



Erin Barker-Brown
Office for Civil Rights
Cleveland Office
U.S. Department of Education
1350 Euclid Avenue, Suite 325
Cleveland, OH 44115

June 23, 2017

**Re: The Ohio State University Resolution Agreement
Twenty-first Progress Report**

Dear Ms. Barker-Brown,

Pursuant to the Resolution Agreement entered into by the U.S. Department of Education's Office for Civil Rights (OCR) and The Ohio State University (Ohio State), Ohio State committed to report on progress towards meeting the various requirements outlined in the Agreement. This letter serves as our twenty-first such report.

Pursuant to the June 2, 2017 email correspondence between Ohio State and OCR, this progress report has been moved from June 15, 2017 to June 23, 2017. As a point of clarification, we would like to confirm that Item IV.G has been appropriately implemented per OCR's May 11, 2016 letter and we recognize it may have been inadvertently absent from the list of appropriately implemented items in OCR's April 14, 2017 letter.

Section III Reporting Requirement: Title IX Policies, Procedures, and Related Written Materials (Agreement pp. 4-9)

Requirement: The third reporting requirement of Section III requires Ohio State to submit to OCR copies of all Title IX complaints filed with the university that allege sexual harassment, including sexual violence or sexual assault during the previous year, and the university's notice to the parties of the final outcome of the grievance.

Response: Please see attached an addendum (secure flash drive) to this report for copies of the Title IX complaints filed with the university alleging sexual harassment, including sexual violence or sexual assault from June 1, 2016 to May 31, 2017 (AY 16-17) and the university's notice to the parties of final outcome of the grievance. As we have discussed previously, the majority of this information is covered by the Family Educational Rights and Privacy Act (FERPA). We believe this response constitutes full compliance with this reporting requirement.

Section V.C: Climate Assessments and Response (Agreement pp. 11-12)

Requirement: Item V.C requires Ohio State to conduct a climate check by June 15, 2015 and annually thereafter with students to assess the effectiveness of steps taken pursuant to the Resolution Agreement, or otherwise by the university, to achieve its goals of a campus free of sexual harassment, particularly sexual violence.

Response: The university submitted the proposed climate survey for the 2015-16 academic year and documentation of the working group in our February 5, 2016 (Fourteenth) status report. OCR's March 14, 2016 letter approved the 15-16 climate survey. The university administered the same survey in the 2016-17 academic year, which was made available to students from February 5, 2017 to March 10, 2017 through the university's Center for the Study of Student Life (CSSL). Proof of survey dissemination is enclosed. We believe this response constitutes full compliance with Section V.C. as it pertains to the dissemination of the third climate survey (AY16-17).

Section V Reporting Requirement: Climate Assessments and Response (Agreement pp. 11-12)

Requirement: The third reporting requirement of Section V requires Ohio State to submit to OCR results of the climate assessment and written recommendations for any further action determined necessary.

Response: In Ohio State's June 10, 2016 (Sixteenth) progress report, we requested an extension for AY15-16 reporting requirement until October 15, 2016 and the same date in the following year (October 15, 2017) for the AY16-17 reporting requirement. Results from the current year's survey are currently under review by CSSL and the BuckeyesACT Task Force, and the university will submit such results, written recommendations, and documentation verifying implementation in the October 15, 2017 progress report.

Section VII: University's Investigation of Marching Band (Agreement pp. 13-16)

Requirement: As stated in OCR's April 14, 2017 letter to OSU: "With the University's next monitoring report, please provide documentation addressing the ongoing climate surveys and controls the University has implemented with respect to the marching band. This should include documentation showing how the University has measured change in the marching band climate through annual and anonymous follow-up surveys, and how the University has assessed the effectiveness of efforts the University took to ensure that the band is free from sexual harassment, sexual violence, and alcohol abuse. This information will assist OCR in determining whether any further status reports are required under the Agreement."

In its most recent letter dated April 14, 2017, the OCR stated that the University has satisfied Section VII.B of the Resolution Agreement and "has appropriately complied with Item VII.A of the Agreement to date." The OCR did, however, request additional "documentation addressing the ongoing climate surveys and controls the University has implemented with respect to the marching band...[to] assist OCR in determining whether any further status reports are required under the Agreement." This requested information is set forth below.

With respect to climate assessment, in 2014, an independent task force of nationally-recognized experts (led by Betty Montgomery) conducted an extensive review of the culture, administrative processes, and university oversight of the Band. The review focused on a five-year time frame, from 2009 through 2014, and involved interviewing 185 current and former Band members, Band parents, university members, and community members; conducting an online, qualitative and quantitative survey distributed to individuals who were in the Band at any point between 2009 through 2014; and reviewing thousands of documents. The task force produced an 89-page assessment (not including appendices), including 37 recommendations for improvement, that the University has consistently turned to for making improvements to the Band culture. The University has now satisfied 30 of those 37 recommendations, and is working to satisfy the remaining seven, which focus primarily on staffing issues and are unrelated to this Resolution Agreement.

In May 2017, this past season’s Band members completed an anonymous, online survey focused solely on the culture within the current Marching Band. 175 members completed the survey, which included questions regarding sexual harassment, sexual assault, and alcohol use, among others. The survey is attached hereto.

