothing but fair and open minded....and why was no opportunity, to present a specific defense, given to Jon Water's lawyer?

E. Why was the result pre-determined?

F. Why was the offer to assist and implement zero tolerance withdrawn?

G. OUR INVESTIGATION CONTINUES

VI. Other factors regarding the Ohio State Marching Band and its relationship within the University should be considered.

A. The College of Arts and Sciences may have a role possibly in the chain of command and certainly in the chain of events.

B. Specific independent financing of up to a million dollars a year was made available for the marching band,

C. Jon Waters was elevated first to interim and then to Director by the President of the University,

D. The most successful and highest profile program in the University's history went international,

E. What was the response within the College of the Arts and Sciences? Support, encouragement... or jealousy, and competition for dollars?

F. Why was Jon Waters the target and why did he lose his career at the age of 38 when the hierarchy of the College of Arts and Sciences and School of Music long predated Jon and in fact have been involved in nominating his interim successors...? Why was Jon Waters alone targeted?

G. 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."

H. OUR INVESTIGATION CONTINUES

VII. Finally, we ask, what does it mean to be part of a **family**?

- How do you treat a family member when issues arise?
- Do you work to understand and take responsibility as a family or do you disown that accused family member?
- Do you find somebody in the family to blame ... to throw out of the family, or do you stand-by your family?
- Do you get to the truth no matter what an accuser says, or do you build a wall between yourself and the accused family member?
- Do you talk to that family member?
- Do you empathize?
- Do you aid and abet the critics to satisfy a separate agenda?
- Do you judge that family member by his character and reputation earned over many years, or do you run away from the loyal son?

This is just the second chapter of a long book

OUR INVESTIGATION CONTINUES

VIII. Our confidence in the finding of truth continues as does our desire to support all members of the marching band, to condemn any form of discrimination including sexual harassment, and to achieve justice for Jon Waters and for the reputation of this band and its thousands of alumni. It is not about "you", or any one person...it is bigger than Jon Waters even. Play the ball ... don't let the ball play you...we will not stand by and let this happen and we will continue to speak out, and investigate. When you do the right thing and the right thing ultimately happens. Speaking up for Jon Waters and the OSUMB is the right thing to do. Jonathan Waters should be restored to his job NOW, with an adequate investigation, within title IX guidelines, undertaken and completed to reveal the whole truth.