When asked to what extent sexual harassment, sexual assault, and underage drinking existed within the marching band, students responded as follows:

| | <u>Not at all</u> | <u>A little bit</u> | <u>Some</u> | <u>Quite a bit</u> | <u>A tremendous amount</u> |
|--------------------------|-------------------|---------------------|-------------|--------------------|----------------------------|
| Sexual harassment | 88% | 8% | 2.86% | 1.14% | 0% |
| Sexual assault | 96.57% | 1.71% | 1.14% | .57% | 0% |
| Underage drinking | 18.29% | 31.43% | 30.86% | 12.57% | 6.86% |

The Band students reported high confidence in the Band staff’s commitment to appropriately responding to reports of sexual harassment and sexual assault.

- 92% “strongly agreed” or “agreed” with the statement: I am confident that student reports of sexual harassment would be appropriately addressed by band staff.
- 93% “strongly agreed” or “agreed” with the statement: I am confident that student reports of sexual assault would be appropriately addressed by band staff.

Similarly positive responses were given with respect to the Band members’ sense of belonging and safety within the Band.

- 88% “strongly agreed” or “agreed” with the statement: I feel a strong sense of acceptance/belonging when I am with the marching band.
- 95% “strongly agreed” or “agreed” with the statement: I feel safe when I am with the marching band.

The survey results also suggest that the overwhelming majority of Band students would intervene in instances of harassment, hazing, or other mistreatment within the Band. 92% “strongly agreed” or “agreed” with the statement: I would intervene if I saw a fellow band member being harassed, hazed, or otherwise mistreated by another band member.

The results of this survey already have been and will continue to be used to inform student and staff training, as well as messaging with students and staff. For example, the results were shared and discussed during the leadership training of next season’s squad leaders and Student Advisory Council members at their separate retreats in May and June. The results also will be shared with Student Life and other University partners who assist with student and staff training. These Band-wide culture surveys will continue on an annual basis, and the results will be compared over time to assess the efficacy of the Band’s operational controls and ensure ongoing improvement.

A variety of controls implemented over the past two seasons has significantly improved the Band culture and reduced the risk of student and staff misbehavior. These controls are outlined below.

| | |
|---|---|
| Compliance/Life Skills and Leadership Education | Band-tailored education provided to students and staff on Title IX, sexual harassment and assault, hazing, the Band’s Standards of Behavior and Operations Manual, alcohol and drug use, civility and respect, physical wellness, stress management, social media use, travel policies and behavioral expectations. Student leaders also given separate leadership and culture education. |
| Standards of Behavior Agreement | Agreement to the Band’s Standards of Behavior is a requirement for participation in Band. |
| Pre-Tryout Meetings with Squad Leaders | During the summer, the Compliance Program Coordinator meets with each row’s squad leaders to follow-up on any issues from previous season, strategize regarding any potential future issues, discuss any other concerns they have, review row goals, and reinforce positive leadership. A member of the directing staff attends several of these meetings. |
| Creation of Student Advisory Council | Last season, a new student leadership group—the Student Advisory Council—was formed. The Council is comprised of representatives from each marching class, irrespective of row affiliation, who work in close collaboration with band staff in such areas as band culture, life skills education, trip and event planning, peer support and wellness, and community service. These student leaders also act as communications liaisons between band members and band staff, helping ensure that the voices of all band members—from first years through fifth years—are heard. |
| Staff Supervision of Buses | Only staff members have supervisory responsibility on buses during travel. |
| Curfews and Room Checks During Travel | During travel, curfews are enforced and staff members conduct room checks. |
| Student Wellness Measures | To decrease maladaptive coping, including prohibited off-the-field behavior, the Band Compliance Program Coordinator convened a Marching and Athletic Bands Student Wellness Team of campus experts in nutrition, hydration, heat/cold, injury prevention (musculoskeletal and auditory), safety/security, and time and stress management who reviewed student wellness practices for the AY2016-2017 marching and athletic band seasons. Band staff implemented several recommendations from the experts to benefit Band students in areas of hydration, nutrition, time and stress management, and preventing musculoskeletal injury. A Student Support Resources document listing a wide-variety of campus resources available to students who need help, ranging from tutoring services to academic advising to sexual violence support, provided to Band members and staff. |
| Annual Policy Review | Each year, the Compliance Program Coordinator and Band Director review and revise band policies as needed to reflect University expectations. |

We believe this response constitutes full compliance with this reporting requirement.

Ohio State will continue to demonstrate its long-standing commitment to vigorously addressing sexual assault and sexual harassment on its campuses, including by taking effective steps to stop sexual misconduct, prevent its recurrence, eliminate any hostile environment, and remedy its discriminatory effects. We will continue to meet our requirements under the Resolution Agreement, and report progress to you.

If you have any questions, please do not hesitate to contact me.

Sincerely,

Kellie Brennan
Compliance Director and Title IX/Clery Coordinator

Enclosures:

Copies of Title IX complaints and outcomes (secure flash drive mailed separately)

Campus Climate Survey email from Dr. J

Headlines Announcements and Reminders for Campus Climate Survey

2016 OSUMB Culture Survey

cc: President Michael V. Drake, M.D.

Christopher Culley, Senior Vice President, General Counsel and Senior Advisor to the President

Gates Garrity-Rokous, Vice President and Chief Compliance Officer